VERIFIED TRANSCRIPT

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2007–08

Melbourne — 30 May 2007

Members

Mr G. Barber	Mr G. Rich-Phillips
Mr R. Dalla-Riva	Mr R. Scott
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Ms J. Munt	Dr W. Sykes
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Witnesses

Mr R Hulls, Attorney-General;

Ms P. Armytage, secretary; and

Mr J. Griffin, executive director, courts division, Department of Justice.

The CHAIR — I declare open the Public Accounts and Estimates Committee hearing on the 2007–08 budget estimates for the Attorney-General and for the portfolios of racing and industrial relations. On behalf of the committee I welcome the Honourable Rob Hulls, MP, Attorney-General, Minister for Racing and Minister for Industrial Relations; Penny Armytage, Secretary of the Department of Justice; and John Griffin, executive director, courts division, Department of Justice.

In accordance with the guidelines for public hearings I remind members of the public that they cannot participate in the committee's proceedings. Only officers of the PAEC secretariat are to approach PAEC members. Departmental officers, as requested by the minister or his chief of staff, can approach the table during the hearing. Members of the media are also requested to observe the guidelines for filming or recording proceedings in the Legislative Council committee room.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act and is protected from judicial review; there is no need for evidence to be sworn. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript. The committee requests that verifications be forwarded to the committee by close of business on Friday. In accordance with past practice, the transcripts and PowerPoint presentations will then be placed on the committee's website.

Following the presentation by the minister, committee members will ask questions relating to the budget estimates. Generally the procedure followed will be that relating to questions in the Legislative Assembly. Before we proceed I ask that all mobile telephones be turned off. I call on the minister to give a brief presentation of no more than 5 minutes on the more complex financial and performance information relating to the budget estimates for the portfolio of Attorney-General.

Mr HULLS — Thanks, Chair. I will run through some of these slides very quickly which simply outline the priorities of the justice portfolio over the coming 12 months and priorities for the future.

Overheads shown.

Mr HULLS — The first slide simply shows that my portfolio has $657.4 million, or about 21 per cent, as its share of the entire Department of Justice allocation, and that is a 6 per cent growth on prior years funding. Additional funds are going to be directed towards a range of landmark projects which include things such as reducing court delays, modernising coronial services and the like.

Slide 3 shows various output groups from the portfolio. 'Dispensing justice' includes areas such as courts and prosecutions. As you can see that is the biggest slice of the portfolio, being 51 per cent. 'Legal support for government' and 'protecting the rights of Victorians' includes things like law reform, native title, VGSO, and the electoral commission; and 'community operations' includes things like road safety enforcement, the Aboriginal justice agreement and victims services.

The next slide is about the major achievements in the 06–07 year and includes the Gunditjmara native title settlement and the Aboriginal justice agreement mark 2. The 06–07 budget committed just over $26 million to AJA mark 2. Also, 'sexual assault reform implementation' includes multidisciplinary sex assault centres. I actually opened one on Monday in Mildura; and a few weeks earlier, another one in Frankston. It also includes a new unit within the OPP to deal with sexual assault matters, a victims charter which was proclaimed on 1 November 2006 and a neighbourhood justice centre which opened in February. Further achievements take in Koori courts including Bairnsdale Koori Court, which is the sixth adult Koori court. I will be opening the second children's Koori Court in Mildura in September. Things such as the Latrobe Valley police and courts complex, the Moorabbin justice centre, which I am sure you have all heard about — —

Ms MUNT — Yes, I have!

Mr HULLS — Yes, I know Janice has. There is the Melbourne legal precinct master plan.

The next slide talks about the proactive law reform program, the bedding down of the human rights charter, the Crimes Sexual Offences (Further Amendment) Bill, which will do a number of things, including providing alternative arrangements for the giving of evidence in proceedings in relation to a charge of sexual offence. It

includes the establishment of the sexual offences list at the Magistrates Court, increased compensation for victims of crime and the crimes DNA database to enable automatic matching of DNA across jurisdictions.

The next slide deals with modernising the justice system. It includes the comprehensive review of our criminal laws: the Evidence Act, the Bail Act and the like; the legal education review implementation, which deals with articles and whether or not we should continue articles or change the system; and also the Infringements Act.

The next slide deals with some of the budget initiatives. Reducing court delays: $45 million, includes additional judges, masters, support staff, extra funds for the OPP; modernising our coronial services: a $43 million boost; expanding CLCs, which includes $3.8 million to fund a network of 7.5 dedicated family violence lawyers across the state; and improved access to homeless Victorians: a homeless persons liaison officer will actually help homeless people who come before the Melbourne Magistrates Court and link them into services and the like.

The last slide deals with further budget initiatives, including, as you know, increased compensation for pain and suffering — that legislation has gone through the house — $2.4 million for ongoing professional development and training for judges, judicial officers and also the Court Network blue jacket project, which is $400 000 over four years. So there is a pretty exciting period ahead, I think.

The CHAIR — Thanks very much, Attorney-General. I would like to begin by focusing on productivity. It is very important obviously for the future of our state, let alone the individual departments et cetera. In terms of your overall portfolio — and you have got three of them, so it will save me asking the question three times — what impact will there be on your portfolio spend on productivity, particularly new initiatives in the coming budget?

Mr HULLS — In relation to the benefits of productivity in the A-G's portfolio, I think we have seen them in terms of improved efficiency of the justice system and better outcomes for the community generally, in particular those that rely on the courts services for appropriate socially just outcomes. So the budget initiatives will create, I think, more efficient courts, and that will mean quicker access to justice. Less costly resolution of commercial disputes is, of course, one way the courts contribute to the economy of this state, but you cannot always put a dollar amount on better outcomes when it comes, for example, to improved ways the justice system deals with victims of crime or victims of family violence.

The budget invests $45.3 million over four years to provide additional resources to the County and Supreme courts. That will involve reducing court delays and therefore the expenses and risks associated with lengthy delays. As we know, lengthy delays in commercial matters, for instance, are costly for litigants. Lengthy criminal trials or lengthy delays in criminal trials can actually diminish of chances of successful prosecutions. Additional resources in this budget will build on measures already under way to improve the efficiency of the courts.

As you know, we have also upgraded some of the IT systems within the courts. We are rolling out a single technology platform for our courts and tribunals, and that presents a major upgrade in technology that will provide productivity benefits to consumers of court services but also to court staff. It means basically for the first time court users will actually be able to lodge matters at any court in the state, irrespective of the particular court or court location that the matter is to be heard in. That will involve time savings and the like.

The CHAIR — That is pretty good. We actually recommended it in the Law Reform Committee about four or five years ago.

Mr HULLS — Yes. So there are a whole range of productivity improvements in relation to A-G. I do not know if you want me to touch on racing and also IR.

The CHAIR — Just quickly.

Mr HULLS — Just quickly in relation to racing, basically as far as productivity is concerned we want to support the racing industry to maintain its national leadership in racing. We have committed $20.6 million to the racing industry development program, which will provide major capital works at racing venues. It will basically mean that those racing venues will be able to operate hopefully on a year-round basis. The ThoroughTrack program, which is a synthetic racing surface, is being put in at Geelong, which means Geelong will be able to race all year round, which obviously will improve productivity somewhat. Also we have put in funding into some of the country tracks and upgrading some of their facilities, which will obviously improve the amenity for people who want to go to the races.

In relation to IR, just briefly, we are obviously looking at, for instance, a $1.2 million project for the development of an online workplace tool kit, which advises employees and employers on opportunities for parents returning to work. If you have a more family friendly workplace, it is a more productive workplace; all the research shows that. Also we are going to amend the equal opportunity act, which means that mothers in particular will be able to request family friendly work hours and more flexible work arrangements. We hope that will also lead to productivity improvements. That is a broad overview of some of the productivity improvements.

Mr DALLA-RIVA — Attorney-General, I refer to budget paper 3, page 162, 'Court matters and dispute resolution', and to the first performance measure 'Quantity - criminal and non-criminal matters disposed'. It shows that the expected target number of matters to be disposed of in the forward estimates year as 316 500, which is less than the target year currently as well as the expected outcome for this year and is also lower than the actual in 2005–06.

The recent Productivity Commission's 2007 government services report, table 6.15, found that — this is a bit of a free kick at the Attorney-General — that Victorian courts have some of the lowest clearance rates in the country. I ask: why is the target number of matters to be disposed of in the forward estimates year going to be lower than the target and actual numbers of recent years, despite, as you said in your presentation, a commitment of, I think, $45 million, although it shows in this total output, I think, $36 million?

The CHAIR — It is over four years.

Mr DALLA-RIVA — Yes, okay, but in terms of the present term, given that you have said you have announced appointments of two new County Court and two Supreme Court judges, could I get some clarification in that regard?

Mr HULLS — In relation to the 07–08 target, that has been based on trends in disposals, which I guess reflect the increasing complexity and length of major trials and hearings, and hence fewer total disposals, despite the intensified list and case management oversight by judicial officers in both critical and civil matters.

As you would know from your previous background, more complex matters are coming before our courts and more matters are obviously coming before our courts. The 2007 report on government services has shown that low clearance rates and delays have been experienced in the courts due to a continual increase in cases initiated and, as I said, the significant impact of dealing with large, lengthy and complex cases of police corruption, gangland killing and organised crime.

For your own information, our courts received 1 089 900 cases initiated, which was a 5 per cent increase over the 04–05 cases initiated. Despite this our courts increased their finalisations overall. In 05–06 the Victorian courts finalised 1 380 700 cases compared to 1 342 400 cases in 04–05; that is a 3 per cent increase.

As you said, the budget has allocated additional resources to address delays in the justice system, and we allocated $45.3 million. That will provide two additional judges in the Supreme Court, two judges in the County Court, an additional master in the Supreme Court, additional resources for the OPP for in-house and external prosecutions and also to help implement a strategy to encourage early pleas of guilty. Those resources will also go to Corrections Victoria, the Juries Commissioner and the Victorian court reporting service.

Some of the examples of the work under way in our courts, which really goes to what has been done to address these issues, includes the introduction of a new criminal trial practice note which provides for criminal matters to be listed for mention hearing within 14 days of committal; a more aggressive approach to listing of criminal matters in the County Court; the introduction of a new electronic briefing system in the next 6 to 12 months, and Victoria Police is doing that; and also the introduction and training of new procedures and stronger case management at the OPP.

It is true we have to continue to work with the courts and in particular with the heads of jurisdictions to assist and support the courts as they respond to challenges. They are looking at specialisation, and they are looking at specialised lists and the like, but to be frank, there are more matters coming before our courts. We have got more police out there, and more police means more people are being charged and more matters are coming before our courts. We have to continue to monitor how courts can address their casework in a better way; we have to ensure that they do look at specialisation, and of course we will continue to monitor the resources that we supply to our courts.

Mr DALLA-RIVA — The complexity of cases, as you say, is becoming more apparent. This is probably just a throwaway question and not a policy statement, Attorney-General, but in relation to committal hearings, are you considering those as part of the review in terms of making the higher courts more efficient? You have to go through a very complex and long case in the committal hearing, and then, as you know, it is determined either way. Either way, it basically does not matter what the committal hearing does, the DPP or — what is it called now — the OPP still makes its own determination to direct present or whatever.

Mr HULLS — It is a good question. We have obviously conducted a review of committals, and there are some who say we should abolish committals altogether and just allow the DPP to directly present. Others say — and this is how the argument went — that the committal process is actually efficient because it actually weeds out a lot of the issues and crystallises what the issues are at trial, and as a result trials are shorter as a result of committals.

We have introduced a whole range of reforms in relation to the committal process to ensure that certain witnesses cannot be cross-examined about certain matters. Those reforms are coming through the system and they are working. It means that people, particularly in sexual assault matters, cannot be cross-examined up hill and down dale, and basically you are able to crystallise at an earlier stage what the issues are.

My view is that it is false economy to abolish committals, that committals play a very important role in the system, and they lead to shorter trials. That does not mean that we cannot continue to work on trying to make the committal system more efficient, but I certainly do not believe, as some do, in abolishing the committal process. I think it works wells but we have to continue to monitor it to make sure it is efficient as it can be.

The CHAIR — I might note that you mentioned this figure of over 1 million. The figure here is 316 500. It might be useful to just give us a note, on notice, just reconciling those figures.

Mr SCOTT — Minister, I refer you to budget paper 3, page 157 and the output 'Legal policy, advice and law reform'. The fourth dot point there refers to native title claims. Can I ask if work relevant to this output includes the Gunditjmara settlement, how did the Department of Justice achieve this settlement and what are the key aspects of the agreement with reference to the estimates period and moving forward?

Mr HULLS — We are in Reconciliation Week and I hope we would all agree that it to our national shame that not only do indigenous Australians remain at the bottom of all social and economic indicators but they still remain so appallingly overrepresented in our nation's prisons and in our criminal justice system. We just have to continue to do all we can to break the cycle of disadvantage that dispossession really commenced, which is why through the AJA — the Aboriginal justice agreement — the Bracks government has signalled that we want better access to justice for future generations of indigenous Victorians.

This is a flagship agreement. It is looked upon by other states as being a leader around the nation. The second stage of the agreement I think reflects an unprecedented partnership between the government and indigenous communities to break the cycle of disadvantage. We committed $26.1 million to implement the second phase of the agreement, and we will, as a result of that, deliver 54 initiatives in partnership with indigenous communities to reduce overrepresentation of Kooris in our criminal justice system.

They include things like reducing contact of Koori youth with the criminal justice system, increasing the rate at which justice agencies divert Koori offenders away from our court system, reducing the rate at which Koori offenders reoffend, making justice-related services more responsive to Koori needs, and strengthening and building the capacity of Koori communities.

In relation to the Koori Court part of the AJA, I do not know how many members here have been out and seen the Koori Court in operation, but I would suggest if you get the opportunity, you should do so at Broadmeadows. Bob Kumar out there would be more than happy to show people how it operates. It has been so successful and rates of recidivism have dropped so dramatically that we are expanding the Koori Court program to other parts of the state.

As you know, we are now in Broadmeadows, Warrnambool, Mildura, Latrobe Valley and a Children's Court division — the nation's first children's Koori Court at Melbourne. A sixth Koori Court was launched earlier this year at Bairnsdale, with an additional children's Koori Court scheduled to be launched in Mildura, and a further adult jurisdiction of the Koori Court will open in Swan Hill in June of next year. I have to say that Koori courts are one of the big success stories of the Aboriginal justice agreement. They are continually evaluated, but it really is an

experience to go out and see how they operate. Once you have seen them you will agree that they are a very important part of the Aboriginal justice agreement.

Mr BARBER — In relation to public drunkenness, and the findings of the joint parliamentary committee — the Drugs and Crime Prevention Committee — are any of the activities of your department going to advance any of the recommendations of that report this year? I am sure you are familiar with what the recommendations were, so I will not remind you.

Mr HULLS — Yes, I am, and I have made statements previously about this matter. I have said that being drunk in public in itself ought to be dealt with as a health issue rather than as a criminal offence issue. You are right — the parliamentary Drugs and Crime Prevention Committee recommended in 2001 and also in 2006 that the offence of public drunkenness be repealed and that adequate numbers of sobering-up centres and associated health services be put in place.

Public drunkenness offences have been repealed in almost all other states and territories. However, the police in most of those jurisdictions have retained the power to apprehend and detain intoxicated persons, particularly where there is a risk to health, safety or property.

To get to the nub of your question: if the offence of public drunkenness was repealed in Victoria, the police would still have the capacity to arrest and detain people and charge them with offences that involve criminal damage, riot or offensive behaviour. As most other jurisdictions around Australia know, public drunkenness — that is, simply being drunk without any other criminal behaviour — is a health issue rather than a criminal issue.

Changing the law in this area does require appropriate consultation and long-term planning for change. The recommendations of the committee that you have referred to do cut across a range of government portfolios that impact directly on our community. That includes DHS as well as my department and the police.

I can say that I have had discussions with the Minister for Health, Bronwyn Pike, in relation to how we can further progress this matter, and I have also had discussions with the Chief Commissioner of Police about this matter as well. It is a matter of getting the balance right, so I am hopeful that those further discussions can lead to an appropriate outcome.

I do not want to pitch it any higher than that because of a whole range of associated issues including financial issues and the like, but I am still of the view that public drunkenness per se ought be dealt with as a health issue. I am well aware of the committee's recommendations, and I am having discussions, as I said, with Bronwyn Pike and the Chief Commissioner of Police with a view to trying to work through ways of addressing this issue.

Ms MUNT — Minister, you have briefly touched on the criminal list in your introduction and also in answer to one other question, and that is what this question is going to be. I refer you to budget paper 3 page 162 under 'Dispensing justice' and 'Court matters and dispute resolution'. I have read recent media reports that indicate that you are considering moving to a single criminal list for indictable matters for all our courts rather than separate lists for the different courts that are listed here — the Supreme Court, the County Court, the Magistrates Court, the Children's Court, the Coroners Court, VCAT and the Dispute Settlement Centre. This is a major change to the working of our court system, and I wonder if you could please indicate for the committee how this idea is going to be explored and what to expect this to achieve in the future.

Mr HULLS — I guess it does go to the first question that was asked by the Chair, which was about productivity improvements and the like. I think we would all agree that Victorians demand and deserve the best for their justice system. Since becoming Attorney-General in 1999 I have continually striven for ways to improve access to justice and improve the functioning of our courts.

In keeping with this I have asked Crown Counsel, Dr John Lynch, with assistance from my department, to consider the question of whether a single criminal list for the County Court and the Supreme Court would help ensure that indictable criminal cases are allocated to the most appropriate forum, having regard to the seriousness and complexity of those matters.

In 2004 the justice statement flagged the review of the jurisdiction of the criminal courts, including the need for flexible mechanisms for transferring cases between jurisdictions as part of the process of modernising the criminal

procedure. Reform of other aspects of the justice system is well under way. The single criminal list is being proposed because the range of serious offences coming before our courts has certainly changed over the years.

The current system focuses on the seriousness of the offence rather than the complexity of the case. I think there is a clear distinction between the two. In years gone by, the seriousness of the offence was a strong indicator of the complexity of the case; whereas now many very complex cases do not involve the offence of murder, for instance, which is the most serious criminal offence. The County Court deals with some of the most serious offences — for example, drug trafficking in large commercial quantities, which carries a maximum of life imprisonment. Of course we want to ensure that our system matches the skill and authority of the court and the complexity and seriousness of the offence.

In considering a single criminal list, I will be particularly interested in a number of issues, including whether a single list would be the best way to efficiently dispose of cases and further reduce delays in criminal trials. It will involve a review of the current criminal jurisdiction of the County Court, including, can I say, the limitation on the County Court in hearing homicide cases. It will also involve an examination of the statutory role of the DPP under the Crimes Act in deciding whether to present a case in the Supreme Court or the County Court.

There are similar approaches that have been adopted in the UK. The English Crown Court, for example, has exclusive jurisdiction in criminal matters tried by indictment. So I have asked Crown Counsel to consult with stakeholders — heads of the jurisdictions and the like. I have raised it with the Chief Justice of the Supreme Court. It has also been raised with the Chief Judge of the County Court, and I will be interested to see what the outcome is. But the reality is we have to continue to look at ways to not just reduce delays but make sure the most appropriate case is going to the most appropriate court. As you know, we changed the civil jurisdiction of the County Court. There is now concurrent jurisdiction between the County Court and the Supreme Court in relation to civil jurisdiction. I want to look at similar reform and how it would work in relation to our criminal jurisdiction.

Mr RICH-PHILLIPS — I would like to ask you about the legal services commissioner and how it is functioning. Firstly, for the information of the committee, could you tell us where the Legal Services Board and the legal services commissioner fit within the output structure? It is not clear from the budget papers.

The nature of the question goes to the operation of the legal services commissioner. I understand that the Law Institute and the Bar Council are concerned about the way the commissioner is working in the sense that if disciplinary matters are investigated and reported to the legal services commissioner, there is then no follow-up by way of action through VCAT. Is it your understanding that those concerns exist? Are they shared by the government and, if so, what action would you take to remedy that situation?

Mr HULLS — In relation to the output: it is self-funded by the industry, so that is why it is not in the output structure, but I have to say those concerns have not been expressed to me. In fact, from my understanding, the reforms that were undertaken in relation to the legal services commissioner (LSC) and the act generally, when those reforms were made — and they were made after extensive consultation after I first became Attorney — my understanding is that the current system is working well, and indeed there is now a one-stop shop for complaints.

This is something that was urged upon us by consumers of legal services. They were very concerned about the mishmash of complaint-handling services within the profession, were confused about where they should go if they had a complaint, and when we reformed the governance of the legal profession virtually all stakeholders believed there should be a one-stop shop for complaints — that is, the legal services commissioner, and also the Legal Profession Tribunal ought to be transferred over to VCAT, and there should be a specialist list at VCAT.

I am just trying to think how long it has now been in operation. I think it is a couple of years — about 18 months. I meet regularly with the legal services commissioner as I meet regularly with the Bar Council and with the Law Institute of Victoria. In all the meetings I have had, particularly with the Law Institute and the Bar Council, I have not received any complaints about the way the system is working.

That is not to say that we should not continually be vigilant and ensure that the system that was set up after consultation with the profession is achieving the objectives it was set up to achieve. But to date, it is news to me, to be frank with you, that there are concerns about the way it is operating. I am happy to have a further discussion with you about some of the issues that have been raised with you, but they certainly have not been raised with me. A whole lot of other issues have been raised, but certainly not in relation to the way the legal services commissioner has been operating.

Mr RICH-PHILLIPS — Are you able to provide the committee or does the LSC publish any statistics on the number of matters it disposes of, how many matters it receives from the profession and how they are disposed of? Is there any type of annual report reporting?

Mr HULLS — I will take that notice, I am happy to get back to you relation to that.

The CHAIR — Take it on notice whether the report is actually presented to Parliament, too. It would obviously be a good idea for that report to be presented to Parliament, I would have thought.

Ms GRALEY — Attorney, I would like to ask a question about the appointment of women in the justice system. I know this is an important part of your role, and I know that some members of the opposition are questioning it a little. I refer you to BP 3, page 162, and the outputs and deliverables relevant to the courts. Can you indicate recent statistics in relation to the appointment of women to our courts and key positions within the justice system, and how this has supported a process of quality appointments.

The CHAIR — Thank you, Minister, particularly in regard to that, but also going forward, please, in terms of the estimates and budgets.

Mr HULLS — Can I say that I have always said it is important that Victorians demand that the best and brightest be appointed to our courts to sit in judgement of us, but we kid ourselves if we continually think that the best and brightest are only white Anglo-Saxon males from private schools, and I have used that expression time and time again, and people have criticised me for using it.

Mr BARBER — .I went to public schools.

Mr HULLS — It has to be, and I should say, the best and brightest are not just white Anglo-Saxon males from private schools, of which I am one.

Mr BARBER — I agree.

Mr HULLS — So the fact is that the word 'merit' includes rather than excludes women, in my view, and basically Victorians deserve the energy, they deserve the expertise, they deserve the experience of all qualified candidates. They deserve their diversity to be reflected, in my view, on our benches and the senior ranks within the legal profession.

In relation to female appointments, as you know this government appointed Australia's first state Supreme Court Chief Justice — a female Chief Justice — and also the first female Solicitor-General In relation to the appointments that have been made, I have had the privilege of appointing 141 women to judicial or quasi-judicial positions, and that includes 18 County Court judges, so 51.4 per cent of the appointments I have made to the County Court have been women. There have been 20 female magistrates, so 51.2 per cent of the magistrates appointments I have made have been women, 96 VCAT members have been women and also 7 judges to the Supreme Court or Court of Appeal have also been women.

Going forward, there are, as you know, a number of vacancies now on the County Court and the Supreme Court, and a number of vacancies coming up in the Magistrates Court. As far as the Magistrates Court is concerned, we advertise and we encourage women to put their names forward. There is an independent interview panel, which includes the chief magistrate and others — people from my department that interview — and they put names forward to me.

I am pleased to say that more often than not about half the names that come forward for me to interview are women. When I appoint Supreme Court and/or County Court judges I consult very widely, including with the heads of the jurisdictions, and they are well aware that there are some very smart, bright women both at the bar and practising solicitors, and often women's names are put forward for consideration by me by the heads of the jurisdiction.

It used not to be the case. I remember in 1999–2000, when I became Attorney-General and I went to the heads of the jurisdictions and made it quite clear that there were vacancies on the bench, and when I said that I wanted a list of their 10 best and brightest, there were never women on the list. The first list of QCs, as they then were, were presented to me, and what used to happen was that the Chief Justice or his aide would come up to my office; there would be a secret envelope marked, 'Highly confidential' with a list of names in it which I was supposed to take to

Governor in Council. I had no say in choosing them, and there were either never women's names or I remember on one occasion, of the 24, there was one woman.

I rang the Chief Justice and asked why there was only one woman on the list, and he at the time indicated that that was because only two had applied; so on one view, 50 per cent of all women who applied were appointed! It is important that we get the best and brightest, and there is a change in culture, slowly, within the legal profession, that now realises that the best and brightest does include, not exclude, women.

Mr WELLS — Minister, I refer you to budget paper 3, page 162 — the output of 'Court matters and dispute resolution', and I also refer you to a recent speech by the Chief Justice where she made it clear that your department is responsible for court administration.

I also refer you to a recent *Herald-Sun* story of 28 May, titled, 'Thugs shop for bail'. It is a case where a dangerous thug had won bail after his fourth try at magistrate shopping, and the result of this unfortunate situation was that he was released and bashed a disabled man to death.

What are you doing to ensure enough funding is in the forward estimates to improve court administration and certainly record-keeping, or to change the law to ensure that bail shopping by violent criminals does not continue?

Mr HULLS — The State of the Judicature address that the Chief Justice made indicated that the relationship between the department and the Supreme Court has never been better and indicated that the department is indeed working very closely with the Supreme Court in relation to workload of judicial officers, resources and the like.

As a result the state budget, as you know, included significant additional resources for our courts, including a $110 million plan to further improve the justice system and deliver justice for all Victorians. But you do raise a particular issue in relation to bail and that article, which I also saw, about bail shopping, as it was called. As you would know, the bail act is the legislation which governs the granting of bail in Victoria, and magistrates make decisions based on the facts before them. They have in mind the protection of the community, obviously, and anyone who has been accused of an offence and held in custody is entitled to bail. That is a fundamental tenet of our criminal justice system.

I know it would be inappropriate for me to comment on proceedings of individual cases, including individual applications for bail, because of the separation of powers and the like, but in relation to the listing and hearing of bail matters in the Magistrates Court, the listing protocols state that applications for bail with new facts and circumstances — that is, second and subsequent bail applications — are to be listed before the magistrate who heard the application in the first instance, as you would know — —

Mr WELLS — That is right.

Mr HULLS — Unless there are circumstances which prevent that magistrate from hearing the matter or the magistrate otherwise directs. The listing registrars, the coordinators of the court, across the state, I am told, apply this protocol; however, at times there are circumstances which prevent protocol being adhered to — for example, magistrates may be on leave, and the court is also mindful of the provisions of the bail act in relation to not unnecessarily detaining defendants in custody, as you would expect.

In practice, I am told, if a bail application is listed to be heard before a magistrate other than the magistrate who heard the original application, the presiding magistrate may refuse to hear the matter and adjourn it to a date when the original presiding magistrate is available. All that is at the discretion of the magistrate. So there are protocols in place, they are being followed unless there are exceptional circumstances, and I think those protocols are appropriate.

For me to be interfering with the discretion of magistrates would be totally inappropriate. I have faith in magistrates dealing with matters, dealing with important matters of bail, obviously taking into account the bail act and all that lies under that legislation, and also understanding that a person is entitled to bail. I think the balance is right.

Mr WELLS — You say it may be appropriate, but this was his fourth bail application, so something clearly is not working in the record-keeping under the court administration.

Mr HULLS — I simply repeat that I would never interfere with judicial discretion. It is true that in November 2004 we asked the Law Reform Commission to review the bail act and make recommendations for any procedural, administrative or legislative changes which may be necessary to ensure that the bail system functions simply, clearly and fairly, and I expect to get their report in July 2007, but I am not going to comment about an individual case. I am not going to comment about an individual case that you are citing, because I think it is inappropriate for me to go down that path.

There are protocols in place, and I have the utmost faith in the independence of the judiciary. There are two separate issues. Yes, there is a review of the bail act, and I expect to get their report in July 07, but I think the protocols are working and working well.

The CHAIR — Just a note for committee members and witnesses that checking your Blackberries or mobile phones while you are at the table interferes with the reception and causes a problem for Hansard, so if anyone wishes to do that, could they perhaps go outside to do it. Thank you.

Mr PAKULA — In the 07–08 budget there is an initiative to increase compensation payments to victims of crime. I would appreciate it if you could outline what those increases are, indicate whether those increases are part of a broader strategy to support victims and whether that is in line with the victims charter that came into effect last year.

Mr HULLS — I guess a measure of any society is the way it treats its most vulnerable members, and victims of violent crime are certainly some of the most vulnerable people in the Victorian community. We have always had a belief that we have a responsibility to acknowledge on behalf of the community the experience of victims and do what we can to help them recover from the devastating effects of violent crime.

That is why we reintroduced compensation for pain and suffering, which really is an expression of the community's compassion and concern that was so callously, can I say, abolished by our predecessors. We have reshaped government support services, we have established a single point of call in the Victims Support Agency for victims. We have introduced a victims register which enables victims of violent crime to be kept informed and have their views considered, and that is why we continue to reform the area of family violence and sexual assault.

We did make an election commitment to increase pain and suffering compensation for victims, as you say, and we have increased it by 30 per cent — that is, to the maximum amount of financial assistance that can be awarded by the crimes assistance tribunal. That will apply with respect to acts of violence occurring after 1 July this year; so primary victims of acts of serious violence occurring on or after 1 July this year will be entitled to $10 000 compensation for pain and suffering, which is up from the maximum of 7500. These victims can also receive up to $60 000 for counselling, medical expenses and other expenses. We have allocated, I think, $8.4 million for the implementation of this policy over a four-year period.

It is true that no amount of money can make up for the harm that a victim suffers as a result of an act of violence. However, we believe that we have a responsibility to help victims of crime to become, I guess, survivors of crime, and pain and suffering compensation is a very important part of accepting that responsibility.

I have to say I am pleased that members of the opposition supported this legislation when it was introduced. That is the type of reform that does not come in isolation. As you know, we have also introduced a victims charter which enshrines victims rights in one document and sets out obligations of government and other agencies in dealing with victims, and $3.3 million was allocated in the budget for the implementation of the victims charter.

The CHAIR — Thank you, Attorney-General. I note that in terms of the department's response to the budget estimates questionnaire, the secretary tells me that it was the most comprehensive, and it was the only department we did not have to chase things up for.

Mr HULLS — We ride 'em hard!

The CHAIR — In regard to question 9.1, I am sure you will provide us in due course with the information in regard to your advertising and communications for the next financial year. It would be much appreciated.

In respect of the sexual assault reforms, Attorney-General, we have heard from other witnesses — particularly the Chief Commissioner of Police — about the initiatives you have been involved in and the ongoing ones. Where are we on that, and where are you looking to proceed in terms of sexual assault reforms in the coming years?

Mr HULLS — Reforms to sexual assault have to involve not just legislative reform but also attitudinal change. Any reform should be aimed at encouraging victims of sexual assault to come forward. In the bad old days victims would not come forward because they were abused by the perpetrator in the first instance, and they were firmly of the view that the court process was going to abuse them again. They felt like they were on trial, in effect.

So I gave the Law Reform Commission a reference in 2001, which looked at researching and recommending ways to improve the complainant's experience of the criminal justice system. In 2004 it made a whole range of recommendations about legislative and systemic reform for victims of sexual assault.

The 06–07 budget allocated $34.2 million to a sexual assault reform package to improve the operation of the justice system as well as responding to a recommendation from the 2006 Ombudsman's report **Improving responses to allegations involving sexual assault*.

I have just returned from Mildura — I was in Mildura on Monday — where, together with Bob Cameron, the police minister , and Christine Nixon, the Chief Commissioner of Police, we took great pride, can I say, in opening one arm of our reform package — that is, the Mallee sexual assault centre. That is one of two multi-disciplinary centres, sharing in $6 million.

These centres are designed to deliver an integrated justice and human service response to victims of sexual assault in a non-threatening environment, where victims can be confident they will be treated with respect, with compassion, with dignity and with understanding. It is a one-stop shop, where there is a multidisciplinary team. That includes a new police sexual offence and child abuse investigation team, solely dedicated to investigating sexual offences; crisis and support workers from relevant services, such as CASA — the centre against sexual assault; forensic medical examinations, which take place on site; and also specialist services such as by interpreters, for instance, when they are required.

These centres are just one arm in the many reforms that have taken place. We have set up a forensic nurses network, which had its first intake of students, learning more about how to provide appropriately sensitive forensic medical services to adult victims of sexual assault. The OPP — which you probably saw in some media recently, because Andrew Demetriou was there at the launch — launched the specialist sex offences unit, which aims to ensure a more continuous, informative and respectful process for victims of sexual assault, as well as recognising that the prosecution of theses offences will benefit from a specialised prosecutions unit. Also the magistrates and county courts now have specialised sexual assault court lists, which make the trial process more efficient and responsive to the needs of victims of sexual assault.

I think we all agree that we need, and we need to encourage, victims of sexual assault to come forward, to bring the perpetrators to justice, and to restore the faith of victims in their communities and their faith in the law. All these reforms are aimed at encouraging victims to come forward but also ensuring that the perpetrators receive a fair trial as well. I think these are pretty good reforms.

The CHAIR — Thank you, Attorney-General.

Mr DALLA-RIVA — Attorney-General, I refer to your previous discussions about having diversity in judicial appointments. In the context of a recent statement by the Chief Justice of the Supreme Court on 22 May this year, which was reported subsequently in the *Australian*, where it was indicated that there was some concern expressed that appointing inexperienced people to the bench as part of a political agenda to increase the cultural gender and social diversity of the judiciary actually may, in turn, work against things such as clearance rate, as pointed out in the speech.

I want to get some more clarification, against the previous discussions. Could we flesh that out a bit more in terms of those comments made — you may not wish to, but I think it is important in the context of trying to clear up the backlog, as you pointed out.

Mr HULLS — Sure.

Mr DALLA-RIVA — Given that there are more complex cases coming up.

The CHAIR — Your answer, particularly as it relates to the estimates, Minister.

Mr DALLA-RIVA — Budget paper 3, page 162.

Mr HULLS — I understand — budget paper 3. In relation to Chief Justice Marilyn Warren's speech and what was reported, there are two different things. The chief justice has actually made it quite clear that the appointments that have been made to the bench, in particular to her court, are of the highest calibre and the highest quality.

Just to let you know the process that is involved in appointing people to the bench, it is not as though I simply come out with names, take them to a head of jurisdiction and say, 'This is the person I am appointing to the bench, like it or not'. That is not how the process works. What occurs is that I have consultation with a whole range of stakeholders, but in particular the heads of the jurisdictions.

Each of the appointments that has been made to the Supreme Court has been in consultation with, agreement with and, without wanting to give away too much of the process, in the main on the recommendation of the chief justice. So the appointments to her court have been made not only with her consent but in the main on her recommendation. I think she has made it quite clear publicly, in speeches she has given and also interviews that she has given, that the appointments to the Supreme Court are of the highest quality.

It would be wrong to suggest that the government makes appointments based on other than the best and brightest criteria. Some of the comments I have made have been misconstrued. People think that there is some hidden political agenda whereby the government is just appointing women because they are women, and for no other reason. That is just not the case.

For too long we as a legal profession have dismissed women as being second-rate lawyers not up to the job of higher legal office. I am continually dismayed by the attitude of some in the legal profession when a particular woman's name might be put forward and the immediate response is, 'No, she's not good enough because she's only been at the bar for 18 years', whereas if it is a bloke who has been at the bar maybe for 10 years, he is sensational.

It is the fact that women have to prove themselves, it appears to me, way above and beyond the limitations of their male counterparts. I am sick of it and I will continue to get the message out there that cultural change is occurring in the legal profession, like it or not. The reform train has left the station; you are either on it or you get left at the station.

That is not to say that I will not use the best and brightest criteria every time a judicial appointment is made. The chief justice would expect no less, the chief judge would expect no less and Ian Gray, the chief magistrate, would expect no less. We can use whatever words we like but this government will only appoint the best and brightest. Having said that, for too long we have thought that the best and brightest are only blokes, and it is just a nonsense.

Mr DALLA-RIVA — So would you agree with the chief justice in relation to her solution lying in the appointment of full-time or part-time retired judges to be on hand to provide advice, training and counselling to new appointees? Do you see that as an appropriate mechanism and, if so, how would you fund it?

Mr HULLS — First of all, you say a 'solution': a solution is only needed if there is a problem. I do not believe there is a problem, firstly. I believe that the best and brightest are being appointed.

Mr DALLA-RIVA — They are the chief justice's words.

Mr HULLS — Yes. I think the best and brightest are being appointed. A separate issue, though, that the chief justice does want to have discussions in relation to is how we can better utilise the expertise of retired judges, basically — people who have been on the bench for a period of time, who are retiring and who may want to come back and do some work on the bench.

I have already introduced legislation to allow for acting judges, and there is already provision to allow judges who retire from the bench to come back in an acting capacity. The acting judge legislation also allows — a bit like the

recorder system in the UK — barristers and/or solicitors who may not seek full-time judicial office to be appointed as an acting judge for a period of five years and to be utilised at times of need in the court.

There was argument at the time that this may infringe upon judicial independence and the like. I reject that argument because acting appointments are made for five years outside an election cycle, like VCAT members, and whilst the government appoints them for that period of time, it is up to the head of the jurisdiction to utilise them on an as-needs basis. Yes, the Chief Justice is working up a proposal to ensure that some of the expertise that exists on the bench when those judges retire can be utilised. There is already legislation in place for acting judges, and I am hoping that legislation can be utilised better.

I am informed that there are currently six County Court judges who are retired and who are working in an acting capacity, and eight magistrates who have retired, who, again, are working in an acting capacity. But I want to expand it to those who have not been judges because the legislation allows for that. People might have 20 years expertise in the criminal jurisdiction and might be at an age when they do not want to serve full-time on the bench, but who could come in and utilise their expertise on the bench.

The CHAIR — Thank you, Attorney-General. Ms Munt would like you to take on notice a question regarding the Moorabbin court complex and when it is going to be finished.

Ms MUNT — Because I can see it growing out of the ground every day.

The CHAIR — We do not have time —

Mr HULLS — I can tell her that it will be finished on the day that I come and cut the ribbon.

The CHAIR — I thank John Griffin for his attendance today.

Mr BARBER — I have a question on notice from the women's affairs portfolio that was transferred to your portfolio, Minister. I just want that to go on notice.

The CHAIR — Okay. We will put that on notice, too, regarding the women's affairs portfolio.

Witnesses withdrew.