V E R I F I E D T R A N S C R I P T

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into budget estimates 2006-07

Melbourne — 20 June 2006

Members

Mr W. R. Baxter
Ms C. M. Campbell
Mr R. W. Clark
Mr B. Forwood
Ms D. L. Green
Mr J. Merlino
Mr G. K. Rich-Phillips
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Chair: Ms C. M. Campbell
Deputy Chair: Mr B. Forwood

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Witnesses

Mr R. Hulls, Attorney-General;

Ms P. Armytage, secretary; and

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

The CHAIR — Good morning. I ask those who have just joined us to please turn off mobile phones. I welcome Ms Penny Armytage, Secretary of the Department of Justice, and Mr John Griffin, executive director — courts. Minister, thank you very much. It is over to you now for a 5-minute presentation on the Attorney-General portfolio.

Slides shown.

Mr HULLS — Thank you, I am pleased to be here. I just want to outline some of the initiatives from the past 12 months. The slide shows that my portfolio has $621.2 million or around 20.8 per cent share of the $2.983 billion dollars allocated to the Department of Justice. There is a 19.3 per cent increase on last year which represents a significant injection of new funds to my portfolio amounting to some $78.28 million over the next four years.

The next slide gives a further breakdown. It shows various output groups — dispensing justice, which includes courts, prosecutions, legal aid and the like, which has an allocation of 61.62 per cent of the portfolio; legal support to government; equal opportunity — there has been 18.55 per cent increase in its allocation; and enforcing court orders.

The next slide shows the major achievements in 2005–06 out of the justice statement, including promoting rights and disadvantage and modernising justice. We have also looked at protecting rights and addressing disadvantage through the charter of human rights and also the victims charter. Modernising the justice system — we are setting up a neighbourhood justice centre in Collingwood, which will open early next year.

The next slide talks about continuing achievements, including a comprehensive review of our criminal laws, the most significant criminal law reform project ever undertaken in Victoria. The Crimes Act is being totally rewritten, with offences, criminal procedure and investigative powers all being reviewed and clarified. The new Legal Profession Act commenced in December 2005. I immediately followed that with a review of post-legal education requirements. Finally, fairer and firmer fines — the Infringements Act is due to commence on 1 July. The act provides for increased sanctions on the one hand as well as improved and fairer processes for more vulnerable and disadvantaged Victorians.

Slide 6 talks about the proactive law reform program — the document destruction act, the Defamation Act, the sexual assault act, defences to homicide and family violence holding powers. The Crimes Family Violence (Holding Powers) Act was enacted in response to an interim report by the Law Reform Commission. That act will give police the power to hold a person accused of family violence until an intervention order can be obtained and served, and it comes into operation on 1 July.

The next to last slide speaks about protecting rights and addressing disadvantage. The Aboriginal justice agreement mark 2 aimed at further reducing indigenous overrepresentation in the criminal justice system, the charter of human rights is allocated $6.7 million over four years; the sexual assault reform package — $31 million over four years; for child witness support, $3.2 million has been allocated to establish our first specialist child witness service, which is going to assist up to 500 child witnesses each year — about 75 per cent of those, by the way, will be victims of serious crime; and some $3.3 million has been allocated to implement a victims charter.

The second last slide is about modernising the justice system, including the redevelopment phase 1 of the Supreme Court, with $32 million; the institute of forensic medicine, with $2.4 million; a number of community safety initiatives; for counterterrorism and organised crime the 2006–07 budget allocates $109 million over four years, and of this $16.7 million is being allocated to the courts, the Office of Public Prosecutions and legal aid. There is also an additional $33 million for road safety.

To sum up, I think the presentation demonstrates that significant progress has been made in relation to modernising our justice system in this state, promoting rights and addressing groups or individuals who are disadvantaged, and the next 12 months will build on those reforms.

The CHAIR — Thank you, Minister, for being so succinct.

Ms GREEN — Minister, I refer you to budget paper 3, page 284. It has got there output initiatives across government. I refer you to the item under A Fairer Victoria entitled 'Aboriginal justice agreement'. Minister, could

you outline to the committee what is included in the agreement and the key justice portfolio and related initiatives that will be funded as part of the agreement over the next four years?

Mr HULLS — I know all members of this committee are keen on finishing the business between indigenous and non-indigenous Victorians. We all want to walk the path of genuine reconciliation, and in doing so it is important that we continue to form long-lasting partnerships with Koori communities right across the state. That is why not long after we came to office we implemented the Aboriginal justice agreement mark 1, under which all parties committed to reducing indigenous contact with the criminal justice system and indeed fostering indigenous leadership within the law overall. That is why in 2003 we also commissioned the first indigenous-led review of any state or territory in response to the Royal Commission into Aboriginal Deaths in Custody.

We already funded, as you know, the Aboriginal justice agreement mark 1; however, following the recommendations of the review it was agreed that this government should embark upon a second phase of the Aboriginal justice agreement, and we have allocated $26.04 million to further reduce indigenous overrepresentation in the criminal justice system. The AJA mark 2 will build on what I think is a fairly considerable foundation established under the AJA mark 1. Rather than pitting the mainstream legal system against indigenous communities or creating a two-tiered system, the Aboriginal justice agreement is about lending greater meaning and gravitas to the existing law and improving confidence in its mechanisms for indigenous offenders.

Some of the initiatives out of AJA mark 2 include the expansion of the Koori Court Network; indicatives to assist Koori youth in contact or at risk of coming into contact with the juvenile justice system — we have allocated $4.7 million for that; improving their self-esteem; and improving opportunities through stronger ties with employment and education, including the establishment of an early school leaver and youth employment program; an intensive bail-support program; and a pre-and-post-release support program.

Also $7.8 million has been allocated to strengthen community responses to criminal justice-related issues. For programs to reduce reoffending by indigenous prisoners we have allocated $2 million, and for an initiative to reduce the negative contact that Kooris have with police and improve the relationships between Victoria Police and the indigenous communities right across the state there is $2.6 million.

I am certainly extremely proud of the Aboriginal justice agreement in both its phases, phases 1 and 2. I look forward to its ongoing success and ongoing partnerships with the indigenous community as we all continue to try to walk the path of reconciliation.

Mr FORWOOD — On 14 July 2002 James Donnelly was hit from behind and killed. Since then Victorians have watched this case with horror. Are you aware that yesterday the family came face to face with the person driving the car, who had spent considerable time and energy hiding, that he is out of jail already and that they had not even been told that he was out of jail. Despite the fact that on appeal he was sentenced to 18 months, he was out of jail inside 12. Minister, let me ask you these questions: were Mr and Mrs Donnelly entitled to know that the driver of the car that killed their son had been released from jail early? Secondly, does this not just make your commitment to victims of crime, which you released last week, nothing but sheer puff and bubble?

Mr HULLS — Can I say a couple of things. First of all, this is a tragic situation for the Donnelly's — there is no question of doubt about that. The last thing I would want to do is to be using their grief to play politics, Bill. It is a tragic incident, and my heart goes out to the Donnelly family. Obviously the pain they experienced as a result of the death of their child is something that certainly would be very difficult for any of us to understand. I have three kids, and it would be horrific. I do not think we should be using this opportunity to play politics with this particular matter and their grief.

To the substance of your question, we are committed, as you would know, to stamping out dangerous driving. We have actually toughened the laws in a number of ways to deal with dangerous driving. We have created a new offence of dangerous driving causing death, with a prison term of up to five years. Last year we increased the maximum penalty for failing to stop and render assistance — that is, hit-and-run driving, if you like — from 2 to 10 years.

As Attorney-General it is not appropriate for me to comment on particular sentences that the court has handed down. I do believe in an independent judiciary, and I also believe in an independent parole board. The parole board, obviously, has seen fit to make a home detention order in this particular case. I can observe, though, that eligibility for home detention has been very tightly constrained. Only low security prisoners who have completed, as I

understand it, two-thirds of their sentence and are within six months of release can be granted home detention by the independent parole board. In addition, there is a range of serious offences for which a prisoner is not eligible for home detention, regardless of those criteria. They include serious violent, sexual or drug offences. Failing to stop and render assistance is not included in these disqualifying offences. I will get back to that in a second because that really is the substance of your question.

In addition, we have established a victims register. This register enables victims, or their representatives, of violent or sexual offences to be informed about a relevant offender's length of sentence and release, including a home detention order.

To get back to what I earlier said, the hit-and-run offence of which you speak is not one that currently enables a victim or their family to apply to be placed on the register and informed about the offender's prison term and release.

Mr FORWOOD — No rights.

Mr HULLS — However, as you would know, my parliamentary colleague Tim Holding is responsible for the victims register, and I intend to raise with him the issue of whether, particularly in light of the fact that we have dramatically increased the penalty for hit-and-run offences to 10 years, it is appropriate to include the hit-and-run offence — failing to render assistance offence — as a qualifying offence for the register.

Having said that, I think that is the appropriate course to take. It is not true to say that victims have no rights. In fact, this government has spent an enormous amount of time and money on improving the rights of victims that were abandoned under the previous Kennett government. But in relation to this particular case, this particular case is a sad case. I understand their pain, and I think it is appropriate that I speak to Minister Holding about whether or not, particularly in light of increasing the penalty for hit-and-run matters, that offence should be an offence that should be included on the victims register.

Mr FORWOOD — Let me just follow that up.

The CHAIR — The question was whether they were entitled to know.

Mr FORWOOD — And the answer is no.

The CHAIR — And the answer is no. Your other comment in relation to victims statement and register has also been covered. The minister has answered your questions, and we will now go to the next question.

Mr FORWOOD — No, I have a follow-up question.

The CHAIR — The two questions that you asked have been answered comprehensively by the minister. The only follow-up questions are in relation to points of clarification or understanding.

Mr FORWOOD — I cannot believe that you will not allow questions on this matter.

The CHAIR — I have told you that I am not putting up with shouting.

Mr CLARK — Chair, on a point of order, your normal practice is to allow supplementary questions on the same topic as the principal question.

The CHAIR — That is for points of clarification.

Mr CLARK — Yes, but your ruling then attempted to confine Mr Forwood simply to the questions that he asked previously and not allow him to clarify or ask other questions on the same subject matter.

The CHAIR — The questions were quite specific and the answers addressed them comprehensively.

Mr CLARK — I would have thought the subject matter was what is the treatment of the hit-and-run cases.

The CHAIR — And the minister has outlined that in his writing — —

Mr FORWOOD — What are you hiding?

The CHAIR — I am not hiding and I am not putting up with shouting.

Mr FORWOOD — That is an absolute disgrace!

The CHAIR — Minister, the question I would like to take you to is a follow-up to Ms Green's question in relation to Aboriginal justice. In the Aboriginal justice agreement, reference was made to the Koori court initiative. Could you outline to the committee how those courts have performed to date, and how it is planned to expand those courts?

Mr HULLS — I am very proud of the Koori court network. It aims to use the force of cultural values to make the sentencing process of the Magistrates Court more effective. There is a participation of Aboriginal elders and respected persons who, along with a Koori court officer and other dedicated court personnel, assist the magistrate. Koori courts ensure that defendants truly comprehend the consequences of their offending behaviour. The magistrate obviously remains the ultimate decision-maker in the Koori court with a full range of sentencing dispositions available, from a dismissal or a fine through to a community-based order or imprisonment. We did not need to amend the Sentencing Act to establish the Koori court. The Koori court is not mandatory. It is only available to Koori offenders who plead guilty. Offences involving breaches of family violence orders and sexual assault are currently excluded from the Koori court.

When we first established the Koori court, some articles were written that the Koori court is just a soft option. I have to say the feedback we have indicates that rather than considering it less serious, Koori defendants appear to be confronted by the presence of Aboriginal elders and respected persons and are far more prepared to take the process seriously. I have to say that this is reflected in the results of independent evaluation of Koori courts at Shepparton and Broadmeadows that were conducted between 2002 and 2004. That independent assessment really branded the courts as a resounding success. The results found that the Shepparton Koori court had a reoffending rate of about 12.5 per cent and Broadmeadows had a rate of about 15.5 per cent. The recidivism rate for all Victorian defendants reported at that time was 29.4 per cent, meaning that the Koori courts had actually brought recidivism rates down to less than half of the general population, which is not something that you read on the front page of our newspapers, but it is a resounding success.

The evaluation found that the court made a positive impact upon the lives of defendants, strengthened community ties by recognising the status of Aboriginal elders and respected persons. There are currently five adult Koori courts — Shepparton, Broadmeadows, Mildura, Gippsland and Warrnambool, operating as a circuit to Portland and Hamilton — as well as Australia's first ever children's Koori court, which commenced in October 2005. As the budget papers show, $7.4 million has been allocated to establish a further three Koori courts over the next four years, including an additional children's Koori court, an adult Koori court and a circuit court. Professional development strategies for aboriginal elders and respected persons is also being developed. I think we can all be very proud of how well the Koori courts have worked. As you know they were sunsetted some time ago. We removed that sunset clause, so they are now a permanent fixture here in Victoria.

Mr CLARK — I want to follow on from Mr Forwood's previous question. We are all agreed on the tragedy of this particular case, and you have mentioned that you are proposing to ask Minister Holding to review the relevant rules. My question is: what criteria do you envisage applying, given that you are now talking about having the hit-run cases put on the victims notification register? I have to say this seems to be shutting the stable door after the horse has bolted. We have had this terrible tragedy expose this flaw in the system. Given that you are proposing this change, how much further do you contemplate taking this extension of the notification of victims, or is this simply an ad hoc response to the publicity that this particular case has received?

Mr HULLS — No. Seriously, this is a very tragic case that, as I said, should not be used to play politics with. We have set up a system in Victoria that first of all re-established compensation for pain and suffering for victims. You will remember very well, being part of the previous government that no doubt debated this matter, that when we came to office in 1999 compensation for pain and suffering was abolished — abolished under your regime when you were in government. If we are serious about the work that has been done in relation to victims, let us not try to rewrite history. If you remember the debate that took place at that time, the Premier of the day — —

Mr CLARK — I am trying to concentrate on this issue.

Mr HULLS — Absolutely. The Premier of the day said that compensation for pain and suffering should be abolished because a particular woman used her compensation to buy a red coat, and on that basis — —

Mr FORWOOD — What does that have to do with James Donnelly?

Mr HULLS — It has to do with the history in relation to assisting victims of crime, and this government has a very proud record — —

Mr FORWOOD — No you do not.

Mr HULLS — This government has a very proud record in relation to assisting victims of crime.

Mr FORWOOD — You are all words and no action.

The CHAIR — Excuse me, Mr Clark has asked a serious question. Interjections are not assisting in providing a comprehensive answer to Mr Clark.

Mr FORWOOD — Bring him back to the question!

The CHAIR — Minister, Mr Clark's question related to the criteria. The background is very helpful but we are trying to get through questions in about 4 minutes.

Mr HULLS — In relation to assistance for victims, a whole range of reforms have been introduced: reinstating compensation for pain and suffering; establishing the victims support agency; we set up a sentencing advisory council; we have made major advances in relation to assisting particularly women who have been subjected to crimes, new laws to support the experience of children who are victims; people with cognitive impairment and the like; and we have introduced a victims register.

It is true that the victims register enables victims of crime or of violent and sexual offences, or their representatives, to be informed about the relevant offender's length of sentence and release, and that includes home detention. Hit-run matters were not originally placed on this register for a number of reasons, not the least of which was the fact that the penalty was seen to be — in broad terms, the maximum penalty — relatively low, some two years. I believe that in light of the fact that the penalty has been dramatically increased to 10 years by this government, it should be considered by Minister Holding as to whether or not this type of offence, with a penalty of 10 years, should now be included on the victims register. It is a conversation that I will have with Minister Holding, and I think it is absolutely appropriate.

The CHAIR — Minister, the question related to the criteria you envisage applying. Do you want to make any further comment which goes to — —

Mr HULLS — That will have to be a discussion with Minister Holding, but we have increased the penalty from 2 years to 10 years, so our discussion will be obviously as to whether or not — —

Mr FORWOOD — Not for the Donnellys.

Mr HULLS — Bill, with due respect that is a very cheap comment to be making.

Mr FORWOOD — It does not help the Donnellys.

The CHAIR — The minister has already made that point.

Mr HULLS — The fact is that the Donnellys are suffering enormously as a result of the death of their child.

Mr FORWOOD — And the treatment of the perpetrator by the court system and by your government.

The CHAIR — Excuse me, we will go to the next question. I am not putting up with that kind of shouting.

Mr HULLS — On that point can I just stay — —.

The CHAIR — Minister, I am not putting up with that kind of shouting. We are moving to the next question.

Mr CLARK — I did not get any answer to my question about criteria.

The CHAIR — I cannot instruct Mr Forwood to do anything but behave appropriately, and if he is constantly shouting and interjecting, I will move that we go to the next question. I have already attempted to follow up what you requested, as you know; and I cannot do that while your colleague is shouting, so we are going to the next question. You might like to counsel him to stop shouting if you want to ask the next one after that.

Ms ROMANES — My question relates to the infringements fee waiver, and I refer to the output 'Enforcement of court orders and warrants' on page 183 of budget paper 3. I ask the minister if he can explain to the committee what impact the recent fee waiver, which was announced in February 2006, to encourage fine defaulters to pay their outstanding fines has had on the number of people with outstanding fines paying their fines, and what impact this initiative has had on budgeted revenue from fines for 2005-06.

Mr HULLS — Like any government we have to do what we can to make sure we strike the right balance when it comes to fees and fines. Obviously we want to ensure that all Victorians get a fair go on the one hand and that we also meet responsibilities as members of the community. We implemented comprehensive reforms to the infringement system that we believe strike that balance, ensuring that the system is fairer for those who are genuinely struggling to pay fines but also firmer on those who continuously flout their obligations. We know that for some people the payment of infringements is extremely difficult and therefore we granted access to instalment plans from 1 February this year.

I am pleased to say that since 1 February Civil Compliance expects 30 000 payment plans with an average value of around $500 will be entered into. The new system provides extra protections for those in the community who are vulnerable and should not be dealt with by way of infringement notices. This includes official warnings rather than infringement notices in appropriate cases, considering special circumstances of the homeless, as well as people with mental and intellectual disabilities and serious drug addictions, and providing the right to seek an internal agency review of an infringement notice.

As you indicated, we implemented a fine fee waiver until 31 May this year, allowing those with outstanding fines to pay their debts in full or to enter a payment plan. Consequently, can I say that 180 000 people with one or more penalty enforcement warrants as of April, received a personalised reminder letter. We conducted extensive radio and print advertising to get the message out. The sheriff made personal contact with a whole range of people, and most local councils participated in the amnesty right around the state.

About 90 per cent of all state and local government infringements were covered by the amnesty. It is pretty staggering really, but 112 132 individual debtors with a total of 360 724 fines took advantage of the waiver. The call centre also took more than 18 000 messages from people seeking to take advantage of the waiver in its last couple of days, and of course the telephone lines were jammed, as you would expect. These calls are going to be returned in the coming weeks, and people who left their contact details will qualify for the waiver. If all payment plans are fulfilled as a result of the waiver, I am advised that we will rein in more than $50 million in outstanding fines.

Mr FORWOOD — There is $650 million left.

Mr HULLS — I will take up the interjection because the new — —

The CHAIR — No, do not, just keep going. Keep giving us the facts and figures.

Mr HULLS — The new scheme also provides for improved enforcement measures to deal with those who are unable to — —

Mr FORWOOD — Catch up with the 40 000 people who got more than 10.

Mr HULLS — Those who are able to pay their fines but refuse to, and that includes things such as drivers licence suspension, vehicle registration suspension, wheel clamping, garnishee of wages and debt and the seizure of personal and real property. So we have taken this action as a result of the fee waiver, and it looks like we will recoup about $50 million in outstanding fines.

The CHAIR — That is good, because we made reference to that in our report.

Mr RICH-PHILLIPS — Can the minister tell the committee what the total current outstanding level of fines is?

Mr HULLS — I am advised it is about $700 million.

Mr RICH-PHILLIPS — Thanks. That is after the $50 million?

Mr HULLS — I want to be precise about that figure. That is the initial advice I have; we will get you the exact figure.

Mr CLARK — I want to return to the subject of my previous question. As you would have gathered, I am concerned that what you told the committee earlier was an ad hoc response to this particular tragedy rather than a considered move, which is why I asked you about the criteria on which you might extend the notification of victims. Can I ask: to be specific, does it follow from your statement that the reason for now considering having notification of victims in relation to hit and run is that the sentence has been increased to 10 years, that you will be similarly contemplating adding to the register for notification of victims' families all other offences which bear a penalty of 10 years or more in prison?

Mr HULLS — That is a good question. A victims register is something that is new in this state. It would be foolhardy to say that the law is static. It is not; it is evolving. Having set up the victims register to enable victims of particular crimes to be advised — it was set up, as I understand it, after consultation with the community — it was considered that those crimes where victims most wanted to be informed about particular aspects of cases, including when people were being released, were victims of serious crimes including sexual offences. So the victims register has been set up accordingly. But that does not mean that we should simply say, 'There it is. It is set in stone and there should be no amendments to it'. I said to you earlier that I will be having conversations with Tim Holding in relation to whether or not, having increased the penalty for hit-run or leaving the scene of an accident to 10 years, that is an offence that ought be included in the register.

What you are saying is, 'Would a criterion be maximum penalty?'. Yes, obviously that would be something that is looked at. With these types of things nothing is static. That is why we have also set up the Sentencing Advisory Council. People have said in relation to things like suspended sentences that they are set in stone and should be there forever. The Sentencing Advisory Council consulted with the community and was of the view that the public was losing confidence in that particular sentence. While it was the second most serious sentence in the hierarchy, it was not being viewed as that by the public. So the Sentencing Advisory Council made recommendations, and we will adhere to certainly the first part of those recommendations.

It is the same with this. We set up a victims register. The law is continually evolving. One of the criteria would obviously be whether or not certain offences with a maximum penalty should be included in the victims register. But that conversation has to take place.

Mr CLARK — So the review will go beyond just this particular offence? You would consider including other offences with similar penalties on the register program?

Mr HULLS — I will be having a conversation with Minister Holding in relation to this matter, and I expect this will be the catalyst for further consultation about offences included in the victims register.

Mr SOMYUREK — I refer you to page 83 of budget paper 4. Halfway down is a line that reads:

> Major initiatives announced in the 2006–07 budget contributing to the increase in appropriation revenue are:

There is then a series of dot points, and the last one reads:

> $3 million to implement a human rights charter.

Can you please tell the committee how funding will be allocated to implement this charter? What will it fund, and what do you expect to achieve through the human rights charter?

Mr HULLS — As you would know, we are the last remaining developed democratic nation in the world to establish a formal mechanism to recognise human rights. In this state we believe that Victorians deserve the

same rights and recognition as others around the globe. That is why we embarked upon a comprehensive consultation process. We asked Victorians how they wanted this recognition to occur. As I think I mentioned last time I was here, the independent committee conducted consultations right across the state. It received 2500 written submissions, and the vast majority of those called for legislation to better protect Victoria's human rights. We obviously listened to those views.

Victorians told us pretty clearly, though, that they did not want a US-style bill of rights that could lead to an explosion in litigation and give too much power to the courts. They made it quite clear they did not want that. So under this model courts will not have the power to strike down legislation. It is also important to understand that a charter of this kind will not prevent the government from taking strong action where the community's safety is threatened.

You are right, some $3 million has been allocated to assist the government to implement the charter. This $3 million is just part of our $6.5 million commitment over four years to assist with that implementation. Some $2.55 million of this funding will be used over the next two years to educate and train people right across the public sector, particularly in departments like DHS and Corrections, and in agencies like Victoria Police, about how to make sure that Victoria's human rights are taken into account in every decision and every action they take. Some $1.39 million of the $6.5 million will fund a human rights unit within the Department of Justice to help analyse policy and legislation to coordinate training across government and help departments and ministers apply the charter consistently. Of course it is essential that ordinary Victorians know about their basic rights, and the renamed Victorian Equal Opportunity and Human Rights Commission will receive $2.33 million to undertake community information and education and embark upon reporting functions.

Just finally, $250 000 has been allocated to assist the Human Rights Law Resource Centre undertake its role in informing and advising disadvantaged communities about human rights. I think it is a great initiative; it is legacy stuff. I notice that there have been a whole range of different views in the community. Some say it does not go far enough, some say it goes too far. Even within Liberal ranks I notice that some have said it does not go far enough.

The CHAIR — Minister, there is a quick supplementary question and it has got to be quick with a quick answer.

Mr SOMYUREK — On a point of clarification, Minister, you said that we were the last Western democratic state to undertake some form of human rights charter. Are you referring to Victoria, or Australia our nation.

Mr HULLS — No, I am talking about Australia. Australia has not. ACT does have a similar charter; we are the first state.

Mr BAXTER — Minister, you referred earlier to the independence of the judiciary, a notion to which I fully subscribe. Could you describe to the committee how that sits with your proposal to re-educate judges in terms of community standards and how that is to be executed, and what it is likely to cost?

Mr HULLS — I am pleased that you agree with my views in relation to — —

Mr FORWOOD — No, he holds his own views.

Mr BAXTER — I am agreeing with Mr Forwood; I do hold my own views.

The CHAIR — Minister, could we go to the point about the education of the judiciary.

Mr HULLS — Already there is judicial education that takes place in this state; we have the Judicial College of Victoria. The board of that college is run by the heads of the judiciary and they are supportive of ongoing judicial education and training for judges. What I have asked Crown counsel, John Lynch, to embark on is a review of judicial education and training to ascertain whether or not we should move to a mandatory model. It occurs in a whole range of other professions. As you would know, in the legal profession, for instance, there is mandatory ongoing education and training. I think it is something like 10 hours a year that is mandated to ensure that you can continue practising. A whole range of other professionals have mandated ongoing education and training.

The question has to be asked as to whether or not we should have mandated professional development for our judiciary as well. You say, does that interfere with the independence of the judiciary? That is one of the issues that I have asked John Lynch to look at. Any system, any refinement to the system, must not interfere with the independence of the judiciary. My expectation is that as long as the education programs continue to be run by the heads of the judiciary, there is not going to be a problem with interference with the doctrine of the separation of power — interference with the independence of the judiciary.

Again, I say we should not kid ourselves that the law is static. The public have invested enormous amounts of finances and trust in our judiciary. It is absolutely incumbent on us as a community to give the judiciary the best tools that it needs to do its job at the highest level. I expect this initiative, by and large, will be supported by the judiciary, but all I have done at this stage is ask John Lynch to look at whether or not we can improve the current system and mandate judicial education and training, ongoing professional development for judges without interfering with the judiciary.

You asked about the cost, which is a good question. Obviously the issue in relation to that particular matter will be reported by John Lynch. There will be some costs associated with it. That goes without saying because if you say that judges, or if the head of the jurisdiction says that judges have to do a certain amount of ongoing professional development out of court, naturally you are taking them out of court. There are a whole range of ways that you can ensure that court lists do not back up as a result of judges being out of court. Obviously you can look at the way courts operate generally; you can appoint more judges; or you can have these courses conducted out of court time. A whole range of matters need to be looked at.

I expect there will be some resource implications, but those resource implications have to be weighed against the importance of ensuring that our judiciary has, as I said, the best tools available to it to do the job at the highest level.

Mr BAXTER — Just as a clarification, I think the public perception is, from some of the remarks that have been made, that you are about to send the judges off to boot camp. What in fact you are saying is you are envisaging perhaps a modest expansion of what is presently available and that the principal cost is going to be perhaps loss of judges time in the court rather than the cost of providing the education proposal. Is that a summation?

Mr HULLS — Yes, I think that is probably a fair summation. I cannot be responsible for headlines that are written in relation to particular proposals. Some of the media I have seen in relation to this, including letters to the editor and the like, suggest that people have read this the way you just recently described — that is, 'Hulls sending judges off to boot camp'. It is just a nonsense. We already have judicial education training in Victoria. The government set up the judicial college. It has a board run by the heads of the jurisdictions, but it is not mandated; it is voluntary. In this day and age you have to really ask the question, with a law that continually evolves, a legal profession that is evolving, judges appointed for life basically or until they are 70, whether or not we can do things better, and should we allow heads of jurisdictions to mandate to particular judges that they should undertake a certain number of hours in a particular area to upgrade their skills in that area. And that is a very important question that we need to ask ourselves as a community, and that is what John Lynch is looking at.

Mr MERLINO — Minister, I refer you to pages 322 and 323 of budget paper 3 and the sections outlining the phase 1 redevelopment of the Supreme Court. The table on page 323 indicates a TEI of $32.1 million for phase 1. Could you please explain to the committee exactly what this will fund, and secondly, why it is necessary to commence the redevelopment of this court?

Mr HULLS — Yes. This has received a bit of media too in recent times. The Supreme Court is an iconic building, obviously, in this state, but because of its age it has some disability access issues, public health and safety issues and the like, and it is, in my view, essential that these issues be addressed if the Supreme Court is to continue to function efficiently and effectively as the community would expect it to. There is a need for more court facilities for major crimes trials because, for example, in the Supreme Court criminal trial lodgments have increased from 94 in the previous five years to 142 in 2004–05. Currently 20 000 files and over 300 000 visitors annually have got to move between four Supreme Court buildings, so there is certainly a need for integration of the court on one site, and that has been identified by the court master plan.

Unless the precinct redevelopment is undertaken, my view is that these problems will escalate over the next few years. That is why in the budget papers $32 million has been allocated for phase 1 of the Supreme Court

redevelopment. This will allow for critical early works to provide solutions until such time as the major Supreme Court redevelopment, or phase 2 of the project, can be delivered. It is a pretty exciting project and one that I think enjoys fairly widespread support of the courts and indeed court users.

Phase 1 will address issues such as public safety, disabled access, occupational health and safety concerns, repair of sections of the roof that are actually falling down, stonework around the heritage buildings and the like, fit out of levels 8 and 9 of the new County Court to conduct major criminal trials and the like. Phase 2, though, is a bit more complex because a new Supreme Court complex integrating all four buildings into a single highly effective facility is envisaged and that includes building a new state-of-the-art facility on the current site, and there are some heritage issues associated with that.

The Department of Justice, through Penny Armytage I think it was, lodged an application with Heritage Victoria that included the conservation of important parts of the old High Court building. If you know the building, what is being proposed is that you go up over the old High Court building, but that will involve demolishing part of the old High Court building. Now the heritage application that has been made by the department would conserve important parts of the old High Court building, including the facade at the front and the historic courtroom 1, but would demolish I think most, if not all, of the rest of the building. That is currently being assessed by Heritage Victoria, which will give its independent expert assessment in due course.

There has been a fair amount of lobbying in relation to this matter. I think people thought the original proposal was to totally demolish the old High Court, including the facade and court 1. That is not the proposal, although I now know that the federal government has indicated that its view is now that this is the most historic building I think in the world, and it has a view that none of it should be touched. Other people have different views. Ultimately Heritage Victoria will make a decision in relation to this.

The CHAIR — Thank you. Mr Forwood, a final question for the Attorney-General.

Mr FORWOOD — Minister, under section 83 of the Occupational Health and Safety Act the Magistrates Court can issue permits to union officials to enter workplaces uninvited. We know that a bunch of heavies, including organised crime figure John Sekta, and various CMFEU thugs including Martin Kingham and Fergal Doyle — —

The CHAIR — Excuse me, you just mentioned names; you are not to cast aspersions against their character.

Mr FORWOOD — Have received such permits. Minister, how many union officials have received such permits? Were all permits issued in chambers behind closed doors? And will you make their names available to the public of Victoria?

Mr HULLS — On the one hand we have members of this committee saying they believe in an independent court process and the independence of the judiciary to deal with matters; on the other hand, what you seem to be asserting in your question is that the court process is not independent and that decisions made in relation to the permits are being made inappropriately. I reject the assertion in that question, I have to say. I have the utmost faith in the independence of our judiciary. How many permits have been issued and to whom they have been issued, I would not have a clue.

Mr FORWOOD — Could you get that information for us?

Mr HULLS — I will simply take that matter on notice.

The CHAIR — That concludes the evidence for the Attorney-General portfolio. Thank you very much to the witnesses who have been here with us, and thank you to the departmental officers who have prepared briefings for today's hearings. Minister, we will be sending you transcripts; you have two working days, after which we expect a reply. The questions you have taken on notice will be sent to you, and once you have sought advice we will also note those. Thank you.

Witnesses withdrew.