

**Budget Estimates
CLARKE**

1. Crown Prosecutors

- a. There has been a drop in the number of Crown Prosecutors employed from 94 to 82 over the last 3 years.
- b. How do you expect the DPP to cope with such a reduction?

2. Tenure of Directors of Public Prosecutions

- a. Future Directors of Public Prosecutions may be appointed for up to 10 years and must retire at age 72. A Deputy Director and a Crown Prosecutor is appointed for up to 7 years and can only work up to age 65.
- b. Why did you distinguish in the Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007 between tenure and age limits between the tenure of Crown Prosecutors, Deputy Directors and the Director?
- c. Are you saying that Crown Prosecutors who reach the age of 65 are not fit to carry on working?
- d. Do you support the principles of age discrimination which allow public sector employees to continue to be employed after they reach the age of 65?
- e. Why then is there a discrimination towards Crown Prosecutors?
- f. How do you justify having officers, who must remain independent, being on term contracts?

ANSWERS

1. I am advised:

I refer the Honourable Member to the Annual Reports of the Office of the Director of Public Prosecutions (ODPP) and the Auditor General's Report on the Efficiency of the ODPP which contain details regarding staff numbers and performance against indicators.

2. I am advised:

I refer the Honourable Member to the debate in the NSW Parliament on the legislation.

(John Hatzistergos)

BUDGET ESTIMATES

CLARKE

Question 3 -4

3. Crown Prosecutor Appointments

- a. How many crown prosecutors are currently in temporary or acting positions?
- b. How many crown prosecutors have you appointed to permanent positions since the Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007 came into operation?

4. Office of the Director of Public Prosecutions – Financial Controller

- a. What are the policies in place to ensure that the Financial Controller doesn't have a say in the operation of cases.
- b. How can he be answerable to both you and the Director?
- c. Have these policies been reviewed since appointment?
- d. Does the financial controller have any power to recommend that a case is dropped due to budgetary constraints?
- e. Does he have a role in the permanent filling of staff?
- f. Does he have a role in answering the performance of staff, including legal staff?
- g. Did he have a role in the filling of the recent vacant position of Deputy Director?
- h. What is the present salary package of the financial controller?

ANSWERS

3. I am advised:

- a. 2.
- b. The Governor has appointed 20.

4. I am advised:

- a. The Financial Controller has no say in the operation of cases. The ODPP publicly advertised the position and developed a Position Description which was made available to applicants.
- b. He is not
- c. N/A
- d. No.
- e. No.
- f. Yes, in relation to the performance of staff in the Finance Unit, not in relations to legal staff.
- g. No
- h. Senior Officer Grade 2.

(John Hatzistergos)

BUDGET ESTIMATES CLARKE

5. Chamber Magistrates / Law Access and AVO/PVOs - The Government has replaced Chamber Magistrates in Local Courts with instruction to refer all enquiries to Law Access.

- a. Is LawAccess providing the same amount of hours of service that Chamber Magistrates used to provide to the Public?
- b. Before abolishing the position of Chamber Magistrate did your Department carry out any time and motion studies to determine the amount of hours giving free legal advice to the public that were performed by Chamber Magistrates?
- c. I suggest to you that the replacement of Chamber Magistrates with LawAccess is inadequate. Can you assure this committee that the Public when in need of assistance in situations of AVOs and other emergencies are adequately looked after under the LawAccess system?
- d. Is it the case now that persons seeking AVO's don't have the same service or level of assistance in preparing and filing of the relevant documents that they did when they were able to obtain the advice of Chamber Magistrates?
- e. What are you going to do to remedy this problem?

9. Court House cuts

- a. Reports in April indicated that your office had notified court registrars across NSW to reduce their operating costs. What was the amount that was required in savings?
- b. Have these savings been fully recognised?
- c. These reports also acknowledged that your office was reviewing staffing levels across NSW. What were the proposed changes to staffing entitlements across NSW as a result of the AG's review? (OR: How many positions were required to be abolished/cut/made redundant?)
- d. Have these changes for staffing entitlements been fully recognised in NSW courts?

15. Local Court Staff

- a. Has the AG Dept implemented budgetary cuts to Local Court Staff in regional areas?
- b. If so how many staff is it anticipated will lose their jobs?
- c. Is this suggested to be in the public benefit? If so in what way?

21. Court Closures at Penrith

- a. Bearing in mind the importance of regions having their own courts so that the local community doesn't have to travel long distances to give evidence or serve on juries, why did you allow 2 District Courts at Penrith to be closed and their work transferred to Parramatta?
- b. Wasn't it planned that the Supreme Court would sit permanently at Parramatta?
- c. Is it also planned to remove District Courts at Campbelltown to Parramatta?

25. Appeals from Local Court

Can you please supply statistics for the number of appeals from the local court to the district court for the last financial year and the success rate of those appeals?

ANSWERS

I am advised:

5. Chamber Magistrates have not existed in NSW for many years. The question may be confusing Chamber Magistrates with Chamber Registrars.
The Government is continuing to provide the Chamber Registrar service in NSW courts. Domestic violence victims seeking urgent Personal Violence Orders are assisted by senior staff in Local Courts registries and are not referred to LawAccess.
9. The Government has conducted a review of staffing levels of all courts to ensure they are appropriate to meet the community's needs.
Workloads can change over time and this process is part of ensuring that resources are allocated to the areas where they are most needed.
No one will lose their job as part of this review.
15. The staffing budget for the Local Court was not cut.
21.
 - a. I refer to my answer on this issue at the 2008 Budget Estimates hearings.
 - b. As originally envisaged, the Supreme Court will continue to sit at Parramatta when needed.
 - c. The District Court will continue to sit at Campbelltown and Parramatta.
25. I refer the honourable member to the District Court's Annual Reviews.
The Bureau of Crime Statistics and Research publishes data on appeals against conviction, severity and inadequacy of sentences in the NSW Criminal Courts Statistics Annual Report on their website.

(John Hatzistergos)

**Budget Estimates
CLARKE**

6. JUSTICELINK

- a. At last year's Budget Estimates, the AG acknowledged that \$48.5 million had been spent on CourtLink and Justice Link, and you (the DG) noted that additional funds were to be spent in the 2008-2009 financial year. What is the total cost of the program now?
- b. You also noted last year that the contractor, Contractor Accreditation Services (CAS), had delayed the project, incurring additional costs. While you noted CAS was paid the exact amount as contracted - have we received compensation in relation to the delays?
- c. Who was responsible for paying for the additional costs for the program?
- d. What was the total cost from these delays? (Try to obtain a figure on monetary delays and time delays)

ANSWER

I am advised:

- a. The cost remains the same as the details in the answer I provided in the 2008 Budget Estimates hearings.
- b., c., d. I refer to answers in the 2000 Budget Estimates. The contracted work is a fixed price contract. The phased development and implementation of JusticeLink means the vendor receives payment only when the system components are delivered and verified as a viable solution.

(John Hatzistergos)

Budget Estimates
CLARKE

7. Mini Budget Savings

- a. The Mini Budget identified \$22 million in savings of deferred court upgrades. Which courts will have a delay in upgrades?
- b. The Mini budget also amalgamated the Office of the Protective Commissioner and the Public Trustee NSW. Has this move compromised the Government's obligations to provide an Independent Protective Commissioner?
- c. Has the Protective Commissioner's independence been compromised by this amalgamation?
- d. Does the Public Trustee NSW have the resources to support the additional client base through this amalgamation?

ANSWER

7. I am advised:

a. This is contingent on the management of priorities and the achievement of savings.

b-d. I refer to my comments on the NSW Trustee & Guardian Bill 2009 in the Legislative Council on 23 June 2009.

(John Hatzistergos)

Budget Estimates
CLARKE

22. Wagga Wagga Courthouse

- a. What is the estimated date of commencement of the planned Wagga Wagga Courthouse?
- b. What is the proposed use of the land which was the former police station next to the Courthouse?
- c. The mini-budget deferred Court upgrades to save \$22m. What court upgrades were deferred?
- d. What is the estimated time for recommencement of each of these projects?

ANSWER

22. I am advised:

I refer the honourable member to the answer to question 7. The Department of Justice and Attorney General has purchased the old Police Station and land to enable an extension of its facilities.

BUDGET ESTIMATES

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8. Graffiti

- a. Do you agree that the current incidence of Graffiti in NSW is unacceptable to the community?
- b. What steps is the Government planning to combat the incidence of graffiti in the State?
- c. What are the timelines for implementing such programs and what are their KPIs? (Key Performance Indicators)
- d. In regard to people sentenced to a community service order to clean up graffiti, what programs does the Government have in place to ensure that those people properly carry out the work and are properly supervised?
- e. How wide spread is this program?
- f. Is it available in all parts of NSW?
- g. How many times has the Multi-Agency Anti Graffiti Action Team met since its creation?

20. MERIT program (Magistrates Early Referral into Treatment Program) - The Auditor General has recommended that the Attorney General extend the MERIT program to people charged with alcohol related crimes.

- a. Are you going to act upon these recommendations?
- b. Have you costed the proposal?

ANSWERS

8. Graffiti

I am advised

a-c. The Honourable Member should refer to my public statements on graffiti and the "Stop graffiti vandalism" website:
www.graffiti.nsw.gov.au

d-f. These questions are for the Minister for Corrective Services.

g. The AGAT has met more than ten times since its creation. The most recent meeting of the AGAT was on 17 September 2009.

20. MERIT

I refer the Honourable Member to my answer to a similar question without notice on 2 September 2009.

(John Hatzistergos)

**Budget Estimates
CLARKE**

10. District Court budget

a. Is it true that certain civil and criminal matters in the District Court are not even provided with daily transcript due to budget restrictions?

11. Court Case Costs

a. In 2008 your budget projected an increase of \$102 to finalise a court case in the Supreme Court, and a \$122 increase in finalising cases in the District court over the 2008/2009 year.

b. What are the increases since that time?

c. What are the cost pressures that are fuelling these increases?

d. Why do you claim that over time the cost per case is expected to reduce when it has only been increasing in recent year?

e. What measures are in place to achieve this anticipated reduction?

f. What will be the projected magnitude of such a reduction?

ANSWERS

10. I am advised:

All cases in the District Court which require transcripts are provided with them.

11. I am advised:

I refer to my previous answer to this question following last year's budget estimates hearings.

(John Hatzistergos)

Budget Estimates
CLARKE

12. Jury Duty Payment

Given that the New South Wales Law Reform Commission's issues paper 28 outlines that in 1975 jury payments were in line with the average wage and now they are little over half the average weekly wage, what measures have you undertaken in response to this report to ensure that jury payments provide adequate compensation for those serving the community through jury service?

ANSWER

I refer to my answer to this question in last year's Budget Estimates.

(John Hatzistergos)

**Budget Estimates
CLARKE**

13. Legal fees

- a. The issue of excessive legal fees has been highlighted in the past 12 months with a number of complaints being considered by the Legal Services Commissioner.
- b. What plans does the Government have in regard to curbing legal costs in this state?
- c. In April of this year the Standing Committee of Attorneys-General, SCAG, considered this issue and referred the question off to SCAG committees.
- d. Whilst we are awaiting the report from SCAG committees what have you done to protect the people of NSW from being charged excessive legal costs in civil litigation?
- e. Why have you not implemented remedial measures immediately in NSW?
- f. For example why have you not passed laws requiring partners in legal firms taking responsibility on behalf of their firm for legal bills issued in the name of the firm?
- g. Do you agree that the practice of time costing of legal fees encourages the padding of legal bills by practitioners trying to fill in every minute of the day so that they can meet their budgetary requirements?
- h. What are you going to do about excessive time costing practices in legal firms?

ANSWER

I am advised:

In April 2009, I took a number of proposals to the Standing Committee of Attorneys General (SCAG) that aim to constrain overcharging and exploitation of vulnerable customers of legal services. These proposals included:

- strengthening the existing provision that a written disclosure to a client may be in a language other than English if the client is more familiar with that language;
- requiring law practices to provide periodic, itemised bills to clients in personal injury matters;
- prohibiting law practices from seeking clients' authorities to deduct legal costs from a settlement amount without having first informed the client of the settlement amount and issued the client with a bill (which must be itemised in personal injury matters);
- providing that a bill or covering letter must be signed by a principal of a law practice (rather than a legal practitioner or other person); and
- prohibiting law practices from charging excessive costs in a legal matter, and providing a financial penalty for breach of this provision without a reasonable excuse.

At my request, SCAG referred the proposals to a national working party for further consideration and development, in consultation with stakeholders, for possible adoption in the national model law.

Since that time, legal profession regulation has been placed on the COAG reform agenda. SCAG has agreed that its work on legal costs should be fed into the COAG Legal Profession Taskforce reform process.

The COAG Taskforce will continue to update and consult SCAG in undertaking its work and SCAG Ministers will continue to take a keen interest in reforming the regulation of legal costs.

(John Hatzistergos

**Budget Estimates
CLARKE**

14. Legal Services Commissioner

The Legal Services Commissioner - Mr Steve Mark, the Legal Services Commissioner, has recommended the introduction of proportionate legal costs in NSW. The suggestion is that lawyer's costs should be capped at 50 percent of the total verdict after deduction for reasonable expenses.

- a. Do you accept this recommendation?
- b. Do you agree that a 50/50 rule would provide certainty on costs?
- c. What have you done to implement this recommendation?
- d. Have you considered reintroducing scale costs in civil litigation matters in NSW? If not, why not?
- e. In regard to the powers of the Legal Services Commissioner – do you consider that the Commissioner has the power required to properly discipline lawyers and firms of lawyers who charge excessive fees?
- f. If not, what are you doing about this?

ANSWER

I refer to my answer to the 2009 Budget Estimates Hearing Question on Notice No. 13.

(John Hatzistergos)

Budget Estimates
CLARKE

16. Supreme Court budget

- a. Are all judges of the Supreme Court provided with the same amount of assistance, that is Associates, Research Officers and Tipstaffs?
- b. Is it true that certain junior Judges in the Supreme Court are not provided with Court Officers due to budget restrictions?

ANSWER

I am advised:

- a. All judges have the correct number of personal staff. Puisne judges are entitled to an associate and a tipstaff while associate judges are entitled to one staff member, an associate.
- b. Court officers are provided in all criminal cases.

(John Hatzistergos)

Budget Estimates
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17. The Bail Act

- a. What has been done by the Government to alleviate the overcrowding in Remand and Juvenile Detention Centres caused by the changes to the Bail laws limiting the number of bail applications which can be made.
- b. Is it true that you and the Minister for Juvenile Justice have disagreed over these amendments?

18. BOCSAR Report

- a. Why was the Bocsar report concerning overcrowding in Juvenile Detention Centres nominated as a cabinet in confidence document and held back from public view until recently?
- b. Was that to conceal public airing of a dispute between you and the Minister for Juvenile Justice?
- c. Is it the case that Bocsar documents are normally published to the community at large once completed?
- d. Why was this particular document given cabinet-in-confidence status?

26. S5 Criminal Appeal Act Appeals

- a. When will the Government honour their pre 2007 election promise to allow the DPP to appeal against findings of Judges that there is no case to answer?

ANSWERS

17. I refer to my statements on this matter, which are available on the Lawlink website.
18. A BOCSAR report regarding juvenile remand rates was publicly released on 1 July 2009 following its consideration by Cabinet. It is publicly available on BOCSAR's website.
26. The question is based on a false assumption.

(John Hatzistergos)

**Budget Estimates
CLARKE**

19. Videotaping of court proceedings

- a. What percentage of court rooms in New South Wales have video taping facilities with trained staff for recording evidence, especially in traumatic sexual assault cases?
- b. What courtrooms still do not have these facilities in place?
- c. When will all courtrooms in NSW have these facilities in place?

ANSWER

I am advised:

As required by legislation, 100 per cent of NSW District Courts have DVD recording facilities and trained staff for recording witness testimony. All courtrooms in NSW can provide witness testimony recording facilities either through permanent installations or portable equipment.

(John Hatzistergos)

**BUDGET ESTIMATES
CLARKE
Questions 23, 30 & 32**

23. Judicial Commission

- a. How many complaints were received against judicial officers in 2008/2009?
- b. How many of these complaints were fully investigated?
- c. How many of these investigations made negative findings against judicial officers?
- d. Are there plans to extend the jurisdiction of the Judicial Commission?

30. Magistrates

- a. Can you please supply the committee with data on the number of magistrates, full and part-time, specifying those based at particular courthouses throughout New South Wales?

32. Acting Magistrates and Judges

- a. Can you provide the committee with information concerning the number of acting magistrates / judges?

ANSWERS

23. I am advised:

Details on the number of complaints received, investigated and finalised, including results are published in the Judicial Commission's Annual Report. Any proposal to extend the jurisdiction of the Judicial Commission would require legislative change.

30. I am advised:

A list of magistrates is published in the Local Court Annual Review.

32. I am advised

Details of acting magistrates and judges are published in the Annual Reviews of respective courts.

(John Hatzistergos)

BUDGET ESTIMATES

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24. Legal Aid

a. In terms of your bi-annual satisfaction survey results, how many clients of Legal Aid are surveyed and what statistical sample does this represent?

31. On Contract Legal Aid

a. Can you provide the committee with information concerning the number of on contract and temporary appointments at the Legal Aid Commission of NSW?

ANSWERS

24. Legal Aid

I am advised:

The survey involved 351 clients of Legal Aid NSW. The sample size was recommended by IRIS Research, who conducted the survey, to provide an appropriate degree of confidence in the results (in this case a maximum error rate of + or – 5.3% at the 95% confidence interval).

31. On Contract Legal Aid

I am advised:

Data on temporary staff and 'on contract' staff are included Legal Aid's annual reports.

(John Hatzistergos)

Budget Estimates

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27. Criminal Appeals - Can you advise the committee the break-up of:

- a. Sentence appeals by convicted persons;
- b. DPP appeals against manifestly inadequate sentences
- c. Appeals under Part 3 of the Crimes (Appeal and Review) Act 2001

28. Magistrate Appeals

- a. Do you keep statistics on the number of appeals from individual magistrates to the District Court and the success rate of those appeals?
- b. If yes, can these please be supplied to the committee?
- c. Do you also keep data on the success rate of these appeals?
- d. If no, why don't you keep these figures?
- e. Can you prepare these figures for the committee?

29. District Court Appeals

- a. Do you keep statistics for the number of appeals from individual District Court Judges to the Court of Criminal Appeal and the success rate of those appeals?
- b. If yes, can these please be supplied to the committee?
- c. Do you also keep data on the success rate of these appeals?
- d. If no, why don't you keep these figures?
- e. Can you prepare these figures for the committee?

ANSWERS

I am advised:

27. I refer you to the NSW Bureau of Crime Statistics and Research's annual report *NSW Criminal Courts Statistics* which is published on their website.

28-29. Courts only collate information that is necessary to manage cases. It has not been the practice of the courts to regard the number of appeals from an individual magistrate or judge to be, of itself, an appropriate performance measure.

(John Hatzistergos)

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33. Industrial Relations matters – Attorney General's Department

- a. I refer to the dispute that was brought before the Industrial Relations Commission seeking permanency for long-term temporary and casual officers engaged under the Crown Employees (Court Officers Attorney General's Department) Award in relation to the positions of five Supreme Court officers - matter number 08/2298:
 - i. what is the status or outcome of those proceedings?
 - ii. How much money was spent by the Department on these proceedings?
- b. In the last Financial Year, how many matters involving Officers of the Attorney General's Department have:
 - i. been brought before the Industrial Relations Commission?
 - ii. What is the total amount of expenditure by the Attorney General's Department on these matters?
- c. In the last Financial Year, how many matters involving Officers of the Attorney General's Department have:
 - i. been brought before the Government and Related Employees and Appeals Tribunal?
 - ii. What is the total amount of expenditure by the Attorney General's Department on these matters?
- d. In the last Financial Year, how many matters involving Officers of the Attorney General Department have:
 - i. been brought before the Workers Compensation Commission?
 - ii. What is the total amount of expenditure by the Attorney General's Department on these matters?

ANSWER

1. I am advised:
 - a. I refer the honourable member to my statements in the house on 10 March 2009. No additional costs have been incurred as matters are managed by the Employee Relations Branch (ERB). As the matter is still before the IRC it is not appropriate for me to comment.
 - b. (i) 12
(ii) Costs have been incurred in one matter only (outside the ERB), however the matter is yet to conclude
 - c. (i) 16

(ii) Costs have been incurred in one matter only (outside the ERB) where an employee application was not successful. Sum expended \$113,843

- d. (i) 19
- (ii) \$195,948

(John Hatzistergos)

MINISTER FOR INDUSTRIAL RELATIONS
QUESTION ON NOTICE
INDUSTRIAL RELATIONS- OFFICE OF INDUSTRIAL RELATIONS

34-Industrial Relations-OFFICE OF INDUSTRIAL RELATIONS

Mr Pearce to the Attorney General, Minister for Industrial Relations and Vice President of the Executive Council-

- (a) How many inspectors are currently employed by the Office of Industrial Relations?
- (b) How many inspections on average did each undertake last year?
- (c) What is the total amount of unpaid salaries and wages and other payments recovered as a result of the Office's work?
- (d) What is the total employee cost of employment of these officers and the total other expenses incurred in order to employ these officers?
- (e) How incompetent is the Office of Industrial Relations last year if only 85% of the industrial relations information provided by the Office was accurate (page 3-63)?
- (f) What is the purpose of the Industrial Relations Office if your standard for employer satisfaction with advisory services has been significantly reduced this year (page 3-66)?

ANSWER

- a) As at 1 October 2009 the Office of Industrial Relations employed 107 inspectors with a further 7 inspector positions vacant.
- b) The Office completed 14,102 investigations during 2008/09.
- c) I refer the Honourable Member to my Media Release dated 26 August 2009.
- d) I refer the Honourable Member to the 2009/10 budget papers for further details. The Office does not separately record the total employee cost of employment of inspectors.
- e) I refer the Honourable Member to my statement in the Legislative Council on 23 September 2009.
- f) I refer the Honourable Member to my statement in the Legislative Council on 23 September 2009.

John Hatzistergos MLC
Minister for Industrial Relations