

CHAPTER 2

ATTORNEY-GENERAL'S PORTFOLIO

Introduction

2.1 This chapter summarises areas of interest and concern raised during the committee's consideration of the Budget Estimates of the Attorney-General's portfolio for the 2006-2007 financial year.

Attorney-General's Department (AGD)

2.2 The committee sought information on the establishment of a judicial commission. Officers advised the committee that the investigation and management of allegations of judicial impropriety, and the creation of a judicial commission have been discussed with all jurisdictions and a protocol is currently under active consideration by the government.¹

2.3 Officers were asked a series of questions relating to the progress of Family Relationship Centres. The committee was informed that fifteen centres are scheduled to open on 3 July 2006. Officers also advised that service providers have been selected, and the recruiting of staff and establishment of premises are in progress.²

2.4 The committee was also advised that part of the government's package announced last year in the budget included funding of \$5.7 million over two years to develop and implement a campaign that raises awareness of the new services as well as changes to the legislation.³

2.5 Officers were questioned about programs for the management of petrol sniffing in Aboriginal communities, and in particular, Commonwealth funding responsibilities. The committee was informed that AGD responsibilities are being addressed in a number of ways. First, in Canberra the focus is on program management and delegation of funds. Second, the committee was advised that a 'solution broker' has been appointed in Alice Springs, who will have a key role in hosting negotiations, or participating in negotiations to allocate funds.⁴

2.6 Following the development of a national identity security strategy, which included the Document Verification Service, members of the committee raised the

1 *Proof Committee Hansard*, 24 May 2006, p. 12.

2 *Proof Committee Hansard*, 24 May 2005 p. 24.

3 *Proof Committee Hansard*, 24 May 2005 p. 37

4 *Proof Committee Hansard*, 24 May 2006, pp 69-70.

issue of funding. Officers advised the committee that of the \$5.425 million allocated in 2005, \$3.905 million has been expended to date.

2.7 The committee was also advised that a national steering committee has been formed comprising senior representatives of both the Commonwealth and each state and territory. Several meetings have been conducted and the national identity strategy is being articulated through an intergovernmental agreement, currently in draft form, which has been distributed to the states and territories for consideration.⁵

2.8 The committee was interested in the process of the possible new extradition system currently under discussion. Officers informed the committee that, in response to a discussion paper published in December 2005, 35 submissions have been received. The committee was further advised that the AGD is examining the submissions received, and from this process will prepare for government consideration any necessary proposals for modifying or changing the extradition system. After government consideration of such proposals, the department would either distribute an exposure draft for consultation, or move straight to the introduction of legislation.⁶

2.9 Officers were questioned about assistance provided to disaster relief operations in the wake of Cyclone Larry. The committee was advised that the cost to the Department of Emergency Management Australia's operations was approximately \$240,000. EMA also assisted with the delivery of food and water, tarpaulins, showers and sanitation facilities, generators, communications equipment and milking machines.⁷

High Court of Australia

2.10 Officers informed the committee they had received additional funds in this year's Budget, primarily for additional staff to cope with the growing workload, together with funding for existing positions that had not been previously funded.⁸

2.11 The committee, as in previous estimate rounds, raised the issue of self-represented litigants. Officers advised that as at 30 April 2006, the number of self-represented litigants had grown slightly in the civil category, but remained at around the same percentage as in previous years, with a total of 58 per cent for the year ending 30 June 2005.⁹

5 *Proof Committee Hansard*, 24 May 2006, pp 95-96.

6 *Proof Committee Hansard*, 24 May 2006, pp 114-115.

7 *Proof Committee Hansard*, 24 May 2006, pp 144-145.

8 *Proof Committee Hansard*, 25 May 2006, p. 5.

9 *Proof Committee Hansard*, 25 May 2006, p. 6.

Office of the Director of Public Prosecutions (DPP)

2.12 Several substantial matters were canvassed with officers of the DPP. First, the committee discussed initiatives by the DPP to improve security arrangements at Courts, to ensure that both physical security in and around the buildings, and the level of security clearances of court staff, are raised to necessary levels before matters actually come to trial.¹⁰

2.13 Second, the committee explored in some detail the additional funding of \$17,218,000 allocated to the DPP for the forthcoming year.¹¹ The committee heard that a substantial proportion of the funds, or \$11.35 million, are allocated to the ATO/ACC investigation into off-shore tax avoidance, called Operation Wickenby.

2.14 The remaining amount is to be spent on fraud prosecutions, particularly in relation to child-care. The committee heard that government agencies are monitoring the problem of 'ghosting': the practice of claiming for non-existent children at government funded child care centres.¹² Fraud cases arising from Centrelink welfare payments will continue to attract considerable attention.¹³

Australian Customs Service (ACS)

2.15 Officers informed the committee of a range of initiatives included in the budget relating to developing the general screening of cargo on passenger aircraft leaving the country. This includes the trialling of a CSIRO-developed neutron scanner facility to assist the screening of passenger aircraft.

2.16 The ACS is also involved in providing some of the training for the use of security technology. The Budget provides resources for an increased number of explosive detector dog teams, and an increase in the intelligence and investigative resources conducting data examination of export air cargo. This will enable an improved capacity for ACS to target its interdiction activities. There is also security awareness training for industry and ACS staff and the ACS has been provided with an additional six mobile X-ray and explosive trace detector vans.¹⁴

2.17 The committee sought information on the issue of SmartGate. Officers advised that the readers for the new electronic passports are in the final development phases and nearly ready for installation. The committee was advised that implementation at the first airport is scheduled for February 2007, with a further two

10 *Proof Committee Hansard*, 25 May 2006, pp 8-9.

11 *Proof Committee Hansard*, 25 May 2006, p. 9.

12 *Proof Committee Hansard*, 25 May 2006, p. 10.

13 *Proof Committee Hansard*, 25 May 2006, p. 12.

14 *Proof Committee Hansard*, 25 May 2006 pp 21-22.

major airports scheduled for 2007, and then ongoing progressive installation at remaining airports.¹⁵

2.18 Officers were questioned on the current administrative review of anti-dumping arrangements. The committee was informed that 27 submissions have been received and are available to the public on the ACS website.¹⁶

Australian Security Intelligence Organisation (ASIO)

2.19 The Director-General of ASIO was asked questions relating to the recently established advisory group which aims to improve links with the business community and the non-government sector generally on issues of concern, including protective security and counter-terrorism. The group also aims to develop structures that provide industry with information to assist them make informed judgements about how to manage the risks to infrastructure and operations.¹⁷

2.20 The issue of the finalisation of security checks for pilots who applied for aviation security identification cards was raised. The committee was advised that between 1 January and 31 March 2006, ASIO completed 11,445 security checks for the Civil Aviation Safety Authority (CASA), bringing the total checks completed by ASIO for CASA to 21,926.¹⁸

National Native Title Tribunal (NNTT)

2.21 Officers were asked a series of questions relating to the increasing numbers of the Indigenous Land Use Agreements and the speed with which they are being dealt with. The committee was advised that, as at 22 May 2006, 247 agreements had been registered. The 200 point was reached in the second half of the last calendar year, effectively meaning that another fifty were added in the space of the last six months.¹⁹

Australian Federal Police (AFP)

2.22 The committee sought information on the training of AFP recruits for terrorist-related incidents. Officers advised the committee that the following training courses are in place:

- for new recruits, a two day training session, which includes training in legislation and cultural awareness;
- for those who are currently working in the counter-terrorism investigations area, a three-week advanced course in terrorism investigations; and

15 *Proof Committee Hansard*, 25 May 2006, p. 28.

16 *Proof Committee Hansard*, 25 May 2006, p. 51

17 *Proof Committee Hansard*, 25 May 2006, p. 54.

18 *Proof Committee Hansard*, 25 May 2006, p. 56.

19 *Proof Committee Hansard*, 25 May 2006, p. 63.

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- a one week intermediate course, which is currently being developed.²⁰

2.23 The committee asked the AFP for an update on developments in improving community policing at airports. Officers advised the committee that from 9 February 2006, eleven airport police commanders have commenced in their new positions. The committee also was advised that a budget of \$354.6 million over five years has been allocated to resource a number of new positions.²¹

2.24 Officers were questioned regarding their role in the development of the ASIC system (aviation security identification card). In response to these questions, Commissioner Keelty advised the committee that the AFP are part of a working group with the Department of Transport and Regional Services and other agencies, including ASIO, that is reviewing both the security measures in place and those that are being implemented.

2.25 The committee asked officers to provide statistics on the criminal record history checks conducted by the AFP. Officers advised the committee that during the period June 2005 to March 2006, 79,163 ASIC-related criminal history checks were conducted.²²

Australian Law Reform Commission (ALRC)

2.26 The ALRC was asked to update the committee on the status of the Commission's reference to review the sedition laws. The committee was advised that the issues paper was released on 20 March 2006, and the discussion paper has been finalised in electronic form and is due to be launched on 29 May 2006.²³

2.27 In relation to the consultation process, the committee heard that seventy written submissions have been received and that approximately twenty meetings have been held in various states.²⁴

Australian Crime Commission (ACC)

2.28 Officers from the ACC were questioned on the status of matters currently before the High Court. The committee was advised that there are currently three principal legal challenges outstanding.²⁵

2.29 Officers were also questioned on the allocation of additional funding provided to the ACC. The committee was advised that the additional funding for 2006-2007 is

20 *Proof Committee Hansard*, 25 May 2006, p. 80.

21 *Proof Committee Hansard*, 25 May 2006, p. 94.

22 *Proof Committee Hansard*, 25 May 2006, p. 95.

23 *Proof Committee Hansard*, 25 May 2006, p. 69.

24 *Proof Committee Hansard*, 25 May 2006, p. 69.

25 *Proof Committee Hansard*, 25 May 2006, pp 72-73

allocated to national security telephone interception, identity crime strike teams and national document verification systems.²⁶

Federal Magistrates Service

2.30 The committee questioned officers on the court's performance judged against its formal performance criteria, beginning with the percentage of litigated cases or divorces that were subject to complaint. Officers advised the committee that the complaints received in the current year to 31 March 2006 total 105 against a total number of applications of over 70,000.

2.31 Officers were also asked to provide the percentage of cases that took less than six months from filing to disposition. Officers advised that, as at 31 March 2006, there were 54,352 matters filed with 55,031 matters finalised within six months.²⁷

Federal Court of Australia

2.32 The committee pursued discussions in previous estimates rounds concerning the figures for the finalisation of cases. Based on criteria developed by the Productivity Commission, officers informed the committee that the court has achieved a 35 per cent increase in efficiency.²⁸

2.33 Officers were also asked to explain the reasoning behind the increase in the court's budget for the year. The committee was advised that the increase was due to new measures associated with the conferral of the indictable criminal jurisdiction, and one-off funding in the coming financial year for implementation of the measures contained in the *Anti-Terrorism Act (No. 2) 2005*.²⁹

Family Court of Australia

2.34 The committee discussed with officers of the Family Court, progress on the ongoing changes to the management of family law matters. These changes have been based on recent changes to the legislation, the development of the Federal Magistrates Courts and the combined registry project.

2.35 The committee heard that there is a gradual change in the balance of numbers between judges and magistrates as the new arrangements take effect and a growing proportion of matters are dealt with in the lower court. Since March 2002, 13 judges have retired from the court, and while six have been replaced by judges, five have been replaced by federal magistrates.

26 *Proof Committee Hansard*, 25 May 2006, p. 70.

27 *Proof Committee Hansard*, 25 May 2006, pp 96-97.

28 *Proof Committee Hansard*, 25 May 2006, p. 103.

29 *Proof Committee Hansard*, 25 May 2006, p. 104.

2.36 Reflecting these changes, the Family Court continues to transfer funds to the Magistrates Court, with \$1.6 going to the Federal Magistrates Court this year to meet the cost of additional magistrates.³⁰

Administrative Appeals Tribunal (AAT)

2.37 Officers were asked questions regarding the extra \$1.7 million allocated over five years to assist the AAT to deal with a greater number of appeals.

2.38 The committee was advised that firstly, the increase in budget is to enable additional funds to be spent on improving the speed with which taxation matters are processed. Secondly, the funding will be used to provide additional resources to the AAT to manage a steadily increasing caseload. The committee was advised that, without the additional funding, the AAT would have had to significantly reduce its activity levels.³¹

2.39 Officers further advised that with the additional funding being provided, the AAT is contemplating the appointment of two additional half-conference registrar positions: one in Sydney and one in Melbourne, and increasing the amount of time worked by part-time members, particularly in the taxation area. There will also be additional staff resources allocated to the registry to support the additional part-time work.³²

Human Rights and Equal Opportunity Commission (HREOC)

2.40 The committee asked a series of questions relating to the additional \$1.8 million being received over two years. Officers advised that these funds were allocated to meet an expected increase in the number of complaints made under legislation that HREOC administers. Officers further advised that due to the changes to the *Workplace Relations Act 1996*, certain matters relating to discrimination that used to be lodged in the Industrial Relations Commission may move to HREOC's jurisdiction, increasing the workload by an estimated 25 per cent.

2.41 The committee was advised that six additional staff, being mainly complaint handlers, will be employed to deal with the increasing workload.³³

2.42 The committee enquired into the development and progress of the international human rights Convention on Disability. Officers indicated that there have been several meetings with the ad hoc committee in preparing a draft of this Convention and that the draft is close to being finalised.³⁴

30 *Proof Committee Hansard*, 25 May 2006, pp 105-106.

31 *Proof Committee Hansard*, 25 May 2006, p. 109.

32 *Proof Committee Hansard*, 25 May 2006, p. 110.

33 *Proof Committee Hansard*, 25 May 2006, pp 111-112.

34 *Proof Committee Hansard*, 25 May 2006, p. 114.

Office of Film and Literature Classification (OFLC)

2.43 Officers were questioned by the committee on the incorporation of OFLC into AGD. Officers advised that OFLC are currently in the process of negotiation with AGD and final integration will not take place until 1 July next year.³⁵

Office of the Privacy Commissioner

2.44 The committee sought information on the funding allocated in the recent budget. Officers advised the committee that the \$1.6 million for this coming financial year was allocated to address the concerns raised by the business community and by the review of the private sector provisions of the Act, regarding the need for more advice and assistance. The funding will also be used to expedite complaints and to generally assist the community's understanding of the rights provided for in the Act.

2.45 The committee was also advised that \$1.3 million has been received over the period of four years, for the contribution of the document verification service. A further one-off allocation of \$250,000 has also been made for the financial year to work with the AFP and AGD to develop guidelines for the AFP, under schedules pursuant to the *Anti-Terrorism Act 2002*, for the conduct of optical surveillance, information gathering and the use of search powers.³⁶

Office of the Parliamentary Counsel

2.46 The committee asked officers questions relating to the drafting of the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005. Officers advised that they are currently preparing the second exposure draft.

2.47 The committee also asked questions about the agencies funding, and also on staff turnover. Officers firstly advised the committee that no new funding had been allocated, further noting that the previous budget included additional funding delivered over four years. Secondly, the committee was advised that, due to a number of retirements earlier in the year, an additional five drafters have been appointed.

Administrative Review Council (ARC)

2.48 Officers were questioned on funds allocation to the ARC. The committee was advised that the budget allocation for the ARC for 2006-2007 was \$385,000.³⁷

35 *Proof Committee Hansard*, 25 May 2006, p. 114.

36 *Proof Committee Hansard*, 25 May 2006, p. 117.

37 *Proof Committee Hansard*, 25 May 2006, p. 120.

CrimTrac

2.49 Initial questioning by the committee focused on CrimTrac's current work on the development of a range of databases such as the National Automated Fingerprint Identification System (NAFIS), the National Criminal Investigation DNA Database (NCIDD), the CrimTrac Police Reference System (CPRS) and the Australian National Child Offenders Register (ANCOR). Officers advising the committee that NAFIS is now fully operational and is the first system to come online.

2.50 Officers then updated the committee on progress with NCIDD, explaining that this system contains digital DNA profiles that are provided by the state and territory police services and used for intra- and inter-jurisdictional matching.

2.51 The next database discussed was the CPRS database. This was viewed by officials as possibly the most 'exciting' of all the databases in terms of what it promises to deliver in the delivery of high speed information to operational police across the country.

2.52 Officers then explained the operation of the ANCOR database; a web-based system designed to assist police to case manage and share mandatory information about registered persons, in accordance with legislative requirements. The committee was informed that the system fully functional, and fulfilling its intended purpose.³⁸

Australian Transaction Reports and Analysis Centre (AUSTRAC)

2.53 The committee questioned officers concerning the 'National Security' budget item. Officers advised the committee that a total of \$13.266 million for the 2006-2007 financial year has been allocated to AUSTRAC. The committee was also advised that of this total, interim funding of \$9.2 million relates to the implementation of measures proposed in the Anti-Money Laundering and Counter-Terrorism Financing Bill 2005, with the remainder of the funding apportioned to the Attorney-General's Department.³⁹

Senator Marise Payne Chair

38 *Proof Committee Hansard*, 25 May 2006, pp.121-125.

39 *Proof Committee Hansard*, 25 May 2006, pp.125-126.

