Law Week - September 2009

Opening Address

'The State of Justice - 2009'

The Hon Wayne Martin
Chief Justice of Western Australia

14 September 2009
Supreme Court of Western Australia

Introduction

The Court sits again today to mark the commencement of Law Week. This year that week is being held a little later in the year and coincides with the Australian Legal Convention which is being held later this week in Perth.

This sitting provides the Court with an opportunity to mark the important contribution made by the legal profession of this State to the provision of justice to our community, to report upon the achievements made by the courts of this State during the last year, and to identify challenges which we face in the coming year.

We are honoured to again be joined this morning on the bench by the Chief Justice of Australia, Chief Justice Robert French, and by his wife Valerie, who is in the gallery of the Court. I would like to welcome those who will be speaking this morning - on behalf of the Attorney General, Mr Michael Mischin MLC, Parliamentary Secretary; the President of the Law Society of Western Australia, Mr Dudley Stow; and the President of the Bar Association of Western Australia, Mr Craig Colvin SC. In addition we are honoured to be joined this morning by our judicial colleagues from the Federal Court of Australia, Justices Tony Siopis and Neil McKerracher; the Chief Judge of Family Court Justice Stephen Thackray; from the District Court Chief Judge Antoinette Kennedy; Judge Denis Reynolds, President of the Children's Court; Deputy Chief Magistrate Libby Woods; Mr Alistair Hope, State Coroner; and Justice Chaney, President of the State Administrative Tribunal. We are also honoured this morning to be joined by a number of distinguished retired members of this and other Courts and their partners.

Law Week

Law Week has a number of significant aspects. If there is a common theme to the many activities which take place during the course of that week, it is the provision of information to the community concerning the administration of justice in Western Australia. This sitting provides me with the opportunity to report upon the current state of each of our major courts, and upon any significant issues that require attention. I would like to commence my observations this year by dealing with an issue which requires urgent attention. That issue concerns the inadequacy of many of the buildings made available to the courts of this State for the purpose of administering justice.

It would be difficult to contest the proposition that one of the primary responsibilities of Executive Government in a society governed by the rule of law is to provide the resources needed by the courts of the State to justly, safely and efficiently enforce the laws of the State. Regrettably, in the case of the Supreme Court and a number of regional court houses, successive Governments of this State of both political persuasions have conspicuously failed to fulfil that responsibility.

The Supreme Court

For the last 20 years my predecessor and I have endeavoured to draw the attention of the Government and the public to the inadequate facilities provided to the State's highest court. We have sounded like a broken record, repeating again and again interminably a plaintive cry to Government to provide the building we need to enable us to perform our important functions safely and efficiently. These unsuccessful pleas have become so familiar that I am sure many of you are thinking - 'ho hum, here he goes again'.

The reason I raise the issue again today is that we have reached a crisis point. The situation is desperate and requires an immediate commitment from Government to provide at least the resources required to undertake detailed planning for the building which we have so obviously needed for almost 20 years. Let me explain why.

For almost 20 years now this court has been required to operate on two sites within the city and more recently, since the opening of the District Court Building, we are regularly operating from three separate sites within the city which are several blocks apart. The public confusion and uncertainty which this generates, because litigants and lawyers cannot be certain where they will be required to go until the day of their hearing, and the inefficiencies and wasted costs that flow from operating across three sites are obvious.

The deficiencies in these arrangements have been acknowledged by successive Governments over 20 years. A lot of public money has been spent preparing repeated submissions to Government for the provision of facilities that are taken for granted and provided by Executive Government in virtually every other jurisdiction in the country. In Brisbane, as we speak, work is underway on a project costing about $600 million for the construction of a new home for the Supreme and District Courts of that State. In Sydney a major refurbishment of the Supreme Court of New South Wales is underway, at a project cost measured in many tens of millions of dollars.

However, in Western Australia, none of the many submissions to Government for the provision of the facilities that the Supreme Court needs to adequately perform its function have yet found approval. A

detailed evaluation prepared shortly after my appointment showed that over the longer term, it would be cheaper to Government to provide a purpose-built facility for the Supreme Court than to continue the current expensive and inefficient arrangements. A logical person would ask why a proposal which was, over the longer term cheaper for the State and vastly preferable for the court, was rejected. The answer to that question seems to be that the resolution of competing priorities for public resources is not always logical but may at times be political. Railway lines, roads, tunnels, theatres and sporting stadia seem to be more attractive to Government than providing the Supreme Court with the building that it obviously needs. No doubt that is due to an accurate perception that the other projects I have mentioned are more popular with the electorate than spending money on a court house. However, there comes a time when electoral popularity should properly be subordinated to the performance of the basic responsibilities of Government. As I have mentioned, one of the most basic responsibilities of Executive Government is to provide the courts of the State with the resources and facilities which we need to administer the rule of law.

Let me explain why the time for performance of that responsibility has well and truly arrived. One of the sites from which we operate is an ordinary office building singularly ill-suited for the performance of judicial work. The judges who sit in that building are required to travel in the lifts with the litigants. It is virtually impossible to provide adequate security for the judicial officers working in those unacceptable circumstances, or to other court users.

The lease on the floors of that building which we occupy expires in 2013. The Government has an option to extend the lease for a further term of

three years, expiring during 2016. There is no further option to extend the lease.

The most recent unsuccessful submission prepared in support of budget funding for an additional building for the Supreme Court showed a timetable for the project which would enable completion in September 2015. That timetable was prepared on the basis of an assumption that funding would be provided to enable planning and design work to commence before now. Of course that assumption was not fulfilled, because the budget bid was rejected. It is therefore clear that unless funding to enable at least planning and design work to commence is approved in this budget cycle, it is most unlikely that the project will be completed before our tenure expires in the building to which I have referred.

There is, of course, no guarantee that our tenure in the building to which I refer could be extended, nor can any estimate sensibly be made of the cost of extending that tenure, other than the assessment that it will continue the expensive, inefficient and wasteful dissipation of public resources even longer.

There is a real risk that unless design and planning work commences shortly, in 2016 the Supreme Court will lack the chambers to accommodate our judges and the courts in which to conduct our trials. This is not a risk which any responsible Government should take.

I have discussed these matters with the Attorney General. He is sympathetic to our plight, just as his predecessor was. But we need more than sympathy, we need action. With the concurrence of the Attorney

General I have written to each of the Premier and the Treasurer outlining the dire circumstances which confront us. I hope to meet with each of them in the near future in order to discuss this important issue.

Regional Court Houses

I have spoken before of the 'metro-centricity' of Government in Western Australia, including that branch of Government relating to the administration of justice. The Government's focus upon addressing the imbalance between the resources and facilities made available to those who live in the regions, and the resources and facilities made available to those who live in the metropolitan area, is to be commended.

That imbalance is just as evident in the inadequate state of many of our regional court facilities as it is in other areas of public infrastructure. Let me give some examples.

Kununurra

The Kununurra Court House is quite inadequate to discharge the significant volume of judicial work undertaken in that town. The magnitude of that work was recognised by the appointment of a magistrate to Kununurra. However, during the many weeks of the year in which the Supreme and District Courts are using the only court room in the building, the magistrate has nowhere to sit and must therefore perform court business in other public buildings, such as the Shire Hall. The safety and security issues flowing from this are obvious.

There is no office space available for visiting superior court judges or their staff. When I sat in Kununurra last year I was given a makeshift

desk in a tiny room mostly occupied by a noisy computer server. The only place for my staff was in the tearoom.

Much more significantly, the room, better described as a cubicle, from which vulnerable witnesses give their evidence by so-called 'remote' video-link is not remote at all. It adjoins the foyer of the court and is immediately adjacent to the passage through which an accused person is taken from the secure holding area to the dock. It is almost impossible to get a vulnerable witness, such as a child or the victim of a sexual offence into and out of that cubicle, without them confronting the accused, members of his family and supporters, and other witnesses. The inadequacy of these facilities largely defeats the purpose of providing that the witness give their evidence by video-link.

Broome

The building in which the court sits in Broome is a wonderful piece of the architectural heritage of that town. The court room is surrounded by verandahs on three sides and the building is situated in beautiful gardens. But fundamentally it is a cable station, not a court house. The fact that the court room is almost entirely surrounded by verandahs means that the accused has to be brought into court across such a verandah. The safety and security issues associated with this are obvious - especially in an area where 'pay-back' is part of the indigenous cultural tradition. We are very fortunate that there has not yet been a serious incident arising from the inadequacy of these arrangements, but I fear that it is only a matter of time.

The inadequacies of the current arrangements in Broome pose many other threats to the administration of justice. Jurors arrive at the court, and

leave from the court across the same public gardens and verandah as the witnesses, police officers and other participants in the court process. The risk of mistrial through inadvertent inappropriate contact is high, as is the possibility of juror intimidation.

There are no waiting areas other than the public verandah, nor any interview rooms for lawyers to interview prospective witnesses or clients. During the many weeks of the year when a superior court sits in Broome, the magistrate is required to hold court in a small demountable style of building tucked away at the rear of the premises which is quite inadequate for the number of cases passing through that court. Visiting superior court judges are offered a very small office with a door which is not fully enclosed opening on to the public verandah. Anybody on the verandah can easily hear any conversation taking place in that office.

Karratha

The court building in Karratha has only one court room, despite the volume of business conducted in that expanding city. When a superior court is sitting in Karratha, the visiting magistrate has to hold court in a portable donga placed on part of the car park at the rear of the court building. That donga, slightly bigger than a caravan, cannot accommodate more than four or five people at the rear of the space used for court sittings. That space is generally occupied by persons involved in court proceedings - such as police, juvenile justice officers and so on. So the proceedings in that space are, in practical terms, not open to the public in any meaningful sense. This is contrary to a fundamental tenet of our system of justice.

Carnarvon

The inadequacy of the court house in Carnarvon was recognised by the previous State Government, which undertook to construct a new facility. However, the funding provision has been removed from forward estimates, with the result that there is now no commitment to providing a new court house in Carnarvon.

Kalgoorlie

As in Carnarvon, the previous Government recognised the inadequacy of the Kalgoorlie Court House. The old Warden's Court Building in Hannan Street, a wonderful heritage building, has been acquired by the State for refurbishment and redevelopment as a new court facility in this important region. Designing and planning of an exciting new project, which will significantly enhance the public infrastructure available in Kalgoorlie is complete. Although provision is made for funding the project in forward budget estimates, because an unrealistic estimate of costs was made when the project was first approved, that provision needs to be augmented to enable this vital project to go forward. It is to be hoped that these resources will be made available by Government, so that the project can proceed without further delay.

Courts and Police Stations

It is instructive to compare the lamentable state of some of the facilities I have described with the facilities available to police in the same towns. In Broome, our inadequate court house is directly opposite a new 'state-of-the-art' police station. In Karratha, funds have been provided to construct a large 'state-of-the-art' police station, which is under construction immediately adjacent to our dilapidated court house. In Fitzroy Crossing, the court room is part of the existing police and court

complex. Funding has been provided to build a new police station, but not to provide a new court room. So, the police will have a brand new facility, but the court will continue to sit in an inadequate and outmoded building. These comparisons reinforce my earlier observation that, perhaps understandably, public resources tend to be allocated by reference to electoral sensitivities, and funding police is more popular with the electorate than funding courts. However, there comes a point when Government must do what is right, and not just what is popular. In relation to the court houses of our State, that time has arrived.

The Courts

Intercollegiate cooperation

Last year, I reported upon the intercollegiate cooperation of the various courts of this State. That cooperation was manifested in a number of ways, including the regular meetings of all Heads of Jurisdiction and the Indigenous Justice Taskforce. I am pleased to report that cooperation has continued very effectively, and that the work of the Indigenous Justice Taskforce has succeeded to the point where the taskforce has been stood down. A retrospective analysis of the work of that taskforce shows that it was successful in achieving its prime objective, which was reducing the time taken to resolve the unexpectedly large number of sexual assault cases brought in the Kimberley. Any blowout in the backlog of those cases was avoided, and in fact they were resolved in shorter than average time.

As I mentioned, the Supreme Court now sits regularly in the District Court Building. I am pleased to acknowledge with gratitude the cooperation and assistance provided by the District Court to enable that to occur. There has also been agreement between the two superior courts

for the sharing of some circuit responsibilities in the regions of the State, with a view to averting any blowout in the backlog of cases in those regions. Another example of intercollegiate cooperation between the courts and other agencies is the working group relating to the transport of persons in custody upon which I reported last year. That group continues and is making some progress in the implementation of procedures which are reducing the occasions upon which persons in custody have to be transported. There is more that can be done in that area, depending upon the provision of resources by Government. It is to be hoped that those resources will be provided.

I turn now to report briefly upon each of the courts of the State, and the State Administrative Tribunal.

Supreme Court

Court of Appeal

The number of criminal and civil appeals awaiting determination is the lowest it has been for many years. Criminal appeals can be, and are heard as soon as they are ready, and although the delay in hearing civil appeals is still longer than we would like, it is coming down. Justice Owen has returned to the Court of Appeal after his herculean labours in the Bell trial, a little the worse for wear not only because of the Bell trial but also because of a fall from a ladder. We are not therefore deploying judges from the General Division to the Court of Appeal to the same extent as in past years.

Resourcing the appeal from the decision of Justice Owen in the Bell case is a major issue. There are not enough members of the Court of Appeal without a conflict of interest to constitute a coram, and in any case the

deployment of three judges of this court for the time required to dispose of that appeal would severely disrupt the flow of other cases through the court. I am in active and continuing discussions with the Attorney General as to the means by which that appeal might be resourced without undue disruption to the court's general case flow.

General Division

The number of cases commenced in the civil side of the General Division increased by more than 50% over the last 12 months or so. Most of that increase was in the area of actions for repossession of property, and no doubt reflects contemporary economic conditions. The huge increase in those cases has placed the registrars of the court under considerable pressure. Contrary to our expectations, the explosion of cases in that area has not been followed by a second wave of more complex commercial and insolvency cases. I am therefore pleased to report that there has been no change in our capacity to provide parties to a civil dispute with a hearing as soon as they are ready, nor in our capacity to provide case management services which will expedite their readiness for trial.

On the criminal side of the court's work, the initiatives upon which I have previously reported, including Voluntary Criminal Case Conferencing, and the Stirling Gardens Magistrates Court, continue to provide significant benefits in terms of reducing time to trial and trial length. As on the civil side of the court's work, we are in a position to provide hearing dates which coincide with the readiness of the parties for trial. The biggest difficulties encountered in getting to the point of readiness for trial continue to be disputes with respect to the adequacy of prosecutorial disclosure, and the time taken to provide scientific evidence. However, some progress is being made in each of these areas.

District Court

New District Court Building

Since I last reported the District Court has successfully occupied and established operations in its new 'state-of-the-art' headquarters at 500 Hay Street, Perth. The inevitable teething problems have now been largely resolved, and visitors to the building enjoy a much less stressful and safer experience of the justice system. Most significantly, the availability of the new building overcame a critical shortage of jury court rooms and video court rooms which had contributed to significant criminal trial delay.

Criminal trial delay

The Criminal Listing Project, upon which I have previously reported, continued to achieve considerable success during the year under report. Criminal trial delay in the District Court fell from 40.5 weeks at June 2008 to 25 weeks in June 2009, largely due to this project, together with the improved availability of court rooms as a result of the move into the new building. A delay of 25 weeks from indictment to trial is comparable to the best performing equivalent courts in Australia.

Circuit lists

Trial delay in the regions remains longer than in the metropolitan area. Regrettably this disparity is likely to increase because of reductions in circuit sittings due to budget constraints. As I mentioned, the Supreme Court has undertaken to provide some assistance in this area. Increased lodgments in the northern part of the State, where circuits are significantly more expensive than in the south-west, have exacerbated the budgetary difficulties. The District Court is actively monitoring these

issues and will do whatever can be done to reduce regional trial delays within its budget allocation.

On the civil side of the court's work, the median time taken to finalise both trial and non-trial matters was reduced during the year ending 30 June 2009. However, as with the Supreme Court, an increase in lodgments might jeopardise some of those improvements.

Family Court of Western Australia

Regrettably, waiting times for trial in the Family Court of Western Australia increased significantly over the last 12 months, in part as a consequence of the impending retirement of Justice Penny, which reduced her capacity to sit during the period leading up to her retirement. In recognition of those delays, the Commonwealth Government has provided funds for an Acting Magistrate for a period of 12 months. Justice Moncreiff has been appointed to replace Justice Penny, so there is reason to hope that trial delay will reduce in future.

The less adversarial processes employed by the Family Court in the area of disputes relating to children continue to be well received. By agreement between the court and the Department for Child Protection and Legal Aid WA, a senior child protection worker from the Department is now permanently situated at the Family Court in order to facilitate information sharing and collaboration in the many cases in which of child abuse is identified. This is the first occasion where such an arrangement has been made in any Family Court in Australia, and the innovation has attracted widespread interest from other jurisdictions.

In order to address issues of family violence, information sharing protocols have been agreed between the Family Court, the Magistrates Court, the Department of the Attorney General, Legal Aid and the Department of Corrective Services. Again, this is the first initiative of its kind in Australia.

Magistrates Court

As I mentioned, the year under report has seen the appointment of a magistrate based in Kununurra, and an additional magistrate has been appointed to be based in Bunbury. These appointments have resulted in significant reductions in listing delays in those areas.

Dedicated family violence courts are now operating at all metropolitan Magistrates Courts. In Geraldton the Barndimalgu Indigenous Family Violence Court continues to operate successfully. The Kalgoorlie Community Court has completed its initial pilot phase and is currently under evaluation. The result of that evaluation will no doubt be significant in assessing the future scope and role of such courts.

Work has progressed in relation to the Cross Border Legislation which will ensure the seamless administration of justice in the area generally known as 'the Lands' and which comprises parts of Western Australia, South Australia and the Northern Territory. However, an implementation date for the commencement of this important legislation has not yet been announced.

Major refurbishment works have been undertaken in the Central Law Courts Building occupied by the magistrates. Unfortunately that work

remains significantly behind schedule. The refurbishment has enabled the court to provide a single registry for both criminal and civil matters.

The Magistrates Court faces a number of challenges. The number of criminal charges laid in that court continues to increase at well above the rate of population growth. The court lacks the capacity to control the number of initial matters to be dealt with on any one day. That is because that number depends upon the number of arrests and summonses issued by police. In other jurisdictions this is controlled by a computerised management system, but those facilities are not available in Western Australia, with the result that inefficiencies and delays will continue.

I have mentioned the inadequacy of the facilities available to regional magistrates. In addition, in each of Armadale and Midland the volume of work for the Magistrates Courts has outstripped the premises available to conduct that work. Funding is not available for any expansion of the court houses at those locations, with the result that delays in those locations can be expected to continue, and quite possibly increase.

One of the challenges for the Magistrates Court in such a large and sparsely populated State is the obligation to provide a judicial presence in small and often isolated locations. Large travelling times and increased costs which have not been accompanied by increased budgets have seen reductions in the circuits undertaken by regional magistrates. This often means that people in regional areas are expected to travel hundreds of kilometres to attend court. There is usually no public transport available in these areas. With increasing workloads in the major regional centres, and rising travel costs, unless the resources available to the court are

increased, it is likely that access to justice will be increasingly difficult for those living in regional areas.

State Administrative Tribunal

In May 2009 the Standing Committee on Legislation of the Legislative Council tabled its report following an inquiry into the jurisdiction and operation of the State Administrative Tribunal. The report concluded that:

> The Committee found the SAT to be operating efficiently and effectively, and was of the view that the positive result has been due to the considerable efforts and dedication of the members and staff of SAT.

The committee made 60 recommendations which included a number of recommendations relating to the conferral of additional jurisdiction on the Tribunal, legislative and procedural reform, and in relation to the Tribunal's continuing resource requirements. The response of Government to the recommendations made by the committee is expected shortly, and the Tribunal has already commenced the implementation of a number of recommendations relating to its internal procedures.

The Tribunal continues to experience a steady increase in its caseload. Last year the number of applications received were approximately 14% higher than in the first year of the Tribunal's operations. The increase in workload has not been uniform across the Tribunal's four streams of jurisdiction. Significant increases in caseload have been experienced in both the Human Rights stream, and the Development and Resources stream, although in both of those areas of the Tribunal's work, benchmark times for the finalisation of applications have been met.

This additional caseload has been managed without any increase in the number of employees or full-time members of the Tribunal over the three years since 2006 - 2007. However, the burdens on staff are unsustainable, and an increase in staffing levels in the Tribunal will be necessary in the short term. This position is likely to be aggravated by an increase in applications as a result of amendments to the *Guardianship and Administration Act 1990* (WA). The Tribunal is looking at ways in which savings might be achieved in order to fund the appointment of additional full-time members.

Since the creation of the Tribunal, the Tribunal has regularly had additional jurisdiction conferred upon it. Consideration is being given by Government to the transfer of the jurisdiction of the Building Disputes Tribunal, and the jurisdiction of the Magistrates Court relating to residential tenancies to the Tribunal. If new jurisdiction is conferred upon the Tribunal, it is essential that resources sufficient to discharge that jurisdiction are also provided to the Tribunal. That obvious need was recognised by the Standing Committee which made a recommendation to that effect.

That committee also recognised the need for the Tribunal to relocate to a permanent location following the expiry of the lease of its current premises in 2015. For the same reasons I developed in relation to the accommodation needs of the Supreme Court, it is essential that planning for the future accommodation needs of the Tribunal commence immediately, and I am pleased to report that the Department of the Attorney General has commissioned a study to analyse the precise extent of those future needs.

Children's Court

Criminal Jurisdiction

During the year under report the powers of magistrates sitting in the Children's Court were increased, so that magistrates can now impose detention and community orders for terms up to 12 months. This is an increase from the previous limit of six months. As a result magistrates can now, when appropriate, deal with cases involving the third offence of a burglary on a dwelling, and a range of other serious matters.

As a consequence, it is no longer necessary for some young offenders to appear before the President of the Children's Court for sentence, which expedites the disposition of their cases, and reduces the period over which the young offender is either remanded in custody or on bail.

Despite a steady and significant increase in the criminal workload of the Children's Court, listing intervals remain at acceptable levels. While the number of serious charges, such as robbery and burglary remains unacceptably high, they have decreased from previous years.

The number of Aboriginal children sentenced to detention remains unacceptably high compared to children of other ethnicities. The percentage of children in custody who are Aboriginal seldom drops below 75%, and last month, August 2009, was 84%.

I have previously observed that the over-representation of Aboriginal people in the criminal justice system of this State represents the biggest single issue confronting the administration of justice. The problem is even more acute in the area of juvenile justice than it is in the adult justice system. It is impossible to overstate the urgent need for innovative

change. When young offenders come before the court charged with serious offences, there is invariably a multiplicity of causative factors contributing to their criminal behaviour. Those factors include poor parenting, the lack of positive role models, domestic violence, physical and emotional neglect and abuse, unstable accommodation, and little or no educational, vocational or recreational structures. Often these factors combine to produce the lack of any sense of identity or self-esteem, a general sense of hopelessness and despair, often exacerbated by substance abuse and mental illness. Children so badly damaged have such little respect for themselves, that it is inevitable that they will have little or no respect for others or for other peoples' property.

Many children who appear before the Children's Court are themselves parents. It is easy to see how the number of children suffering from these problems will increase in a relatively short period of time, unless steps are taken to address the various causative factors to which I have referred. The multiplicity of those causative factors requires a combined approach from the whole of Government. Accommodation for children at risk in a stable and safe environment must be provided across the entire State. Aboriginal people must be integrated into the provision of programmes and supports for the Aboriginal children who are so disproportionately represented in the work of the Children's Court. Those programmes must be culturally appropriate and specifically designed for indigenous people, and multifaceted, in the sense that they target not only the child, but also the family and the community.

During the year under report the President of the Children's Court issued a practice direction to the effect that no child is to be sent from regional Western Australia to Perth for detention because of the refusal of bail,

unless bail has first been refused by a magistrate. The use of audio and audiovisual links has enabled that direction to be implemented, with the consequence that fewer children from regional Western Australia are being remanded in custody. However, the number of children from regional Western Australia remanded in custody remains unacceptably high, largely because of the lack of safe and secure places in which such children can be located while on bail in regional Western Australia.

Use of audiovisual links from Banksia Hill and Rangeview has also reduced the number of children needing to be transported from those facilities to the Children's Court, which has reduced delays in the court's list. The legal profession has readily cooperated with this initiative, which minimises inconvenience to the children concerned.

The Government has announced the construction of a custodial facility for 18 - 22 year olds in the area currently occupied by the Rangeview Remand Centre. While the provision of a facility specifically designed to meet the special needs of young adult offenders is highly desirable, it is essential that this not be at the expense of the facilities, programmes and support services made available to juvenile offenders.

The current proposal to accommodate male and female juveniles, and sentenced and remanded offenders together in one facility at Banksia Hill creates a demand for special management techniques. Association between children on remand, and children under sentence should obviously be avoided if at all possible - especially given that most children on remand are not in fact ultimately sentenced to detention. This problem would be diminished if alternative accommodation in a stable

and secure environment could be provided to children who would otherwise be remanded in custody.

The Director of Public Prosecutions has now taken over the prosecution of all criminal cases before the Children's Court in Perth. This change has been an outstanding and unqualified success.

Care and protection jurisdiction

Turning now to the jurisdiction of the Children's Court relating to the protection of children at risk, the number of applications in that area of jurisdiction decreased during the year under report. However, that is by comparison to significant increases in caseload in previous years, as a consequence of the introduction of new legislation in March 2006.

Later this year, a pilot programme for child protection applications will be initiated in the Perth metropolitan area. The purpose of the programme is to move away from an adversarially-oriented system and toward a more collegiate approach. When an application for a protection order is filed with the court, the application will be required to specify:

(a) precisely what concerns are held in relation to the child in question;
(b) what positive aspects of the child's behaviour and family environment have been identified; and
(c) what needs to occur in order to minimise the risk of harm to the child in question.

Parents will then be invited to respond identifying the ways in which they would propose to ensure the safety and wellbeing of their child in the future.

Cases that are not resolved quickly will be referred to facilitators who will oversee conferences undertaken to explore the possibility of a consensual resolution.

The court is also collaborating with other agencies on the introduction of a programme which would enable such conferences to be convened even prior to an application being made to the court, with a view to identifying protection issues early and avoiding the need for a protection application to be made.

The Children's Court is currently developing a set of rules which it is hoped will be published shortly. The court is also developing a specific website, which it is hoped will be finalised in the near future.

Coroner's Court

I am pleased to report that in August 2009 the Attorney General announced that additional funding would be made available to the Coroner's Court in order to address a significant shortfall in resources which has limited and reduced the services provided by that court in previous years. However, that funding is not recurrent, and future resources are likely to be dependent upon the review being undertaken by the Law Reform Commission of Western Australia with respect to the jurisdiction and practices of the Coroner's Court in this State.

The additional funding will enable staff to be recruited, albeit on a temporary basis, including additional counsel assisting the Coroner. With these additional resources, it is hoped that a number of difficult and complex cases which have been substantially delayed will be completed.

The additional resources will also increase the staff available to the court's counselling service, which will enable greater assistance to be provided to grieving families.

The additional resources will also enable increased access to medical advice, which is required as a result of the increasing number of complex medical cases brought to the attention of the Coroner.

The increased funds will also enable greater use of computer systems and information technology, which will, for the first time, enable the court to monitor trends in deaths throughout Western Australia. This will in turn enable the court to better prioritise its own activities, and also to provide important information to other organisations and departments with respect to health and safety issues.

The increase in the resources provided by Government should enable the Coroner's Court to better serve the community of Western Australia during this financial year at least.

Conclusion

I commenced these remarks with a rather gloomy focus upon the inadequate building facilities provided to some of the courts of this State. However, as the balance of my remarks has shown, not all is gloom and despair, and despite the challenges imposed by constrained resources, significant progress is being made in a number of areas, enhancing the administration of justice in this State.