



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON JUSTICE AND COMMUNITY
SAFETY**

**(Reference: Delays in the commencement of operations
at the Alexander Maconochie Centre)**

Members:

**MRS V DUNNE (The Chair)
MS M PORTER (The Deputy Chair)
MS M HUNTER**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 18 FEBRUARY 2009

**Secretary to the committee:
Mr H Finlay (Ph: 6205 0136)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

WITNESSES

CORBELL, MR SIMON, Attorney-General..... **1**

FOLPP, MR BARRY, Director, Prison Project, and Deputy Executive Director,
ACT Corrective Services, Department of Justice and Community Safety **1**

HARDY, MS ROBYN, Executive Director, ACT Procurement Solutions,
Department of Territory and Municipal Services **1**

HARLOW, MR PHIL, Principal, Sinclair Knight Merz **1**

LEON, MS RENEÉ, Chief Executive, Department of Justice and Community Safety . **1**

RYAN, MR JAMES, Executive Director, ACT Corrective Services, Department of
Justice and Community Safety..... **1**

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While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

Amended 21 January 2009

The committee met at 9.35 am.

CORBELL, MR SIMON, Attorney-General

RYAN, MR JAMES, Executive Director, ACT Corrective Services, Department of Justice and Community Safety

FOLPP, MR BARRY, Director, Prison Project, and Deputy Executive Director, ACT Corrective Services, Department of Justice and Community Safety

HARLOW, MR PHIL, Principal, Sinclair Knight Merz

HARDY, MS ROBYN, Executive Director, ACT Procurement Solutions, Department of Territory and Municipal Services

LEON, MS RENEÉ, Chief Executive, Department of Justice and Community Safety

THE CHAIR: Good morning everybody, and welcome to the first of the public hearing of the Standing Committee on Justice and Community Safety into the delay in the commencement of operations at the Alexander Maconochie Centre. I draw members' attention to the privilege card. Are you familiar with the card?

Mr Corbell: Yes, thank you.

THE CHAIR: All of you are familiar with the card and understand the privilege implications of the statement.

Before we go to questions, I would like to make a brief statement about the conduct of the inquiry. So far, the inquiry has set down some times for hearings spread over the next number of weeks, in between sitting periods and annual reports hearings. Sometime ago, in excess of three weeks ago, the committee wrote to you as the acting minister, Mr Corbell—

Mr Corbell: Yes.

THE CHAIR:—requesting certain documents, and as of this morning those documents have not arrived. The Committee Office received yesterday afternoon a letter from the minister saying that this is a substantial amount of documentation which is being assembled and that it will come to us in due course. That creates problems for the committee in that there are substantial documents that we had anticipated that we would be able to review before we started hearings. As a result of that, it may be that we cannot devote all of the time that we set aside this morning to hearings and it will be quite likely that we may have to recall witnesses, as a result of what we see when these documents finally come to us.

I think it would be accurate to say that members of the committee were not very happy yesterday afternoon when we had to make this decision that we may not take up all the time today, and it is unfortunate that we will have to almost certainly recall ministers to requestion or to continue questioning in light of the documents that we receive. We did discuss informally yesterday that we would start the process today, but it may become obvious that we cannot pursue a particular line of questioning until we get that documentation, and it may be that we will not take up the full three hours or 2½ hours allocated this morning, as a result of that. I think that is unfortunate because it has an impact on witnesses, but it is unavoidable.

Mr Corbell: I understand that, Madam Chair. Clearly, if the committee feels it needs to explore other issues at a later date, I am certainly willing to make myself available to deal with those matters.

THE CHAIR: The other thing we need to note is that, because of the constraints on business, the minister, as manager of government business, has to attend another meeting at 10 o'clock, as do I. So there will be a short break at 10 o'clock for 15 or 20 minutes while we deal with completely different business, and then come back. It goes to show how multiskilled we are in this Assembly. Minister, would you like to make an opening statement?

Mr Corbell: I would, thank you, Madam Chair. Thank you to the committee for the opportunity to present to you this morning. As I said when this inquiry was instigated, and I was the Acting Minister for Corrections at the time, I welcome this inquiry. It is, I think, a very valuable opportunity to clear the air in relation to a broad range of issues relating to the development of the Alexander Maconochie Centre.

Let me begin by emphasising the nature and significance of this major and complex project, a project that the Labor government was prepared to undertake following years of hesitation and procrastination by previous administrations. This project will deliver the ACT's first correctional facility. It will spell the end of the inadequate and much-criticised Belconnen Remand Centre and the stopgap measures that have needed to be put in place over recent years to augment that centre's inadequacies. It will also bring to an end the practice that has persisted in the territory for most of its history of sending its sentenced prisoners to New South Wales, representing as it has a serious gap in our criminal justice system.

The intended benefits of the ACT having its own prison have been well documented, and I do not intend to repeat them here. However, it does need to be said that the government, having made the difficult decision to proceed with the project, also made the decision that the prison would be built and operated in accordance with human rights principles and best correctional practice. It would genuinely pursue, through comprehensive, therapeutic, criminogenic and educational programs and sound, humane prisoner management, the rehabilitation of our sentenced prisoners, and the objective is to see a substantial reduction in re-offending behaviour.

To achieve these objectives, and to cater for the ACT remand and sentenced prisoner population, a particular model of prison had to be built—one that would create the right rehabilitative environment and one that would cater for both men and women, remand and sentenced, of all security classifications. Right from the outset, this meant that the AMC would be complex to design, build and operate.

I would like to outline how the project went about achieving these objectives. A prison project office within ACT Corrective Services, in my Department of Justice and Community Safety, was established some years ago, and when the Labor government was elected in October 2001 that office was ready to respond to the government's aspirations and directions for the project. The site at Hume was decided upon and the necessary land planning approvals were obtained.

On behalf of the client, the ACT government, Procurement Solutions managed tender

processes and the letting of contracts for the project as follows. There was a project management consultancy. This contract was let to Sinclair Knight Merz Pty Ltd, or SKM. In September 2004, the value of that contract was \$2.715 million, to provide overall project management services. A design consultancy contract was let to Codd Stenders and May + Russell Architects Pty Ltd, or CSMR, a joint venture, in March 2005. The value was \$8.28 million to provide architectural services and to ensure project compliance with specifications and technical requirements.

With respect to early works construction, a contract was let to Canberra Contractors Pty Ltd in September 2005 to the value of \$2.33 million, and these works were completed on 8 February 2006. A bulk earthworks construction contract was let to BMD Major Projects Pty Ltd in January 2006. Its value was \$3.19 million and these works were completed on 2 June 2006. Finally, the main works construction contract was let to Bovis Lend Lease Pty Ltd, or BLL, in October 2006. Its value, \$115.48 million, was finally agreed to after tender negotiations. That contract was signed on 11 October 2006, with project completion of 83 weeks, subject to agreed extensions of time due to project variations and contingencies such as inclement weather.

It was the role of Procurement Solutions to manage these contracts on behalf of the territory. In the tender negotiations with BLL, and to keep the price tendered to the budget figure, as it then was, of \$113.30 million, certain elements of the original design concept and specifications were eliminated, including a reduction in the overall number of beds by 74, including 45 from the transitional release centre, reducing the beds in that centre from 60 to 15. Also reduced were the men's gymnasium and the chapel or quiet place. Otherwise the construction was to be in accordance with the design that had been developed by CSMR in consultation with Corrective Services, a design that well met the government's brief.

BLL engaged a total of over 200 subcontractors over the course of the project to provide the various elements constituting construction, including the built environment, electrics, hydraulics and security systems. Construction proceeded well, and by 2 September 2008, which became the amended project completion date, with agreed extensions of time adjustments to that point to allow for contract variations and delays due to inclement weather, the project was virtually completed. Indeed, anyone who visited the site at that time can bear testimony to that fact.

It should be emphasised that the territory contracted a highly reputable contractor to deliver this project—a large, established operator with a good reputation in the industry. However, from as early as April-May 2008, problems began to emerge with the security system being installed by Chubb electronic security, and problems have continued with this system up to the present, preventing project completion and the handover of the facility to the government. I will leave a more detailed account of the current situation to my colleague the minister responsible.

This technical operational problem lies at the heart of the delay. No amount of analysis of issues such as when the official opening occurred, what the government knew or did not know and what the effect has been on remandees and sentenced prisoners should obscure this central fact. The prison has been delayed because of the failure of the contractor to deliver on the contract to build the ACT's prison.

This salient technical and operational fact, as complex and as non-political as it may be, falls squarely within this committee's terms of reference and must not, in my view, be confused or disguised in this committee's consideration of other related issues. All the other issues within the terms of reference have flowed from this fact.

I would now like to briefly address the inquiry's terms of reference. Although, with the benefit of hindsight, much has been made of the decision to hold the official opening of the AMC on 11 September 2008, the circumstances surrounding the opening on that date are quite straightforward. The decision to hold the opening on that date was finally made on 13 August, although the department had been planning for an early September opening, in consultation with my office, from as early as May-June of that year, on the basis that the timing would have been in the period after handover of the site by the builder and before occupation, the ideal time for an official opening.

On 13 August, the agreed projected completion date was 22 August, although continuing problems with the security system were suggesting that that completion date might not be achievable, with the possibility of it slipping to around late September or early October.

This was the position as notified to the project office by BLL. At a site meeting on 14 August, 2 September was agreed as the completion date. Although this meant that the opening would take place before handover of the site, with BLL's agreement there was nothing to suggest at that time that the opening should not proceed as planned. The much talked about departmental brief dated 9 September, which I annotated and saw on 15 September, advising that the handover date was likely to be early November, with occupation within one month after that date, in my estimation would not have altered the situation. In any event, it would have not been logistically feasible or possible or sensible to abandon the opening the day before it was due to occur, bearing in mind that services and facilities had been booked and invitations printed and issued.

I stand by my earlier comments that we can all be wise in hindsight, but at that time, notwithstanding the slight slippages to the completion date that were occurring at the time, in my opinion the 11 September timing was still appropriate. It should also be remembered that construction and commissioning—that is, the testing and certification—of most of the components of the facility had been completed and that those who attended the official opening saw, for all intents and purposes, a finished building. Also, we were being assured by the contractor at that time—and it has been the case ever since—that the problems with the security system would be quickly resolved and that the system would soon be ready for its commissioning period of 28 days plus five fault-free days.

I would comment as follows in relation to the committee's second term of reference:

... factors contributing to delays in the AMC project including:

- a. Any variations to the original project design as awarded to the contractor;
- and

b. The commissioning process.

The design variations that I referred to earlier in this opening statement had no bearing on the contract completion time frames, as these variations occurred before the BLL contract was signed on 11 October 2006. As with any major construction project, there were other design and construction variations throughout the project, and these are detailed in the project documentation that is to be supplied to the committee.

Where time allowances needed to be made for project variations that occurred after contract signing, these were negotiated between the client, the client's representative—such as SKM—and the building contractor. As I have already mentioned, agreed extensions of time due to project variations and to inclement weather established at that time a project completion date of 2 September 2008.

So far as commissioning is concerned—for example, the testing and certification of project components as they are completed—this has been an ongoing process. As buildings and systems are completed, commissioning has taken place, mainly by BLL and its subcontractors. All components of the project apart from the security system have been commissioned.

As has been well documented, the delays that have occurred in project completion and handover of the site are directly and almost exclusively attributable to the ongoing problems with the security system, and advice regarding revised completion dates has also been regularly revised. At the time that I ceased to be the Minister for Corrective Services, these problems had not been resolved, delaying the commencement of the commissioning process in respect of that system. My understanding is that these problems persist, but I will leave commentary on the current situation to my colleague Mr Hargreaves as the responsible minister.

Likewise, I would consider the inquiry's third and fourth terms of reference to be matters for Mr Hargreaves.

In relation to the fifth term of reference, concerning human rights implications of continuing delays with the project, I would comment as follows. The inadequacies of the BRC in human rights terms are well documented and were one of the main reasons why the government bit the bullet and undertook this project, along with establishing a temporary remand centre at Symonston some time ago to alleviate overcrowding problems at the BRC.

In this context, I might mention that during the life of the previous government, overcrowding at the BRC was addressed by the totally unacceptable practice of holding some remandees in the Magistrates Court cells overnight and transporting them to the BRC by day and by sending some remandees to New South Wales. Both of these practices were driven by the lack of accommodation in the ACT, which we addressed by establishing the Symonston temporary remand centre upon coming to government.

In more recent times, ACT Corrective Services has had to deal with increasing numbers of remandees. This has been exacerbated by the New South Wales

corrections system's present inability to accept any more ACT sentenced prisoners owing to overcrowding in its system. On a number of occasions, the ACT human rights commissioner, Dr Watchirs, has reported the concerns about conditions at the BRC and STRC for our detainees.

As I have said, the longstanding inadequate conditions at the existing remand centres were a significant factor in the decision to build the AMC. Were it not for the unacceptable delays in the installation of the working security system, our remanded and sentenced prisoners would be in the AMC today. Recently, further steps have been made to alleviate the situation by reopening the former juvenile justice centre at Quamby, but the only real solution is to have the AMC come on stream. I know that my colleague Mr Hargreaves is working very hard to bring that outcome about as quickly as possible.

Thank you for the opportunity to make an opening statement. I will be happy to try to answer any questions you have.

THE CHAIR: Could I start with the BRC, because that is where the minister finished? Could we start with the BRC and move backwards? Could I suggest that as a course of action?

Towards the end of your opening statement, minister, you said that New South Wales was no longer taking sentenced prisoners from the ACT. When did that situation begin and what are the reasons for that?

Mr Corbell: I will ask Mr Ryan to answer that question. He has a better grasp of it than I do.

Mr Ryan: The situation has been developing since late last year. On a regular basis, sentenced prisoners were spending time in the ACT before moving to New South Wales whereas previously they would go directly to New South Wales.

THE CHAIR: Can I just interrupt? Directly from the court?

Mr Ryan: Directly from the courts to New South Wales, yes. We always make sure we have somewhere to take them before we set off. Since around Christmas, the ability of New South Wales to take any ACT prisoners seems to have ceased. We have been negotiating with them on a regular basis—for a while there, daily—but it is quite clear that their situation is desperate. They do not have beds for their own prisoners and if we insisted that they go off to New South Wales they would probably go off to New South Wales to reside in unacceptable conditions, perhaps in police cells and so on.

At present in New South Wales—when I last asked, I understand that there were some hundreds of prisoners in New South Wales inappropriately placed. In short, they have not been taking prisoners from the ACT for some time. Sadly, too, the prospect of that being resolved quickly looks to be bleak.

THE CHAIR: When was the first instance—you might have to take this on notice—when you could not transfer—

Mr Ryan: I will take that on notice.

THE CHAIR: You are saying that this is entirely because the New South Wales prison system itself is under pressure.

Mr Ryan: Yes.

THE CHAIR: What communications had Corrective Services had with New South Wales about the date or the time—not necessarily a specific date, but the time—when you would cease to transfer prisoners to New South Wales? What discussions had you had in the intervening 12 months or six months about when that contract would come to an end?

Mr Ryan: Could I take that on notice as well? There were a number of occasions when those conversations took place. The most recent and most significant one—a date which I will also have to provide to you separately—was when I personally spoke to the commissioner in New South Wales about the situation. He advised me along the lines that I have just given to you about the situation.

THE CHAIR: I suppose what I am trying to get to is this. Was there an anticipation on the part of New South Wales that at some time around the end of last year they would not be called upon: there would be no more prisoners coming into New South Wales from the ACT and there would be a process of repatriating those people back to the ACT? What was New South Wales's expectation?

Mr Ryan: New South Wales's expectation regarding our sentenced prisoners was that some time soon after September they would expect that we would take back our sentenced prisoners.

THE CHAIR: Which at that stage amounted to how many?

Mr Ryan: Once again, I would have to take the exact figure on notice.

THE CHAIR: A ballpark figure?

Mr Ryan: A ballpark figure of about 100. They were given this information by us based on our expectation that the prison would be ready, based on information we received from our contractors. That has dragged on for them and it has coincided with a lot of pressure in New South Wales with respect to their own prison numbers. I should add that they have always been helpful and have always gone out of their way to meet our requirements. On the occasions in the past—and there have been many—when we have had to hold sentenced prisoners here in the ACT awaiting placement, they have always reacted to any pressure we placed on them to move along and do something about it. I do not think that there was at any time any reluctance on their part to take our prisoners; I think that the expectation that by now we would have all of our sentenced prisoners back was based on their knowledge of how our project was progressing, which seemed to change fairly regularly as the never-ending postponement of the completion date was announced.

THE CHAIR: I think we will have to adjourn there while the minister and I go off to another meeting.

Meeting adjourned from 10 to 10.18 am.

Mr Corbell: Mrs Dunne, I wanted to comment further in relation to your questioning about the issues in New South Wales. I think it is important to make clear that there has been no suggestion put by New South Wales to the ACT government that the delay in repatriating our prisoners from New South Wales to the ACT has in any way impacted on, or has been the cause of, their overcrowding issues. We are talking about a system with up to 10,000 sentenced prisoners. The ACT component is very small in that context.

THE CHAIR: I suppose the next question that I wanted to follow on with was this: Mr Ryan, there was an expectation that we would not be sending prisoners interstate from sometime late last calendar year. I wanted to explore what was going on in relation to sending sentenced prisoners interstate after that time when it was generally expected that they would not be going interstate. There was an expectation that sometime in October, November or December that traffic would cease in that direction and that it would start in the opposite direction. You said sometime about Christmas. Is it the case that since Christmas we have not sent any prisoners interstate?

Mr Ryan: Since around Christmas, I don't believe they have taken any, but I need to check that. It was slowing down and then it stopped altogether. Always, the expectation—because our numbers are so small—is that at any time it could start up again. But given their numbers, a slight fluctuation in their numbers in the right direction could easily cover what we would have to send them—easily. At about the time I felt that this was looking as though it was not going to change much, we were talking about 20 or 25 people. If they could just take an extra 20 to 25, it would have helped us out. Whereas they were clearly in a situation where they not only could not take those numbers but they were looking forward very much to us taking back what already existed in New South Wales.

MS PORTER: Would New South Wales expect perhaps that around that particular period of time, Christmas time, it is usually a heavy time for them, in that they have a number of offences that occur at that particular time? I know that Christmas can be quite a fractious time in our society. I was wondering whether that was a factor and whether there are seasonal changes that happen.

Mr Ryan: I could not say that that was the case at all. Even with our fluctuations here in the ACT, if we try and look at where the peaks are, it is pretty hard to pin it down over a period of, say, a decade. Sometimes the Christmas-New Year period is busy; sometimes it is not. I could not comment on the situation in New South Wales, except to say that their trend is ever upwards, having regard to the need for beds.

THE CHAIR: Could we move more generally to the BRC and go back to the commissioner's report of July last year. Minister, you were the minister at the time. When you received the Human Rights Commissioner's report about conditions at the BRC, what did you do? Also, what did you think about doing? What was your

reaction, what did you think could be done and what was done?

Mr Corbell: There were no surprises for me in the commissioner's comments. The conditions at BRC are well documented and are acknowledged by the government as being inadequate in a wide range of areas. That is the reason for building a new remand centre as part of the prison, because you cannot fix the fundamental problems at BRC except by replacing it. It is antiquated and out of date. So the commissioner's report was, on the face of it, not a surprise to me. But she was performing her statutory duty in bringing these matters to the government's attention.

I sought advice on what steps were being taken to address the issues that she raised, to the extent that steps could be taken in the existing building. Her key comment was that Quamby be considered as a potential overflow facility. At that time Quamby was still in operation. The building was still being used as a juvenile justice detention centre. So it simply was not feasible to even start considering the use of that building, given that we did not at that stage have a clear confirmation as to when Quamby would be vacated.

THE CHAIR: Could I just interpose there—

Mr Corbell: This was in the last couple of months that I was the responsible minister. I did not consider that we could take any practical steps at that time to look at the use of Quamby, but it could be an issue that could potentially be explored once it was clear about when Quamby would be vacated and an assessment could be made as to its suitability.

THE CHAIR: This may be something to take on notice because it is not your responsibility, but just for the information of the committee, when was Bimberi opened, when did it become occupied and when was Quamby vacated?

Mr Corbell: Quamby was effectively vacated—I can't provide the exact date—in late December last year.

THE CHAIR: So in the interim you said that when you were minister you would consider Quamby when it came online, but when you realised there were delays at the AMC, which you realised in August-September, were there any moves afoot then to address overflow issues at BRC by opening Quamby or had that fallen off the agenda?

Mr Ryan: As far as we were concerned, it never totally fell off the agenda. We were aware of the fact that there were some beds there that we could possibly use, without really knowing exactly what the status was and the condition. But I think we did advise at some stage that if we had to we could move in there fairly quickly, and that has proven to be the case. The only option that we had in the meantime was to make use of what we had, by using roll-out beds or using periodic detention beds, and that has been going on now for some time.

THE CHAIR: At any stage, Mr Ryan, were there remandees or prisoners of any sort maintained for long periods in police cells?

Mr Ryan: No. We never use police cells. I think there has been perhaps a

misunderstanding about police cells and Corrective Services, and it comes from the fact that the BRC itself is born from what was a police station. It progressively went from an initial small number of cells, it was then increased in size by taking over more of what used to be police cells, in the same block, and then an addition of a further number of cells that we built on what was the only open area in the facility, just to maximise the space. But they are not police cells. We do not put people in police cells.

Mr Corbell: The last instance of cells such as police or court cells being used was under the previous government.

MS PORTER: With regard to the remand centre, minister, you mentioned before that it came as no surprise to you, and in your opening remarks you talked about the history of the remand centre. Could you take us back to what steps have been taken to put in place some changes, when the government became aware a long time ago?

Mr Corbell: In relation to what?

MS PORTER: About what we were going to do about the remand centre, the fact that you said it was no surprise to you. I think you made some remarks in your opening statement about what the government decided to do at that time when it became aware of the remand centre—

THE CHAIR: I will allow the questioning to go on for a little while, but it is not directly within the remit of the terms of reference to go back to what the government decided to do in 2001 or 2004 about the BRC. There can be a brief exposition on that, but not too long.

Mr Corbell: I think it is a relevant consideration, Madam Chair, in that the government has acknowledged from day one that BRC is inadequate and steps need to be taken to address it. Ultimately, the step that needs to be taken to address it is to replace it with a new facility, and that is what the AMC provides us—

THE CHAIR: And that is what we are here talking about today—the delays in the new facility.

Mr Corbell: and that is what we are talking about today. It is important to stress that the prospect of building a stand-alone remand centre would still have many of the costs associated with building a jail, in that it has to provide a high level of security, it has to provide dedicated facilities for health care, for catering, for laundry and so on—all the things that are provided in the context of the jail project anyway. So those facts should not be forgotten when people say, “Yes, but you could have just built a remand centre.” That does not take account of the various economies of scale that come, or that don’t come, if you build it just as a remand centre but don’t have any capacity for sentenced prisoners, given our overall population. But I will leave that to one side.

The step we took primarily, Ms Porter, to answer your question, is that Mr Quinlan, when he was corrections minister in 2001, if I recall correctly, took the decision that we should establish a temporary remand centre to deal with overflow, and that was established at Symonston. So Symonston provides us with overflow capacity. Both

Symonston and BRC have been utilised to their fullest extent, and indeed over their feasible extent, for some time.

MS HUNTER: On the human rights audit of the BRC, you mentioned that one of those recommendations was to look at overflow going into Quamby. What other recommendations were there in that human rights audit and have any of them been implemented?

Mr Ryan: Are we talking about the original human rights audit?

MS HUNTER: Yes.

Mr Ryan: There are some 98 recommendations in the human rights audit.

Mr Corbell: I should say that originally the Human Rights audit did not deal with the issue of Quamby.

Mr Ryan: I am sorry.

Mr Corbell: The original Human Rights audit dealt with conditions generally at BRC. It was in the advice provided by the human rights commissioner to me, and I am just trying to recall when it occurred—late in 2008. But the Human Rights audit occurred earlier than that and the Human Rights audit did not deal specifically with the issue of Quamby, if I recall correctly; the audit dealt with issues generally at BRC.

MS HUNTER: So it was a Human Rights audit of BRC. Obviously the government had plans to build the Alexander Maconochie Centre. I am just trying to get some sense of how many of those recommendations were implemented. Were some not implemented because you had this time line of a prison being opened and therefore it was not cost-effective or it did not fit into time lines? I am trying to get some sense of that.

Mr Corbell: The final report of the commissioner was tabled in the Assembly on 21 August 2007. The report contained a total of 98 recommendations. The government agreed with 70 of them, agreed in principle with 10, agreed in part with four, noted 10 and did not agree with four. A large number of the recommendations had already been implemented or had been planned for implementation at AMC. It is important to remember that the recommendations made by the human rights commissioner dealt with both things that could be done in the short term at BRC as well as measures that should be adopted in the longer term with the opening of AMC. Indeed, a large number of the commissioner's recommendations dealt with future steps that should be taken when AMC was commissioned. The government, I think, outlined its response and that was tabled in the Assembly in 2007.

THE CHAIR: On 21 August.

Mr Corbell: On 21 August 2007.

THE CHAIR: In relation to the recommendations that the commissioner made that directly related to the BRC, how many of those were in the process of being

implemented, subsequently implemented or not implemented and, if so, why?

Mr Corbell: I have the list in front of me but I would have to go through and reconcile that. That would take some time so I will take that on notice and reconcile it.

THE CHAIR: Thank you.

MR HANSON: The issue that I want to go across is the delay in the AMC and the impact that has had on prisoners, both remandees and sentenced prisoners, at the BRC. I did a tour of the facility in December and it was quite evident then that that was a significant issue for the prisoners of BRC. It was causing a great deal of angst and also confusion in that they initially thought the opening was occurring, I think, in July 2008 and then they thought September and it is still unclear when that facility will open.

There were some recent examples which we have been aware of through the media—you may be able to provide other examples—such as the tunnelling incident, the violence where six Corrections Officers were injured and the inmates on the roof recently. Since the delays have been caused in the AMC, because of that level of angst and confusion amongst the prisoners at the BRC it seems there has been an increase in incidents—violence and frustration—that are visible to the community. Certainly, that is the impression that I have received.

I would like to know what we know about that. Have we reported the number of incidents and the nature of those incidents from the time when the human rights commissioner first alerted you to the gravity of the situation? As this delay has impacted on the prisoners, what has been the impact on both the prisoners and their families? That goes, I think, to the nub of the delay and the impact on the BRC.

Mr Corbell: I would say, first of all, Mr Hanson, that it did not take the human rights commissioner's report for us to be aware of the issues at BRC. The issues at BRC are well documented and well understood. Whilst there are always some adjustments that can be made to practice and procedure in response to reports such as those from the human rights commissioner, the fundamental issue is that BRC is inadequate—

MR HANSON: Yes, and that goes to my point, minister.

Mr Corbell: and the government has acknowledged that from day one and it has been this government that has argued that the facility needs to be replaced.

MR HANSON: Minister, my question is about the delay, not about that issue.

Mr Corbell: I am sorry, but you made the assertion, Mr Hanson, that it took the human rights commissioner to draw this to our attention. It did not.

MR HANSON: She highlighted it, certainly.

Mr Corbell: She highlighted a range of concerns, exercising her statutory functions, and that is entirely appropriate and what she should do as the commissioner. I am just making the point that it was not as though we were operating in an environment where

we thought everything was fine and hunky-dory until the human rights commissioner came along. That is just not the case.

In relation to the increase in incidents, yes, there have been a number of high profile incidents. I think it is best that you ask that question of Mr Hargreaves. He is responsible for the day-to-day administration of the facility now and he would be in a position to give you advice as to the situation in terms of escalation of incidents, if indeed there has been an obvious escalation. It may be the case.

MR HANSON: You did not notice in your tenure as minister that there was an increase in incidents as the delays in the AMC became apparent?

Mr Corbell: I would not say that there was an increase, an obvious or dramatic increase, in the level of incidents. Incidents occur in the remand centre, as they do in any correctional facility, on a regular basis. I think the public knowledge of overcrowding, the media attention associated with that, has probably made those more obvious but the general level of incidents I do not believe has been substantial in terms of total numbers.

THE CHAIR: Minister, when you were the minister for corrections what was the reporting arrangement between you and Corrective Services about incidents at the BRC?

Mr Corbell: Corrective Services would report to me on any issues, any incidents—

THE CHAIR: Any incident.

Mr Corbell: Any incidents they considered to be significant, or certainly any incident involving the use of force, would be reported to me.

THE CHAIR: Could you, perhaps Mr Ryan, expand on what Corrective Services thought was an issue of significance that the minister needed to know about?

Mr Ryan: As Mr Corbell just said, significant incidents are the ones that we report and they are things like use of force, drug finds, anything that affects the health and wellbeing directly as a result of, say, an assault of our staff or of the prisoners, escape attempts, that sort of thing. They are the things that we report.

THE CHAIR: And that is standard practice that continues now with the current minister?

Mr Ryan: That is standard practice. It continues now.

THE CHAIR: Thank you.

MS HUNTER: I was just wondering about the situation we have where Quamby has been recommissioned or opened to take that overflow. There is a periodic detention centre. How is all this working at the moment? Who gets to go where? How is that decided?

Mr Ryan: The prisoners that have been sent to Quamby are those of low security risk. That is because of the nature of the arrangements at Quamby. At present we do not have as many there as we would like to have and we are working hard to get more. Generally speaking, remandees are more difficult to classify because often they represent an unknown quantity with respect to their risk. Some of them are straightforward because of their age, their general behaviour and their offence, but I do not think, however long this goes on, whether it is days or weeks, we will do anything more than assess very carefully the prisoners that we have, remand or sentenced, and put to Quamby those that represent the lowest risk. At present they are, in the main, sentenced prisoners.

MS PORTER: So they are women prisoners that are occupying those beds? Is that what you said?

Mr Ryan: Yes.

MS PORTER: With respect to a percentage of the number of people that normally go there, is that about the same percentage? What I am trying to get at is whether the 16 beds for the women are sufficient.

Mr Ryan: Yes. Sometimes we can't even put all the women there, because, although it is a separate area that we now use for women, all the women can't always mix together as well.

MS HUNTER: That is what I wanted to clarify, because obviously when you are looking at human rights and prison environments, it is about separating men from women or remandees from those who have been sentenced. This was obviously a bit of a difficulty, say, with Quamby in the past, with small numbers and so on. Is that being successfully done in our current system?

Mr Ryan: No. We have simply not been able to be successful, consistently, in that regard. There is always an attempt to keep remand and sentenced separate, and clearly we are not able to do that right now. The more important separation is men from women, and in that we have been more successful, although they are, for our liking, far too close to where the men are, say, in the BRC. That has been a problem we have had for years.

THE CHAIR: With members' indulgence, we might move on to another line of questioning. I want to move on to the AMC proper, and the commissioning process, and then move on to the opening process—the formal opening. In your statement, minister, you said that commissioning had been ongoing through the time. Could someone give an exposition? Did it mean that when particular buildings were finished to the satisfaction of the powers that be, they were themselves commissioned?

Mr Corbell: I will ask Mr Folpp, who is the deputy director—

Mr Ryan: He is at present the director of the prison project.

Mr Folpp: I can give you an overview of the commissioning period. The commissioning of a facility goes on for quite a number of months, and I think our

project manager, Sinclair Knight Merz, would be the best ones to go into great detail as to what the commissioning is. An overall picture of that would be the hydraulics, for example, within the facility, or any of the electrics within the facility. So it is a progressive stage. As it is implemented into each building, they will actually commission that phase. That went on through the project for probably the last 10 or 12 months.

THE CHAIR: So as buildings were finished, that would have happened?

Mr Folpp: The buildings do not even necessarily have to be finished for those components to be commissioned.

MS PORTER: So it can be part of a building or equipment within that building?

Mr Folpp: That is right, yes.

THE CHAIR: And the commissioning process is essentially the certification that it works according to spec?

Mr Folpp: Yes, that is correct.

THE CHAIR: And according to the expectations that are set out in the contract?

Mr Folpp: Yes.

THE CHAIR: The doors open, the doors close?

Mr Folpp: That is right; light switches turn on, water runs—

THE CHAIR: The door handles work, because you pointed out to us the other day when we were out there that you had to change the door handles because they do not work all that well?

Mr Folpp: Yes, that is correct.

THE CHAIR: What aspects of the commissioning are absolutely definably complete and that you do not have to go back to?

Mr Folpp: I think they are all complete apart from the security system itself.

THE CHAIR: What does the security system consist of?

Mr Folpp: There are varying components to the security system. It can be anything from camera surveillance through to intercom systems, through to electronics on doors, where you have to press an intercom system to the master control room to ask for access, and the master control will give you access, and the security systems on the fence line. It is a complete, integrated component. So each component, as we see it today, is working. However, it is not being integrated appropriately; therefore the system is actually falling down. And that is what they are currently working on.

THE CHAIR: I will come back to that in a minute. I would like to have an exposition of the commissioning process and then we will come back to the problems with the security system. After all of the commissioning, and everyone has signed off and said that it all works according to Hoyle, what happens?

Mr Folpp: Once everything has been commissioned and all defects have been completed, at that particular stage, for the security systems, for example, we will go into a 28-day commissioning period.

THE CHAIR: When do you take possession of the building—actually legally effectively take possession? When do you own the keys?

Mr Folpp: I will come to that. So we have a 28-day commissioning period, where we actually test the system to ensure that it is effective and efficient. After that 28-day period, we then go into a five-day fault-free period, where we actually run the prison and have it fault free for five days. If there is a fault, it needs to be rectified, and the five days run again. It is only then, after then, that the keys actually get handed over to Corrective Services.

Mr Corbell: Madam Chair, with the committee's permission, I might ask Mr Harlow from Sinclair Knight Merz to join us as well. He is the project manager on behalf of us, on behalf of the territory as a client, that deals with these matters. He would be able to provide you with a better amount of detail.

THE CHAIR: I want to put on the record that at this stage Sinclair Knight Merz has not been invited to give a submission, but I presume that Mr Harlow—

Mr Corbell: They act on behalf of the territory, so they are the territory's agent.

THE CHAIR: Yes, I know. I just wanted to make it perfectly clear that we have not approached Sinclair Knight Merz.

Mr Corbell: No, and we would not expect you to, but obviously they are engaged by the territory to assist us in this process.

THE CHAIR: Could I go back to the 28 days. Can you describe what is supposed to happen in the 28 days, and I gather that we are in that 28-day phase at the moment, Mr Folpp?

Mr Folpp: Yes, we have been for some time in that 28-day period.

THE CHAIR: It is a long 28 days; it is longer than your average 28 days?

Mr Folpp: Yes, it is.

THE CHAIR: Could you describe for the committee what is supposed to happen in that 28 days and then describe what is actually happening?

Mr Folpp: I will give you, in the 28-day period, the client's perspective of what they are required to do, or what they want to do, and Mr Harlow can then give you the

technical advice as to what occurs.

So from the client's perspective, we would put staff in there in that 28-day commissioning period. We would have staff trained in operating the three control rooms within the centre, and then we would have staff go in there and test all those security systems. So they would go into prisoners' cells, for example, and touch the intercom system to ensure that it is working appropriately, have that contact with the control room et cetera, right through to all the various security systems. There was a total of a 14-day training period for all those operators on the systems.

THE CHAIR: That is part of the 28 days?

Mr Folpp: Yes, that is part of the 28 days, and that was to come in the latter half of the 28 days. As of today, we have been unable to achieve that.

THE CHAIR: So we have not proceeded through the first 14 days of checking?

Mr Folpp: We have attempted to get through the 14 days but we were unable to get through the last 14 days, in training the operators, because the system continually is not operating appropriately. However, Mr Harlow will be able to assist in that regard.

THE CHAIR: From your point of view, Mr Harlow, what is supposed to be happening in this 28-day period?

Mr Harlow: Just prior to the 28-day period, the contractor gives us inspection and test plans. That is a document that he signs off to say, "Everything is finished, I tested it as the contractor, everything worked in accordance with the specifications, it's now ready to go into the 28-day period."

THE CHAIR: And that is the responsibility of Bovis Lend Lease?

Mr Harlow: Of the contractor, and their subcontractor.

THE CHAIR: The head contractor and all of the subcontractors?

Mr Harlow: Primarily, it is the responsibility of Chubb, their major subcontractor, but at the end of the day the contract with the territory is with Bovis Lend Lease, so Bovis Lend Lease are the responsible party. Once we are happy that we have got those inspection and test plans—and I think it is fair to say that we have never been totally happy with those inspection and test plans—we then start the 28-day period.

It is meant to be a bedding-in period. It is like any piece of software or electronics: you run it for a period, because generally within the first few weeks that is when you can blow a capacitor or something is going to go wrong. The 28-day period is just that: a bedding-in period whilst the system is being run. As Barry said, they will have people in there running the system as though they were operating the prison, to some extent, to see whether it works. The problem is that when we start to do that it has found faults and the system has sometimes crashed, so they have not been able to use it at all. That has been going on—

Mr Corbell: What is the requirement when that occurs, on the contractor?

Mr Harlow: The contractor has to tell us that there is an issue, and we may then come and do another inspection. On occasions the design consultant has come in and done an inspection, to satisfy themselves as to what is going wrong. They will generally do a report of that inspection. But we do not have to rely on that. The contractor generally should know what the issue is. What we have been doing is actually stopping the 28-day period until we are happy that the system is stable and then restarting it.

THE CHAIR: So what you are actually telling us, Mr Harlow, is that you have not actually had an entirely satisfactory inspection and test report that you would normally have before you started the 28-day period?

Mr Harlow: No, we have not.

THE CHAIR: So why did you start the 28-day period?

Mr Harlow: Because we had assurances from the contractor that things were ready. I think we took a benefit of the doubt approach and thought that the best way was to start the 28-day period and see what happened.

THE CHAIR: When did you start the 28-day period?

Mr Harlow: 5 January.

THE CHAIR: So even though there had been a series of problems which we had been alerted to back in April-May, according to the minister's statement, you still took their word for it that it was all hunky-dory to start on 5 January?

Mr Harlow: Back in April-May, they were still running software. The physical components of the security were progressing reasonably well. I think the problem happened with what Barry described in the integration as the black box which integrates all the systems, and there has been software involved with that. I think the problem had been in developing that software, which should already have been developed but it turned out that it had not been developed and they had been developing that—

THE CHAIR: This is something that we will need to look at.

Mr Harlow: It is. I'm going into a bit of detail that maybe I shouldn't be.

THE CHAIR: No, we have to put a pin there and come back to it.

Mr Harlow: I understand. To answer your question, everything was finished, certainly in the second half of last year.

THE CHAIR: That means all the wires and—

Mr Harlow: Yes, the physical stuff was done. I think they had to develop more

software than they thought they needed to, and I don't think they themselves knew how long it was going to take, quite frankly. We certainly had no inkling of it, because they were talking about completion; they were talking about completion in September-October. As you know, it has moved to the right. It has been totally under the contractor's control to bring that to completion. Certainly, back in April-May, we had no indication that we were going to get into the sort of problems that we are in now. Indeed, the problem is becoming less and less; it is probably three steps forward and maybe two back, so we are getting closer. It is difficult to say exactly when we will be able to finish, right now.

THE CHAIR: At some stage, members, I would like to go down that path of the physicality of the system and those sorts of things, but if we could deal with the 28 days and the commissioning process and then perhaps come to the nuts and bolts or the wires and anodes of the security system a little later.

MR HANSON: I have a question. Chubb are not here to defend themselves but it is quickly becoming apparent that they are the scapegoat, for want of another word, for this delay.

Mr Corbell: No, Mr Hanson, they are not the scapegoat, but it is appropriate to identify that it is work that they are responsible for in the subcontractor arrangement with Bovis Lend Lease that is the cause of the delay.

MR HANSON: Okay, we will not quibble on the terminology; that is fine.

Mr Corbell: It is as simple as that. It is not an attempt to scapegoat anybody.

THE CHAIR: I think I would like to come back to that because it is about the nuts and bolts of what is happening with the security system.

MR HANSON: The question, I suppose, when we come back to it at the appropriate time is why we went with Chubb and were they the appropriate—

THE CHAIR: Hold that thought.

MR HANSON: Yes. Put a pin in it?

THE CHAIR: Yes.

MR HANSON: Got it.

THE CHAIR: If we can come back: you said, Mr Harlow, that come 5 January you were prepared to commence the 28-day period. What has been happening since then?

Mr Harlow: We got about four days into the period and the system went down.

THE CHAIR: So what was happening? People were going around checking doors, swiping cards?

Mr Harlow: There was some extent of that, yes. A lot of it was happening in the

control room because there is a master control room which controls all of these things, but, yes, you have got to be opening and closing doors, getting onto intercoms.

THE CHAIR: Making sure that each individual component physically works?

Mr Harlow: No. That was generally being done by Chubb before we agreed to start the 28-day period. It was up to them to check every single door, every single lock, every single component, and be happy that it was working before we accepted to go into the 28-day period. Their inspection and test plan said, “We have done all of these tests. Everything works. We are now ready to start the 28-day period.” We do not go in after that and redo all of those tests. We may do some random tests but the testing is their responsibility, not the territory’s, or the consultants for the territory.

THE CHAIR: So for four days you are doing things in the control room, opening doors. I presume that you are running some sort of dummy operation that says, “We are now hypothetically moving prisoners from this place to place.” That is the sort of thing that you are doing?

Mr Folpp: I guess to answer that I had an agreement with the builder to be able to go in and put all the furniture and fittings in, so that was actually a good way of testing the security systems, by requesting to get through doors and the like. And that is what we did. We went in there and commenced putting in our furniture and fittings only to find, four days later, that the system let us down.

THE CHAIR: When you say the system let you down, what happened?

Mr Harlow: There was an electronic failure. I think at that time they had a switch failure. Now it is an electronic component which is not meant to fail and in fact it is a redundancy within the system. So if one component fails it hands down to another one to take over. It should not have failed the way it did. Indeed, had that happened when we were operational we would have had some real problems.

THE CHAIR: That was 9 January?

Mr Harlow: Yes, it was roughly four days after the—no, it was a little bit later than that. I am sorry, I misled you: 5 January was when we started the 28-day period. We actually agreed that on or about 12 January that it would have been the 5th. So it went down about four days after, about the 12th. I do not know the exact date but it would have been about the 16th or 17th, I would think, of that period. It was more than four days into the period.

THE CHAIR: You retrospectively nominated 5 January as the beginning of the 28-day period?

Mr Harlow: Bovis was ready just before Christmas. On Christmas Eve they said, “We are ready.” We said, “Yes, but you haven’t given us all an inspection and test plan to demonstrate you have done what you have said you have done now.” From memory, the last inspection and test plan was delivered on about 5 January. We had to get our consultant to look at that. Some of those people were on leave, as you can imagine. But rather than say, “Look, we won’t start the meter ticking until we’ve

checked it,” when we checked the plans we said, “The plans look reasonable. Because you gave them to us on 5 January it is reasonable to pick that date as the start of the 28-day period.”

THE CHAIR: But in that time while you were checking the inspection and test plans—your consultants were doing that—you were actually doing the things that Mr Folpp described.

Mr Harlow: The system had been running and had not shown any faults. Sometimes they will not show a fault until you rev the engine up a bit, if you know what I mean, so it really had not been put under a lot of stress, but the system was running; the system was operating during those first few days until some time after the 12th when it went down.

THE CHAIR: What was happening in the prison then was that the removalists were moving in furniture and plugging in computers in offices.

Mr Harlow: I believe that started on or about the 12th, the FF&E.

Mr Folpp: Yes, I am not too sure of the date.

THE CHAIR: FF&E?

Mr Harlow: I am sorry, the furniture, fittings and equipment. I am sorry I used the term.

THE CHAIR: Thank you.

Mr Folpp: Corrective Services do a lot of that installation of furniture and fittings as well.

THE CHAIR: You can say “FF&E” now because we all know what it is. After the 12th, whatever the date was when the system went down, what happened?

Mr Harlow: We asked Bovis to fix it and to give us a report as to what went wrong.

THE CHAIR: Why did you ask Bovis?

Mr Harlow: Why?

THE CHAIR: Yes, why Bovis and not Chubb?

Mr Harlow: Because we only deal with Bovis.

THE CHAIR: You deal with Bovis?

Mr Harlow: We only deal with Bovis.

Mr Corbell: The territory has the contract with the contractor.

THE CHAIR: So your communication with the subcontractors is through the head contractor?

Mr Harlow: Sinclair Knight Merz; our role is to act as the go-between between the territory and the contractor. We issue instructions direct to the contractor; they pass them down to their subcontractors. Whilst we talk to the subcontractors, we do not give them direct information. It is through the contractor. Any instructions are always through the contractor.

THE CHAIR: Yes, okay.

Mr Corbell: The legal relationship is between the territory and the contractor, Bovis Lend Lease.

MS PORTER: That would be the normal practice, wouldn't it, in any situation like this?

Mr Corbell: Yes.

THE CHAIR: So you said to Bovis, "It's not working. Get in and fix it."

Mr Harlow: They knew it was not working; they told us.

THE CHAIR: They told you?

Mr Harlow: Yes, and we said, "Okay, when is it going to be fixed? Tell us what you're doing to fix it." It took them longer to fix it than they would have liked because I think they had trouble getting the switches, and indeed it appears that a lot of these switches in fact have faulty components and they probably would have to replace all of them. That gave us a little bit of concern because until they replaced those switches the system could go down again. In fact, it went down last week, possibly for a different reason. It would start up for a couple of days and then go down again. So there are what we call stability issues within the—

THE CHAIR: Yes, that is a good term. The 28-day period has run something like 14 days, but it does not restart after each of these faults—

Mr Harlow: To be fair, rather than restart it, we said, "No, we will extend it by the time that it has been down."

THE CHAIR: But you are not going back to day one and starting again.

Mr Harlow: No.

THE CHAIR: So that if you go for five days and it is working and then it goes down then day six starts the day it goes up?

Mr Harlow: Yes. There is an argument we should restart it but we have not done that.

Mr Ryan: Could I perhaps help with this. The 28 days is a number of days based on

sound technical judgment, but it is not immutable in any way. If, for example, we found in the next few days that it was working perfectly, such that we were ready to enter into the five-day fault-free test period, we could. But it is the sort of risk that our advice tells us you should not normally do.

Normally it takes about 28 days to run these things through before you put them through the final five-day fault-free period. It does not necessarily mean that we could not at any stage say, “Well, we’ve only done five days and therefore we need to do another 23 days.” That is not the way it is done. It is based on the technical judgement at the time, but the start point usually is 28 days and you see how you go.

Mr Corbell: Based on the advice I have received, Mrs Dunne, it is open to the territory to effectively stop the clock and then restart it at a later point. It does not have to go back to the start each time there is a fault.

THE CHAIR: Yes, I understand that, because then we have the five-day period which must restart. Can I move on to the five-day period?

MS HUNTER: Could I just ask—

THE CHAIR: Yes.

MS HUNTER: But it could be that you would want to go back to the start of that period if something happens in the system that is showing a catastrophic failure all round.

Mr Harlow: Yes, it could be. If I could just add one final comment because it is important in all of this. During the 28-day period we must complete the training of the operators. That has been put on hold because it is no good training an operator on a system that is not working properly or is not doing everything it is supposed to do.

THE CHAIR: They will be good at troubleshooting by the end of it.

Mr Harlow: Yes, but these people are brand new; they are not already trained. Barry may want to elaborate on that. That is another factor. Until we can actually complete the training it would be difficult to foreshorten that period because without that training we can go nowhere. Barry, do you want to add to that?

Mr Folpp: Yes, we do need that 14-day period for the operators. They have to be quite au fait with the whole system, as you just pointed out a little earlier on. They need to know the ins and outs of it. So it is very important.

THE CHAIR: How many operators are we talking about?

Mr Folpp: I think there was a total of 32 designated for the training.

THE CHAIR: When the system is operating normally how many people will be on duty at any time?

Mr Folpp: There are three control rooms, so there would be three operators in each

control room.

THE CHAIR: So that gives you three shifts a day and some spare. Can we move on to the five-day period? This seems to be going slowly but I think it probably is important. Tell us about the five-day fault-free period.

Mr Harlow: The five-day fault-free period is just that: to make sure that everything is in fact working correctly.

THE CHAIR: When you are in the five-day fault-free period, what are you doing?

Mr Harlow: You are in there hammering the system. That is when we will bring our consultants in, Barry will have operators in there and we will hammer the system. We will give it a curry. We will make it do everything that it is supposed to do—put it through the hardest tests that we can to make sure that it is not going to fail.

THE CHAIR: And your consultants already know roughly what those tests will be?

Mr Harlow: They are a combination. A lot of them are a test which is a technical test, but there are also some tests from an operational perspective from Barry's side. But, yes, those tests are well known. They are standard tests that you do within prisons.

THE CHAIR: So that means that you get to the end of that period and then Corrective Services owns the building.

Mr Harlow: That is correct.

THE CHAIR: Contractually we may own the building?

Mr Harlow: Yes, as long as there is nothing else—if there is nothing else delaying completion. At the moment, we are not aware of anything because everything else has been fixed. We will have one last look at the prison to make sure everything is still working—that we have not had a problem in another building, that something has not gone wrong which could stop the opening. Once we are happy with that, we then issue a completion certificate.

THE CHAIR: Then what happens? You cease to have any interest? Your contractual arrangements are finished once the keys are handed over to—

Mr Harlow: No. Our role is during what we call the post-completion period, the 12-month period. During that period, other defects may become apparent. Our role is to make sure that the contractor still attends to those. So we still have the contractual responsibility on behalf of the territory to make sure that those things are fixed.

THE CHAIR: Excellent.

MS PORTER: So there is a 12-month period to—

THE CHAIR: A sort of guarantee.

Mr Harlow: It is called a post-completion period. It is 12 months. The contractor has to repair any defects or failures that become apparent during that period. Indeed, in this instance the contractor is also responsible for maintenance during that 12-month period. That is not always the case but we thought that making them responsible for maintenance—that way, if there are any issues, and it does not matter whether it is maintenance or whether it is the way it was built, it is their responsibility to repair it during that 12-month period.

THE CHAIR: And that is part of the \$115 million contract?

Mr Harlow: Yes.

MS PORTER: That is ordinary maintenance you are talking about?

Mr Harlow: Yes, including any repairs, any breakdowns—any maintenance that has to be done during that 12-month period the contractor and his subcontractors are responsible for doing.

THE CHAIR: When you take possession of the building after the five-day fault-free period, Mr Folpp, what is the process that has to be gone through?

Mr Folpp: We were always of the view that we would take approximately four weeks to have our staff go in there and completely familiarise themselves with all the working environments right throughout the whole centre. That is in addition to the 32 staff that are trained just in the control room and security systems. We had some additional scope of works that we wanted to do within the prison that we are actually achieving now, prior to taking it over. We also wanted to do some additional training with the uniform staff and other government agencies in emergency situations like fire, ambulance and police. We wanted to do some scenario-based training with those agencies before we put prisoners in there.

THE CHAIR: What is the purpose of having that extended period, that four-week period, of familiarisation?

Mr Folpp: It was to assist us to ensure that we are going to be able to run the prison effectively and efficiently, certainly in any sort of critical situation.

THE CHAIR: With the opening of a new prison, what are the risks?

Mr Folpp: The risks are fairly high. There is an enormous amount of literature on commissioning prisons, not only in Australia but in other countries. It has been shown that, if you do not have good site familiarisation or training of staff, there are all sorts of incidents that can occur.

THE CHAIR: Such as?

Mr Folpp: Anything from assaults to deaths in custody, riots and escapes. They are all critical incidents that have occurred.

THE CHAIR: And the view of Corrective Services is that the more time you spend in

that phase of familiarisation—does it have a technical name?

Mr Folpp: Not necessarily.

THE CHAIR: But that four-week phase when you take possession of the building—the more time you spend getting that right the less likelihood there is of a risk of adverse incidents.

Mr Folpp: Most definitely.

Mr Ryan: Could I add that once again we should not fix on that four weeks. It is a bit like the 28 days. It depends on the state of preparation of the people. And with these delays we have had more and more time to prepare our people in various ways. I think that all of our officers have been out there and had some sort of familiarisation with the facility. But the risk is also dependent on how we fill the prison up.

Clearly if you put officers in there without any time to settle in and then you immediately fill the prison, that is the worst situation. We have started on the first aspect of it by familiarising our officers, to the extent that, when we look at it, we may not need 28 days. Certainly when it comes to bringing prisoners in, we will bring them in in a way where, if there appears to be a problem, we will slow down the process to make sure that we get it right. The present plan is to do that task over a number of months so that we do get it right.

THE CHAIR: So the process is that you bring in trusted prisoners who would have jobs in the prison—laundry, cooking, that sort of thing.

Mr Ryan: Yes.

THE CHAIR: Establish them and then gradually bring in the more difficult prisoners.

Mr Folpp: It is a phased process. We were going to bring about 12 to 15 minimum security sentence prisoners from New South Wales back into the facility to set up the laundry and catering facility. That would take only about seven days. That is the first week. In week 2, we would bring in the prisoners from the Symonston centre. In weeks 3 and 4 we would transfer all the remand prisoners from the BRC. Then, additionally to that, we would start bringing back on a weekly basis our prisoners who are housed in New South Wales. We were looking at bringing those in at the rate of probably between 10 and 15 per week.

MS PORTER: Of those 10 or 15, you would assess each of those prisoners at the time to see if that was a good time to be bringing them back? It would be quite an intense period?

Mr Folpp: We have already commenced the work on that in looking at the sentence details of prisoners, what their offending behaviour was, what programs they are currently attending in New South Wales and what we would like to see them achieve. We are preparing for all that now. A lot of that homework has been done. Additionally to that, when any prisoner goes into the AMC they need to be screened by Health and Mental Health and then go through a whole range of assessments for

educational purposes and programs.

MS HUNTER: Mr Folpp, you were talking about the period of familiarisation for staff and the importance of that. Obviously staff have been recruited already for the AMC. Have they been helping to put in the furniture, fittings and equipment to familiarise themselves with the facility? What are they doing at the moment and how are they going to get ready, because there is time? You have talked about training. Obviously that is an important component. What else are they doing?

Mr Ryan: They have certainly been well employed and busy. Consider that we are running BRC; we are running a separate remand overflow in PDC. We are running PDC. We are running STRC. And now we have opened Quamby. This is all very expensive of staff and was not anticipated. Fortunately, we have enough staff to do it, because they were recruited early enough to open up this facility a long time ago.

THE CHAIR: STRC?

Mr Ryan: Symonston temporary remand centre. Right now, as of today, they are all very busy. Along the way, too, we have been able to use them to relieve other staff to attend training—training that applies to the AMC. This in turn means that, when we come to the 28-day period that Mr Folpp said he needs to ease the staff in, we may well be able to reduce that. But we will not do it if it is a risk in any way.

THE CHAIR: Mr Hanson, do you have any questions on this?

MR HANSON: No.

THE CHAIR: I would like to go back to the thought that Mr Hanson had and look at the security system itself. I will start with simple, non-technical questions. What are the demands on the security system? What do we need the security system to do? That is the first question. Secondly, how did we come to the conclusion that the particular contractor could provide the system?

Mr Harlow: If I could just go back a bit. I suppose I go back a little bit further than Barry in terms of the original brief. It started in September 2004 when we first got involved in this process.

There was a brief written by Corrective Services, outlining what they required in the new prison. A major component of that was a security system in terms of the sort of security they wanted on the fences, the sorts of alarms they wanted, the intercom systems. This was all in performance-based terms. It did not say how to fix the problem; it just said the sorts of systems they needed.

These systems are not unique; they are normal in prisons. Every prison is slightly different but the security system within the brief for this prison, for the AMC, was not unique in any way.

MR HANSON: Who wrote the brief?

Mr Harlow: The brief was written by Corrective Services. I believe it was written by

some consultants, not ourselves, by experts in correctional jurisdiction. They put the brief together on behalf of Corrective Services. I believe Corrective Services in Queensland were part of that.

THE CHAIR: That described a series of outcomes, essentially?

Mr Harlow: Yes.

THE CHAIR: You want a perimeter fence that meets these requirements by doing these sorts of things but it did not say, "Install Acme brand."

Mr Harlow: No. A lot of that was based, without giving too much detail, on response times, for example, in terms of how long it would take to respond to an incident of an escape. The systems have to be designed to take account of all that.

What happened after that? We then appointed the design consultants, which were architects, and a security subconsultant, the Webb Australia Group, who then took that brief and designed the prison in consultation with the client over a period of months, to build up to a set of documents which then went out to tender for someone to actually build what was designed.

THE CHAIR: There was a second security consultant who was involved with the architectural—

Mr Harlow: When you say "a second", there was only one security consultant.

Mr Corbell: There was only one on the territory side.

Mr Harlow: Yes, which was Webb Australia.

THE CHAIR: Were Webb Australia the people who did the specs for Corrective Services?

Mr Harlow: The brief was an outcomes brief from a correctional perspective. The ownership of that brief was with Corrective Services. Webb Australia were not involved in the writing of that brief. Their role, once we appointed the design consultant, which was the architect with all the subconsultants, was to actually develop that brief into a design, put it into documents so that someone like Bovis Lend Lease could then go away and build it.

MS HUNTER: Was this design unique? Did it bring together components that had never been brought together in a prison?

Mr Harlow: Not really.

MS HUNTER: It is pretty standard; it exists elsewhere?

Mr Harlow: The differences, for example, were things like there was no razor wire because we did not want it to look prison like. This is, again, coming back to the human rights issues. There were differences with the way the fence was designed and

the way the security systems worked to take account of that but they were not unique in any particular form. We do not have bars on the windows in the cells. We have break-proof glass. That did not affect the security system at all, really.

We were going to have the radio frequency identification, the bracelets, to identify the location of the prisoners. That was different; that was unique for an Australian prison. I do not believe it has been done before for an Australian prison.

MS HUNTER: It has been done internationally?

Mr Harlow: It has been done in American prisons and in Europe, I believe. I will not go into too much detail on that. That is the only difference. But it is a system which virtually bolts onto the security. It does not impact on the security system in a significant way.

THE CHAIR: But it is not an off-the-shelf system? You do not go out and buy it?

Mr Harlow: No, you do not. But that is not what is holding things up at the moment. Indeed, the territory is actually doing that themselves.

THE CHAIR: That is the bracelet system?

Mr Harlow: The RFID system. It was originally in the contract but we took it out because we had arguments over scope. That is a little bit of history now. It is being done separately by the territory.

THE CHAIR: We might come back to that.

Mr Harlow: It is not part of this issue. It is not holding anything up because it is not part of the contract.

MS HUNTER: The main part of the system is not unique; it has been done elsewhere?

Mr Harlow: Absolutely.

MS HUNTER: This is where the problems are?

Mr Harlow: Absolutely.

MR HANSON: Has Chubb done it before?

Mr Harlow: I do not believe Chubb have done this exact work before, no; most of their work has been for Defence; but they have had sufficient experience. We will come back to this, I know, in terms of the questioning. We were satisfied at the tender stage that they had the ability to do it. I think you will want to explore that.

MR HANSON: Mrs Dunne made the point that this is an advanced security system. This is where it is failing. Why was the decision taken to go with Chubb if they were unable to deliver on time, if that is found to be the case, and what was the process to

select that organisation?

Mr Corbell: Engagement of the subcontractor is the responsibility of the head contractor.

MS HUNTER: I just wanted to get that clear.

Mr Corbell: It is not a decision taken by the government; it is taken by the contractor.

MS HUNTER: You were not part of that decision?

Mr Harlow: Yes, I was. When we put the tender documents together, they had to give us a lot of detail about their subcontractors they were using. Indeed, particularly with regard to the security specification, they had to go through each clause and tell us whether they could actually meet it or not. We had Chubb and others—the other tenderers put forward other subcontractors. Bovis put forward Chubb. At tender stage, before we decided to go with Bovis Lend Lease, we reviewed all of that. The schedule, indeed, from Chubb said not only “comply” but they were the issues on which they would exceed the expectations of the specifications.

MR HANSON: Does that contradict what Mr Corbell just said?

Mr Corbell: I said the decision was taken by the contractor.

MS HUNTER: You were part of the decision as far as Bovis Lend Lease were concerned?

Mr Harlow: It was their decision to use Chubb but we, I suppose, were a little bit complicit in that because we knew they were using Chubb and we satisfied ourselves that Chubb could do the job. We did not actually choose Chubb, nor did we refuse them permission to use Chubb.

THE CHAIR: I want to get this perfectly clear. Part of the process was that you did not just hire Bovis Lend Lease and then they went out and collected a whole lot of subcontractors? It is not like building a house?

Mr Harlow: Absolutely not.

THE CHAIR: They actually became part of the tender process. The other people who tendered said, “The electrician will be Acme electricians; the security will be provided by”—and you had to be satisfied that the people they nominated to be the subcontractors in particular classes of subcontracting had the capacity to deliver on time and on budget and to specs?

Mr Harlow: We did not choose all at once. We did not choose the electrician at that stage. They gave us an idea of the people they were going to use. We were particularly interested in some of the trades, for example, security.

THE CHAIR: What other trades were you particularly interested in?

Mr Harlow: I think security was the key one. I do not believe there were others. We had an interest in the locks, who was going to be doing the locks.

THE CHAIR: But that is not part of the security contract?

Mr Harlow: No, it is a separate contract. It is integrated with the security. Indeed, it is a different subcontractor.

THE CHAIR: Who was the subcontractor for the locks?

Mr Harlow: Hollis Scott. It could have been Chubb. We looked at Chubb. That is probably getting off the track a little bit.

Mr Corbell: Can I suggest it might be useful to get Robyn Hardy from Procurement Solutions to come forward because the question you are asking is: how was the territory, through the procurement process, involved in issues on the subcontractors. I think Ms Hardy can provide that information.

THE CHAIR: We have got Procurement Solutions listed but I do not want to take up—

Mr Corbell: But it is simply relating to this suggestion that the territory was in some way agreeing to a particular contractor. I think it is important to make it clear, from the territory's agent who was involved in that process, exactly what was involved and what was not involved so that the committee is not confused as to what extent did the territory effectively endorse the use of this particular subcontractor. I think it is very pertinent to the questioning. I do not think your advice is correct.

THE CHAIR: I will give you two minutes.

Mr Corbell: This is a very pertinent question. Let us get Ms Hardy up here to answer it.

Ms Hardy: Just on a point of clarification there on what Phil was talking about earlier, the head contractor was chosen through an open tender process. In that open tender process, each prospective tenderer put forward their subcontractor team, as it were. Each respondent would put forward their whole team of all kinds of subcontractors, including security, in the same way as Bovis Lend Lease put forward Chubb. We chose the head contractor and the full team. They are assessed according to the full response they put forward and the full package of team.

To go to the point that Phil was talking about—do we choose Chubb?—well, no, we chose the package that was the Bovis Lend Lease team. They are the ones that engaged their subcontractors. Essentially, that went to their full experience. They are well experienced in building these kinds of prisons and those kinds of things. Those are the kinds of criteria that would be used to judge the choosing of the main contractor.

Basically, in their response to a tender they certify that we comply with that requirement, we meet this requirement and we meet this requirement. That was the

point that Phil was making about that in some cases it had been said during the Bovis Lend Lease response they actually exceeded the criteria. They could do better than we were actually asking them to do.

THE CHAIR: I think that is the area that we covered. Is there anything else in that area that members want to pursue?

MS HUNTER: I am trying to get some sense of who sits on this tender panel. It is actually quite complex.

Ms Hardy: Yes, they are. I cannot actually recall. It would be in the procurement plan who actually sat on the tender evaluation panel.

Mr Harlow: I can answer that. It was a panel of three people chaired by John Paget, who was in Barry's role previously. He was the prison project director. It was Michael Berry, Robyn's offsider at Procurement Solutions, and myself as the project manager. We brought in other people from time to time on subcommittees to support that panel. The prime support there was from the design consultant and his subconsultants.

THE CHAIR: I am conscious that to some extent this would be limited, but I think we want to go down this path: what you are telling us is that from Procurement Solutions' point of view, from SKM's point of view, from Corrective Services' point of view, in eventually giving the tender to Bovis Lend Lease, you were to some extent—you were signing up to a package that was more than just Bovis Lend Lease. You were signing up to a range of other subcontractors, including Chubb.

Mr Harlow: Yes.

THE CHAIR: So that means that those two arms of government and the government's representative were satisfied at Chubb's capacity to deliver their part of the subcontract.

Mr Harlow: Yes, and to come back again, I suppose, to Robyn's comment, it was a package and it was the ability to do the work rather than who was going to do it. What we were exploring was—

THE CHAIR: You were not interested in the name; you were just interested in their performance.

Mr Harlow: Can you actually do these things, and they categorically said, "Yes, we can," and they satisfied us at that stage that they could

THE CHAIR: When you were asking the question, "Can you do this?" and they were saying, "Yes, we can," were you asking it in general, high level terms, or were you sort of going into components or subparts of the contract asking, "What capacity or what experience have you had in building secure perimeter fences with microwave components et cetera?" and they were coming back to you saying, "Here is our record in this; this is our capacity? These are the people who will be doing this and this is their experience." Is that the sort of process that you go through?

Mr Harlow: Can I suggest that that was really part of the first stage. Most of these large tenders are two stage. We go out for an expression of interest and we test the general ability of the industry to perform. We had a response from seven or eight firms—I can't remember the number. We shortlisted four firms who could do the work. That was four firms across the very broad range you are talking about. The sort of testing as to whether they could do it was based on that.

THE CHAIR: So there were four building companies who were invited to tender.

Mr Harlow: They were advised to tender and Bovis Lend Lease—

THE CHAIR: Can you tell us who they were?

Mr Harlow: Who were they?

THE CHAIR: Yes.

Mr Harlow: From memory, John Holland, Bovis Lend Lease—

THE CHAIR: Take it on notice.

Mr Harlow: Baulderstone; I am trying to think who the other one was—I think it would have been Thiess. It was Thiess, because Thiess are generally in there. We will confirm that, but—

THE CHAIR: There were four major, well-known companies that were invited to tender and they would have had a collection of subcontractors.

Mr Harlow: It may in fact have only been three. Can we confirm the names and the numbers? I am going back quite a few years.

THE CHAIR: In that first process—the request-for-tender process—you seem to be the person who has the longevity in this project. You and your various boards and committees did actually drill down into subcontractors' capacity to deliver on the security system.

Mr Harlow: To some extent in terms of whether that contractor had the right team of people to deliver the project. Okay, now—

MS HUNTER: Mr Harlow, when you mentioned before about going through it clause by clause—

Mr Harlow: That was at the tender stage, yes.

MS HUNTER: Okay.

Mr Harlow: That is where I come back to your question about the level of detail. We picked the three or four contractors to tender on the general satisfaction that they could meet all of those things, including security. As I said before, at the tender stage

there was a schedule they had to go through and actually tell us against each clause in the specification for security, which was virtually component by component—even down to telling us which bits they were going to use. That was one part.

The other was actually saying whether they complied with the specification. So one was technical information in terms of componentary and the other one was, “Yes, we can meet the specification or we can exceed it.” It was on that weight of evidence that we selected. Bovis wasn’t just selected on that, of course. There were other considerations, including price.

THE CHAIR: The take-out message was that there was a thorough job done to ensure that the security system that was going to be built by any of the tenderers met the specs or exceeded the specs, that you knew what the componentary was, you knew who the actual personnel were and their experience—the people who were installing and writing the software et cetera. You knew all of those things to what extent?

Mr Harlow: Not in the ultimate sense. We would not have had all of the names of the people doing it.

THE CHAIR: Okay; that is fine.

Mr Harlow: And, indeed, the information we had in terms of componentary et cetera would not have been exhaustive. Some of those things actually had to be done later on. They had to be procured by the subcontractors later on. By no means was it an exhaustive list. It was a list sufficient for us to have comfort that they could do the project.

THE CHAIR: It was a fairly, but not completely, exhaustive list.

Mr Harlow: It would be unfair to say it was exhaustive, because it could never be.

MS HUNTER: I have a question and I am not sure whether I should direct it to Ms Hardy or Mr Harlow. It relates to weighting when you are going through a tender process. It is very complex when you are building a prison. Did each component or subcontracted area have a particular weighting or was it all pretty much even?

Ms Hardy: The criteria for assessment at the EOI stage and at the RFT stage would have had weightings and I would have to take that on notice as to what they actually were. But in the first instance—the first cut as Phil was talking about before—generally that goes to, firstly, their past experience and ability. That would be fairly heavily weighted, you know, that they had past experience in building prisons—those kinds of things—in the world or in Australia et cetera.

Then it would go to the personnel they would use on that sort of team. You would provide a weighting on that too. So the various criteria that you are using to assess them would be weighted differently and eventually through the RFT process it would go down to much more detail. Each criterion would be weighted then and price included, whether it was weighted or not. I have to take on notice, though, exactly what the criteria were.

THE CHAIR: Procurement Solutions are coming back, so that is something we can—

MS HUNTER: And just to flag the weighting that was put on security as opposed to maybe other components. I am just flagging that for when you come back.

Ms Hardy: I don't know whether you would have weighted the security system. What you are weighting is possibly the model that they are delivering to you. So these are the assessable criteria. There are compliance criteria, and the various criteria are that you have to supply this kind of information to start with, and that is generally "yes", "no", "they supply it"; "are you compliant with industrial relations"—all of those kinds of things. Then there are assessable criteria—the company experience in projects of a similar size and complexity, particularly in prisons—and that was weighted at 20 per cent.

Evidence of past time and cost performance, referees and support, nominated key personnel, their experience in prisons and major complex projects and their availability—that was put at 30 per cent. Corporate structure, including any arrangements for a joint venture—that goes to the reputation and the stability of the company that would be tendering for you. Management capability and capacity—the model that was being put forward and what sort of management capability they had. The technical capability and capacity, including key specialists and general subcontractors. That probably goes to the point that you were mentioning. That was at 10 per cent. Given that we are likely to have some long-term maintenance agreements with key trades, particularly security, mechanical and electrical communications, the means of guaranteeing ongoing capability in Canberra—10 per cent.

THE CHAIR: I would like to go to what I think might be the elephant in the room: what went wrong?

Mr Harlow: Are you asking me what went wrong?

Ms Hardy: I am not sure whether we should speculate too much. At the moment the system is not working. I think probably only the contractor can answer technically as to why it is not working. We know that we have been given assurances from time to time over the last few months that the errors that are coming up will be fixed, and we have been reliant on the contractor and exhorting them to fix them as soon as possible. Unfortunately, each time we think it is ready, we go back and find that it still has another glitch in it. I don't believe we can answer the question as to technically what is wrong with it. I don't believe Phil can, either. I think possibly only the contractor actually knows what is wrong. We know that the system is not working as it was required.

THE CHAIR: One of the points you made very early in your evidence, Mr Harlow, was that back in April-May the security contractor was still writing software. Is that usual?

Mr Harlow: I am not sure when they actually started to write the software. I am just going on advice given to me by the security subconsultant, who works for the territory, not for me. He had made this comment a few times; he made this comment to Bovis

Lend Lease: they were finishing off the physical security but he believed they had left the software side of it too late. He made this comment to them. I am not sure at what point in time he made that comment to them. He was concerned that they needed to get on with the software. I know they had a team of 20-odd people in the control room, developing software, for several months. I don't know exactly when that started.

MR HANSON: When was that opinion expressed?

Mr Harlow: I don't know.

Mr Corbell: I think it would be perhaps worthwhile advising the committee as to what sort of feedback the territory was getting from BLL in relation to Chubb's performance, and their willingness and readiness to test their systems—that is, that they had completed all of their work. I do have some advice on this. BLL made fortnightly reports on progress.

THE CHAIR: To whom?

Mr Corbell: To the territory.

THE CHAIR: Directly to—

Mr Corbell: It would be through SKM, I assume. At a site meeting on 13 March 2008, BLL advised that their security subcontractor, Chubb, would be ready to commence the specified security system commissioning period of 28 days at the end of April. On 27 March of that year, BLL advised that Chubb would be ready to commence that process in early May. On 10 April 2008, BLL advised that the security system commissioning would commence in late May, early June. On 1 May 2008, that milestone had slipped to commence mid-June. That has, regrettably, been the pattern of advice that the territory has continued to receive from BLL.

I can go on. For example, at the site meeting on 15 May last year, BLL estimated commencement of 28-day security system commissioning in mid-June. On 29 May, they advised early July; on 12 June, early July; on 26 June, mid-July; on 10 July, no date was provided; on 24 July, the same; on 14 August, they advised commissioning could commence around 25 August or 9 September; on 21 August they said 8 September; on 4 September they said late September; on 18 September they said October; on 2 October they said October; on 30 October they gave no date; on 13 November they gave no date; on 27 November it was the same; on 11 December it was 19 December; on 8 January they agreed on the 28-day test, and that commenced on 5 January, as you have already heard.

THE CHAIR: That table you were reading from, minister, could you provide it to the committee?

Mr Corbell: Yes, I can provide that.

MR HANSON: That didn't ring any alarm bells then?

Mr Corbell: What it indicated was that we were entirely in the hands of the

contractor as to when they were in a position to advise us as to when the centre would be ready, and what it demonstrated was a continued indication, a formal indication, from the contractor that commissioning was imminent. There was a continued pattern of them indicating that commissioning was imminent, and it was on that basis that the government, and I, as the minister, made statements about when we anticipated the centre being ready for occupation by prisoners.

THE CHAIR: You said in your opening statement that you became aware in April-May that there were problems with the security system.

Mr Corbell: I also said in that statement that the advice we received was that those issues would be resolved in a short time frame, and that is consistent with the advice I have just given.

THE CHAIR: The thing is that what you read out was a series of “we’re just about to start” that progressed through April, all the way through to November. When did you see a pattern of behaviour that you thought may need attention—you as the minister?

Mr Corbell: It was frustrating, but I had no choice as the minister except to rely on the advice I was receiving from the people responsible for the project. It is important to remember that the people responsible for the completion of this project were the head contractor, Bovis Lend Lease. If Bovis Lend Lease are advising the territory’s agents that they are ready to go at a particular point in time, that advice then is relayed by the territory’s agents to me. I rely on that advice in the information that I give to the public and otherwise, and I am not in a position to make any other assessment as to whether or not that is accurate. I can only go on the latest advice available to me at the time.

THE CHAIR: Can I go back. Were you getting these reports on a regular basis? If Bovis Lend Lease were reporting to the government on a regular basis, how often were you being told, minister, “We haven’t started the 28-day period on the security system”?

Mr Corbell: I was not given specific detail of fortnight by fortnight reports. That occurred at site meetings between the territory’s agents and Bovis. I was given more general indications at reasonably regular intervals of progress.

THE CHAIR: What does “reasonably regular” mean?

Mr Corbell: Well, it would vary.

THE CHAIR: Mr Ryan comes to see you every week or thereabouts.

Mr Corbell: We wouldn’t discuss the project every week. We wouldn’t discuss progress necessarily every week at my regular meetings with the department. But it would be fair to say I would receive updates, roughly speaking, probably on a monthly basis as to progress.

THE CHAIR: In that period there was a blowing out—“soon, hang on, we’re just about there”. That was happening. You, Mr Ryan, must have been seeing that, and

you, Mr Harlow, were seeing that. Were there alarm bells going? Was there someone saying: “Chaps, do you need a hand? What’s the problem? Do we need to put more resources into this?”

Mr Corbell: It is important to remember what we understood the contract completion date was at that time.

THE CHAIR: Yes. But when we undertook the contract completion—

Mr Corbell: At one point it would appear that the tenderer was going to finish in the middle of last year, that the project would actually be complete and handed to the territory in the middle of last year. Certainly early last year, in January, February, March, the advice I was getting was: “Minister, it would appear that the prison is most likely to be completed and handed to the territory in May-June.”

MR HANSON: But given that pattern of behaviour—

Mr Corbell: This is the point I sought to make in my statement: we can be wise in hindsight that this occurred, but at the time you rely on the advice from a very reputable and well-established construction company as to their progress and as to when they expect the project to be completed.

MR HANSON: Can I just make the point that—

Mr Corbell: My officials and I are not mind readers, nor is it our job to second-guess the job of the contractor. It is our job to ensure that the project was being met in accordance with the contract, and the project was being met in accordance with the contract. We certainly had no suggestion in May-June, for example, that the contract would not be completed in accordance with what was then the agreed contract completion point.

THE CHAIR: I want to come back to that but I know Ms Hunter has some questions and Mr Hanson has some questions.

MS HUNTER: I guess it is around the number of times that dates were put to SKM and to the department about completions and so forth or when we were ready for this 28-day period. There was one point you were mentioning this morning where there was some suggestion that we could go into the 28-day period, particularly around, say, the security system, and yet it was suddenly a matter of saying, “But we haven’t written the software.”

Mr Harlow: I don’t think that was quite what I said. The consultant made a comment to me that he commented to Bovis that they seemed to be putting all their effort into the physical infrastructure and maybe, in his view, were neglecting the software side of it.

MS HUNTER: I just have a question on that.

Mr Harlow: I am just relaying that comment.

Ms Hardy: I think that is speculation. Quite frankly, we could not rely on anything other than the contractor saying to us, “No, it’s going to be ready in a couple more days, it’ll be ready in a couple more days.” Whether there were any discussions about whether they had started in their program early or late was more related to the contractor. They knew they had to deliver on a certain day, and it is up to them to manage the program to meet that. They know, of course, that if they don’t meet that, they have issues.

MS HUNTER: Obviously the territory have a lot of tenders that go out; they have a lot of contracts around the whole range of services and so forth. What is the process in this situation? Where do you pull the pin, if you like, to say, “This pattern of behaviour’s going on and on; we are starting to get concerned that you are unable to deliver on what you signed up for”? When does that process kick in and what does that process look like?

Ms Hardy: All contracts contain carrots, essentially, and sticks in them to get contractors to perform. The major carrot is to get paid. Contractors go into contract arrangements to get paid and make a profit et cetera, to get things done. That is the major carrot. Sometimes there are performance aspects in contracts, but there was not one in this particular one. We don’t generally do those sorts of ones. And then there are sticks, and that relates to defects.

For instance, you would have performance guarantees in contracts to ensure that if there are defects in the 12-month period once something is finished, they are fixed. You might have things like liquidated damages and those kinds of things, which are in this contract, to protect the territory or the client where a contractor goes over time. They are the sorts of things that are in this contract. It is a standard, generally well used, New South Wales form of contract, I might add, because this contract form was used for this particular project because it was a major project for the ACT government and it is a well-understood form of contract throughout Australia, and a government kind of contract that was appropriate for this kind of project.

THE CHAIR: Mr Hanson, we might want to come back to the pattern of behaviour if you are not touching on it.

MR HANSON: It is the pattern of behaviour that I am talking about. This is five or six incidents, and it led up to the opening in September. In the environment in which we were opening this prison in September we knew that there had been a number of delays. That was the environment. There was advice given to the government about that delay. I would very much like to get onto that line of questioning. This illustrates that this was not a once-off delay or something that could not have been anticipated in those delays. Have you got any comment around that?

Mr Corbell: What would you suggest we do?

THE CHAIR: That is not the question, minister.

Mr Corbell: It is a rhetorical answer. It is a rhetorical question as an answer. Seriously, what would you suggest the government should have done?

THE CHAIR: The question was: what did you do?

Mr Corbell: Let me tell you what advice I received. On 6 May, Mr Ryan advised me as to progress. He indicated that BLL had claimed 262 days extension of time to date. Of those, 77 had been agreed. Obviously, there is negotiation between what the contractor believes is a reasonable extension of time and what the client does. Those are negotiated. That brought the expected construction completion date to 16 August. That was in May. In May I was advised that the expected construction completion date—that is, the formal completion date in the contract, when it had to be completed and handed to the territory—was 16 August. I was also advised in that brief that BLL had indicated that it may complete the facility earlier than the approved revised completion date. Initially BLL projected actual completion in May-June. This projection was revised to June-July.

MR HANSON: My question related to September, not to advice you were given in May.

Mr Corbell: The point I would make is this. You can say that BLL continually failed to meet the time frames they were given but those time frames were still within the period of time that the government expected the project to actually be complete—March, April, May onwards. The contract completion date—and I was advised at the beginning of May—was 16 August. That was when the project, we understood, had to be complete.

It was not really a matter of great moment to me if the security system commissioning occurred in June or July, or in May. The only thing that I was concerned about was that it was done before the contract completion date, which at that point in time was agreed to be August.

THE CHAIR: What is the contract completion date now?

Mr Corbell: The current agreed contract completion date is, I think, 2 September.

THE CHAIR: I want to make it perfectly clear that the contract completion date is the day that Corrective Services get the keys.

Mr Corbell: That is right.

THE CHAIR: And we are still not there.

Mr Corbell: When we take possession.

THE CHAIR: Thank you.

Mr Corbell: I would refute Mr Hanson's suggestion that this was a problem simply by saying that these were simply stages within a period during which the project still had to be completed. The issue was that the project had to be completed, according to the contract, at that time on 16 August. It did not matter to me whether they started it in May, June or July. It did not matter. The issue that did matter was that the project was going to be finalised at the time agreed.

THE CHAIR: And the thing that matters now is that it has not been.

Mr Corbell: I should just also say this. It would perhaps be helpful if I gave the committee some other advice that I received that reinforces this point. On 20 June, so the middle of last year, ACT Corrective Services, Mr Ryan, put a brief to me seeking my approval for the distribution of a prisoner newsletter which provided advice to our existing prisoner population on progress on the project—because we did provide a series of newsletters to prisoners advising them on progress; we endeavoured to keep them informed.

MS HUNTER: Were they not just those housed in the ACT but also—

Mr Corbell: Yes, our sentenced prisoners—in particular our sentenced prisoners, because they were the most directly affected. That newsletter advised that the project was due to be handed over to ACT Corrective Services in August.

MR HANSON: My point was about the pattern of the same delays occurring in sequence leading up to September and the information that the minister had then when he opened the jail. I would very much like to ask some questions around that.

THE CHAIR: Certainly. Can I just ask one question of the people who were exposed to the contract? Mr Harlow and Mr Ryan, you saw a pattern of behaviour. Did you attend the site meetings?

Mr Ryan: No; Mr Folpp attended.

THE CHAIR: Corrective Services were attending the site meetings. You were attending the site meetings. Procurement Solutions were attending the site meetings. You were seeing a pattern of behaviour of “next week”, “next month”, “in a little while”. When did you become concerned? I ask that question of each of the people who were attending site meetings.

Mr Harlow: When we became aware that they were going to miss the 2 September date.

THE CHAIR: When did you become aware that they would miss the 2 September date.

Mr Harlow: I do not have the date in front of me. Perhaps the minister has got them.

THE CHAIR: Can you get back to us with when you became aware.

Mr Harlow: I can.

Ms Hardy: We can take that on notice.

THE CHAIR: When did Procurement Solutions become aware and concerned about the pattern of behaviour that was coming from the security contractor?

Ms Hardy: We became concerned when they were going to miss the contractual date of 2 September as well. However, action was taken on behalf of Procurement Solutions, Corrective Services and through SKM to exhort the contractor to meet the deadline. As I said, we were continuing to get assurances. Many of the defects were being corrected along the way. There are a number of defects that have been identified by the contractor and checked by the security specialist. A lot of that had been closed out. Unfortunately, extra new defects were continuing to pop up. We were beginning to become more and more concerned. However, we were still being reassured, and strongly reassured, by the contractor that they were going to come to completion fairly soon.

THE CHAIR: That means that it must have been June-July when you started to get concerned, because you had not started the 28 plus the 33 days.

Mr Harlow: It was when they first started to give us dates for completion after 2 September. I do not know when they first told us that, but that was obviously when we became concerned. But let me just come back to Robyn's comment. They had a lot of the buildings finished in January 2008.

THE CHAIR: The buildings?

Mr Harlow: The point I am making is that to all intents and purposes the prison was going very well and was going to finish early. The buildings were finished. The buildings were looking great. The physical security was progressing. The invisible bit was the bit with the black box stuff, which was not apparent to us. We were relying on Bovis to tell us. We could not actually look at something and see that it was not there. We only became concerned by what they had told us, I suppose, and the advice they were giving us.

MS HUNTER: Could I just clarify something on the black box. That is the software?

Mr Harlow: There is a security integrator. Again, I am not a security specialist; I am a project management specialist. It is a black box which everything talks to, so it controls the doors, the intercoms and the alarms. Everything comes through that box.

MS HUNTER: And this was linked to the software. I am interested in the software because this is not supposed to be a unique system. In a way, the heart of the system is a bit off the shelf; it has been used before. Yet for some reason there was having to be specific software developed around it and it seems to be at the heart of some of these delays.

Mr Harlow: I cannot answer that in detail, but the way I understand it is that Chubb are doing the system. The black box is owned by a company called Lenel, which is owned by the same company as Chubb. This Lenel box, we were led to believe—certainly at tender stage in what they told us—had all the capabilities to do what it had to do. We are now finding out that the bits that it could not do they have had to write software for. That is probably what has held things up to some extent.

Mr Ryan: Can I make another comment that could be useful too. When this series of delays was announced to us every couple of weeks or so it was always delivered with

a great deal of confidence. Indeed, the security contractor was urging us to begin the 28 days some time in December, so confident were they—

Mr Corbell: 2007.

Mr Ryan: In December last year.

Mr Corbell: That is not last year.

Mr Ryan: And then they urged us to begin the 28 days in January as quickly as possible. There was a high level of confidence coming from the contractor. What's more, when we did eventually commence it on 5 January we were advised by our consultants that there was a risk but the risk was minimal.

THE CHAIR: Can I go back, minister. We had the 2 September completion date. When did you first become aware that the 2 September completion date was not going to be met and when did you become aware that the 2 September completion date was not going to be met because of problems with the security system?

Mr Corbell: Let me just check my notes, Mrs Dunne, and I will see if I have that available. The advice I have from Ms Leon—and I will confirm this with the committee—is that I was advised in a brief which I saw on 15 September, which was submitted to my office and received by my office on 9 September.

THE CHAIR: Two days before the opening.

Mr Corbell: That is correct.

MS PORTER: Can I just ask you to repeat that. It was submitted to your office on 9 September but you actually read it on the 15th and signed off on it on the 15th.

Mr Corbell: I annotated the brief as having been seen by me on 15 September.

MS PORTER: The opening day was?

Mr Corbell: The official opening was on the 11th.

THE CHAIR: So what happened in your office? I want to go back to—

MR HANSON: Did you correct the record publicly, minister?

THE CHAIR: Can I just—

MR HANSON: My apologies.

THE CHAIR: What happened in your office in that you got a brief about a major event that was happening on the 11th but you did not see a brief that affected the major event until three days later? What happened in your office?

Mr Corbell: It did not affect the major event, and I have already said this, because

even if I had seen that brief prior to the official opening the government would still have proceeded with the official opening. There was no way of cancelling the official opening with less than 48 hours notice, which is what you are suggesting, which is, I guess, the choice you are saying I had. I do not believe I had that choice. The official opening was prepared and the attendees, including a number of attendees from interstate, were presenting at that event. All the necessary logistics had been put in place and so on. Even if I had seen that, would it have changed the official opening? No, it would not.

THE CHAIR: Would it have changed the tenor of what was said?

Mr Corbell: What had occurred in relation to that brief arriving in my office—that brief was not marked as urgent for my urgent attention. It was marked as routine and it was dealt with in a routine manner, which is I see those briefs usually within three to four days of them arriving in my office. That is how I deal with routine correspondence. It depends on workload and commitments and what else I am doing at that time, but if it is not considered to be urgent it is not brought to my immediate attention. It goes through a routine process of coming to my attention. It was not marked by my department as urgent, quite the contrary, and so in the normal course of events I saw it a number of days later. That is the situation in relation to that advice.

Ms Leon: May I please add to that, Mrs Dunne. The brief that was sent to the minister made no suggestion that he ought to say anything different about the expected opening date. The delays that we were told were being experienced were only in the order of weeks. It would not have led us at all to suggest that any change should be made to the official opening. Had we been briefing the minister that the handover was not going to occur for some months then clearly we would have escalated that as a much more significant matter and consideration would have needed to be given to what ought to be said about it. But since the delay was only in the order of weeks it did not ring alarm bells for us as being a matter that we ought to draw to the minister's urgent attention, and we did not.

THE CHAIR: “In the order of weeks”. You had not started the 28-day plus five-day period, so that is more than a month. Two days after this brief arrived in the minister's office press releases went out that said that the AMC was ready to take prisoners.

Mr Corbell: No. The advice I gave was that we anticipated taking those prisoners in late November, early December. That is what I said.

MR HANSON: Mrs Dunne, maybe I can read from the press release of 11 September, the day of the opening:

The opening of the Alexander Maconochie Centre is a milestone for the ACT justice system, which now leads the country ...

Opening the ACT's first prison means we can now take responsibility for our prisoners ...

The ACT Labor Government recognises the importance of family contact in prisoner rehabilitation, and with prisoners now remaining in the ACT ...

I find it very difficult to believe that the community, seeing the opening as it occurred and then reading that press statement, would be left with any impression other than the fact that the prison was open and was able to take prisoners. Regardless of when that information was received into your office and you became aware of it, the community absolutely have the understanding that the prison was open and was available to receive prisoners.

My question for you, minister, is this: given that this was in the middle of an election that was occurring in the ACT, did you correct the record prior to the election? So once you had created the impression in the community that the prison was open and ready to receive prisoners, did you at any stage leading up to the election correct that on the record to the community who had the expectation and the belief that you had delivered this major infrastructure work on time and on budget, which was not the case? Did you correct the record?

Mr Corbell: There was no need for me to correct the record at that time, Mr Hanson, and the reason for that is that, as Ms Leon has indicated, the advice that was received in September indicated that the delays would only be a matter of weeks, that they would not significantly impact on the ability of the territory to accept prisoners and in the time frames that the government had expressed. So there was nothing misleading in what I said. Indeed, the next advice that I received in relation to this matter was on 20 October.

THE CHAIR: Minister, when you went to the prison opening on 12 September did you know at any one time and in any way, shape or form that not all the systems were operating?

Mr Corbell: I was aware that there were some modest delays in finalising the testings of the security system but I had been clearly and explicitly advised that that delay was insignificant and that the time frames would still be met consistent with the advice I gave on the day of the opening, which was that prisoners would be accepted in late November, early December.

MR HANSON: When were you advised that that was not actually correct? You were advised again that there was a further delay. When did you receive that advice?

Mr Corbell: When was I advised that my statement that prisoners would be expected in late November, early December was not correct?

MR HANSON: You received advice into your office on or around 9 September saying that it was not going to open till November.

Mr Corbell: That is correct.

MR HANSON: I assume that you received further advice that that was not the case.

Mr Corbell: Yes.

MR HANSON: When did you receive that advice?

Mr Corbell: On 20 October.

THE CHAIR: So when you just said to me, minister, that on the day of the opening you were aware that there were minor delays, what was your personal understanding of those minor delays?

Mr Corbell: My personal understanding of those minor delays was that testing still needed to be completed in relation to the security system and that would take a number of additional weeks, but it would not substantially in any way delay acceptance of prisoners in late November, early December.

THE CHAIR: And who told you that? Where did you get that advice from?

Mr Corbell: That was in the brief that I saw on 15 September.

THE CHAIR: No, I asked you what you knew on the day that you went to the prison opening.

Mr Corbell: What I knew on the day of the prison opening?

THE CHAIR: Yes.

Mr Corbell: On the day of the prison opening I knew what I said, which is that we would be in a position to accept prisoners in late November, early December.

MR HANSON: Do you think that the—

THE CHAIR: I am sorry, before we go on: did you inform your ministerial colleagues that that was the case? For instance, the Chief Minister was there. I cannot ask you what the Chief Minister knew—we will have to ask him that—but what was the Chief Minister told, according to your knowledge? What was your knowledge of what the Chief Minister was told about the readiness of the prison to take prisoners?

Mr Corbell: It is the same advice.

THE CHAIR: And who provided you with that advice?

Mr Corbell: Corrective Services.

THE CHAIR: And who signed off on the brief? Who was the last person to see the brief of 9 September before it went to the minister?

Mr Corbell: The 9 September brief was signed by the Acting Executive Director of ACT Corrective Services.

THE CHAIR: So it did not go through you?

Ms Leon: It went through my deputy chief executive, but I was interstate at the time and I did not personally see it.

THE CHAIR: Knowing that we were in an election period—there was discussion in the election process about the capacity to deliver capital works on time—three days before an opening Corrective Services and the Deputy Chief Executive of JACS saw a brief that says, “We’ve got a problem with the security system,” and no-one bothered to upgrade the—

Mr Corbell: No, it doesn’t say that.

Ms Leon: I think the fact that nobody rang the minister’s—

THE CHAIR: You might provide the committee with a copy of the brief.

Mr Corbell: I am happy to do that.

Ms Leon: I can tell you, Mrs Dunne, that wherever there is a matter that comes to our attention that rings alarm bells, the first thing we do is let the minister’s office or the minister personally know. The fact that we treated this brief in a fairly routine way simply demonstrates that at that stage we were not expecting any significant delay. These were some minor additional delays that did not substantially change—

MR HANSON: The same delays that you have had six of in a row.

Ms Leon: —the expected take-up of prisoners.

Mr Corbell: Let me tell you what the pertinent advice was in that brief. It said: “Current approved completion date for BLL to hand over site to ACT Corrective Services is 22 August.” That is the contractual completion date. The minute then sets out some detail about Chubb and the security system, and the 28-day testing period with five fault-free days, which would commence following completion of user acceptance testing by Webb. Webb is the territory’s security subconsultant. It stated that it was expected that the user acceptance testing would be completed by 29 September, which was approximately 2½ weeks after the opening. So 33 days brings the handover date to 1 November.

THE CHAIR: But then you had to have a month’s operation—

Mr Corbell: ACT Corrective Services then requires at least one month before AMC could accept prisoners, which would bring it to the beginning of December. The advice I gave was advice that it would be late November, early December. I don’t believe my advice was inaccurate or misleading. It was the broad time frame that Corrective Services had advised me they were operating on, and it is consistent with the advice that was given to me on 9 September. So any suggestion that I was misleading I don’t think is borne out by the facts.

MR HANSON: With respect to the statement that you made in your press release that we “can now take responsibility for our prisoners” and the language you use—“now”—knowing that there was a delay and this was on the back of five or six identical delays, do you not think that the impression in the community was that this prison was now open, that there were no problems and it was ready to receive prisoners? Do you believe that is not the impression that the community was given?

Mr Corbell: I think the impression that release gives is that the territory has taken steps to take responsibility for the management of its own prisoners and that the project is complete and ready to accept prisoners immediately following, in a period reasonably immediate to the opening.

MR HANSON: “Now”—

Mr Corbell: I don’t think your colleagues, Mr Hanson, who attended the opening went to the opening and thought: “Hang on a minute, there’s no prisoners here at the opening. Mr Corbell’s misleading.” I think your construction of my media release does not really take account of the fact that—

MR HANSON: I think that the community thought the prison was opened without any problems, didn’t they?

Mr Corbell: your colleagues attended the opening. If you want to get into a pedantic argument about exactly what “now” means in the context of that statement, it is a broad statement that says, “We are in a position to imminently start the acceptance of prisoners and take responsibility for our prisoners,” and that was consistent with the advice I had received prior to the opening and indeed is still consistent with the advice I received following the opening.

MS HUNTER: Going back to the contract, earlier, Ms Hardy, you spoke about the sorts of clauses that are in there around liquidated damages. I want to go to the heart of this: is the territory protected? Will it be able to get damages for these delays? What sort of process does that go through and what is the guarantee that we are going to be able to cover the extra costs of housing our prisoners in New South Wales or whatever those damages go to?

Ms Leon: Ms Hunter, before we enter into that, I am happy to let Ms Hardy answer some of the questions in a general way, but I should say that the matters to do with the contract will fall to be resolved after the completion of the contract. They will be subject to negotiation with the contractor. If the negotiation does not lead to a satisfactory outcome, they may well be subject to arbitration or litigation or other forms of dispute resolution. So I think we need to express the answers we can give you in sufficiently general terms so as not to prejudice the interests of the territory in any subsequent proceedings.

MS HUNTER: I will rephrase that in more general terms. These clauses have been tested before?

Ms Hardy: These are standard contractual clauses in all contracts, and certainly in construction contracts, yes.

THE CHAIR: Have they been tested? Have they been drafted in light of that testing?

Ms Hardy: Do you mean has New South Wales had to—

THE CHAIR: Yes.

Ms Leon: I am sure they have. I do not know of exact instances. Certainly in the territory we have applied those clauses in the past.

THE CHAIR: Successfully or otherwise?

Ms Hardy: I have to go carefully here because, in negotiations on contracts, there are often a lot of things that need to be finalised by the time you come to the end date of a contract. They go to extensions of time, which relate to the date when the contract goes to completion. Contractors might dispute variations et cetera. Whether or not you succeed in applying things like liquidated damages or other things often comes down to negotiations or rulings, sometimes by the courts or by expert determination et cetera, and whether or not the client agency will actually receive any kind of recompense. That is normal across all contracts all across Australia and the world.

Ms Leon: Ordinarily the outcome is settled more often by negotiation, in which case it is not necessarily possible to say that a particular clause has been the one that carried the day. It is a series of clauses in the contract, all of which are taken into account in the negotiated outcome.

Mr Ryan: Certainly their existence is such that all contractors move heaven and earth to avoid them. That is how effective they are.

THE CHAIR: That has not been effective in this case. Can I go back to the opening, in light of the contract and in light of the issue of liquidated damages, and ask: minister, are you satisfied that, by proceeding with the opening and making the public display of ownership that was undertaken in the opening ceremony and all those sorts of things, you have not in any way jeopardised the territory's capacity to negotiate liquidated damages?

Mr Corbell: The opening date was agreed with Bovis Lend Lease. It was with their agreement. They still, technically, had legal possession of the site. We could only undertake that ceremony with their agreement.

THE CHAIR: That is part of an answer to my question. Is there anything that the territory did—

Mr Corbell: I do not believe that the opening in any way jeopardised our position.

Ms Leon: “Completion” is a contractually defined term. It does not hang at all on any administration act, official or otherwise, by the ACT government on the announcements about the facility. It is a term that is defined in the contract. It takes about half a page of definition in the contract. It essentially refers to the technical completion of all aspects of the facility, the handover of all relevant warranties, the completion of everything to specification. No statements or particular acts by the government on the opening have any bearing on whether completion has been achieved in a contractual sense.

THE CHAIR: Thank you for that. Going back to the opening and to the public spectacle of the opening, were you, minister, implying, by performing the opening

when you did, especially the timing, that everything was finished? Were you telling the people of Canberra that everything was finished?

Mr Corbell: I was telling the people of Canberra that the prison was virtually ready to accept prisoners.

THE CHAIR: Is that the language you were using on the day?

Mr Corbell: I made it clear that the prison would not start operations for another one to two months following the official opening. I made that clear in my statement and it was recorded in the press as such at the time.

THE CHAIR: What words were used to make that clear?

Mr Corbell: The *Canberra Times*, for example, reported the first interstate—I beg your pardon, that is not during the opening. “Start taking responsibilities for its prisoners from November” was the sort of language that was used.

THE CHAIR: Perhaps you can take this on notice. What words did you use at the opening to indicate to the people of the ACT and the people present that the place was not actually finished and you were not ready then to take prisoners?

Mr Corbell: I think Mr Hanson has a copy of that. It is in my media statement in relation to the opening ceremony itself. As is usually the case when I give a speech, I rarely read a speech verbatim. Whilst the speech was provided to me, I could not tell you that that was the speech that I actually delivered because I do not believe—in fact, I can recall it was not. As I usually do when I speak, I speak more contemporaneously. I only refer to notes on occasion.

Ms Leon: I should say that all the reports from the *Canberra Times* of that period, which Mr Ryan, I think, has with him, clearly indicate that when the minister and officers were interviewed we referred to the fact that we expected to take prisoners from about November. There was never any expectation that the prison would be officially opened while it already had prisoners in it. The intention was always that the prison would be opened around about the period it was handed over and before we started taking prisoners. Even if we had contract completion on 2 September and held the opening on 11 September, having received the keys, we certainly would not then have now—

Mr Corbell: I think the government made it quite clear that this was the official ceremonial opening, which is the normal practice for any large-scale facility. The operational commencement, if you like, for the facility almost always occurs, inevitably occurs, after the formal official ceremony. What the government did was no different to the commissioning of any other large-scale facility, particularly one which has the security issues associated with a prison.

MR HANSON: Did any of those statements in the *Canberra Times* or in the media refer to the delays which were being experienced, the problems with the security system or anything of that nature?

Mr Corbell: As I have already said, those were not factors that the government believed changed our material understanding of the time frame, which was late November, early December. They were not relevant because they did not change the advice that was appropriate to give, which was that late November, early December was when we would accept prisoners. So it was not a material consideration.

THE CHAIR: There are a range of things we foreshadowed this morning that may necessitate calling the minister back and there are other occasions when Procurement Solutions are appearing separately. It may be necessary for you, minister, to come back. I am sure we will see Ms Leon and Mr Ryan when the current minister attends.

In the meantime, there are a range of things that we have asked to be provided in addition to what we have already asked for. Mr Ryan, we would hope to see these documents sooner rather than later so that we do not have to put other ministers and other witnesses to the inconvenience of having to be recalled. We would like to see those documents sooner rather than later. There are things we have asked for in the course of this which, between the secretariat and the minister's office, we will make sure that we have covered along the way.

I would like to thank you for your participation this morning. We will meet again on this subject.

Ms Hardy: I have just got some information to hand which goes to a question that I think you asked earlier. The question was about the number of respondents to the expression of interest and the tenders. You will recall that we talked about three or four. There were five respondents to the expression of interest: Baulderstone, Bovis Lend Lease, John Holland, Richard Crookes and Hilliers. There were three that went to the final, and they were John Holland, Baulderstone Hornibrook and Bovis Lend Lease.

THE CHAIR: Thank you for that.

The committee adjourned at 12.26 pm.