



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON JUSTICE AND COMMUNITY
SAFETY**

(Reference: Annual and financial reports 2007-08)

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 19 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).

APPEARANCES

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Amended 21 January 2009

The committee met at 1.03 pm.

Appearances:

Corbell, Mr Simon, Attorney-General, Minister for the Environment, Climate Change and Water, Minister for Energy and Minister for Police and Emergency Services

Department of Justice and Community Safety

Leon, Ms Renée, Chief Executive

Henry, Mr James, Senior Director, Security and Emergency Management

Child, Ms Helen, Courts Administrator, ACT Law Courts and Tribunals Administration

Garrison, Mr Peter, Chief Solicitor, ACT Government Solicitor

Byrne, Ms Sarah, Executive Director, Legislation and Policy Branch

Krajina, Ms Danielle, Acting Executive Director, Office of Regulatory Services

Phillips, Mr Brett, Executive Director, Office of Regulatory Services

ACT Ombudsman

McMillan, Professor John, Ombudsman

Macleod, Ms Louise, Senior Investigation Officer

Public Advocate of the ACT

Phillips, Ms Anita, Public Advocate

Mackey, Ms Patricia, Principal Advocate, Individual and Systemic Section

McLeod, Mr Brian, Principal Advocate/Guardian, Guardianship Section

Victims of Crime Support Program

Holder, Ms Robyn, Victims of Crime Coordinator, Victims Support ACT

Legal Aid Commission of the ACT

Crockett, Mr Andrew, CEO

Public Trustee for the ACT

Taylor, Mr Andrew, Public Trustee

Director of Public Prosecutions

White, Mr Jon, Director of Public Prosecutions

THE CHAIR: Welcome to the Justice and Community Safety hearings into the annual reports for the financial year 2007-08, commencing with the Department of Justice and Community Safety. Good afternoon, minister, and officials. Could officials and the minister indicate that they have read the privileges card and understand the implications of the privileges card?

Mr Corbell: Yes, Madam Chair.

THE CHAIR: Before we proceed, minister, do you have an opening statement?

Mr Corbell: Thank you for the opportunity to appear before you this afternoon. I do

not have an opening statement, but I and my officials would be very happy to assist you by trying to answer any questions you have.

THE CHAIR: I will start by virtue of being the chair. Can I ask, perhaps Ms Leon, what do you understand of the Chief Minister's annual report guidelines? In particular, there is reference to the annual report guidelines in relation to principles of good design and communications to produce a report that is informative and easy to read.

Ms Leon: The department, of course, is very mindful of the Chief Minister's directions and produced the annual report having regard to them. I believe the annual report is well designed, structured according to good communication principles and easy to read. If there is anything you think that could be improved, we would be happy to have your suggestions.

THE CHAIR: My staff and the staff of the opposition who have been poring through annual reports for a considerable time now, I think, have unfortunately given you the raspberry award for the worst set-out annual report. I have a lengthy list of problems with it. I particularly draw your attention to the table on pages 96 and 97 as an example, which is upside down and back to front. The general feeling is that, rather than go through these here, there will be reference in the report to some of the problems.

There are considerable problems with tables that do not have headings and tables that do not have sources et cetera. I would like to draw that to your attention. I and staff—not just my personal staff but other staff—found it very difficult to read and to navigate their way through. And we hope that we will see an improvement in the future.

Ms Leon: I look forward to the comments. I am sure we will use it as part of our process of continuous improvement.

THE CHAIR: Great. I love continuous improvement.

MS PORTER: Madam Chair, can I ask a question while you are collecting yourself?

THE CHAIR: Yes, you may ask a question while I am collecting my thoughts about the next question.

MS PORTER: Thank you, Madam Chair. Minister, on page 4 of volume 1 of the report, it talks about consultation with regard to the preparation and amendment of legislation. I was wondering whether you could explain to the committee what forms of consultation were undertaken by the department in preparing significant legislation such as the civil partnerships legislation.

Mr Corbell: Thank you for the question. The government generally and the department in particular do make a considerable effort to engage with interested stakeholders in the development of its legislative proposals. In relation to civil partnerships, there was detailed discussion with a range of stakeholder groups, particularly those people who would be affected by the passage of that legislation. That stems right back to the development of the original civil unions legislation and,

indeed, the legislation that preceded that, which eliminated a range of discriminatory provisions in a very large number of ACT acts.

So the process is an ongoing one. I think it is probably worth highlighting, for example, the steps the government undertook in relation to its sexual assault reform program, which was passed by the Assembly late last year during the term of this annual report. That program involved very detailed consultation with organisations such as the Law Society, the Bar Association, the courts—in particular, the magistrates and judges directly involved in a number of the preparation of procedural arrangements in the courts—the DPP and the police. So we do, on a regular, basis seek to engage with a very broad number of stakeholders. I do not know whether Ms Leon wants to add anything further to that.

Ms Leon: We engage with stakeholders regularly on all legislation that will either need to be implemented by them or will affect them. For example, I hold quarterly liaison meetings with the Law Society where we canvass upcoming legislation and other policy and the executive director of the legislation and policy branch meets regularly with the Law Society.

We also, for major pieces of legislation, issue discussion papers and seek community input, and from time to time we have undertaken—the civil partnerships legislation is a good example—community surveys seeking submissions as to people’s views. So the consultation is both with the whole community on matters that are likely to affect a broad range of people and on a regular basis with stakeholders that will be directly involved in either implementation or impact.

MS PORTER: Thank you, minister.

THE CHAIR: I know this falls outside the period of the annual report, but did you consult with the Law Society before the introduction of the amendments to the Crimes Act in relation to murder?

Mr Corbell: In relation to that, yes, I did seek the comments of the Law Society, the Bar Association, the Chief Justice, I think the Chief Magistrate and the DPP. Given that that legislation was introduced shortly after the commencement of this Assembly, in the week that it was introduced into the Assembly, I wrote to the Law Society and the other stakeholders that I have mentioned. I provided them with a copy of the bill, I sought their comments and I indicated that I intended to give them an opportunity to comment before bringing the bill on for debate.

THE CHAIR: Ms Leon said that she flags with the Law Society, for instance, upcoming bills and what those changes might be but that did not happen in this case?

Mr Corbell: That is because I, as the attorney, wrote to those people and specifically indicated the government was wanting to move to implement its election commitment in relation to murder and that this was the proposal. I gave them the detail of the proposal and asked for their feedback on that. I should add that I did also flag in a meeting I had with the Bar Association before the election that it was a reform that was in the offing and, indeed, had been announced by the Labor Party at that point during the election campaign.

In relation to murder, it is quite an explicit and relatively simple change in terms of the law itself. What I did was provide those stakeholder groups with a copy of the bill and sought their comment. I gave that to them in early December. Regrettably, I did not get back comments from a number of those stakeholders until last week.

THE CHAIR: Thanks, but the point is that—

Mr Corbell: I think it was last week. It was certainly in the last sitting week.

THE CHAIR: But what Ms Leon described did not happen in relation to the murder bill?

Ms Leon: You might recall that the Labor Party announced that as an election commitment during the caretaker period. Ordinarily, I am not involved in policy discussions during the caretaker period.

THE CHAIR: But after the formation of the government, you did not flag that in advance of the—

Mr Corbell: It did not need to be flagged. It was quite an explicit election commitment, and the government made it clear from the point at which it was returned that we were going to seek to progress that policy change.

Ms Leon: I only meet quarterly with the Law Society and I would not have wanted to hold up the attorney's formal consultation with the Law Society until I hold my regular liaison with them.

Mr Corbell: The point needs to be made that I did extend a formal invitation to each of those stakeholder groups to comment, I gave them the specifics of the proposal and I said, "I welcome and want your views." I gave that to them in December, the week—in fact, the day—the bill was introduced. Unfortunately, a number of those stakeholders did not reply to me until the week of the debate in the Assembly.

MS HUNTER: I wanted to go to pages 14 to 17 where you speak about restorative justice. There has been an increase in restorative justice referrals. Have you got evidence of lower recidivism rates and when is phase 2 going to be implemented, which is adult access to the program?

Ms Leon: Yes, there was a review done of the operation of the restorative justice act after its first couple of years of operation. I can make that available to you if you would like. It did indicate that there was a decrease in recidivism as well as a very high level of satisfaction by both offenders and victims with the process.

Mr Corbell: In relation to phase 2, that is a matter that the government is giving consideration to. I anticipate that will be subject to the budget process we are currently going through.

MS PORTER: Minister, on page 8, it talks about options being explored for an integrated justice information system. It talks about how this will improve

communication information accessibility between agencies. I was wondering whether you could give us a little bit more information about that particular initiative, please.

Ms Leon: The department is exploring the option of integrating the various case management and database systems that it has across a range of different parts of the justice system. At the moment people who are processed through the justice system usually come in initially on a police database and they end up on a DPP database and a courts database. If they are convicted, they will end up on a corrections database. At the moment they are all separate systems, so it is not easy to compile data and ascertain trends and effects of different policy settings or procedure settings across the whole system.

We are looking at systems that are in place in other jurisdictions that have managed to put what is called a warehouse across the top of all of those separate systems so that it can take up into that central repository a range of common information so that one is able to then more accurately understand the performance of the whole system rather than simply parts of it. We are just at the development of the system phase. It is not something that can be introduced too quickly. I discussed it with my New Zealand counterparts not that long ago. They have a very sophisticated system and their counsel was to proceed very carefully and in small chunks rather than to try and recreate the whole world all at once. It is something that I anticipate will take us a couple of years in the making.

MS PORTER: I have just realised that I have a follow-on question on restorative justice.

THE CHAIR: I was surprised that you had not before.

MS PORTER: I had that exact question before but, given that Ms Hunter has asked it, I will ask my question, the remaining one, which goes to page 13 of the report. Minister, it specifically mentions the Aboriginal Justice Centre. Can you advise the committee how that initiative is progressing and what further measures the department is undertaking to focus on the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system through the Aboriginal justice agreement mentioned on page 14?

Mr Corbell: The development of an Aboriginal justice agreement is the key element of policy that needs to be developed this year to provide further support to the Aboriginal Justice Centre. There has been assistance provided in a range of ways by the territory to the AJC to facilitate its operation. It now operates as a stand-alone Indigenous-controlled body, as it should.

The development of an Aboriginal justice agreement will allow the centre, in particular, and the government to agree on a range of priorities and goals that we can then work towards collectively to address issues affecting Indigenous people who are involved in the criminal justice system. Work on that is well advanced in my department and I envisage that work being completed later this year. Is that the case?

Ms Leon: The work is in progress. I do not know that it will be finished this year, because to a large extent it depends upon the consultations that we need to have with

Indigenous people and the various players in the system. At this stage, that time frame is not completely finalised.

THE CHAIR: When you say “this year”, do you mean the calendar or the financial year?

Mr Corbell: Calendar.

Ms Leon: Yes, I am advised that we are anticipating mid-2010 for the finalisation of that work.

THE CHAIR: Could you give an exposition of the process involved before we get to finalisation in mid-2010?

Ms Leon: A whole-of-government working group has been established. It is chaired by one of my deputy chief executives. The Aboriginal Justice Centre and the ACT’s Indigenous elected body are represented on the working group. The things that are going to be examined are the needs of youth, family violence, rehabilitation, transition and post-release programs from prison, access to legal services, mental health and drug and alcohol support programs.

THE CHAIR: There is a steering committee, but what process is there to iteratively develop the document, the agreement?

Ms Leon: I would have to take that on notice, Mrs Dunne. The chair of the working committee is not here this afternoon.

THE CHAIR: Thank you.

MS PORTER: It is very comprehensive.

THE CHAIR: You are looking to complete in mid-2010. When did the work start?

Ms Leon: In October 2008.

THE CHAIR: So it is roughly a two-year program. Ms Hunter.

MS HUNTER: Just looking at the CCTV, which I think is first mentioned on page 7—it comes up on page 17 as well—there have been numerous incidents in the past when CCTV cameras were either not monitored or not even operational. Could you tell the committee whether all the CCTV cameras are operational and how they are monitored and how long their recordings are kept for?

Mr Corbell: All currently installed CCTV cameras are operating in the Civic area. CCTV networks have also been installed in the Jolimont Centre, which is the interstate bus depot, and also at the Canberra Stadium. I understand there were some issues with the Canberra Stadium network due to the recent heatwave. Some of the technology was not coping very well with the heat, but I understand that has probably been, or is in the process of being, addressed. There were no major events planned at the Canberra Stadium, or certainly there were no major events over that period when

that heatwave occurred.

In relation to Civic, the Civic safety network is fully operational. The government have just completed a major upgrade of the technology of the existing camera network. We have converted all of the cameras in Civic to a digital network and also improved the operational elements of that network in terms of how far the cameras can move and scan different areas. So that is operational.

The government at this stage does not provide funding to ACT Policing to monitor the network on an ongoing 24-hour-a-day basis. The situation for some time has been that the network is monitored on an as-needs basis by the police. For example, the police can choose to monitor the network in real-time at times of major gatherings in the city, for example, New Year's Eve, when they use it to assist their foot patrols. At all other times the information is simply recorded and can be recalled as and when needed for evidentiary purposes or for the purposes of police investigations.

There is an audit committee that reports to me regularly which has representatives from the community sector, young people, property owners, licensees and a range of others. They report to me regularly on the operation of the existing network. They monitor the level of police use of that network and highlight to me any issues with the operation of the network. Their last few reports to me have indicated that they are very satisfied with the technical capabilities of the network and the significant increase we have achieved in the reliability of the network since we replaced the old cameras and entered into new contract servicing arrangements to ensure maintenance occurs and any faults are addressed quickly.

That has been one of the issues in the past. Our contractor has not responded promptly to faults, and that has left the camera network vulnerable in that there may be one or more cameras not operating. We now have a much more reliable and responsive contract arrangement in place in terms of maintenance, and that has significantly improved the overall reliability of the system. I am now very confident that the system operates reliably and constantly, and any faults are addressed promptly.

Moving to the future, the government has announced its intention to expand the CCTV network in the city. Funding has been provided in the most recent budget, last year, to do that. That work is well advanced. There will be an increase in the number of cameras located in the city to cover a range of additional locations, primarily where there is night entertainment activity, which is one of the key issues for us in terms of maintaining public safety. The government has also announced that it will fund the development of a CCTV network in Manuka and Kingston in those entertainment precincts. That funding has also been provided in the most recent budget, and work is well advanced on planning and installation of those cameras.

The advice I have is that in relation to Manuka and Civic, those projects will be—as I am advised at this stage—completed by the end of the financial year, with Kingston completed a month later in July. The government has also provided funding for the installation of CCTV coverage at Manuka Oval, which is obviously another key event venue, and Manuka Oval is also due to be completed by the end of this financial year.

The government has also provided funding in the most recent budget to make

provision for connection of the network to the Winchester Police Centre. Winchester will become the point at which the police are able to monitor the entire network. Currently monitoring occurs from, as I described earlier, the city police station, but that will transfer to Winchester. The government will be giving further consideration to providing additional funding to the AFP to allow them to recruit additional personnel to monitor the network on a more regular and constant basis.

MS HUNTER: You were talking about the upgrade to the system. Has that meant that recordings can be kept for a longer period of time?

Mr Corbell: Recordings are kept for a considerable period of time. I will ask Mr James Henry, who is in charge of security in the emergency management branch, to tell you exactly what the details are of that.

Mr Henry: We are instituting a national standard for storage of data, which will be 30 days. That will be on-site at the each of the locations, with redundancy included.

MS HUNTER: Currently is it about seven or 14 days?

Mr Henry: Most sites which are active now are currently using that standard 30 days.

THE CHAIR: When you say, Mr Henry, that they are stored on-site, does it mean that they are currently stored at Civic police but they will transfer to Winchester, or are they stored remotely at some node, say, Manuka? What do you mean by stored on-site?

Mr Henry: The advice we have from the engineers who designed the system and who are designing the future systems is that we will have the ability to have them stored on-site—for instance, at Bruce stadium, so they can be utilised by the Bruce stadium staff. The ultimate goal is to have them where necessary, and I identify that the Civic safety system will also go through, as the minister has advised, to the Winchester Police Centre. So you will have two recording points.

THE CHAIR: Will the Bruce stadium stuff, for instance, eventually be able to be monitored from Winchester or only on-site at Bruce?

Mr Henry: Bruce stadium will have the potential—

Mr Corbell: Canberra Stadium.

THE CHAIR: Canberra Stadium. Old habits die hard.

Mr Henry: Sorry, Canberra Stadium. Canberra Stadium will have the potential to be able to be recorded from both sites—Winchester and the stadium.

THE CHAIR: Where are we with EPIC? The annual report mentions EPIC.

Mr Corbell: I am sorry, I forgot to mention EPIC. The government has also provided funding to install cameras at EPIC, again because it is major event venue and there are a range of public safety reasons why there should be some level of surveillance at that

location. Installation is proceeding at EPIC. I am advised that it will be completed by the end of September this year.

MS PORTER: Minister, just for my information, what is a “major event”? What constitutes a major event? Is it when there is a certain number of persons in a place at the same time?

Mr Corbell: There is no specific formula, Ms Porter. It is more of an identification of those points which we know in the city attract large crowds. Obviously Canberra Stadium is a large venue and EPIC is a very large venue, particularly when events such as Summernats are occurring. It is the same at Manuka with the football. Mostly it is to do with large-scale sporting events.

THE CHAIR: Was the CCTV at Bruce Stadium working while the Matildas were playing the Italians and was that a large-scale sporting event?

Mr Corbell: I am not sure whether it was or not, but—

MS HUNTER: It was certainly very hot, I can assure you.

THE CHAIR: It was very hot.

Mr Corbell: In relation to Canberra Stadium, it is probably worth drawing to the committee’s attention that there are requirements—which Territory Venues and Events could probably advise you of better—and if we host a certain scale of sporting event we are obliged to have a level of security surveillance in place. It is a requirement for hosting particular types of events, particularly international sporting fixtures. So that is another reason why the upgrade at Canberra has had to occur.

THE CHAIR: Thank you.

MS HUNTER: Are statistics and data kept on how often images are used from those cameras in court cases in the ACT? I guess it is about how useful the system is.

Mr Corbell: Yes, that information is kept. I do not have it available, but I am happy to provide you with some statistics on how often or on how many occasions it has been used directly as evidence. In some instances it is not used directly as evidence in court but it may assist police in their overall investigations. All instances of downloads from the data holdings are recorded and are monitored, so we can certainly provide you with that information.

I would say also that the installation of the new technology gives us a greater ability to use images for evidentiary purposes. The clarity and the quality of images is much better with the new technology that has been introduced compared to what has been in place for most of the past decade.

MS HUNTER: Regarding signage near the cameras, I know that a while ago—I have not looked recently—the signs tended to be very high up and most people would not see them. Are we ensuring that people are aware that there are surveillance cameras and that there is good signage to alert people, which might even stop them from doing

something in the first place?

Mr Henry: Ms Hunter, we are, and it is part of a code of practice as well that we have appropriate signage. I believe the height of the signs is to do with making sure they are not vandalised.

THE CHAIR: Could you take it on notice, minister, whether or not the cameras were operational at Canberra on the day of the women's soccer?

Mr Corbell: Yes, I can do that.

THE CHAIR: Could we go to what is basically a constituency matter, minister? Where are we with the development of the new police station in Belconnen? Does that fall here or does it fall under police matters?

Mr Corbell: That is in my police and emergency services portfolio which I think you are having hearings on in March.

THE CHAIR: We are having them in March, yes.

Mr Corbell: But I can advise you that that project is proceeding. I do not have the exact information in front of me.

THE CHAIR: No, we will come back to that in March. Where are we with the study in relation to the Supreme Court building?

Mr Corbell: The government commissioned a feasibility study in the last budget to investigate options for a new Supreme Court building. As members would be aware, the existing building is old and has a number of flaws in its design. It is a building to accommodate uses which are putting a lot of pressure on the existing building. That feasibility study is, I think, close to finalisation. I have not seen the results of it at this stage, but it was always envisaged that the report would be finalised in around the first quarter of this year. As I understand it, we are still on track to achieve that.

THE CHAIR: As to the other issues, the money in the last budget for the new forensic medical centre and the morgue et cetera—where are we with the development of that?

Mr Corbell: Just while Ms Leon gets some more information, there has been a series of detailed consultations, particularly with the coroner, the forensic scientists and others who are involved in the daily use of that building and also the police. They have identified a possible site for the new forensic science centre. That location is in Phillip—a surplus government property in Phillip.

THE CHAIR: The old works depot in Phillip.

Mr Corbell: That is correct. That site has been identified as suitable given its proximity, obviously, to the hospital but also because, geographically, it is reasonably close to the centre of the city. Its proximity to the hospital is also useful in that regard. In terms of progress on that, I might ask Ms Leon if she can give some more

information.

Ms Leon: The feasibility stage of the project has been completed, which the minister referred to. We are about to commence on the design phase, which we anticipate will be completed around the end of September, before we move to tender and construction.

THE CHAIR: Is that the timetable that was envisaged when the money was appropriated?

Ms Leon: I will just get some advice on that for you, Mrs Dunne.

THE CHAIR: How about we come back to that at some stage rather than delay things? Seeing we are in a building mode, can you update the committee on where we are with the development of the ACAT building and the floor in the health building?

Mr Corbell: Yes. It is proposed that the new premises for ACAT will be located on level 4 of 1 Moore Street. Funding has now been approved and the project is moving forward. Funding issues have been finalised. The future location of tenants both within the existing building and in other buildings that they were meant to move to has been finalised. I am advised that it is intended that the fit-out will be completed mid-year.

THE CHAIR: Next calendar year or next financial year?

Ms Leon: Mid-calendar year this year.

THE CHAIR: What were the funding issues that needed to be sorted out?

Mr Corbell: The original estimate that was given for the cost of fit-out was not found to meet the requirements of ACAT in terms of the space that they required. That funding has been revised and it is within the whole-of-government allocation for property. It has not involved any additional appropriation. It has been a re-prioritisation of works within the whole-of-government property budget. That has allowed the project to move forward. The project working group is now looking at its time frames for procurement of the relevant contractors to do the design and the fit-out work required.

THE CHAIR: What was the original estimate of cost and space, and what is it now?

Mr Corbell: The current approved estimate is \$2.8 million, approximately.

THE CHAIR: That is with the fit-out. Does that include furniture?

Mr Corbell: That is the lot.

THE CHAIR: That includes fittings; that is the lot.

Mr Corbell: That is the lot.

THE CHAIR: Everything.

Mr Corbell: The original estimate I do not have in front of me.

THE CHAIR: What is the current space?

Ms Leon: I should just clarify, Mrs Dunne, that the \$2.28 million is for the whole floor and includes other parts of the department that will be on that floor. It is not only for the tribunal. The Victims Support Scheme and the Independent Competition and Regulatory Commission will also be on that floor.

THE CHAIR: So other people are moving to occupy the whole space?

Ms Leon: Victims services is already on that floor, so they will still be on that floor, and the Independent Competition and Regulatory Commission will move into it.

Mr Corbell: The space has to be reconfigured, so obviously even the existing tenants will have to move into the reconfigured accommodation. They cannot remain as is. There has to be a reconfiguration of accommodation for existing tenants as well as for new tenants.

THE CHAIR: The existing tenants that are there, the victims support, are they going to be moved out while building is going on or are they going to be built around?

Ms Leon: Yes, they will be moved out while the floor is being redeveloped.

THE CHAIR: Are they out now?

Ms Leon: No, I believe they are still there.

THE CHAIR: When are they moving? When are the building works going to start?

Ms Leon: The time frame for the procurement is to be assessed at the next meeting of the project working group, which is later this month. The time frame for when all the stages of construction will commence has not been established.

THE CHAIR: Have we got a contractor?

Ms Leon: The contract, no. The procurement action has not commenced yet. That will be developed at the project working group meeting. We have authorised Procurement Solutions to procure an architect and a construction project manager.

THE CHAIR: A project manager has to be appointed, the design work has to be done and—

Ms Leon: A significant amount of design work has been done in consultation with the tenants of the building. That is how we know how much space we need, but the architect needs to turn that into detailed drawings.

THE CHAIR: And then the work has to be done. Presumably you have to gut the

floor and rebuild the floor? And that is all going to happen by?

Ms Leon: About mid-year.

THE CHAIR: About mid-year. Could you get back to me with the original estimate of the figures and also a breakdown of that \$2.8 million. How much of that is for ACAT and how much of it is for other people?

Ms Leon: I will endeavour to do that. I do not know if it will be clear from the pricing. Usually it is broken up according to how much is fit-out rather than who is occupying the department, but to the greatest extent possible I will provide that.

THE CHAIR: See what you can do. That will be good. Ms Porter, you had a building question?

MS PORTER: It is a sort of building question, yes. I notice, minister, on page 48, talking about the Russell Fox Library, it says that work is continuing on a project to scan older Supreme Court judgments and to make them available to users within the court and on the court's website. I wondered how that was going. It also mentioned an amount of refurbishment that has already gone ahead with that library to make the library, to a certain extent, more user-friendly for the public—people wanting to access it who are not necessarily the professionals who work there. Can you tell us how that has improved access for those people?

Mr Corbell: I will ask Helen Child, who is the courts administrator, if she can answer that question.

Ms Child: The refurbishment work in the Supreme Court library included new shelving and painting. It also included a work area for self-represented litigants. They can access the internet and legal websites to assist them with research. There is furniture which enables them to sit and spread out their documents.

MS PORTER: That is terrific. You are finding it is being used?

Ms Child: Yes, it is being used. I do not have figures of exactly how many people are using the library. In relation to the scanning of the documents, as you can understand, is a huge job. From my understanding, it is about 85 per cent complete.

MS PORTER: That is good. How do the people using that system find out about it? How is it advertised? How do people know that that facility is there?

Ms Child: The library staff will assist anybody who goes into the library. As far as advertising the facility is concerned, the facility is made known to people via court staff, their legal representatives, the Law Society and the Bar Association. There is no advertising as such but, if people need assistance, then either their legal representatives or, if they are unrepresented, the court staff will direct them to the library.

MS PORTER: Thank you very much.

THE CHAIR: I seek your guidance on this, minister. I have some questions about operation capital impact. Are those questions I should ask here?

Mr Corbell: Yes, it is within the justice portfolio proper.

THE CHAIR: Yes, but it has crossover.

Mr Corbell: Yes.

THE CHAIR: How much did the exercise cost? Was there a budget for it and how did it perform against budget?

Mr Corbell: I guess just as an overview, we undertake these exercises in cooperation with the commonwealth, particularly through the National Counter-Terrorism Committee, on which all jurisdictions are represented. These exercises involve not only the testing of response and emergency management at a local jurisdictional level, in this case the ACT, but also our relationships and cross-jurisdictional issues and elements of any particular exercise.

That one in particular, capital impact, was an exercise that involved a range of scenarios across a range of jurisdictions simultaneously, so a number of jurisdictions were simultaneously testing a range of issues and those were refereed appropriately. We do receive some funding, I think, from the NCTC to undertake that work. I am sure Mr Henry can outline the exact details.

Mr Henry: The National Counter-Terrorism Committee has an annual operating budget. The actual figure for the capital impact exercise I think I will take on notice if I can and we will provide the exact detail of expenditure for you. But it is around \$250,000 to \$500,000 but I will clarify the exact figure.

THE CHAIR: That money is funded through the National Counter-Terrorism Committee; it is not directly funded out of the ACT budget; or does the ACT make a contribution to the exercise on the day and then you have got staff and resources and all those sorts of things tied up? Where are those budgeted for?

Mr Corbell: We utilise our resources from the operational budgets of our emergency services primarily because it is our emergency services personnel who are testing and exercising their capabilities. That is just part of their work and it is met from their budget. There are costs associated with the running of a number of control centres and incident management centres within, for example, Mr Henry's area in the security and emergency management branch. There is the territory coordination centre and so on.

Those are established as and when needed, utilising the protocols we have in place if indeed there was a real emergency because the whole point is to try to simulate to the greatest extent possible a real emergency so that arrangements are in place to staff a number of centres on a secondment basis from other ACT government agencies. For example, when a particular centre is stood up, there will be officers seconded on the standing arrangements that are in place from organisations such as the planning authority, Health, DHCS or community recovery, education, a range of other agencies; they all have officers identified who will be seconded in the event of an

emergency to coordinate coordination centres within government.

THE CHAIR: When you say the centre is stood up, the physical infrastructure exists somewhere—and I do not want to know where that is—is that right?

Mr Corbell: Yes.

THE CHAIR: So that what you are doing is actually putting people into an existing physical infrastructure?

Mr Corbell: Correct. There is an identified location for the management of these incidents at a whole-of-government level and at a strategic level, aside from the operational control elements for capabilities and venues that ESA have for the operational management of an incident.

THE CHAIR: There are a range of other questions that spring to mind but I do not think I should ask them because you probably will not answer them. And nor should you. But it is something that, minister, I might seek a further briefing on.

Mr Corbell: Sure. I am happy to do that.

MS HUNTER: On page 19, it talks about a significant number of major projects that were conducted or carried out within the financial year. One of them was the EpiCentre and the advice given. Could you provide the committee with an update on where this legal matter is at and will the NCA be represented in the matter?

Mr Corbell: I might ask Peter Garrisson who is Chief Solicitor in the Government Solicitor's Office to give you the latest on that matter.

Mr Garrisson: Ordinarily we would not comment on the conduct of matters in which we are simply acting as the legal adviser to particular agencies. The EpiCentre litigation, of course, involves the Planning and Land Authority as well as a number of other third parties. I am happy, of course, to take instructions from the planning authority and provide you with a report, within constraints of legal professional privilege, of course.

Mr Corbell: I think it would be best perhaps if you could ask questions of the planning minister. The planning authority is the territory entity that is engaged in that action.

THE CHAIR: That seems a reasonable course of action, I think.

MS HUNTER: Thank you. Moving on to things that I think are for Minister Corbell, the neighbourhood fire units.

Mr Corbell: Community fire units?

THE CHAIR: That is emergency services, in March.

MS HUNTER: Later? Okay.

Mr Corbell: Sorry.

MS HUNTER: We will keep going. It was mentioned in this annual report, though, I have to say.

Ms Leon: Yes. It is the one department; it is serving two ministerial portfolios and the hearings are listed by ministerial portfolio.

MS HUNTER: If we can move on to FOI then?

THE CHAIR: Yes, let us.

Mr Corbell: Yes, we can deal with that one.

MS HUNTER: Are there any plans to provide training to FOI officers regarding their responsibilities under the FOI Act? We have obviously had some changes. I was wondering what is being put in place. Although it is within this financial year, there has obviously been some training system in place for new officers to the department. Could I have something on that?

Ms Byrne: We are currently looking at providing some training. We have not put anything formally into place yet but we are looking at setting up a network of FOI contact officers and some resources for those officers to inform them about the new legislation. There is already an informal network which has discussed and has been made aware of the amendments.

THE CHAIR: Sorry, I got myself distracted with the talk about building. I want to go back to the ACAT, if I could, Minister. To what extent was the ACAT up and operating on 2 February in relation to forms, procedures and those sorts of things?

Mr Corbell: All of those elements were in place prior to the commencement.

THE CHAIR: I saw a whole of government notice that went out that said that forms were not available and that the existing forms could be used until some date in the future—I think 30 March or 30 June. What happened with the development of a sort of omnibus form?

Ms Leon: Procedures were in place to ensure that people who already had the old forms were not going to be disadvantaged by continuing to use those, but I will ask Helen Child, the Courts Administrator, to provide you with some more detail.

Ms Child: From my understanding, all the forms that were required for the implementation of the Civil and Administrative Tribunal were ready by 2 February. The regulations were all ready and notified. As to the crossover period between people who had commenced using old forms and new forms, I am happy to take it on notice and ensure that I get back to you in relation to which transitional forms are currently in use.

THE CHAIR: Could you provide the committee with a copy of the forms for the new

ACAT.

Ms Leon: Yes.

THE CHAIR: Is it an omnibus form or are there a variety of forms depending on the purpose for which you are going to ACAT?

Ms Leon: There is a variety of forms.

Mr Corbell: I just want to make the point that there was a transition period. The tribunals in their previous form continued up until the date of the new tribunal. So people could continue to lodge matters for consideration right up until the day of the commencement of the new tribunal, using the forms established by the previous separate and diverse tribunals. There needed to be a mechanism by which those forms could still be acknowledged and utilised by practitioners and others but then also a mechanism put in place for new forms from the commencement of the tribunal. So there was necessarily going to be a period of overlap. Given matters being notified but not yet heard and notified with the old tribunal but heard by the new tribunal, there needed to be a process that took that into account.

THE CHAIR: So there were new forms in operation on 2 February?

Mr Corbell: That is my understanding.

Ms Leon: Yes.

THE CHAIR: A full suite of forms?

Ms Leon: Yes.

THE CHAIR: And they would be available to the committee?

Ms Leon: Yes.

THE CHAIR: Has the tribunal fully commenced operation?

Mr Corbell: Yes.

THE CHAIR: Are there any boards, committees, tribunals that are phasing into the process? I have in my mind—

Mr Corbell: No.

THE CHAIR: that the Liquor Licensing Board was having a—

Mr Corbell: No. All of the previous tribunals such as liquor licensing and others have been consolidated into the Civil and Administrative Tribunal. Their functions have been consolidated into the new tribunal so there are no outstanding functions, if you like, yet to be phased in. The tribunal has all the members it needs to undertake those functions. The only decision that is outstanding is one that government needs to make

as to the appointment of some members as senior members of the tribunal. The presidential members and ordinary members have all been appointed but the government will be taking some decisions about whether some existing ordinary members should be appointed as senior members. All of the personnel that we envisage being on the tribunal are effectively on the tribunal now.

THE CHAIR: Okay. It has been put to me that, as a result of the ACAT and the remuneration determinations, some members who served on tribunals have had a change in their remuneration. Is that the case?

Mr Corbell: A very small number of members who were previously members of the AAT have had a change to their remuneration and that is a result of a decision by the Remuneration Tribunal itself. It may have been all members of the AAT, but certainly members who were members of the AAT had certain remuneration entitlements that have not flowed on, given the change in operation and the workload expectations of those members in the new structure. The Remuneration Tribunal has made a determination based on its assessment of what is the appropriate level of remuneration.

THE CHAIR: Are there people who, in the process of translating from the various pre-existing tribunals and boards to the ACAT, would have had their remuneration increase?

Mr Corbell: Increase?

THE CHAIR: Yes.

Ms Leon: There are some members who were not paid at all before, Mrs Dunne, so they certainly have had an increase.

THE CHAIR: Yes. I am not being censorious; I am just seeking information. So some people will have had a change in their remuneration?

Mr Corbell: In some instances, yes.

THE CHAIR: I know that there is an awfully large number of individual people, and I do not want to know on an individual basis, but would it be possible to provide that in some sort of tabular form: this is what members received previously and this is what they are receiving now?

Ms Leon: We can provide the pay rates that were previously determined for different categories of member and we can provide the pay rates that now apply to different categories of member.

THE CHAIR: That would be most helpful. Thanks.

MS PORTER: Page 82 mentions the department's learning and development policy focusing on a policy to enhance employee capabilities. I was just wondering how that has been going. Are we were able to learn of the results of the survey mentioned on page 83, the last dot point, where it talks about a training needs survey being conducted to assist the business units in identifying training priorities.

Ms Leon: I can make some general comments now, Ms Porter, and I am happy to provide further information on notice.

MS PORTER: Thank you.

Ms Leon: The training and development team within the department surveyed all of the business units to ascertain what their core needs were and what their capability development needs were. On the basis of that survey and by looking at the priorities and the workforce planning for the department as a whole, we have developed a whole of department training program that covers a very broad range of what we call generic skills that could be used by people across the department. They are in areas such as project management, supervision skills, working in teams, developing policy—a whole suite of programs of that sort. In addition to that training, individual business units that have specialist skills that they need to train in still conduct their own training and development.

The uptake on the whole of department training and development initiative has been extremely positive. The courses are regularly fully booked. They are also the subject of evaluation after each course so that the calendar can be updated and refined as needed. A recent survey of staff indicated that a significant number of staff thought that it was the best thing that had happened in the department for the whole year so it has been very well received.

MS PORTER: That is very good. Thank you very much.

MS HUNTER: Page 112 talks about the collaborative study that is being done with the ANU through a linkages grant. I am just wondering about the progress on that Human Rights Act study.

Ms Leon: We have a partnership agreement with the ANU under an Australian Research Council linkage grant in which we provide industry partnership to them in the sense of providing in-kind support to their work and they undertake research on the operation of the act. They have completed their study, I believe; I am just not sure whether they have released it publicly as yet. I am happy to take that on notice for you and provide it if they have.

MS HUNTER: Thank you.

THE CHAIR: Could I go back to the Government Solicitor's Office? There may be some change in what we are measuring but just looking at the table there seems to be a substantial drop-off in the number of opinions over time. Could someone explain that for me.

Mr Garrisson: The decline in opinions has been gradual over a period of time. It reflects a number of things: first, the trend for the requests for advice to be more complex and thus taking up a greater period of time to complete. It is also linked to the improvement measures that we have been putting in place with the relevant departments for the way they ask for advice. We have protocols in place with a number of departments so that it goes through an internal filtering process before it

comes to us.

THE CHAIR: So they really need to ask for it before it gets to you?

Mr Garrison: Yes. It means that the agencies themselves subject their questions to greater internal scrutiny and they sometimes work out that maybe something is a policy issue and they do not need legal advice after all. It is also a matter of balancing the other resourcing demands on the office, particularly in relation to major litigation. But overall the level of work has remained constant, if not increasing. As I said initially, even though the number has gone down, the complexity of most of what we are being asked to do has increased quite significantly.

THE CHAIR: I notice that you have ceased doing conveyancing. I am surprised that you do conveyances anyhow. Can you explain that?

Mr Garrison: Yes, certainly. Historically the Government Solicitor did the conveyancing for ACT Housing and then there were good strategic reasons for doing that because it was linked to a number of policy initiatives that housing was implementing. We then also were undertaking conveyancing for the Land Development Agency when it commenced its major greenfield developments in residential housing.

As part of the normal process of looking at the efficient allocation of resources, I had to decide on questions of, "What is the risk to government?" Both of those agencies were paying us for the services that we provided. They were relatively low risk. There were a number of obviously quite competent law firms of various sizes who were able to do that work. After consultation with those agencies, I ceased doing that work and deployed my resources elsewhere in the office to more closely align them with the government's core business.

THE CHAIR: Like recovering revenue and saving revenue. The saving revenue especially looks to have been particularly useful in the last financial year.

Mr Garrison: Certainly my lawyers have said that they have saved in particular matters when we have achieved either a particular judgement at a particular level or a settlement of a matter as against the original estimates that were made of the territory's liability in those matters.

THE CHAIR: Okay, thanks.

MS HUNTER: On page 180 of the annual report there is a note from the Essential Services Consumer Council that they were concerned that once they were merged into the ACAT there would be little or no community voice on utilities issues in the ACT; they felt that they did play a bit of a role in advocacy in that area. One of the things they put forward was to urge that a utilities advocacy position be funded in an appropriate ACT community agency. I guess my question would be around whether that is being considered.

Mr Corbell: I might need to take that question on notice, Ms Hunter, but my understanding, because I recall this matter being raised by the chair of the council

with me at the time, is that there was envisaged to be no change to the ability of the council or its replacement; there would be no change as a result of the transfer to ACAT; it would still continue to perform those functions. As I understand it, that is the case. So it is still able to do that, obviously now under the name and the function of the tribunal. When the tribunal is performing its functions in relation to essential services and review of decisions around essential service provision, it is still able to make comment to the relevant minister on systemic issues that it believes need to be addressed.

MS HUNTER: So your feeling is that you are confident that will continue?

Mr Corbell: Yes, the members performing that function within the ACAT still have the ability when they are performing that function to raise those matters, systemic issues, with the government of the day. So I do not believe there is any diminution of their capability at all.

THE CHAIR: So I suppose when you are taking that on notice—

Mr Corbell: I will confirm that but that is my understanding. The government did not make any substantive changes in the legislation with regard to that.

THE CHAIR: In answering the question, it might be interesting to reflect on the fact that Mr Sutherland, as the chairman of the essential services council, has expressed this in the annual report which is dated 1 September. So, if your conversations with the chairman pre or postdated the time that he expressed those concerns, if he were part of the answer that might be helpful.

Mr Corbell: Initially, there was some reluctance on the part of the Essential Services Consumer Council to be incorporated into the ACAT, for this reason and a number of other reasons. But those issues were worked through and the undertaking that government gave to this council—and indeed to a range of other tribunals—was that their functions would continue and their powers would continue. The purpose of establishing ACAT was not to diminish the powers of tribunals or other bodies as they then stood; it was to consolidate their functions for the purposes of better utilisation of resources, common access, common support, resourcing and so on—not to diminish their powers.

Ms Leon: Mrs Dunne, returning to the question that was asked a moment ago about the human rights report, I have since been advised that the ANU's final report is due to be released in April this year and that they did release a document in January that contained some of their findings as a preliminary to the release of that final report due in April.

THE CHAIR: I want to go to page 24 and look at parliamentary counsel for a while. First, I would like to compliment PCO on the work that they do for me as opposed—

Ms Leon: Madam Chair, if you are amenable to this, I might have the parliamentary counsel summoned. He might take 10 minutes to get here. We could perhaps move on to another matter while he is making his way over.

THE CHAIR: I might put my questions on notice rather than have them scurry across Civic for only a few questions. I just assumed that he is here; I should have looked. I will put them on notice unless Meredith has substantive questions.

MS HUNTER: I have some supps from the previous question, continuing on with essential services.

THE CHAIR: Sorry, I got distracted. Ms Leon, thank you for the offer but I will put those questions on notice rather than have somebody run across town. We will go back to essential services.

MS HUNTER: At about page 202, it talks about complaints—that there were a large number of complaints against ActewAGL. This came through the essential services committee. There was some concern expressed in the report about the introduction of retail contestability in the electricity market and so on. There are a number of comments they make around these areas. But going to the complaints, there were a large number of complaints against ActewAGL. I am wondering if this figure represents the true number of complaints or if it is an underestimation due to the failure to record complaints as discussed on page 198 of your annual report.

Mr Corbell: The first thing I would say is that it would not be surprising if there were a large number of complaints against ActewAGL compared to other utility providers—

MS HUNTER: Because there are very few others.

Mr Corbell: Simply because they are the dominant provider.

MS HUNTER: But even so there are a large number of complaints.

Mr Corbell: Over 90 per cent of all domestic customers, household customers, in the ACT would be with ActewAGL.

MS HUNTER: Certainly; I take that on board. But there are still complaints.

Mr Corbell: Yes.

MS HUNTER: And there is a comment made around that on page 198.

Mr Corbell: Yes. In relation to the specifics of your question, we would need to ask the council itself to give some analysis of that. We would need to take that on notice.

MS HUNTER: Okay.

Mr Corbell: It is important to stress that they are the dominant provider in the territory. Even though it is a contestable market, they do retain the overwhelming lion's share of the domestic market in particular.

THE CHAIR: Yes, but it is interesting that the council has singled out one provider, so probably that does need to be looked into.

Mr Corbell: Sure. As I say, I am happy to take that question on notice and provide some more advice to the committee.

THE CHAIR: Anything more on the essential services council?

MS HUNTER: Just a comment on the WEST scheme. That was a great innovation; some congratulations are due there. It does seem to have had good outcomes around changing behaviour around those sorts of energy efficiency measures. Do you think that the experience you have gained could or should be applied on a wider scale to other households—which may not be ones that are disadvantaged households, for instance—as part of an emissions lowering strategy?

Mr Corbell: I can answer that more wearing my other portfolio hat, but the answer would be that yes, we certainly can take the learnings from that scheme, and we do. It does help inform the delivery of other schemes, for example the “switch your thinking” scheme, which is provided by the environment, climate change, energy and water department. That “switch your thinking” scheme currently provides a range of home energy audits which are not dissimilar to the audits undertaken by WEST in terms of identifying issues for householders who are not low income and not in public housing or subsidised rental accommodation and so on, but who are home owners in their own right.

That program gives them advice on how they can reduce air leakage, improve insulation around windows and take all of those very straightforward measures which are similar to the matters addressed in WEST. The people who assist in the development of both of those schemes are the same people—organisations such as Energy Strategies and others—that have given advice to the government on both of those schemes.

MS HUNTER: I have one more question about privacy. On page 207, still with the essential services committee, there was a problem identified about the lack of privacy when talking to clients. This strikes me as something that needs addressing. Has this issue been resolved? What kind of response has there been when raising this issue? Are we moving on it?

Mr Corbell: Yes.

MS HUNTER: There is obviously some issue around being able to have space to have a private conversation.

Mr Corbell: This relates to the accommodation for the new ACAT.

MS HUNTER: The accommodation issue, yes.

Mr Corbell: One of the issues that have been identified is the need to provide private interview rooms and so on for a range of functions. Those matters, as I understand it, have been addressed in the design of the new ACAT accommodation.

Ms Leon: That is correct. Also, in their current accommodation, which is temporary

accommodation pending the establishment of the ACAT accommodation, they have a private room for conversations with clients about their personal circumstances.

MS HUNTER: Thank you.

THE CHAIR: Have you got more questions?

MS PORTER: Yes, but it is going back—and I apologise—to the training issue. It is page 113. I note that the department is committed to adopting the themes of the ACT multicultural strategy. It talks there about cultural awareness training. I wondered about the take-up of that. I know that that was not supposed to be an exhaustive list of training that you mentioned. I just wondered—you might need to take this on notice—about these particular ones around Indigenous cultural obligations and other cultural obligations—about the take-up of that by staff and what effect that has had.

Ms Leon: I would need to take on notice the number of staff who have attended those, but I am happy to provide that for you.

MS PORTER: Thank you very much. While we are on the subject of my going backwards in my questions, minister, I meant to ask a question with regard to the Ngambra Circle Sentencing Court, page 114, when I was dealing with the other matters with regard to RJ and Aboriginal justice. I was wondering if you could give us some information about what you see as the outcomes of that court and the satisfaction levels. I apologise for going back.

Ms Leon: I might need to take that on notice. We have done a recent review of the circle sentencing court and its procedures which will have generated quite a bit of data about the numbers of people who have been heard before the court and the outcomes, but I would need to take that on notice to provide you with the detail.

MS PORTER: Thank you very much for that.

THE CHAIR: I would like to go to regulatory services for seniors. Are there general questions that other members want to ask?

MS PORTER: That is fine.

THE CHAIR: It starts on page 31. Minister, there are a number of issues that have arisen since I have taken up responsibility for these matters that all seem to go to regulatory services. Often it does not matter which agency you ask; they say, “No, you need to talk to regulatory services about that.” It is a very wide, overarching organisation. Before sort of getting into some detailed questioning, can I say—it is about two years since—

Mr Corbell: In 2006 the decision was taken to establish ORS.

THE CHAIR: That is more than two years. How long since it has been fully operational?

Ms Leon: It went fully operational immediately. Obviously, the bedding down

process of integrating systems and so on has been an ongoing process over that time.

THE CHAIR: One of the issues is the choice of location for ORS in terms of convenience. It has been put to me by constituents that it is increasingly difficult to acquire routine documentation like copies of birth certificates or to register a birth. I know that the registrar of births, deaths and marriages had to move out of its previous location, but moving to Fyshwick is a problem. There is the classic case of a new mum who does not necessarily have transport: it is difficult to register a birth. What consideration was given to the location of the office, having in mind the level of public traffic—members of the public having access to it.

Mr Corbell: One of the issues in relation to the previous location, particularly for the registrar of births, deaths and marriages, was that in Civic short-term parking was extremely constrained. In that location, there were a significant number of complaints about getting short-term parking for people who needed to visit simply to undertake a transaction with that office. That was combined with the fact that the government took a decision in 2006 that it would seek to better utilise its existing accommodation—that is, accommodation that it owned—rather than continue to have a large number of government functions in rental accommodation.

We sought to rationalise that. Obviously, the government still has rental accommodation arrangements, but wherever possible it was decided to try and utilise existing government owned accommodation. Canberra Avenue was identified as a suitable location for the functions of ORS—not all the functions of ORS but a significant part of the functions of ORS. That has been done.

Obviously, the parking is much better at Canberra Avenue; the downside is that public transport access is not as good. That is acknowledged. The office has changed its opening hours in response to client demand in terms of when people are making the journeys to that location in Canberra Avenue. So there have been some adjustments to opening hours to take account of that. But parking is improved at the Canberra Avenue location.

Danielle Krajina might be able to give you some further information about what information you are able to get from ORS without needing to actually visit. There are a range of transactions that I know are available online, so you do not necessarily need to physically visit to undertake a number of transactions. I will ask Ms Krajina if she can outline that for you.

Ms Krajina: In relation specifically to births, deaths and marriages, people can actually send documentation in through the mail and certificates can be posted out through the mail. We also have an online service so that people can actually apply over the internet for birth, death, marriage and change-of-name certificates that are already in the register. Actually, in relation to the registration of events, we do accept transactions over the counter and through the mail so that people do not necessarily have to come out to Fyshwick to actually do business in relation to that particular area. We know our land titles clients have found it somewhat difficult at times to get to the office.

THE CHAIR: There have been complaints about that.

Ms Krajina: However, we now have online land titles searching. That has reduced the necessity for people to come out to the office as well. We have found, though—and we have conducted a number of surveys—that the satisfaction rate with the location actually is extremely good. We received very little complaint about the accessibility there. I think it is more because the parking is free, people can park right out the front of the office and they have immediate access to the services. Over the last two years, yes, the level of dissatisfaction seems to have diminished.

THE CHAIR: Actually you moved onto the next point about the location; you have anticipated that. It has been put to me that, especially doing conveyancing, settlements and things like that, has increased the degree of difficulty.

Mr Corbell: The law firms do not like it because, obviously, many of the law firms are located in the city.

THE CHAIR: And the Revenue Office is located in Civic, yes.

Mr Corbell: And it was convenient to be able to walk. Now they have to make a journey. But I do not see that as a fundamental problem.

THE CHAIR: The point has been put to me by law firms who do this sort of business that the staff who were doing that were going to the land titles office and the Revenue Office, which were pretty much approximate, in one journey; and now there are a number of journeys and you do then actually have to put somebody in a car to go and do a job which a junior office person was often doing on foot. It adds to the cost, not to mention the greenhouse gas emissions et cetera.

Mr Corbell: Sure.

THE CHAIR: When the land title office was moved there, what consultation was conducted with the major players, the major users? They are principally conveyancing people who do a lot of conveyancing. I suspect they would be your major users of the land title office.

Ms Krajina: Certainly. There were considerable discussions undertaken with the Law Society and the banking or financial institutions. As it happened, Fyshwick was an available accommodation area. There was no other available accommodation in the city area and that was a government decision at that time.

THE CHAIR: And you are saying that the satisfaction levels have improved over the period of—

Ms Krajina: They certainly have. We have conducted surveys over the last 2½ years and there is a demonstrated increase in the level of satisfaction with the location.

THE CHAIR: From what to what?

Ms Krajina: When we originally moved out there we were getting a lot. I would say probably one in 10 people were complaining about the location. We are lucky if we

get maybe one in a 150 people complain.

THE CHAIR: Have you got data on that?

Ms Krajina: We do.

THE CHAIR: Could you provide that to the committee, please?

Ms Krajina: I certainly could.

THE CHAIR: Thank you.

Mr Corbell: I should add that I think the work that the staff of ORS have done over the past few years has been outstanding. It has been an enormous task to bring that government decision to fruition and make it work.

THE CHAIR: Without a doubt.

Mr Corbell: The consolidation of so many varied and sometimes very complex regulatory functions has not been easy and it would not have been possible without the very hard work of all of the staff at ORS. They really have embraced the concept and worked to promote it effectively to the community and I think we are now starting to see the benefits that underpinned the thinking on the original decision, which is basically a one-stop shop for most government regulatory activity. I think that is starting to bear its weight and deliver results for us.

THE CHAIR: There is no doubt that you did bring together a number of complex organisations. Do other members have questions on ORS?

MS HUNTER: I did. It was digging into some of the detail on fireworks. At table 9 on page 32, just before the inquiries part, it talks about “registered applications for consumer fireworks” of 364. Whom does that actually relate to? Is that your average consumer walking into a fireworks shop to purchase them or is that the people who are selling fireworks around the city? I wanted to clarify that.

Mr Corbell: Could you clarify your question? I am just a bit unclear.

MS HUNTER: To clarify, it says “registered applications for consumer fireworks”. What I am trying to understand is—

Ms Leon: Where is it?

MS HUNTER: It is at table 9, page 32. It says that there were 364.

Ms Krajina: Sorry about that. We have just had confirmation that it is the actual licensing of the individual fireworks, the individual items, the different types of products that can be licensed for sale.

MS HUNTER: They are checked to ensure that they fit within a certain criterion?

Ms Krajina: That is right.

Mr Corbell: Each type of firework needs to be approved.

MS HUNTER: Obviously with the system in the ACT, when you go in as a citizen to buy fireworks, you do need to fill out a form.

Ms Krajina: That is right; it is a permit.

MS HUNTER: Is that collected? Do we keep the numbers?

Ms Krajina: We certainly do. At the end of the fireworks period, all of those books are returned to the Office of Regulatory Services and an audit is undertaken. We get all of that information back into the office.

THE CHAIR: What do you audit out of those books?

Ms Krajina: That they have been completed in accordance with the legislation so that the licensees who are actually selling the products are checking for proof of identity; so that they are not selling to people under the age of 18; so that the people who are purchasing live in the ACT. There are a range of criteria that are checked off during that audit process.

MS HUNTER: You do have to prove you are a resident of the ACT?

Ms Krajina: Yes.

MS HUNTER: That is quite interesting. I think a lot do go across the border but there you go.

Mr Corbell: I think the difficulty is that they may be purchased by people who are resident in the ACT.

MS HUNTER: Absolutely. I understand that issue.

Ms Leon: They may have friends.

MS HUNTER: I understand the issue.

Ms Leon: I have been told that there were over 18,000 sales of fireworks in 2008.

MS HUNTER: Thank you. You speak on page 33 about further analysis of the 2008 fireworks season as being undertaken to determine the number of sales and amount of fireworks sold, for which we have just heard the number. I guess looking at that analysis will determine whether infringement notices will be issued or any cases referred. Was this referring to these complaints in the previous paragraph? What is being talked about there?

Ms Krajina: I think many of the infringements related to incomplete documentation.

MS HUNTER: That was the fireworks sellers who were not doing the right thing in filling out their paperwork?

Ms Krajina: That is right.

Mr Corbell: The advice I have on this is that in 2008 the audit of the receipts from fireworks retailers highlighted 315 errors or an error rate of 1.73 per cent. That was down from the previous year, where the error rate was in the order of 3.26 per cent. The types of errors were things such as no evidence of date of birth, no licence number, no customer signature, some sales to people under the age of 18. I am advised that, in relation to the 2008 period, no infringement notices were issued for these errors and no matters were referred to the DPP.

MS HUNTER: What is the situation if a fireworks vendor does breach the rules? What is the penalty that is applied?

Mr Corbell: I think we need to take that on notice. The penalties are under the relevant act, the dangerous goods act. We can provide you with that. There will be a range of offences and penalties associated with that.

MS HUNTER: Thank you.

THE CHAIR: So somebody physically audits 18,000 different chits, is that what you are saying?

Ms Krajina: No, we would not audit all of the books that come in but there certainly is a percentage that is reviewed and then reported on.

THE CHAIR: So the figures that the minister just quoted about the compliance rate were on the basis of a sample?

Ms Leon: That would be the normal work practice when we audit any aspect of our operations; we take a representative sample.

Ms Leon: Ms Krajina may have some more information.

Ms Krajina: I am sorry, we do audit every single book.

THE CHAIR: I would like to move on to something—

MS PORTER: In the same area?

THE CHAIR: In the same area, yes. There were reports in the newspaper four or six weeks ago in relation to unrecovered fines. I have asked questions on notice about this, but the answer has not come back yet. I would like to understand how we get to the situation where we have such a large number of outstanding fines, given that there are provisions for stopping people's registration and licence and things like that. How do we get to that?

Mr Corbell: This is not a matter that is strictly dealt with by ORS. It is dealt with by

the courts, and Territory and Municipal Services is responsible for transport regulation. Generally speaking, the issue comes about because—yes, there are powers for people's right to drive to be suspended, for their driver's licence to be suspended and for their vehicle registration to be suspended or cancelled. What you would have seen from that data that the government made available in that media report was that, in many instances, the outstanding fines relate to people who have had those sanctions applied against them and still refuse to pay the fine. The issue then is: what mechanisms can be taken to take further enforcement action?

At the moment, the enforcement action that is available requires taking the matter to court and basically seizing property or requiring the person to serve a term of imprisonment. There can be difficulty in identifying people who continue to drive unlicensed or unregistered as a result of their failure to pay outstanding fines.

There are new avenues available to the police to detect people who are driving unlicensed and unregistered. The use of what is known as rapid camera technology allows the police to scan—in real time, in a very high volume way—number plates as they drive past a monitoring vehicle; cross-match that information with databases on issues which include but are not exclusively outstanding fines—they might be warrants; they might be other matters—and then pull those vehicles over about 100 to 200 metres down the road.

That technology is now available to ACT Policing. They are utilising that technology and they are detecting a large number of people who are driving unregistered and unlicensed through the use of that technology. Obviously then they are facing further sanction because of their decision to drive whilst they are unlicensed or unregistered.

As I understand it, there are some issues in relation to enforcement in these circumstances. And I am told by police that there are some clever tactics used by some people to avoid enforcement action in court. Those are matters that will need to be considered further.

The government is looking at the current regime for dealing with outstanding fines and is doing some work on modernising the penalty regime so as to provide an alternative to imprisonment and a greater variety of options for people to pay. It is important to remember that if people do go to court, usually entering into a payment plan will be sufficient to deal with the matter. The courts adopt a very tolerant approach, looking at people's income and so on, in determining what is an appropriate payment plan.

But we are keen to try and provide a greater range of options to our courts that avoids the need to send people to prison. As a principle, I do not believe that it is appropriate that, just because you have outstanding fines of this nature, you should ultimately face having to go to prison to serve out that fine. So a range of new—

THE CHAIR: It looks like a double cost to the community.

Mr Corbell: Indeed. So a range of new options are being developed by my department at this time.

THE CHAIR: The fine default scheme in relation to forfeiting of registration and licence was developed as an alternative to sentencing people.

Mr Corbell: Yes.

THE CHAIR: In addition to that, what are you looking at?

Mr Corbell: The difficulty is that a lot of people just ignore it. Their licence might be cancelled, but they still drive. Their vehicle might be unregistered, but they still drive. Obviously, that is dangerous and risky behaviour, particularly if they are involved in an accident, but people do it.

THE CHAIR: Within your jurisdiction, your area of responsibility, is there follow-up on this?

Mr Corbell: There is a whole-of-government approach being adopted to identify new mechanisms and refreshed approaches to dealing with debt recovery. Obviously, this particular area is one of significant interest to the government, given its size. It is not a matter that strictly is entirely within my portfolio; it is more a matter for Territory and Municipal Services. They are responsible for the relevant provisions in road transport regulation.

THE CHAIR: So what is the role of regulatory services in this instance?

Mr Corbell: There is no role for regulatory services. There is a role for my department in terms of policy setting, particularly in relation to the courts, but enforcement of the fine itself is a matter for—

THE CHAIR: But your officers issue the fine.

Ms Leon: No, only parking.

Mr Corbell: No; parking officers do.

THE CHAIR: Parking officers issue the fine.

Mr Corbell: Under road transport legislation.

THE CHAIR: But you are not responsible for the enforcement of the fine?

Mr Corbell: That is correct.

THE CHAIR: If I, as I have been wont to do, have to write and say that I should not have got this parking fine, I write to regulatory services.

Ms Leon: That is right. There is a parking review office within regulatory services that can—

THE CHAIR: Okay.

Mr Corbell: They administer the legislation in that respect, but further enforcement—

THE CHAIR: I might note that it was a parking fine for parking in my designated spot outside.

Mr Corbell: You have no idea how many of them I get.

Ms Leon: I am glad to hear our officers are so vigilant.

THE CHAIR: I was not. So the regime of parking fines is issued but not enforced by regulatory services?

Mr Corbell: It is enforced in the first instance. In the first instance, parking regulations are enforced by parking operations, which are part of the Office of Regulatory Services. They enforce the parking regulations in car parks and so on, and they issue fines and reminder notices accordingly. But if you fail to pay, I assume that at that point it is referred to the court.

THE CHAIR: What is the step between failure to pay and having your driver's licence or your motor vehicle registration suspended?

Ms Leon: We might have Ms Krajina come to the table for some more detail.

Ms Krajina: It is suspended, which is an automatic process, and they can either pay or go to court. They will be notified in writing of their options.

THE CHAIR: Okay.

Mr Corbell: Obviously, if someone is driving suspended, it is a matter for enforcement action by the police, for example.

THE CHAIR: Are the police notified?

Mr Corbell: Police have access to a database of people who are suspended.

Ms Leon: That is through TAMS. When someone's licence or registration is suspended, that action is recorded on a Territory and Municipal Services database, and the police have access to that database.

THE CHAIR: Who physically records that action? Regulatory services or TAMS?

Ms Krajina: We just notify TAMS in writing.

THE CHAIR: You notify TAMS that the fine has not been paid?

Ms Krajina: That is right.

Ms Leon: Then TAMS takes action in its own portfolio to suspend the person's registration or licence.

THE CHAIR: It seems to be complex.

MS PORTER: I want to ask the minister a question. I believe the retirement village industry is under the Fair Trading Act. Is that right?

Mr Corbell: Yes.

MS PORTER: I was looking at page 37 and all the different things that are licensed. Would they be normally listed there? Do they have a listing anywhere?

Mr Corbell: There is no requirement.

MS PORTER: There is no requirement to have them—

Mr Corbell: We do not regulate operators of retirement premises at all. They are regulated largely under commonwealth licensing arrangements. We have a code of practice that relates to how operators of retirement villages and nursing homes interact with their customers—the residents. But that is a code of practice—a level of consumer protection embodied in the code of practice. The actual regulation of who can operate a nursing home and—

MS PORTER: No, retirement village.

Mr Corbell: Or a retirement village. If it is a nursing home or retirement village that is in receipt of commonwealth government funding, it would be licensed or regulated by the commonwealth.

MS PORTER: If they are a stand-alone retirement village which is not—

Mr Corbell: If it is in receipt of some level of commonwealth funding, it would be licensed by the commonwealth.

MS PORTER: If a person makes a complaint under the code, would that be listed under these consumer complaints that are on page 32? Would that be where it would occur?

Mr Corbell: I will seek some advice on that.

MS HUNTER: While that is being sought, I have a supplementary to that. What happens if someone does breach that code of practice?

Mr Corbell: If there is a complaint made where someone believes the code of practice has been breached, officers from ORS will investigate that allegation. It will normally involve interviews or meetings with both the complainant and the operator of the facility. Through that process, officials will endeavour to get a mutually agreed finalisation of that matter between the complainant and the operator.

The code of practice is just that. I do not believe that there are formal statutory sanctions for breaches. It is more designed to encourage appropriate conduct. It is, I

guess, a light touch regulation; that would perhaps be the best way to describe it in this area. Certainly in the instances that I am aware of, most complaints are resolved satisfactorily simply through the intervention of officials from ORS. They will explain to the operator, for example, what their obligations are under the code.

In most instances, the operators will say that either it was a legitimate error or they were not aware of that particular aspect of the code. They are reminded of their obligations and they take steps to rectify the situation. Equally, residents of facilities have the opportunity to talk to officials to understand what the code does and does not cover, and officials can seek to mediate residents' problems with the management of the facility.

Mr Phillips: The minister is pretty well spot-on there. The code is under the fair trading legislation and it deals predominantly with financial matters between residents and administrators. The course of action is a light touch. The course of action, if there were an aberrant operator, would be to seek an order in the Magistrates Court to have them comply with the code. So the actual regulation is quite light on.

MS HUNTER: There are a lot of people who are in that situation, very vulnerable aged people in nursing homes and so forth, who may feel quite uncomfortable about sitting in a room with the operator of the organisation and making a complaint.

Mr Corbell: They would not be in that situation.

MS HUNTER: They would not be put in that situation?

Mr Corbell: No, absolutely not.

MS HUNTER: I am wondering how you work through that.

Mr Phillips: What happens is that when we get complaints in relation to retirement villages—and there are a couple of different complaints you can get—in relation to the setting of fees per year, the code requires me to refer that to an accountant for audit purposes. Then there is an independent arbiter appointed who will meet with the residents, meet with the retirement village and then will set the fees.

Then there are complaints that relate perhaps to the conditions of the initial contract and allegations that they are not being complied with by the administration of retirement villages for whatever purpose. What we then in that case tend to do would be to sit down and meet with the residents, initially keep the situation anonymous as much as we can. One of the problems we have is that sometimes retirement villages do not talk to us unless we have authority from particular residents in relation to dealing with the retirement villages but we tend to keep the complainers from the administration as much as we can.

THE CHAIR: Thank you. Have we finished on codes of practice?

MS PORTER: Yes.

THE CHAIR: I would like to touch on some issues that relate to regulatory services.

They relate to regulation of the brothel and escort industry. I notice that there are 30 licences. I presume they are 30 licences registered or renewed in the period. That is for premises. Is there a licensing arrangement for practitioners?

Mr Phillips: There are licensing arrangements for sole practitioners.

THE CHAIR: How does that licensing arrangement work?

Mr Phillips: It is a simple arrangement whereby the sole practitioner simply fills out the forms, fills out the requirements, provides the relevant application fee with the application form to ORS and is put forward on a register. It is more of a registration requirement.

THE CHAIR: When they are registered, do they get a registration number?

Mr Phillips: No, not per se. They do not get identifiers that they would need to identify with.

THE CHAIR: If you are a motor vehicle reseller, you get a registration number.

Mr Phillips: Or if you are a taxi driver or a security agent.

THE CHAIR: Is there any particular reason why they do not get an identifier?

Mr Phillips: It is simply a registration system rather than a licensing system.

THE CHAIR: What does the registration system simply aim to do?

Mr Phillips: The purpose of the registration system is simply to have a system where we know where the sole practitioners are. We know that sole practitioners who are registered under the scheme are on the system and on the books so that we know where and who are the sole practitioners in the ACT.

THE CHAIR: If someone was working out of a registered brothel, do they need to be registered as a sole practitioner?

Mr Phillips: No.

THE CHAIR: So only people who are operating by themselves need to register?

Mr Phillips: That is correct.

THE CHAIR: So not everybody who is working in the brothel and escort industry in the ACT is registered?

Mr Phillips: That is correct.

THE CHAIR: So you do not know who everybody is?

Mr Phillips: That is correct.

THE CHAIR: This is one of the areas of some complexity as far as I am concerned, minister. Who is responsible for health checks for people who work in the brothel and escort industry?

Mr Phillips: In relation to those people that work in brothels, there is a code of practice under the occ health and safety act which deals with brothels. But the responsibility also in relation to the HIV side of the Prostitution Act rests with ACT Health.

THE CHAIR: What is the role of regulatory services in relation to the operation of any aspect of the brothel and escort industry in the ACT?

Mr Phillips: In relation to the business and licensing side, the Office of Regulatory Services keeps a register of brothels, keeps a register of sole operators. When there is evidence of criminal activity, when we get complaints in relation to, for example, operators working in a particular neighbourhood, allegations of not being registered, those matters are referred to the police for activity. Where we get allegations or if we get complaints or inquiries of operators acting outside the law, those matters are customarily referred to the police.

THE CHAIR: How do you come across allegations of the law having been broken?

Mr Corbell: People make complaints.

Mr Phillips: People make complaints.

THE CHAIR: Do you have any inspectorate role?

Mr Phillips: In relation to registration, we have no inspectorate role.

Mr Corbell: Inspectorate functions are largely the responsibility of WorkCover.

Mr Phillips: Yes, we have an occ health and safety inspectorate.

Mr Corbell: WorkCover would have responsibility in relation to codes of practice. WorkCover is part of ORS, so workplace inspectors would have a role in terms of enforcement of the code of practice under the Occupational Health and Safety Act, and the police would have a role obviously.

THE CHAIR: And ACT Health?

Mr Corbell: To the extent that there are issues on communicable disease, ACT Health would have a role.

THE CHAIR: When you register or renew a registration of a brothel, how often does that happen?

Mr Phillips: Yearly.

THE CHAIR: These 30 registrations are registrations and renewals. What that tells me is that there are 30 operating brothels in the ACT?

Mr Phillips: Thirty operating brothels and single workers.

THE CHAIR: So that entry on page 37 includes sole traders?

Mr Phillips: Yes.

THE CHAIR: When you register these people or renew their registration, is there an inspection of their premises, especially if they are a premises?

Mr Phillips: There are no inspections of the brothel premises per se.

Mr Corbell: As a condition of registration.

Mr Phillips: As a condition of registration. The conditions of registration are that the proprietors of the brothels provide, effectively, good character checks in relation to police checks and past records.

MS HUNTER: You were saying that the code of practice links in different parts to legislation, so part of it would be on health. There was another one that was mentioned just then. Is that how that code of practice—

Mr Phillips: The code of practice is under the occ health and safety legislation. It deals effectively with the working conditions in brothels, so it deals with the change of bed linen, the provision of safety statements on the walls and whether the carpet is properly laid and various things like that. It deals with the physical conditions, to make sure the occ health and safety aspects of the premises—

Mr Corbell: I think it is important to understand—

MS HUNTER: That is part of the code of practice?

Mr Phillips: Yes.

Mr Corbell: It is probably important to step back and understand the framework which is operating. It is legal; it is a legal activity in the ACT; the regulatory approach is to say this is a legal activity in the ACT. The concerns should be about ensuring that the workplace is safe for both workers and clients and that issues on health are also appropriately protected. That is the regulatory framework.

We do not seek to undertake more than that. All of the regulatory approach starts with the assumption that this is a legal activity, it is a legitimate activity, and the workplace should be safe and health and safety standards should be maintained. That is the approach that is adopted.

MS HUNTER: I think the critical issue is how you ensure that happens. That would be through ensuring compliance, how often, when you have the resources you visit and, I guess, having an ongoing relationship to ensure that proprietors understand

their obligations as employers and employees understand the rights that they have as workers.

Mr Corbell: WorkCover would undertake inspections on the basis of what they believed were required. They may undertake inspections in response to complaint or they may undertake inspections proactively to ensure compliance. WorkCover have full powers available to them to do that work. Normally speaking—these have been done before—I think they have also involved Health in that to ensure that appropriate facilities and protocols are in place on control of infectious disease and those sorts of things.

MS HUNTER: Who checks to ensure the age of employees and things like residency, that they are Australian residents, those sorts of requirements? Who is in charge of ensuring that?

Mr Phillips: There is another agency in the commonwealth that does a lot of work on alleged illegal immigrants working in brothels. I think the Department of Immigration and Citizenship has a broad-scale pattern. ACT Policing, with its AFP hat on, is involved quite heavily in that sort of checking.

THE CHAIR: But who checks—

Mr Phillips: In relation to the checking of age—

Mr Corbell: The approach that is adopted is that the operator is expected to abide by their obligations under the Prostitution Act in terms of who can be employed. As is the case with many other industries, we rely on a process of criminal intelligence investigation on the part of the police if they believe there are people engaged in the industry who are under age.

THE CHAIR: Let me go back a bit. You say it is a legal activity. That is the case. But there are certain aspects which are not legal, like employing people who are not citizens.

Mr Corbell: Indeed, and those are matters for the police.

THE CHAIR: Who are under age.

Mr Corbell: Those are matters for the police.

THE CHAIR: Who are using drugs. All of those things are outside the purview of regulatory services?

Mr Corbell: Yes, those are matters for the police. Those are criminal offences and those are matters for the police.

THE CHAIR: And there is no role for regulatory services, because it was reported late last year that regulatory services in its various guises had not visited any of the brothels for about four years. That is my recollection. During that four-year period you must have renewed those registrations three or four times?

Mr Corbell: Yes.

THE CHAIR: In the process of renewing those registrations, no issues arose that caused you to—

Mr Phillips: Mrs Dunne, the Prostitution Act does not give the registrar the ability to enter premises. It is specifically clear in relation to inspectorial powers being vested in the police. The Occupational Health and Safety Act is a different piece of legislation. The two pieces of legislation do not combine to say, “Registration is predicated on occupational health and safety inspections.” There is an ability to inspect under the code of practice in relation to the condition of premises under the Occupational Health and Safety Act, but in relation to someone renewing under the Prostitution Act the law does not provide for inspections or conditional licences or registrations to be issued.

Mr Corbell: That function is performed by the police.

THE CHAIR: The Occupational Health and Safety Act—

Mr Corbell: No. Issues around if someone is under age or an illegal immigrant—obviously if it is an illegal immigrant it is a commonwealth matter and they have a range of programs in place to deal with that—are matters for the police. I have to say the police do monitor the industry quite closely. When there was some commentary in the media about this late last year I sought advice from the chief police officer on the issue. His advice to me was that the number of complaints, investigations and prosecutions has remained at a very low level for a considerable period of time. His advice to me was that the police have a very good understanding of what is occurring in the industry and a good knowledge of whether or not there is illegality occurring in the industry. The police advice to me is that they do not consider there to be any significant deficiency in the law that is hindering their ability to enforce the law in relation to this industry.

THE CHAIR: Has consideration been given to registering all practitioners rather than sole practitioners?

Mr Corbell: No.

THE CHAIR: Why not?

Mr Corbell: Because the responsibility for running a brothel is the responsibility of the brothel owner. I do not see what would be achieved by requiring people who work in a brothel to be registered. Beyond that, that is obtained by ensuring that the brothel operator is registered.

THE CHAIR: There was an incident reported in the media where someone who was under age died in a brothel.

Mr Corbell: Yes.

THE CHAIR: Apparently from using drugs. That was the reported cause of death.

There have been instances of people who had been working in the sex industry—and I do not know whether they were sole operators or working out of establishments—who had communicable diseases, and that was not dealt with for some time. It became a notorious matter in the courts. Where does the responsibility for those failures of the system lie, or is the responsibility so attenuated that nobody has responsibility?

Mr Corbell: I do not think it is a case of apportioning responsibility per se. I do not want to comment on the particulars of an individual case, except to say that those matters were appropriately and fully investigated by the police, as is their responsibility under the act. The police understand very clearly what their responsibilities are under the act. As I say, it is an industry that they keep a close handle on. Their advice to me is that they have a good understanding of what is occurring in the industry. What I would also say is that, obviously, any death is tragic and any death from the use of drugs is tragic, but it would not be the first workplace in the ACT where someone has died as a result of drug use. There are many other workplaces where that has occurred.

THE CHAIR: In response to the events that occurred last year, Mr Phillips, when you are reviewing and renewing the licence of particular brothels, will you take that into consideration?

Mr Phillips: Mrs Dunne, on the basis that action was taken against the brothel operator and the police take proceedings and there is a conviction, that would not preclude it but it would certainly be a material fact in a decision as to whether to renew a licence.

THE CHAIR: So if there is an event, we will actually—

Ms Leon: If there is a conviction.

THE CHAIR: If there is a conviction, that would be taken into account?

Mr Phillips: Yes.

THE CHAIR: If it is found that operators have people on their premises who have health issues or a sole operator has health issues that would preclude them from operating, does that mean that their licence would be suspended?

Mr Corbell: Again, if there is a breach of the law that is proven in court, that is a relevant matter for consideration, yes.

THE CHAIR: What you are saying is that it is a relevant matter, minister. Is it enough to preclude someone from having their licence renewed?

Mr Phillips: Under the Prostitution Act there are some precursors or offences that are quite serious that would indicate that licences would not be renewed or provided.

THE CHAIR: Back in 2003—this is before the development of regulatory services—WorkCover reported to Sandra Norrie’s inquiry into illegal non-citizens working in brothels that there was a noticeable incidence of drug use in ACT brothels. That was

part of the submission. There was also some discussion of illegal non-citizens and people who were operating in prostitution who were not registered as sole agents or escort agents or brothels. Has that material been updated and looked at since then? I think it was 2003.

Mr Phillips: I am not aware of the material you refer to. I am aware that in 2004-05 WorkCover undertook an audit of brothels in the ACT and found an extremely high rate of compliance with the code of practice relating to occupational health and safety measures. There was nothing in that report, as far as I am aware, that indicated any concerns with the level of drug taking.

THE CHAIR: Could the committee obtain a copy of the audit?

Mr Phillips: Certainly. It is on the website.

THE CHAIR: It is on your website.

Mr Corbell: Can I suggest also that the committee may be interested in seeing the number of charges or convictions that have occurred in relation to breaches under the relevant legislation, particularly the Prostitution Act.

THE CHAIR: We might raise that during the police—

Mr Corbell: If you like, I can arrange to make that available.

THE CHAIR: That would be handy. I am looking at the time; we should move on.

Mr Corbell: Madam Chair, I have some further information. You asked about the exercise Capital Impact. In my answer I indicated to you that was a cross-jurisdictional exercise. I have to correct that. It was not a cross-jurisdictional exercise. I was thinking of another exercise the ACT had done. Capital Impact was an exercise solely within the territory that was funded through the National Counter-Terrorism Committee's fund to the tune of \$376,000.

THE CHAIR: What was the other one, or can you not tell me?

Ms Leon: The other one is a very well publicised event.

Mr Corbell: It was a very public event.

Ms Leon: It is the commonwealth's multijurisdictional exercise.

THE CHAIR: Yes.

Mr Corbell: I forget its name.

Ms Leon: MJEX.

Mr Corbell: Yes, MJEX.

Meeting adjourned from 3.12 to 4.01 pm.

THE CHAIR: Welcome to the Standing Committee on Justice and Community Safety inquiry into annual reports. We will begin with the ACT Ombudsman. Professor McMillan, you are aware of the privilege implications of appearing here.

On page 3 of your annual report, you talk about the decline in the number of complaints over the period compared to the previous period and you touch on changes in the way that ACT Policing matters are dealt with. Could you expand on that for the committee?

Prof McMillan: Formerly, complaints against the Australian Federal Police were dealt with under a special act, the Complaints Act, which required that all complaints, either to the Ombudsman or to the police, were notified to the Ombudsman; at the conclusion of an investigation by the Australian Federal Police, a report would go to the Ombudsman, who would decide whether further investigation was required. For that reason, in previous years we would statistically record on average 500 complaints against the Australian Federal Police.

That system of complaint handling was ended with amendments that commenced towards the end of 2007. With one qualification, complaints against the Australian Federal Police are now dealt with on the same basis as complaints against other agencies—that is, a person can complain in the first instance to the Australian Federal Police or to the Ombudsman. If they complain directly to the Ombudsman, we generally recommend or suggest that they take the complaint up with the government agency—in this case, the Federal Police—in the first instance, and then say that the person is welcome to approach the Ombudsman if they are dissatisfied with the police handling of it. That explains why there is a reduction in the number of complaints that are notified to us.

The qualification on that is that the Australian Federal Police are required by legislation to notify us of what are called category 3 complaints. These are complaints that involve serious misconduct, such as excessive use of force, fraud and forgery. I might say that, in addition to that, under the new arrangements, the Ombudsman also does at least an annual audit of AFP complaint handling. So our engagement is as vigorous and intense as before but it is of a different kind.

THE CHAIR: Thank you for that. You refer on the same page to your own-motion investigations in relation to the BRC and the Symonston temporary remand centre.

Prof McMillan: Yes.

THE CHAIR: Has that been delivered yet?

Prof McMillan: Yes; that was published in July 2008. It is all on the ACT Ombudsman website. It was published as report No 1, but I can give a brief description.

THE CHAIR: Yes, if you would.

Prof McMillan: Essentially, the report was prepared as the conclusion of an own-motion investigation that was initiated by the office. We did it by looking at about 110 individual files of management issues in the centres. We identified four major problems. These are outlined statistically at the beginning of the report. Sorry, it was 101 charge reports that we looked at. We found that in 21 cases the report did not have adequate particulars of the conduct recorded and 42 listed multiple breaches when perhaps only one or a lesser breach should have been the subject of a charge. In 27 of the 101 cases we decided that there was an appearance of bias, and in 31 of the cases we decided that, at least on paper, the charges were not supported by the evidence.

Those charges had all arisen under the former legislation, the Remand Centres Act, which was replaced in 2007 by the Corrections Management Act. So the findings and the recommendations related to an earlier legislative framework, but they were clearly relevant to practice and procedure under the new framework.

The recommendations of the report—which were essentially to improve discipline procedures, better train officers on a person’s right to silence and about a greater proportionality in the sentences administered for charges—were all accepted. Indeed, some were incorporated into the new policies and procedures that were constituted for the administration of the Corrections Management Act.

THE CHAIR: So it is your own-motion investigation, but what prompted it? You did not just wake up one morning and say, “I’m going to look into the BRC.”

Prof McMillan: By and large, all of our own-motion investigations, and this is no exception, arise from individual complaints. From individual complaints, we get a sense of particular problems. In this case, in relation to individual complaints, we would have seen that there were deficiencies in the records and deficiencies in the handling of cases and decided that the best way to address that was through an own-motion investigation. This is an example of where we thought the best way to do it was a kind of selective audit of a sample of files.

THE CHAIR: So they are your files.

Prof McMillan: No; these were the files of Belconnen remand and Symonston. We picked up 101 files in which there had been a charge recorded and just did an individuals—it was really a desk analysis of each of those files. Then we came up with this report.

THE CHAIR: Thank you.

MS PORTER: On page 5, under “Outlook for 2008-09”, you say that, with the opening of the Alexander Maconochie Centre and Bimberi Youth Justice Centre, it is possible that you will see a change in the nature of complaints arising in relation to these facilities, including people moving from interstate to the new Maconochie centre. I am curious as to why you think there might be some additional complaints coming out of the Bimberi Youth Justice Centre—or some different complaints. What would you see that the change might be in both those cases?

Prof McMillan: I suppose this is speculative, but, for example, the complaints that come from Belconnen Remand Centre often stem from conditions there. It is well known that is an overcrowded centre at times, with small rooms and problems with air conditioning and heating. Those have given rise to a lot of the complaints. Alexander Maconochie is a different design, a different arrangement, so we expect that complaints will be of a different kind. It is suggested, too, that in the early period it is going to be quite a different population within the centre, as a result of sentenced prisoners currently in prisons elsewhere being returned to the ACT. We expect perhaps some issues as they are settled in. But it is a different population. In a sense, it is people on remand in Belconnen. The new centre will have people in long-term incarceration.

MS PORTER: And Bimberi? Bimberi will be basically the same?

Prof McMillan: Bimberi we do not have jurisdiction over.

MS PORTER: It mentions Bimberi in the report.

Prof McMillan: Yes. No, we do not have jurisdiction over Bimberi youth centre. I suppose that what we mean there is that the complaints that we have received in the past—complaints from people in Quamby and so on—will disappear because of the opening of Bimberi.

MS PORTER: Because you do not have jurisdiction.

THE CHAIR: Why do you no longer have jurisdiction over Bimberi?

Ms Macleod: We never have.

Prof McMillan: I thought we had it over Quamby, but that is not correct. Ms Macleod is the head of my ACT team. I will ask her to address that question.

Ms Macleod: When we receive complaints from actual children within the Bimberi and Quamby centres, we refer those on to the Commissioner for Children and Young People. We would perhaps accept a complaint from a person working within those centres or a family member relating to their dealings with the centre, but where it relates specifically to a child or a young person within that centre we refer them on.

THE CHAIR: Thank you.

MS HUNTER: Going on to pages 8 and 9, there was a rather disturbing case study about the way that Housing ACT was calculating rental rebates.

Prof McMillan: Yes.

MS HUNTER: I just wanted to know, first, if Housing ACT compensated Mr and Mrs A for the cost of the legal advice they had to produce before Housing ACT would even agree to reconsider the matter. And, as part of their agreement to improve the calculation of rental rebates, did Housing ACT undertake to review past cases to ensure that a similar mistake had not been made at other times?

Prof McMillan: I will just check. The answer is no to the first—there was no compensation—and yes to the second: they agreed to review earlier cases.

MS HUNTER: You have been assured that that was undertaken?

Prof McMillan: Yes, and there is no active work on that topic at the moment because we have not been getting further complaints on that issue. One cannot necessarily draw anything from that, though.

THE CHAIR: Was this case study an isolated example or was it one of a pattern?

Prof McMillan: There was a case study in both of the last two annual reports, on rental rebates. As we noted in last year's annual report, one of the options we were considering was to do an own-motion investigation on that, but we have not gone ahead with that at this stage because we have received no further complaints on the topic.

I must say that both of the ones we have reported on were complex cases in which difficult rental rebate calculations had to be made—for example, as a result of money that somebody had received from a court settlement. The upshot was that it was accepted by Housing that its officers did not fully understand the complexity of the issue. So there was a need for further guidance and also a kind of earlier escalation of difficult problems.

MS HUNTER: At this point, you feel that this previous issue around broader systemic issues may not necessarily be playing out—that it does not seem to be such an issue at this point?

Prof McMillan: That is our current thinking, yes.

MS HUNTER: Thank you.

THE CHAIR: I notice from page 5 that, as of almost a year ago, you have a service agreement with the ACT government. Is it possible to obtain a copy of the service agreement?

Prof McMillan: Yes, we are happy to provide a copy.

THE CHAIR: And how has that changed, helped to improve or affected the provision of services to people in the ACT?

Prof McMillan: We have always had a service agreement. The other one was badly out of date. We have reached agreement on a new one. It is substantially in the same terms. Relations between us and the Department of Justice and Community Safety, which is the other party to it, have been excellent. It is a smooth operation, and we are satisfied with all aspects of it at the moment.

THE CHAIR: Other questions?

MS HUNTER: I have one. I was doing a little bit of cross-checking between the JACS annual report and your annual report. There seems to be an apparent discrepancy. On page 122 of the Justice and Community Safety annual report—

MS PORTER: Volume 1, is it?

MS HUNTER: I am pretty sure it is volume 1. It talked about the level of complaints against criminal justice agencies. I am not completely sure of the definition and who falls under that, but the level of complaints that was reported in 2007-08 was zero complaints under the Ombudsman Act. There seems to be a zero number across there. Yet when I go to the Ombudsman's annual report—for example, on page 29, if we just take the top figure, which is ACT Corrective Services, which I am assuming falls under that definition of criminal justice agencies, there are numbers in that column.

Prof McMillan: Yes.

MS HUNTER: I am just trying to see what is going on there.

Prof McMillan: It is safer for me to say that I will stand by my figures and I will hand over to Ms Leon.

Ms Leon: The strategic indicator in the Department of Justice and Community Safety's annual report is the number of complaints that were upheld. It is a measure that reflects the way the Ombudsman used to do complaint handling, where complaints were either upheld or dismissed. The Ombudsman has since refined that practice so that there is not merely a win-lose outcome anymore: it is more that there is a series of measures that can be taken. For the coming year, in the budget papers—the year we are now in—you will see that we have changed that measure so that it is the number of complaints that reach formal reporting stage, which is a more accurate reflection.

MS HUNTER: And they would match against the remedies?

Ms Leon: That is right. "Upheld" really equated to the most serious level of complaint resolution that could come, where the Ombudsman essentially says to us, "Nothing you have done has satisfied us and we consider that this is like a level 5 outcome." The Ombudsman no longer treats things just in that black-and-white way of someone won and someone lost. This reflects a measure that we recognised did not really reflect the complexity of the way in which complaints are now handled. We have changed the measure for the current year; it is intended from now on to measure complaints that reach a level of formal reporting from the Ombudsman.

MS HUNTER: Thank you.

Prof McMillan: Perhaps I could just supplement that. We changed our reporting category. Essentially "complaint upheld" or "complaint dismissed" was a blunt and inaccurate tool for measuring the kinds of problems that people have with government agencies, which often stem from confusion, complexity and delay. We changed it, to have two primary reporting categories. One is the remedy we provide—whether we expedited action or provided a better explanation. They are the figures reported there.

Often the agency will not even know that we have recorded a remedy. Sometimes we can provide an explanation to a person without even needing to go to the agency. The other reporting category we have, which they will know about, is a formal system of administrative deficiency. We have 14 categories of defects that we commonly see in agency operations—delay, inadequate explanation, unreasonable action. That is a very formal process in which we notify agencies of our views on that. The numbers on that are much fewer because it is more serious.

MS HUNTER: Thank you.

THE CHAIR: Thank you, Professor McMillan, and your staff, for your time. We are going to have to move on expeditiously.

Prof McMillan: Thank you to the committee.

THE CHAIR: Ms Phillips, welcome to the annual reports hearings for the 2007-08 financial year. If I might start, I notice that on page 6 there was comment about the final analysis of service provision for people discharged from the psychiatric services unit and that that had not been completed because of lack of staff at the end of the reporting period. Has that been completed now?

Ms Phillips: It has. It is in the process of being finalised now, and will be finished by the end of April. It has become quite a complex analysis. I hope we were not naive initially in thinking that we could do it within resources, but we have found that, as I said, it is quite a complex process to go through and look at what has happened. We have now had a sample of people who have been discharged from the PSU. We had to have access to the mental health system to allow us to be able to monitor what had happened. We now have a person who is doing that specifically, and she will be reporting, I hope, during April.

THE CHAIR: What is the scope of the survey, and what are the sought-after outcomes?

Ms Phillips: Initially we wanted to look at what kind of follow-up or what kind of return to the PSU was happening—what happened with people once they were discharged: where they went, what kind of service they received and whether they returned back into the PSU. It became a little bit more difficult, as I said, to do that. My colleague may be able to add to that. Patricia Mackey is my principal advocate who is supervising that area.

Ms Mackey: When we started to do the sampling for this analysis, we had quite a few hundred client files that we were accessing. We were trying to elicit the information from the ACT mental health database but it was not an easy extraction process. So we have had to go back and revise some of the areas that we are looking at, because we just could not pull the data. A lot of it was narrative data, and some of the areas were not filled in the database. That presented us with some logistical issues and we have had to rescope it and look at alternative ways to get that data. But it is on track now.

MS PORTER: Page 6 of the report states that one of the priorities for 2007-08 was the development of a user-friendly guide for the completion of enduring power of

attorney. Can the committee be told how that recently published *The power to choose* guide will help increase the awareness of people about that power of attorney and the awareness of the power of attorney legislation in the ACT?

Ms Phillips: Certainly. We have simplified the forms so that it is only three pages, but we have developed a booklet that is quite a comprehensive explanation of every part of the form: what it means to be an attorney, who you should select as an attorney, who you need to be a witness, what you need to consider when you are completing the form. So it is a very comprehensive booklet. We printed several thousand of them so that they could be distributed in hard copy, and every day we are being asked to distribute copies. But it is also available on our website so that people can go into that and not only complete it on the website but also download it if that is the way they want to do it. We use this as our main prop, I suppose, when we go out talking to community groups; we distribute this form, this booklet, when we go. I will just ask Brian McLeod, who is my Principal Guardian, for an absolute update. Do you know how many of the booklets we have distributed?

Mr McLeod: My understanding is that it is to the number of 7,000 that we have distributed to date in the last 12 months.

MS PORTER: In 12 months, 7,000?

Mr McLeod: Yes, and I should indicate that those copies have been distributed via the Office of the Public Advocate but also via the Office of the Public Trustee of the ACT, who works with us on that document.

MS PORTER: Ms Phillips, you were saying you go out and provide information sessions to organisations.

Ms Phillips: Yes.

MS PORTER: How many of those information sessions would you provide in any given year and to what kind of audiences do you provide them?

Ms Phillips: The figures for the previous year are in the annual report. It is certainly hundreds of sessions, and there are many people who attend those. Other individual agencies often ring us and get a box of the booklets and distribute them to their own members in that manner as well.

THE CHAIR: Is there a register of enduring powers of attorney?

Ms Phillips: No, there is not. One of my projects is to consider this in the coming year. The Public Advocate in Tasmania is the only jurisdiction in Australia that does register power of attorney forms and documentation. It is done through the Land Titles Office there and that reflects the focus on financial and property matters, I suppose. But we are as much concerned about lifestyle and health issues, and we would hope that maybe there is a way of registering people's wishes that are documented in a power of attorney form. I intend to look at that with the other support people, the Public Advocate and perhaps the Office of Regulatory Services within JACS, to see whether that is a viable possibility.

THE CHAIR: Thank you.

MS HUNTER: I have a couple of questions around children and young people matters. On page 6, in the review of last year's outlook, you talk, firstly, about the need for some work to be done in the area of development of facilities for therapeutic protection and, secondly, around improving leaving care plans. We know that all jurisdictions around the country are not particularly good in that transition out of care. What I am interested in is that then on page 7 we do not really seem to have moved very far on either of those matters. What seems to be the issue or the hold-up?

Ms Phillips: These are issues that have to be taken up by other departments. We can, as Public Advocate, identify the issues and work with other departments in encouraging them to meet the gaps that we see in service delivery; that is part of our legislative mandate. But it is, of course, up to those other departments to take the running on it.

The therapeutic service for young people is an issue that I have been really pushing for a long time. We are now talking with the Office for Children, Youth and Family Support about maybe introducing a therapeutic service rather than a facility, although there is a need for a place, a facility, particularly for some of these young people.

I have done some investigations in other jurisdictions in Australia and looked at overseas studies and it seems that it is more about providing that service, and it can be provided in a specialised foster care environment or in a variety of ways. I know that the department is looking at the possibility of obtaining funding to be able to pursue that in this next little while so that we can really look at these young people whom I have mentioned in previous reports—younger people with very challenging behaviours who do not seem to be having their needs met. This is not only just those young people; it is often young people with severe disabilities, too, like autism, who are living at home and their families are getting to a stage where they do not know what to do with them either.

In relation to leaving care, again that is something that the OCYFS has been working on, and I know they have been working with Create in developing a kit for young people before they leave care. We have been asking that the OCYFS notify us in advance, I think six or 12 months before a young person is ready to leave care—that we get a report from them on what the care plan is. That is a new initiative that we are now asking the department to provide for us so that we can look with them in advance to see what is happening in terms of leaving care.

MS HUNTER: My understanding is that that initiative with Create has gone very well and there are some good initiatives coming out. OCYFS is working well with Create. But what is the role of your office? You get that care plan six months before to have some input or some say or have a look at; does the Public Advocate have a role after that young person turns 18 and no longer is in the care system?

Ms Phillips: Not strictly, and so that is why we get it before, to ensure that it looks like things are able to happen for them. If, though, they are a young person with particular needs, some of these young people I become guardian for, particularly

young people with intellectual disabilities or with disabilities that make it impossible for them to make their own decisions. So each year there are a number of young people who come through the care and protection service who go from having the executive officer of that department as their guardian to having me as guardian. But, apart from those young people, no, we do not have an official role in monitoring what is happening for them.

MS HUNTER: Do you advocate for young people who believe that they need some other assistance, maybe to continue their education? There is money available, but, even though they have turned 18, they do need to apply for it. Have you provided advocacy services for those young people in order to access that?

Ms Phillips: We do not have that as part of our area of responsibility, but, having said that, we do individual advocacy for young people who come to us through a variety of mechanisms, and one of them, as I said, is if they have disabilities. The other is through the mental health provision. So, if they end up coming through with either a mental illness or a mental dysfunction or some kind of extreme need in those areas, certainly, we do have dealings with them. Also, if they have complex needs, we monitor them or coordinate services through the MAP assessment program. So there are a number of ways that young people can continue to receive advocacy from us, yes.

MS HUNTER: Thank you.

THE CHAIR: I have a number of other questions, which I think I will have to put on notice because we have people backed up. I am sorry, Ms Phillips.

Ms Phillips: That is fine.

THE CHAIR: Thank you very much for your time and thank you very much to your staff.

Mr Corbell: Madam Chair, in the interregnum, I have just received advice in relation to the question you asked about ACAT and forms for ACAT. I am advised that the forms for ACAT were all finalised during January and they are all available online at this time.

THE CHAIR: Thank you.

Good afternoon, Ms Holder, and welcome to the annual reports hearing in relation to the victims of crime support program.

MS HUNTER: Ms Holder, I note that page 6 of the annual report talks about the position of victims of crime. I note that the Victims of Crime Coordinator position has been advertised recently. Can you fill me in on what is happening there?

Ms Holder: Yes. I am taking 12 months leave without pay with the minister's approval. That is why the position is being advertised for that period. My comments in my annual report relate to issues about the statutory nature of the role, issues which are being examined in the current review of the act; a whole range of different things

about powers and the process by which the coordinator investigates complaints—that range of things, all of which, as I have said, are being examined under the current review.

MS HUNTER: What is the time line of that review, minister?

Mr Corbell: In relation to the review of the Victims of Crime Act, the scoping of that work is occurring within my department at the moment. I expect to receive advice from my department shortly as to what the time frames will be for it and a range of other major legislative reviews that will be undertaken over the next couple of years. So there is no definitive time frame agreed at this time.

MS HUNTER: Okay.

MS PORTER: On page 5, in the middle of the page, the report mentions the commissioning of some research into Indigenous victims of family violence and access to justice services. I was wondering if you could explain to me where that is up to.

Ms Holder: Yes, certainly. It is a very important project and it has received support from the Chief Minister's Department, the Human Rights Commission and the Aboriginal Justice Centre as well as a number of Indigenous workers in non-government organisations. The research is in three parts. The first part involved file analysis of two years worth of files that had been prosecuted that involved an Indigenous family violence victim and client files managed by the Domestic Violence Crisis Service, to examine key issues within those files. The second part involved key person interviews with Indigenous justice practitioners—prosecutors, police personnel and others who work in the administration of justice—and the third part involved interviews with Indigenous victims of family violence themselves. That project is near completion. I hope that the report will be published at the end of next month.

MS PORTER: Good. Thank you very much.

THE CHAIR: Ms Holder, could you give an exposition on the relationship and roles of the victims of crime support program and some of the non-government organisations like VOCAL and the Domestic Violence Crisis Service?

Ms Holder: The victims of crime support program encompasses a number of aspects of government work in relation to victims of crime, so this report comprises my report as a statutory position holder, it is a report about the normal public service aspects of delivery to victims of crime contained within the department and the third aspect is a report from the Magistrates Court about the lodgement and finalisation of applications for victims of crime financial assistance. So it describes government programs. Victim Support ACT, as the administrative component within the department, is also the funding agency for VOCAL, and we provide a sum supporting their volunteer program under a service level agreement.

In addition, in both my statutory roles and my administrative roles we work closely with others in the NGO sector, in particular the Domestic Violence Crisis Service and Canberra Rape Crisis Centre, in improving not only victims' rights and

responsiveness to those rights but also people's access to service.

THE CHAIR: So is there an overlap in services between what is provided by you, Victim Support ACT and, say, some of the NGOs?

Ms Holder: No; we work very closely to avoid duplication. We might occasionally be working with the same client or the same family but, if we are, we always work to develop a coordination plan so that people are not necessarily receiving the same service. They might be receiving a different type of service from one of us, and, say, advocacy from the Domestic Violence Crisis Service but counselling from Victim Support—that type of thing. So we work very hard to avoid duplication, obviously with client permission to discuss their details and so forth.

THE CHAIR: Minister, in 2007, I think it was, there was an initiative from the government which was a \$10 levy on parking fines and a \$10 levy on some court matters that was to go to victims of crime. What has happened with that money? Where is it? Is it going to specific measures? Does it go into the departmental side or does it go to NGOs?

Mr Corbell: The government took the decision that there was a need to increase the level of revenue available to offset the cost to government of providing additional victims of crime services. So, whilst that levy is not hypothecated directly—it all goes into consolidated revenue—the government did increase the appropriation to the victims support scheme to provide additional services and support to victims of crime.

THE CHAIR: So it goes into the organisation run by Ms Holder. Does any of it go to the NGOs directly or indirectly?

Mr Corbell: No, it goes to the victims support scheme, which is run by Ms Holder. That was about half a million dollars per annum extra.

THE CHAIR: How much money was appropriated and how much has actually been levied?

Mr Corbell: An additional half a million dollars per annum, I am advised, is provided each year for the provision of additional services by the victims support scheme. The level of revenue that is raised I would have to take on notice; I just do not have that figure.

THE CHAIR: Thank you; if you could take that on notice. We can have just one last question, because we have to move on.

MS HUNTER: Okay. On page 9, halfway down the page, there is victim contact information. You raise an issue there. I find it a little bit concerning that victims of crime are not being offered information about rights, support services and relevant case information. Have you got any suggestions how this problem might be fixed?

Ms Holder: It is a vexed area. There are some examples in other jurisdictions where justice authorities have been able to overcome this. In my report *The quality of justice* I mentioned those. For example, in the South Australian jurisdiction, my counterpart,

the commissioner, on behalf of the government—I think that would be the right accountability—sends contact letters directly to people who have reported matters to police. That is via an arrangement with the South Australian police service. In Western Australia the police service transfers victim information direct to the victim service within justice.

In overseas jurisdictions with the same administration of justice, the victim support agency has direct access to the police database to enable them to extract the key information. So there are technical and administrative methods that are already in existence. I am certainly hoping that the government's response to my report will examine those options that I have put in that report.

Mr Corbell: These are issues that will require us as a government to consider, and ultimately the Assembly to consider, whether certain duties should be mandated on particular organisations to provide information—either the information directly by a range of agencies such as police and others or whether information on the identity of victims should be made available to an organisation such as Victim Support so that they can provide information to those people.

There are mandated duties in the South Australian legislation. The South Australian legislation is now seen as probably the most contemporary model of victims of crime support. The challenge for us in looking at the South Australian model is that the South Australian model is a very resource intensive model. It is a larger jurisdiction than ours and it does entail a greater level of resourcing than the territory currently provides. So we would need to look at all of those issues, but I would anticipate all those issues will be looked at as part of the review of the Victims of Crime Act.

I should say that, whilst I have indicated to you that I do not have a definitive time frame yet on when the review of that act will be complete, it is my intention that that is a piece of legislation that will be dealt with early in the term of this government.

THE CHAIR: Thank you, Ms Holder, for your time. If members have other questions, they will be put on notice.

Ms Holder: Thank you very much.

THE CHAIR: We will now move on to the Legal Aid Commission of the ACT. I will fess up to members that Mr Crockett and I met earlier this week, and I was going to recommend to members that we might ask the Legal Aid Commission to come and perhaps brief the committee as a whole on their work at some time of convenience.

Welcome, Mr Crockett. We are a bit short on time, so I will open up questioning to other members of the committee, because we had a previous conversation.

MS PORTER: Page 11 of the report states that the partnership between legal aid ACT and the Aboriginal Legal Service is becoming increasingly important to the provision of legal advice and assistance to Indigenous Australians in the ACT. Could you explain to the committee the nature of this relationship and the positive impact it has had on the provision of legal services for Indigenous people residing in the ACT, if that is the case?

Mr Crockett: The relationship with the ALS has been developing over a number of years. From 2002, we had a family lawyer outplaced there on a full-time basis available to assist people within the ACT and also the nearby region with family law related matters. We found with that position that many Indigenous clients present with family-related problems that come up through the care and protection pathways rather than traditional family law pathways. Because of jurisdictional difficulties and differences, the lawyer was unable to handle care and protection matters, obviously, for Indigenous people living in New South Wales.

We have now entered into a memorandum of understanding with the New South Wales Legal Aid Commission to jointly fund a position with the ALS in Canberra, which now not only works in family law in ACT matters but also can roam across the jurisdictional boundary and handle care and protection matters. That has enabled the ALS in Canberra to expand its services considerably, because, as you may know, it is predominantly a criminal practice. Many Indigenous clients will not approach the ALS if it is a family law matter because it is perceived as a criminal practice. They often have a conflict anyway. So having this position is starting to build up within the Indigenous communities in the ACT and surrounding region a realisation that the ALS can assist them in a broader range of matters than used to be the case.

THE CHAIR: Ms Hunter.

MS HUNTER: I just wanted to pick up on the training of the AFP in matters of domestic violence. You provide a lot of good education and training programs through legal aid. You provide and obviously train the AFP in matters of domestic violence. Does the AFP pay for that training? Does the education department, for instance, give you some funding to deliver that education into schools? Or does it all come from your budget?

Mr Crockett: No, it is all provided from within our own resources. We see it as part of our statutory responsibility to provide legal education not only to the community generally but also to other agencies whose staff need to work with the community in legal areas. As far as I know, we have never charged for that sort of service. It is not to say that we could not, but we have not so far.

MS HUNTER: I am just wondering what you do about the resourcing of that. I suppose some of it goes to the funding generally of legal aid, the commonwealth component and the ACT component, and how it has been tied to commonwealth matters or ACT matters. Where do you get the education money from?

Mr Crockett: The domestic violence education money theoretically would come from the ACT side of the budget. When we come to allocate resources and report financially, we do not get down to quite that level of detail and say, "This particular service to the AFP, for example, is paid for from ACT money." It is not a huge commitment. Our lawyers run a two-hour training session for new recruits perhaps only a couple of times a year. It is also looked upon as part of our networking. It is regarded as an important link to maintain.

MS HUNTER: I agree it is an important link. Moving on to the funding model, are

there moves to improve the way that your funding is delivered? It seems that splitting the money makes it very difficult administratively to run an organisation.

Mr Crockett: It certainly adds complexity. In some commissions, not so much in mine, they have actually run out of money; one jurisdiction had to curtail services accordingly. National Legal Aid, which is the national body of directors of legal aid commissions, has put a submission to the commonwealth government to remove the divide, or at least relax it, so far as family-related disputes are concerned. So if somebody comes to us with an issue relating to children it will not matter whether it arises under the Family Law Act or under care and protection legislation. It might be in a domestic violence context. If the relaxation occurs, we could source some of the money to pay for those services from the commonwealth.

We still have to see what strings might be attached to that, if there is a relaxation. It may be that the commonwealth will say that we have to exhaust our ACT funds before we start using commonwealth money for ACT law matters. There will be some protocol or something written into our funding agreement about that. But that would certainly be a step in the right direction and a move back to the situation pre-1997 when all commissions were funded by the state and commonwealth. All the money went into one legal aid fund and was available then to be spent according to the priorities of the commission rather than being dependent on jurisdiction.

MS HUNTER: Minister, are you supportive of this relaxation going back to a pre-1997 model?

Mr Corbell: Yes, I am, as are most attorneys-general around the country.

THE CHAIR: So is the shadow Attorney-General.

Mr Corbell: Certainly, the previous commonwealth attorney did not share that view. The current commonwealth attorney is sympathetic, I know, but he has not yet announced in any detail, or indeed in any way, how he proposes to address the issue, except to say that the federal Labor Party has said it wants to review these arrangements. It recognises the constrictive elements of the current funding model but, at this point in time, the commonwealth has not put forward its alternative model. I think all the states and territories are urging the commonwealth to come forward with its revised funding mechanism or arrangement. That is something that we all press the commonwealth on when we meet regularly.

MS PORTER: My question is around funding as well. I notice page 37 talks about what I presume is a new service that is going to be established, a prisoners legal service, for the Alexander Maconochie Centre. That is a new service. How is that funded?

Mr Crockett: That has been funded by the ACT government in the current year's budget. The service is all ready to start as soon as the jail opens.

THE CHAIR: But it is open.

MS PORTER: As soon as it takes prisoners.

MS HUNTER: Legal aid obviously is always looking at gaps in service provision as far as legal services to people are concerned?

Mr Crockett: Yes.

MS HUNTER: In relation to aged people and homeless people, those sorts of areas, is that the sort of work that you are looking at at the moment?

Mr Crockett: It is. We are discussing with government a proposal for a project working in the area of older people's legal needs and the legal needs of homeless people which at the moment are not being adequately met either by us or by community legal centres or the Aboriginal legal service. As I say, discussions are underway on that and I am hopeful of a positive outcome.

THE CHAIR: So is this part of the work of the ACT Legal Aid Forum to try and address those issues?

Mr Crockett: Yes. We set up the ACT Legal Aid Forum to improve coordination between the legal services in the ACT, and this is one of the joint projects that has come out of that collaboration.

THE CHAIR: Thank you, Mr Crockett, for your time. Mr Taylor, welcome to the hearings of the justice and community safety committee into the annual report of the Public Trustee for the ACT. Does anyone have questions?

MS PORTER: Yes.

THE CHAIR: Ms Porter.

MS PORTER: I note that the report, on page 9, mentions that an online wills fact finder has been developed. Can you inform the committee how this will impact on the work of the Public Trustee?

Mr Taylor: We are aware that people who are looking to make their will may be looking at the convenience factor. We have developed our website in the last several years. This was always a planned development of the website to the extent that many of the financial planners that we are noticing our clients deal with now had developed fact finders that enable somebody sitting at home with all the information about their personal details, property, finances and so forth to be able to complete the fact finder in advance of meeting with us. That way we can allocate an appropriately skilled, qualified person in advance of them coming in. We can ring and arrange an appointment. We plan that they will be able to make an appointment over the web and, potentially, pay over the web as well. Because we have a commercial emphasis on our activities we receive a very small amount of funding for what we do. We are virtually a self-funding agency. It gives us a bit of an edge in terms of the commercial side of our business.

MS PORTER: Thank you.

MS HUNTER: On page 97 you say that the government trust moneys that are managed by you are not invested in equities and therefore are not at risk of unethical investment. How do you ensure that? Do you issue ethical, social and environmental guidelines to fund managers as to how these investments are employed?

Mr Taylor: I think the issue about ethical investments only arises when you expose them to the equities market. We do not expose any government moneys to the equities market, either Australian or international equities, unlike those of our non-government clients—this was a question that came up in the hearing last year, I think—for the very reason that we take a far more prudent approach to government money. I should not say we do not take a prudent approach to our other clients. However, we do not speculate at all with government money, for good reason.

MS HUNTER: Have you ever considered diversifying your portfolio to include a small component, a bricks and mortar investment, say, in public housing in the ACT?

Mr Taylor: No.

MS HUNTER: Is there a reason for that?

Mr Taylor: At one stage, earlier in our 25 years, I think we used to supply mortgages for the market. But it was very resource intensive, there were a lot of risks associated with it and there were a number of potential losses. We did not believe that that was an appropriate place for us to be. The level of funding received when we were doing that was quite significant and it is different from what it is now. The funding model that we have in place now, where we receive a small amount of money for community service obligations, is a fairly recent thing. I do not believe that any other public trustees are moving into that area of business. Money management, I think, is proven to be the better area to expand what we are doing.

MS HUNTER: Page 106—you are a trustee for the “greater good”.

Mr Taylor: Yes.

MS HUNTER: This is obviously a new charitable fund that has been set up. Do you have some role in choosing the charities that are going to be beneficiaries of that money?

Mr Taylor: About 95 per cent plus of the money—the total in the fund at the moment is about \$4.7 million, I think—has been given as a result of will bequests and some donations during a person’s life. Typically, those people say what they want to happen with the money. In a typical case, say, one charity in Australia might be receiving an annual endowed amount and it increases every year, perpetually.

In terms of a recent innovation, workplace giving, that we commenced in October or November last year, there is a different arrangement under which people who are employed in an organisation—in our case we have a JACS for greater good fund and all the staff in that department have the opportunity to make payroll deductions of \$5 or more, say, to the account. The amount of money that we receive, as with all funds in greater good, stays as capital; there is no capital given out to anybody. We invest

the money and the yield is given to charity. For example, I am a donor in that scheme and I am part of the JACS community which decides where it wants the benefit to go in a particular year. That will vary from year to year and might include a number of charities, depending on how much money we have to give out.

MS HUNTER: Is it hoped to extend that to other departments?

Mr Taylor: We are hoping to. We are trying, yes.

THE CHAIR: Just going back to the overview, Mr Taylor: one of the results from last year was the signing of an MOU with JACS. Can you tell us what the relationship is with JACS and why there was the necessity for an MOU?

Mr Taylor: Yes. I think we are sufficiently different from other statutory agencies in that we have a level of accountability to the justice department and another level of accountability to Treasury. We receive funding directly from Treasury for community service obligations and some small amount of money to cover our insurance obligations and IT.

We do not receive any funding from JACS. Before last year I think it used to come to us through JACS. We generate the rest and we return a dividend of 50 per cent of our surplus to Treasury. We have a statutory office holders forum. We discussed the forming of a memoranda of understanding and in that we set up a whole range of expectations, understandings and agreements between, in my case, the Public Trustee and the Chief Executive of JACS.

It gets down to things like whether we pay for training, whether we pay for legal advisings, what happens in relation to the ombudsman requests—whether we deal with those directly or indirectly—and media contacts. It is those sorts of things. It is just putting down for the record what we understand each other to do.

THE CHAIR: Do you see that there might be a necessity to have a similar MOU with Treasury?

Mr Taylor: We probably do not need to have one with Treasury because we have a statement of intent with them. We provide a status report to them on a quarterly basis and we also prepare an MDA. There is a fairly close strong understanding between us and Treasury about what we do through those documents and a very high level of accountability out of that as well.

THE CHAIR: One more question and then we will have to move on to the DPP.

MS PORTER: Pages 10 and 11 talk about the increased incidence of dementia in the ACT. Can you talk about the impacts of that on your office?

Mr Taylor: Part of the community service side of our role involves acting as financial manager under orders of ACAT, the ACT Civil and Administrative Tribunal, under the Guardianship and Management of Property Act. A quick glance at the statistics for community service obligations, in particular the appointment as financial manager, indicates that it increases by around five per cent every year. We do not say that that

is totally the result of an increase in dementia, but significantly our population is getting older, we are retaining people in the ACT longer, and we understand from the experts that there is a correlation that follows. We are certainly seeing an increase in the number. We encourage people, as part of our role, to have an enduring power of attorney, as does Anita Phillips.

We make every effort to help people to do that, but if a person loses capacity and does not have their own enduring power of attorney then it may result in the appointment of the Public Trustee as their financial manager, or somebody else. But typically the partners of older people are incapable to some extent so we end up as the financial manager of last resort.

THE CHAIR: Thank you very much, Mr Taylor, for your assistance and time.

Mr Taylor: Thank you.

THE CHAIR: Welcome to the annual report hearings of the justice and community safety committee, Mr White.

Mr White: Thank you.

THE CHAIR: This is your first annual reports hearings in the Assembly. I am sure you have been to others in the past. I will start off, if I may, members. On page 2, in the overview, in the second paragraph, you talk about a trend for persons accused of crimes exercising their right to have matters go through the Supreme Court and exercising their right to have their matters committed to trial from the Magistrates Court to the Supreme Court. Why has that been happening? What do you think are the causes of that and what are the implications of that?

Mr White: One can only imagine that they feel that they would get a better deal in the Supreme Court. There does seem to have been quite a trend of people taking matters to the Supreme Court when they could have elected to have them dealt with in the Magistrates Court.

THE CHAIR: What are the circumstances where one gets to exercise that right, that election?

Mr White: I might say that the legislation is about to change on that but at the moment matters which are indictable impose over 12 months imprisonment and any such matters can go upstairs to the Supreme Court if a person elects to have them dealt with in that way. That is shortly to change. It is shortly to change to offences of two years or more, and that will be a significant change because it will filter out and keep down in the Magistrates Court in particular simple assault matters and the like.

It will also be, under the new legislation, possible to keep down some aggravated burglaries and aggravated robberies where there is consent of both parties. At the moment those matters will go upstairs. There is also, as part of those reforms, an increase in the jurisdiction in the Magistrates Court so far as sentence is concerned. So the Magistrates Court will now be able to sentence up to five years. It may be—and one hopes this will be the case—that this will lead to more matters being dealt with in

the Magistrates Court.

THE CHAIR: And so a better distribution of labour between the two courts?

Mr White: Indeed.

THE CHAIR: And when is that going to come into effect?

Mr White: I think 30 May is the magic date that legislation takes effect.

THE CHAIR: I would like to go to some of the issues that we discussed in the briefing that you provided me some time ago. In relation to the issues relating to the staffing at the DPP, there were adverse comments on a number of occasions, especially late last year and there were some over the Christmas period, from officers of the courts and from both magistrates and judges. What is in hand to address those issues which essentially seem to be resourcing issues?

Mr Corbell: I might preface this by saying the DPP has raised with me the issue of resourcing for his office. That is something that I envisaged he would do, Mr White would do, following his appointment. Indeed, that is an issue that he has raised with me. I am giving consideration to his requests in relation to resources as part of the budget process. Obviously I need to secure funding through the budget process. That is something which is currently before the government for its consideration in the budget process.

The government are aware of some of the resource requirements that Mr White has identified. We are aware of some of the pressures that his office is facing in a range of areas and I am working through the budget process to see whether that matter can be addressed.

THE CHAIR: So the answer to that is: it is all in the budget and do not go there?

Mr Corbell: Regrettably, I am not in a position to talk in much detail about that, except to say that Mr White has put a number of proposals to me in relation to resourcing and they are currently receiving consideration as part of the budget process.

THE CHAIR: The budget process notwithstanding, Mr White, what do you see as the immediate needs of your office to meet the demands of being a 21st century prosecutor?

Mr White: That is a big question. Obviously more bodies is one answer to that. But more training, more technology, closer liaison with the way the courts do their business—all of those are answers to that question. It is a very multifaceted issue. We have to keep pushing on all of those fronts, and we are trying to deal with that.

THE CHAIR: In anticipation of a decision or no decision in relation to resources in the budget, what are you doing in the meantime to improve the operations of the office to address some of those adverse comments and to perhaps ensure they do not occur again?

Mr White: Can I preface this by saying I obviously do not want to get drawn into a commentary about whether any of the particular comments were justified.

THE CHAIR: No, I do not either.

Mr White: But an important aspect of that is training and professional development in the office. I think there was perhaps an attitude where people were concentrating on the task at hand, very understandably, and not possibly concentrating on training and professional development. In the time that I have been there I have tried to turn that around and give a new emphasis to issues of professional development. I think there is an indefinable issue of morale and the general attitude that prosecutors bring to their work. I am trying to inculcate values in that regard as well.

THE CHAIR: Are there issues about the level of remuneration, how the average prosecutor is paid compared with, say, legal officers in the commonwealth or what someone might be earning in a law firm or even in another DPP in another jurisdiction?

Mr White: There are issues, and I think they are mentioned in the annual report in various places. I think the comment in the annual report was that the commonwealth remains one of our biggest competitors. There is no doubt that many legal positions in the commonwealth are better paid and no doubt have less pressure on them than positions in my office. Certainly what you say in relation to private law firms and even some other DPPs is also true.

MS PORTER: On page 6 of the report, under one of the highlights that you identified, you talk about the office's statement of commitment to witnesses and victims of crime. I was wondering whether you could talk a little bit more about that.

Mr White: Yes. My predecessor, Mr Refshauge as he then was, made a statement of commitment and it is actually set out in the annual report. It is also, I might say, available on our website and in our office. It really is just a statement of our commitment to communication with witnesses and victims and our engagement with witnesses and victims.

That is demonstrated in concrete ways. We have increased the proportion of our resources that we put to witness assistance, for example. We have three full-time witness assistant positions, including one that specialises in sexual assault matters. It is also a matter of culture within the office to encourage officers to take their commitments to victims and witnesses seriously.

MS PORTER: I note also that there has been a provision of funding to employ extra staff as part of the sexual assault reform package.

Mr White: Yes.

MS PORTER: How many staff would that be?

Mr White: There was one witness assistant position that was funded out of that. There was a legal officer position. And there is a policy position which is being

funded out of that.

MS HUNTER: I was looking at pages 3 and 14. There is a bit about training that the DPP do. Obviously the quality of briefs from ACT Policing has a large impact on your success rate in court. Have you found that the training programs—for instance, the domestic violence training program—have improved the quality of briefs and that that is assisting? That is obviously resources from your office to do that training. Is it fair that the DPP is putting in that resource rather than the AFP? I guess my other question is: those would go on to other jurisdictions and benefit from that training?

Mr White: Yes. Can I take the last bit of that first, if I may. Effectively, there is a territory/commonwealth issue there. The AFP contract policing service to the ACT but they do retain that federal character at all times. As you pointed out, the training that police officers receive in the ACT, not just through our officers but the on-the-job training, is very valuable to the AFP and is then taken by the AFP and used in other contexts. Frankly, that is an issue that I have looked at since I have become director, the extent to which we should be providing that training, and I have made it clear to the AFP that I expect that they should make a greater contribution to training their own officers.

But, as the first part of your question pointed out, there is also a great benefit to us and to the ACT community ultimately in having matters properly prepared. Family violence matters in particular are very difficult matters to prosecute. They obviously require great sensitivity in the way that they are investigated. It is not work that just anybody can perform; so the considerable amount of training that we do provide to the AFP in relation to that does reap benefits for us. But, having said that, it is a difficult issue and it does tug at our resources.

THE CHAIR: Just looking at some of the statistics—and it may be difficult for you to comment and some of it may need to be taken on notice—from time to time there seem to be spectacular rises in things. One of them is on page 26. In 2007-08, there was a huge increase in assault, hinder and resist police charges in the Magistrates Court, with only probably about 50 per cent of them proved. What would cause a rise like that?

Mr White: I do not specifically know in relation to that particular matter but my experience as a prosecutor has been that it is not so much that these things are cyclical; it is just that you can have clusters of particular types of offences. It does not mean, for example, necessarily that the police have gone out and conducted a campaign in a particular area. That may be the answer. I am not aware that that is the case in relation to those sorts of matters but you only need a few stoushes at Summernats or something like that for those sorts of figures to increase. I do not, as I sit here, think that there is anything particularly significant in that particular figure.

THE CHAIR: The other figure that was of interest was for sex offences upon children. That seems to have increased substantially. It is on page 28. Is that the result of, say, one or two charges being laid or is that a change in pattern?

Mr White: There does seem to be a change in pattern in relation to that. The explanations for that are probably better reporting regimes, more sensitive

investigation techniques and possibly greater engagement by prosecution authorities.

MS HUNTER: Picking up on that sex offences upon children, as Mrs Dunne has pointed out, there was a jump in 2007-08. I guess the other figure to look at there is the number of charges actually proven. I would go to page 23. There is a figure there for the Magistrates Court of 174 charges of sex offences but only 12 proved. Does this show an ongoing issue on how our sex offences are dealt with?

Mr White: Yes, it does, and that would be an issue that would be shared by every DPP across the country. We have the benefit now of the sexual assault reform program in the territory and we are working to change those sorts of figures.

MS PORTER: So you anticipate an improvement; is that what you are saying?

Mr White: Yes.

MS HUNTER: What sorts of reforms are going to be implemented?

Mr Corbell: Those reforms were passed by the Assembly last year. There is a series of changes to a number of acts and they are designed to give greater protections to witnesses in the giving of information, greater protections to people who allege they are a victim of a sexual assault. In particular, it is designed to reduce the number of instances in which they are required to give evidence, for example, eliminating the need to give evidence and be cross-examined at both committal and at trial.

That particular example is one which is often cited by people who are giving evidence, or who are asked to give evidence, as a reason why they will not. It is effectively a re-victimisation and, whilst obviously there is a need to guarantee a right to a fair trial and to have evidence properly tested in court, the legislation makes changes to ensure that that only occurs to the extent that is absolutely necessary rather than repeatedly and in an unnecessary way.

There are also a range of changes on evidence being able to be used through prerecorded sessions. Rather than the witness having to give evidence in court, they can be interviewed and they can give evidence through prerecorded statements. Also, to a greater extent, the statements that they give police can be tendered and used in evidence to a greater degree than previously was possible.

There are a whole range of changes. It is part of a very significant reform the government put through the Assembly last year and we are looking forward to its introduction. I guess the policy outcome that we are looking for is an improved level of matters coming to court and, hopefully, an improvement in successful prosecutions.

MS HUNTER: So this is already in place. Have cases come in under this new regime?

Mr Corbell: The legislation has been passed but it has not yet taken effect, has it?

Mr White: It is to take effect from 30 May, with the other reforms I referred to earlier. It is a very significant reform, as you can understand.

THE CHAIR: Correct me if I am wrong as I respond on that matter. Is it the case that, as a result of those reforms, there are some people who might have previously been self-represented who may not be self-represented; there are prohibitions?

Mr Corbell: There is a prohibition on the accused being able to directly examine the alleged victim.

THE CHAIR: That means that the accused cannot represent himself or herself?

Mr Corbell: “Cannot be represented for that element” is my understanding. For that element of the trial, they cannot cross-examine the alleged victim.

THE CHAIR: What are the resource implications for someone who otherwise would decide to represent themselves, notwithstanding the dictum that the person who represents himself has a fool for a client?

Mr Corbell: There are provisions made in the act to still give protections to defendants. I cannot recall exactly what those provisions are.

Mr White: The court has the ability to adjourn proceedings and allow the person to obtain legal representation for the purpose of the cross-examination of the victim.

THE CHAIR: It is not that they cannot represent themselves; they cannot cross-examine the victim?

Mr White: The only prohibition is on cross-examination.

MS HUNTER: Why is there that lag time of 30 May? Why is it taking that time, minister?

Mr Corbell: That time is needed to allow the courts themselves to make sure that they have all of the necessary procedures in place internally to progress matters under the new legislation. It is quite common to provide for that lag time so that the profession, DPP, the courts and judicial officers themselves are familiar with the changes and how they will operate so that they are in a position to operate them effectively when they commence.

MS HUNTER: Have there been resources put in to make sure that that information is out there in the community?

Mr Corbell: Absolutely.

MS HUNTER: Educating people?

Mr Corbell: As part of the legislative reform, the government provided funding in the last budget to undertake education and to resource a number of the offices—such as the DPP, but also the AFP—to ensure that their staff and relevant officers were aware of what the changes were and what it meant for their organisations, and to prepare them for that change.

MS HUNTER: Also community organisations such as the Rape Crisis Centre and others?

Mr Corbell: Groups such as the Rape Crisis Centre—I am just trying to recall the name of the other one.

THE CHAIR: Domestic Violence Crisis Service?

Mr Corbell: Domestic Violence Crisis Service and so on. They have been intimately involved in the development of the legislation, so they are more familiar than most with what it means. But in terms of the final package, there has been ongoing consultation and information provided to those organisations. The people working in the community sector in this area are very well informed as to what the changes are; more than most, I think, they understand the importance of them. I would acknowledge that they have been the key driver in terms of their lobbying me last year and the year before to ensure that the reform was progressed.

MS PORTER: On page 8, under the statement of agency performance, it talks about the timely conduct of prosecutions. There is a six per cent variance, which is an improvement, if I am reading it correctly.

Mr White: Yes.

MS PORTER: And it appears that the cost per average business day per prosecution is lower as well. These must be very pleasing figures for you?

Mr White: Yes, they are. Obviously, that is always a preoccupation with prosecutors—to deal with things in a timely manner, in particular. Yes, those are pleasing figures.

MS PORTER: Do you anticipate that that trend will continue?

Mr White: I will not be so bold as to say that, but one of the issues for the office this year—this coming year—will be taking on board these very substantial reforms. There will inevitably be teething problems with them.

MS PORTER: Yes.

Mr White: There will inevitably be some delays in the system as cases work their way through and as lists are adjusted and so on. The next year may, in particular, be rather disrupted for that reason.

MS PORTER: Have you adjusted your targets in anticipation of that?

Mr White: No, we have not.

THE CHAIR: What is considered the timely conduct of a prosecution?

Mr White: I do not have the actual formula to hand, but there is a formula.

THE CHAIR: Could you provide us with that?

Mr White: Yes, I will.

THE CHAIR: Because “timely”—how long is a piece of string?

Mr White: Yes.

THE CHAIR: When we were talking about the challenges that the office was facing before, and you talked about new information and better technology et cetera, the outlook says that you are looking to procure a case management system. That is one of the issues. I think with members of the profession—I do not know whether we touched on this when we last met—there is the issue of listing and the management of cases in the courts. How do you see those two things—the case management in your office and the listing management—addressing some of the needs?

Mr White: That is one of the biggest issues that we have. Because we are a downstream agency, the way the courts conduct their business has an effect on us. To a certain extent, we have to dance to the courts’ tune in the way they list their matters and the way they manage their cases. We are having a very serious look at that very issue at the moment, with a view to liaising with the courts and other justice agencies to see if the case management systems cannot be improved. It has been a while since they have been looked at. There is a tendency for the courts to focus on their own performance and possibly not on the performance of other agencies that have to contribute to the overall justice result. That is a big issue for us.

THE CHAIR: Who is involved in that discussion of listing management at the moment?

Mr White: My office and legal aid are having discussions, and we propose to involve the courts in a formal way at some stage when we have some kind of concrete proposals.

THE CHAIR: Are you involving the Law Society or the Bar Association in that as well?

Mr White: Yes. I am a representative ex officio, so to speak, on both the Bar Association and the Law Society, on the law committee, so we have very good links with those organisations.

THE CHAIR: But at this stage you have not taken a proposition to the courts administration?

Mr White: No. We are working on a proposal at the moment.

THE CHAIR: Do you know—probably we should have asked when Ms Child was here—whether the courts administration is having the same thoughts at the same time? Do we know?

Mr White: I do not know specifically, but listing matters are ultimately for magistrates. It is not exactly an issue for the courts administration as such; it is more an issue for the magistrates.

MS HUNTER: I want to go back to page 1. There was, I thought, quite a grand statement in a way—certainly a large one. Paragraph 3 said:

There comes a time when it is useful for an organisation or, indeed, a system to reflect on its purpose. Perhaps this time has come for the criminal justice system.

From the following discussion, it sounds like a call for a shift to a system where various government agencies work together to investigate the circumstances of a matter. I am wondering what that is about, how it is going and where you see it heading.

Mr White: Part of it is what I have just mentioned in relation to case management—as I said, to shift the focus away from particular parts of the system working to achieve their results and not focusing on any impact that that has on other parts of the system. But there are many issues in criminal justice at the moment—victims’ issues; the sexual assault reforms; the whole issue of whether matters are dealt with summarily or upon indictment; what restrictions, if any, should be placed on the rights of people to have a trial in a superior court; and the issues of judge-alone trials. There are many issues. In my job, one finds that my office is just one cog in a vast machine that operates. Having said that, let me say that we are trying to exert our influence on other parts of the machine.

MS HUNTER: Is that machine coming together? Is it working together, moving together?

Mr Corbell: The criminal justice system is a very complex beast. Sometimes the machine works well, sometimes not so well. It can be discordant. That is a product of its history and how it has developed. Mr White is right to identify that there are issues around better coordination. The most obvious opportunities for better coordination in the first instance are amongst those agencies that are, in one respect or another, extensions of the executive—the DPP, Corrective Services, the police, and the policy setting functions of the government itself in the justice department. There is an opportunity to better harness the decision making, the resources and the information that is available in those elements of the criminal justice system, even at a most basic level, such as through a more integrated way of collecting data so that, instead of separate databases sitting with the DPP, police, corrections and justice, we have a better way of sharing that information so we can better track trends and activities across the criminal justice system.

MS HUNTER: Does that link in with what Ms Holder was saying earlier around victims of crime?

Mr Corbell: It does in some respects, yes. For example, the police have a very specific database that is for their use. The DPP has access to that, to a degree, obviously, in the preparation of matters for court. But it is not available in other instances, such as to the victims of crime coordinator. So there are challenges there.

Equally, information that is held by Corrective Services may not be known to other agencies immediately.

There are those challenges. In the first instance, the more diverse elements of executive government, to put it in that very broad sense, can better coordinate their information sharing and their activities. Then there is the need to link up appropriately while still respecting the independence of the judiciary and, obviously, the views of stakeholders such as the criminal defence lawyers and so on who have an important role to play as well. How is that for a diplomatic answer?

MS HUNTER: Very good, minister.

THE CHAIR: One of the issues that you touched on there is the issue—we talked about it before—of people opting up and people opting out of jury trials. Is there thinking about how that might be managed differently in the future?

Mr White: We have dealt with the opting up.

THE CHAIR: We have addressed the opting up.

Mr White: In relation to judge-alone trials, this is ultimately a matter of legal policy. There was a proposal last year in relation to this. My office, in relation to legal policy matters, has to be very conservative, but it is appropriate that we—

THE CHAIR: But you have a lot of experience of the effects of the policy?

Mr White: Indeed. We can outline, more or less, the practical implications of any policy. It does seem to me that there is an issue as to whether people should be allowed to opt out of trial by jury. The rights that have been handed down over the centuries to us are really to have a trial by a jury of our peers. There is not a right that has been handed down to us over centuries not to have a trial by a jury of our peers.

Although there has been a trend to judge-alone trials in many jurisdictions, in some jurisdictions the Crown is given a right of veto, or at least a say, in whether a matter should proceed by judge alone. There are issues of public interest in having some matters determined by juries. Some matters of great public importance or great public interest where there is no particular compelling reason to have a judge-alone trial might well fall within that category.

As I say, there are many different legislative responses around Australia. I know, for example, that in Victoria there is actually in their human rights legislation a guarantee of a right to trial by jury and no mechanism for judge-alone trials. Different jurisdictions have tended to deal with it in different ways. In New South Wales there are judge-alone trials, but the Director of Public Prosecutions has a say in whether those matters proceed by way of judge-alone trials.

If this matter is to be ventilated again, these are all matters that will need to be looked at in legal policy settings. I do propose to have some input into that debate.

THE CHAIR: Is this a debate that you are interested in, minister?

Mr Corbell: Yes; it is a very important issue. Fundamentally, it is about public confidence in the criminal justice system—in particular, public confidence in the work of the courts. Without reflecting at all on the work of the courts, I think that Mr White makes a pertinent point in saying that the expectation of many in the community is that you are entitled to have a trial before a jury of your peers and be judged accordingly. There is quite a compelling argument to say that 12 citizens are just as effective a judge of the facts of a matter as a sole judge. It is a reasonable argument to say that a judge has no special qualifications in judging fact that would not be available to jury men and women.

Again, there are issues that need to be had regard to in terms of the right to a fair trial, which would be the other assertion of a human right that would be brought to bear in this debate. Whilst there are certainly circumstances where people may believe that a jury trial is appropriate, it may be the case that, on the circumstances of the matter, the only way to ensure a fair trial is by judge alone. I personally feel that those circumstances would be quite limited, but this is an issue that we will need to reflect upon at some point in this term of the Assembly. That certainly is a matter that I am interested in progressing.

THE CHAIR: Thank you. Members, are there other questions? I think we are questioned out. We obviously do not have the stamina to be a prosecutor. We will call it quits. If there are other questions for the DPP or for other agencies, can they come to the committee secretary within five working days; then I will ask the agencies to get back to us within two working weeks after that. Thank you, Mr White, minister and staff for your presence this afternoon.

Mr Corbell: Thank you.

The committee adjourned at 5.49 pm.