



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2009-2010](#))

**Members:**

**MRS V DUNNE (The Chair)  
MR J HARGREAVES (The Deputy Chair)  
MS M HUNTER**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 19 NOVEMBER 2010**

**Secretary to the committee:  
Dr B Lloyd (Ph: 6205 0137)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## APPEARANCES

<b>ACT Policing .....</b>	<b>1</b>
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## **Privilege statement**

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*Amended 21 January 2009*

**The committee met at 9.06 am.**

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

Leigh, Ms Kathy, Chief Executive

Goggs, Mr Stephen, Deputy Chief Executive Officer, Community Safety

Crowhurst, Ms Moira, Chief Financial Officer, Strategic Finance

Hammond, Mr Greg, Executive Director; Capital Works and Infrastructure

Field, Ms Julie, Executive Director, Legislation and Policy Branch

Garrison, Mr Peter, Chief Solicitor, ACT Government Solicitor Branch

White, Mr Jon, Director of Public Prosecutions, Office of the Director of Public Prosecutions

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

McCabe, Mr Mark, Work Safety Commissioner and Senior Director, WorkSafe ACT, Office of Regulatory Services

Ryan, Mr James, Executive Director, ACT Corrective Services

Purvis, Ms Alison, Acting Courts Administrator, ACT Law Courts and Tribunals Administration

Crosweiler, Mr Mark, Commissioner, ACT Emergency Services Agency

Foot, Mr David, Chief Officer, ACT Ambulance Service

Swain, Mr Paul, Chief Officer, ACT Fire Brigade

Lhuede, Mr Nick, Director, Risk and Planning Group, ACT Emergency Services Agency

Watchirs, Dr Helen, Human Rights and Discrimination Commissioner, ACT Human Rights Commission

Durkin, Ms Mary, Health Services Commissioner and Disability and Community Services Commissioner, ACT Human Rights Commission

Roy, Mr Alasdair, Children and Young People Commissioner, ACT Human Rights Commission

ACT Policing

McLean, Mr David, Acting Chief Police Officer

Kendrick, Ms Judith, Director, Corporate Services

**THE CHAIR:** Good morning, minister, Ms Leigh, Mr Goggs, ladies and gentlemen in the gallery. This is going to be a very busy day. We are here locked up together for most of the day between nine and five. Because we are so busy, can we try and keep it moving along and keep our answers brief, and our questions as well, for members and visitors. Minister, would you like to make any brief opening comments?

**Mr Corbell:** Good morning, Madam Chair. Good morning, committee members. My apologies for my slight delay.

**THE CHAIR:** I was not going to mention it, minister.

**Mr Corbell:** Thank you for your patience. I do not have an opening statement but my officers and I are happy to try and answer your questions.

**THE CHAIR:** We will start with some general questions. I will go to something that was raised with you, minister, the other day, wearing your hat as the Minister for the Environment, Climate Change and Water. At that time, there was a discussion about the penalty provisions in the plastic bag legislation. Mr Seselja and I asked questions about how that came about, and you said that was advice that the department had received from the parliamentary counsel's office.

Minister and Ms Leigh, could you talk the committee through how the process works for the drafting of legislation, who comes up with the policy initiatives and how the process would evolve of deciding what an appropriate penalty would be in a piece of legislation?

**Mr Corbell:** Thank you, Madam Chair. I will make some brief observations and then I will ask Ms Leigh to give you some more detail.

In relation to the offence provisions that you specifically refer to in the bill currently before the Assembly to ban the provision of lightweight plastic shopping bags, the penalty provisions that apply in relation to the offence that is proposed of banning lightweight plastic shopping bags had regard to similar existing offence provisions in other legislation and, in particular, regard was had to the offence provisions of causing environmental harm in the Environment Protection Act, which was viewed to be the most similar provision to have regard to in relation to an offence.

It is also worth noting that there has been some commentary about the provisions in relation to the \$27½ thousand, if I recall correctly, maximum penalty which is payable by corporations, in comparing that with the penalty provisions in the South Australian legislation. The South Australian legislation does not make provision for fines to be ordered against corporations, only against natural persons. That is a matter of drafting style in South Australia.

As you would be aware, and as the committee would be aware, the ACT has a drafting approach of always making provision for penalty units payable by corporations, as well as by natural persons, where that is appropriate. Obviously, given the fact that, when it comes to the provision of plastic shopping bags, that will occur in relation to large supermarket chains as well as individual shop owners, penalty provisions were proposed for both natural persons and corporations.

In relation to the more general process, I will ask Ms Leigh to give you some more context on that.

**Ms Leigh:** As you know, the parliamentary counsel's office in our department drafts legislation for all other departments. In relation to offences, and also matters of human rights, the parliamentary counsel's office will direct officers of those other departments to our legislation and policy branch. Our legislation and policy branch provides support to other departments when they are developing their legislation, and it holds primary policy responsibility for the issue of criminal offences and penalties.

In fact, it has produced a guide to assist other departments because, obviously, this is an issue that arises across a number of bills—that is, the *Guide for framing offences*, and you will find that on the JACS website. That provides guidance about the principles to be taken into account by other departments when they are developing their policy for new bills.

In relation to this particular bill, DECCEW came to our department; I think they were referred by parliamentary counsel's office to legislation and policy branch, and officers in that branch gave DECCEW assistance in developing the offence and penalty provisions for that bill. As the minister has already commented, they looked at other legislation that dealt with issues of environment harm, because that was the objective to be addressed by this bill. They also noted the penalty provisions in South Australia for the like offence.

With respect to the comment that might be useful in terms of the quantum of the amount, as that guide that I mentioned makes clear, when you are setting a penalty, you need to provide for the maximum potentially appropriate penalty. So the penalty that might be appropriate for a very large corporation would not be the same as the penalty that might be appropriate for a small, local retailer, and the penalty that would be appropriate in the case of a repeat offender would be different from the penalty that would be appropriate for a one-off offence. When the maximum is set, it needs to cover all of those potential scenarios so that the court can then exercise its sentencing discretion in applying the appropriate penalty.

**THE CHAIR:** Thank you, minister. Why couldn't you tell us that last week, this last week, when Mr Seselja and I asked these questions when you were here as the minister representing DECCEW?

**Mr Corbell:** You were asking me questions in relation to a process within the justice portfolio.

**THE CHAIR:** No, we asked you questions about how you came up with the penalty.

**Mr Corbell:** I did not have that advice to hand, Mrs Dunne.

**THE CHAIR:** Okay, thank you. Members, questions?

**MS HUNTER:** I want to go to page 5 in the overview. It states that there is collaborative work between JACS and DECCEW to green the JACS department. But if you go to page 69 of volume 1, there is a table there, and if you go down to greenhouse emissions, energy use, water consumption and so forth, it seems that there have been some increases, particularly if you are looking at energy and water use. Water use seems to have doubled for each person. What is JACS doing to reverse that trend and what sort of analysis have you done around what appears to be an increase in the use of resources?

**Mr Corbell:** Ms Leigh can answer that.

**Ms Leigh:** Ms Hunter, I would need to take the details of that water increase on notice, if I could.

**MS HUNTER:** And energy as well.

**Ms Leigh:** And energy. I certainly agree with you that it is an important matter but I would like to take that on notice, if I could.

**MS HUNTER:** Could you also take on notice whether the department has put in place any mechanisms to assess, where policies and programs have been put in place, whether they are being evaluated in terms of their contribution to reducing greenhouse gas emissions. Could you give us a general update on those policies and programs, any evaluation and so forth, and what you might be rolling out in this coming financial year.

Finally, I note that it does not appear to be recorded around the percentage of paper recycled and total paper usage, which is appearing in some of the other annual reports. Could we have an update on what is happening with paper recycling and paper usage?

**Ms Leigh:** Certainly. I will make one comment in relation to those figures in the annual report. At least part of the explanation is that we have changed the basis of our reporting. The previous annual report did not take into account operational areas' consumption; it only took into account office space. Obviously, our department has large operational areas. So it does not necessarily indicate a total increase but rather the basis on which we have been reporting.

**THE CHAIR:** When you say operational areas, is this figure across the portfolio including, say, ESA reporting?

**Ms Leigh:** That is right.

**THE CHAIR:** It might be helpful to the committee if there could be some breakdown. Does that include, say, fire sheds, where there might be training and the like?

**Ms Leigh:** Yes, that is my understanding of why there is such a significant difference. But I will take that on notice and come back with some clear statements.

**Mr Corbell:** Simulations are activities that are occurring within the portfolio. The department has focused on achieving accreditation through DECCEW's ACTSmart office program. As part of that, that program is being rolled out across the department. That started with the new ESA headquarters, where recycling bins and desk-side general waste bins have been installed, and a range of other measures, including training for staff, have been conducted.

In relation to the department's corporate headquarters at 12 Moore Street, desk-side recycling bins have been installed. The number of desk-side general waste bins has been reduced to a ratio of one bin per cluster of four workstations. Training is being provided to staff by representatives of DECCEW on the use of the recycling systems. So, in relation to recycling within the department, those steps are underway. Equally, the department is working to undertake recycling of all of its paper. The advice I have is that all paper used in the department is now being recycled.

**MR HARGREAVES:** I want to ask a couple of questions about page 12 of the annual report. This is my Brendan Smyth imitation, where I can quote the actual page number and paragraph. The victims of crime policy is the second paragraph on page 12—the paragraph on the right-hand side of the page. It talks there, minister, about the Victims Assistance Board. It states:

The role of the Board is expected to change in light of the Victims of Crime Amendment Bill 2010.

I was curious to know what did in fact change, if anything, and were there any expected outcomes, perhaps?

**THE CHAIR:** Changes to the victims of crime legislation were passed in August, weren't they?

**Mr Corbell:** Indeed. The victims of crime bill was introduced and passed by the Assembly earlier this year. This bill establishes the Victims Advisory Board, which will supersede the Victims Assistance Board. The Victims Assistance Board held its last meeting on 25 October this year and the functions of the new board include developing and advising the minister on policy, protocols and procedures for the treatment of victims by agencies involved in the administration of justice and advising the minister on policies, priorities and strategies for the acknowledgement, protection and promotion of the interests of victims in the administration of justice. So the functions are broader than the previous Victims Assistance Board, which was primarily focused on overseeing operations of the victims services scheme.

The membership of the new board consists of the chief executive of my department, the new Victims of Crime Commissioner, who was formerly the VOCC, the Victims of Crime Coordinator, and members appointed by me. I am required to appoint a representative of the following entities: the DPP, AFP, ACT Courts, Corrective Services, Youth Justice, Restorative Justice, as well as three people representing the interests of victims services groups, one person representing the interests of Indigenous communities and one person who is a lawyer.

That process is now underway and those are the changes, Mr Hargreaves, in relation to that board.

**THE CHAIR:** I have a supplementary question on victims of crime. In the formulation of the bill—now the act—that was passed in, I think, August, what was the consultation process and to what extent were non-government victims service groups consulted on that bill?

**Mr Corbell:** Extensive consultation occurred over the two years prior to the bill being introduced—quite an extensive process of discussion involving all the different elements of government and the administration of justice framework, as well as non-government community-based organisations. A working group was established within government and consultation also occurred with those groups who have an interest in victims of crime, such as VOCAL, as the most prominent of those groups.

**THE CHAIR:** I have had some concerns expressed to me by some of the victims

support groups that they were pretty much on the outer. Ms Leigh, could you provide the committee with a rundown on how the consultation worked and who was consulted when, either now or on notice?

**Mr Corbell:** I will see if we have some information for you now, Mrs Dunne.

**THE CHAIR:** Ms Field has the answer?

**Ms Field:** I cannot give you exact details of the process. It started before I joined the legislation and policy branch. However, the working group involved community organisations such as the Rape Crisis Centre, that sort of organisation, community organisations, which also went out and talked to other groups in the community. A discussion paper went out and we asked for community input on that. We received input and put that in as part of the review of the Victims of Crime Act. That went in and developed the proposals that then went on to make it into the legislation.

**THE CHAIR:** Perhaps on notice, if you cannot give us all the details now, could you provide to the committee who was on the advisory committee and to whom the discussion paper was sent specifically? I know that it was publicised, but was it sent specifically to interest groups and who responded to that?

**Mr Corbell:** Yes, we can do that.

**THE CHAIR:** Thank you very much. Mr Hargreaves.

**MR HARGREAVES:** On the same page, the ministerial council bit, the Standing Committee of Attorneys-General talked about a new national partnership agreement on legal aid. Minister, could you let us know the details around the new agreement and how they actually improve legal aid objectives within the territory?

**Mr Corbell:** In terms of the dollars, I have to say that the new legal aid agreement is a disappointing one for the territory, although it could have been much worse. The commonwealth made significant adjustments to the funding formula for the provision of legal aid services and the amount of money that it makes available to the states and territories for legal aid services. There has been no growth in funding for legal aid services from the commonwealth as a result of the new agreement. I was successful in convincing the commonwealth to ensure that there was no net detriment to the territory from the new funding agreement.

The funding agreement, as originally proposed, would have actually seen, if the formula had been applied to the smaller jurisdictions, including the ACT, a real reduction in funding. Because of representations made by me and other attorneys-general from other small jurisdictions, that was addressed and there was no net detriment suffered by the territory. But we did not see any significant increase in funding.

The commonwealth said it did not see any increase in funding. The commonwealth asserted that the formula was skewed too heavily in favour of small jurisdictions and that funding was not going to jurisdictions where there was significant growth, particularly the large jurisdictions. So the compromise that was achieved was that

there were significant increases in funding for large jurisdictions but there was no reduction in funding for small jurisdictions. That was a pleasing aspect of the discussions and negotiations.

In relation to the policy objectives of the new national partnership agreement on legal aid, the focus is very much on achieving earlier resolution of legal problems for disadvantaged Australians, a more effective targeting of legal aid services to people who need it, increased collaboration and cooperation between legal assistance providers themselves, in particular focusing on the role of community legal centres and legal aid offices in working together to assist our clients where possible. Those objectives are ones which we welcome, and the focus, particularly on greater collaboration with the community legal sector, is one that we strongly support.

However, in terms of the dollars, it is effectively the status quo for the territory, and that is disappointing, given the continuing growth in demand for legal aid services.

**MR HARGREAVES:** So the larger jurisdictions that have the capacity to generate revenue to assist the funding of these services and the compassion it places within their own jurisdictions got an increase of some size and there was a suggestion that the smaller jurisdictions take a cut in real terms. I am right in assuming that in partnership with the Northern Territory and presumably Tasmania you have actually been able to prevent that? What effect will that have on legal aid services in the territory, in the sense that there is no growth in funding for the territory? We know it will grow. Will that have a detrimental effect?

**Mr Corbell:** It is important to remember that the commonwealth funds legal services which it has a responsibility for and an interest in—in fact, the legal services relating to, for example, family law matters, matters of commonwealth law where they primarily make their funding available—although it will make funding available for other things on a case-by-case basis. And we have seen some instances of that here. That is the first principle to remember. The commonwealth is essentially funding matters that relate to commonwealth areas of responsibility, family law being the predominant one.

The second thing to remember is that the larger jurisdictions have repeatedly argued that they are funding an unfair share of overall legal aid activity. For example, Victoria has argued that they fund 60 per cent of all elements of legal aid operations in Victoria and they say that is disproportionate and that the commonwealth should be sharing that more equally. Equally in New South Wales and Queensland, similar arguments are being made.

Obviously, the capacity of those jurisdictions to fund legal aid services is significantly enhanced because of the size of their legal trust funds and similar arrangements. The sheer volume of dollars flowing through those trust funds for what you can imagine are the very large legal markets of Sydney, Melbourne and Brisbane certainly makes significant funds available for the operation of legal aid services there, compared to small jurisdictions.

Obviously, this is a matter of much discussion amongst attorneys-general. At the end of the day, I was pleased to be able to protect the ACT's position on legal aid but I am

grateful to the commonwealth attorney for having regard to those matters. He was, I am happy to stress, at all times very sympathetic to and aware of the issues of small jurisdictions. But, obviously, this was a balancing act between the demand of large jurisdictions and the issues of small jurisdictions. Whilst I would have liked to have seen growth, and I think we deserved growth, at least we cannot go backwards. That is a pleasing outcome.

**MS HUNTER:** There was no growth but was there indexation applied?

**Mr Corbell:** Yes, there was indexation applied. Under the agreement, the ACT will receive an estimated \$4.291 million in this financial year, \$4.355 million, \$4.421 million and \$4.491 million in the outyears. As you can see, there is indexation applied to those payments.

**THE CHAIR:** I was going to suggest we might leave other questions about this until the Legal Aid Commission people arrive but I do note that the commonwealth grants in this annual report amount to \$4.946 million. I cannot quite work out how we are getting indexation. According to the annual report, it is \$4.946 million and last year it was \$4.112 million. I am trying to work out how we reconcile those figures with the figures for growth in the outyears.

**Mr Corbell:** Perhaps we could leave the detail of that to when Mr Crockett is here because he will be able to tell you that, but it is important to stress that the commonwealth does make one-off disbursements in addition to the payments it guarantees under the agreement. I think that might be the explanation for the difference.

I beg your pardon, you have not called for the Legal Aid Commission today, I am advised.

**THE CHAIR:** Yes, we have.

**MR HARGREAVES:** I did not think that. They are not on the list. That was why I was looking.

**Mr Corbell:** I will take that on notice.

**THE CHAIR:** I certainly had it in the back of my mind that they were coming. We will not leave it until later. I know that we have been very surgical about whom we thought we were going to ask questions of. I thought they were coming. Perhaps you could take that on notice.

**Mr Corbell:** Yes, I will take that on notice. I would make the general observation that the commonwealth has provided a number of one-off disbursements to assist with different projects both in the community legal sector and legal aid. Indeed, at least one of those has been assisting in capital projects of the Legal Aid Commission in relation to its new office accommodation. So the commonwealth has contributed to that as well.

**MS HUNTER:** You mentioned that there was a little freeing-up about that funding

that we have known in the past had to be used in issues around commonwealth law. An issue that has been pushed by the Legal Aid Commission is more flexibility in that money. You are saying that there has been a little flexibility that has come in and it has to be on a case-by-case basis.

**Mr Corbell:** The flexibility has come around matters, as I understand it, which are joined up. For example, a client may have a family law matter but then may also have a domestic violence matter in an ACT court. The client may have some other associated criminal matters that have to be dealt with. Where the client is crossing across the jurisdictions of the territory and the commonwealth, the legal aid funding is able to be shared, effectively, in relation to those matters, rather than on a strict delineation of which bucket of money it comes from. I think that is an example of the type of flexibility that the commonwealth is now applying in relation to these matters.

**MS HUNTER:** Are you going to advocate for further flexibility in the way that the money is used in the future? Do you feel that it is right at the moment or that it needs to go further?

**Mr Corbell:** The agreement between the territory and the commonwealth is now signed, as it is with all the jurisdictions. This is a matter that I will continue to argue for when the matter arises but, obviously, the commonwealth is now locked into it in terms of a funding agreement for the next four-year period. The scope for significant change is limited but where there are opportunities we will certainly pursue them.

**MR RATTENBURY:** In terms of meeting legal need, there is an Australia-wide survey on legal needs due to be published next year. Certainly the last I heard was that the date for publication was September 2011. Are you aware whether that is the planned publication date?

**Mr Corbell:** I am advised yes. That is still the time frame, as far as I am aware.

**MR RATTENBURY:** If so, what plans does the department have for the coming year? Given that the survey is aimed at showing exactly where the gaps are in legal services and in each state and territory, what are your expectations of planning around the release of that report?

**Mr Corbell:** We will not see that final report until, as you indicate, the second half of next year, which is halfway through the next financial year. It is difficult, therefore, to make decisions about funding and policy based on that report, given that we are not going to see that until halfway through the next budget cycle.

But, obviously, that is not to say that the government will not be having regard to need in the provision of legal assistance services. Obviously, we are currently in the budget consultation process with the non-government sector as well as with government agencies about their requirements, moving forward to the next financial year. As always, I will be having close regard to what assistance the government can make available and what assistance I should seek through the coming budget process.

**MR RATTENBURY:** On that topic, I was disappointed to hear recently that the proposed move by the Women's Legal Centre to the Griffin Centre fell through

because they could not get government support for the fit-out.

**Mr Corbell:** That is not quite correct.

**MR RATTENBURY:** I would be interested to hear some more about what did actually happen.

**Mr Corbell:** The Women's Legal Centre are obviously concerned about space constraints in their existing accommodation in Havelock House and the fact that those space constraints mean they are unable to expand a number of these services because of lack of work space. Some steps have been taken in the short term to improve the use of space in their existing accommodation and my department has assisted the Women's Legal Centre in doing that, as it has a number of other community legal centres.

The Women's Legal Centre approached me and advised me that they did have the opportunity to utilise space in the Griffin Centre. They indicated to me, firstly, that that would require some funding from the government outside the budget cycle. Secondly, they indicated to me that the accommodation was less than ideal; that is, the accommodation in the Griffin Centre was less than ideal, but it would be an improvement on what they have at Havelock House.

**THE CHAIR:** Just about anything would be an improvement on what they have at Havelock House.

**Mr Corbell:** I indicated to them that I was not able to provide the consummate funding they were seeking. There was no funding available to do that. It was a significant amount of funding that they were seeking.

**MR RATTENBURY:** How much?

**THE CHAIR:** Was it \$50,000?

**Mr Corbell:** I will take that on notice for now. I am sure someone can tell me that figure. I did not have that funding available. In my discussions with them, I canvassed the fact that I believed it was appropriate that they continue to work towards a sustainable long-term solution for both their centre and indeed other community legal centres and that the government would be giving consideration to options around establishing a coordinated response for long-term accommodation for community legal centres.

I said to them that, in that context, obviously, if they proceeded with the Griffin Centre, that would be a matter for them and that the government would not be able to assist them with that but that the government would be considering the options for long-term accommodation for them and for other community legal centres. This notion of a community legal centre hub is being raised and is one that I am interested in.

The funding that was sought by the community legal centres was between \$50,000 and \$60,000 for a fit-out. That was not funding that I had in any way available. And in

my discussion with the chair of the board of the Women's Legal Centre and their executive officer, I think she is called, I think what became clear was that they wanted some indication as to whether or not there was going to be further action on long-term accommodation needs or whether they should pursue alternative options.

What I indicated to them was that, yes, I was very interested in pursuing a long-term accommodation solution for them and other centres and that they should keep that in mind, whatever decision they took. As I understand it, they subsequently took the decision not to pursue the Griffin Centre option.

**MS HUNTER:** What work have you done around this plan that you have put forward now, this idea that there could be a more comprehensive way of looking at this into the longer term? Are there any plans around co-locating CLCs or—

**Mr Corbell:** This is a matter that my department is pursuing in the context of the forthcoming budget round.

**THE CHAIR:** I note, minister and members, that I have received representation recently—and I am sure other people have—from the Welfare Rights and Legal Centre, the Tenants Union and the Women's Legal Centre. They have made a submission in the context of the budget for a community legal hub. They have encouraged members to visit their current facilities and see firsthand what their office conditions are like.

**Mr Corbell:** Can I just make an observation—

**THE CHAIR:** It is an issue that we have discussed here and elsewhere over a number of years—the substandard office accommodation that these services have and the services they provide.

**Mr Corbell:** You would recall that the community legal centres starting making representations on this issue about four or five months ago. Those representations started being made after the last budget process had been completed. Obviously the ability of the government to respond with what is a significant capital requirement outside of the budget process is very limited, particularly in the current budget environment. I have always been quite up-front about that. But I have also been quite up-front about saying that I accept that there is an issue and I am very happy to for my department to work with the community legal centres in the short and long-term to assist in that.

It is worth also making the point that traditionally it has not been the role of the justice department to deal with accommodation issues for these centres. These centres are non-government, community-based, not-for-profit organisations. They have their own governing board and constitution and traditionally they have entered into contractual arrangements with governments to lease government office space. That is not the responsibility of my department. It is done through the Department of Disability, Housing and Community Services. A whole range of other community organisations lease vacant government property from that department.

Traditionally, my department has not been involved and has not had responsibility for

the provision of the accommodation needs for these centres. However, I acknowledge that it is desirable to recognise that these centres form the coherent critical mass of community legal aid services in the community. It is desirable for us to coordinate and assist them in addressing their long-term accommodation needs rather than view them simply as another community organisation which deals with other elements of government in the same way that all sorts of other community organisations are doing.

That is the approach I have adopted. I appreciate their frustration about their accommodation. Traditionally, these have not been matters that government has been involved in, but the government is willing to assist, and that is what we will do.

**MR HARGREAVES:** Minister, can I ask—it is on that question—are you aware, and you may not be, whether or not that group of people have actually approached the minister responsible for the property group for assistance in creating that sort of CLC hub?

**Mr Corbell:** No, but I think they have spoken to Minister Burch, Mr Hargreaves, who is the minister responsible for the provision of accommodation to community based-organisations. DHCS is certainly aware of the issues. DHCS is their landlord, and has been for a long period of time.

**MR HARGREAVES:** This is really a real estate issue, isn't it?

**Mr Corbell:** It is a real estate issue, but I accept that these community legal centres support the effort of the government through the Legal Aid Commission and I am happy for my department to be proactive in this space. It has not traditionally had any responsibility in this area, but I am very happy for my department to be proactive in this space.

**THE CHAIR:** Minister, getting back to the thing that prompted us down this path, when the Legal Aid Commission moved to their new digs in Childers Street they also took the Youth Law Centre with them.

**Mr Corbell:** That is correct, yes.

**THE CHAIR:** Was any consideration given to co-locating these legal centres at the time that the Legal Aid Commission moved, because there was a lot of money spent on the Legal Aid Commission's fit-out?

**Mr Corbell:** There was a sizeable amount of money spent, that is true, but it was comparable with what you would be paying for any other modern office accommodation in the city. In relation to whether or not the commission gave consideration to housing CLCs, I would have to ask the commission.

**THE CHAIR:** Mr Rattenbury?

**MR RATTENBURY:** Yes. On page 10 of the annual report there is a snapshot of the outlook for the next financial year. Whilst it is obviously not possible to put everything in there, I would be interested to ask what may lie ahead in 2010-11 for the ACT's gender diverse community. Specifically, in February this year, we are aware

that the human rights commissioner provided you with human rights advice on the sex change provisions of the Births, Deaths and Marriages Registration Act. Can you tell us what has been done with that advice in the eight months since it was received?

**Mr Corbell:** Yes. I intend to make a reference shortly to the Law Reform Advisory Council on the specific issue of gender identification and also the broader issue of the operation of the territory's Discrimination Act. I think there are issues that need to be addressed in this space, particularly for people who are undertaking a change of gender and the legal requirements that are currently placed on those persons and how those requirements can be reformed.

That was identified in the *Sex Files* report also by the Australian human rights commission. It is my intention to ask the LRAC to conduct an inquiry into those matters and to provide me with advice. That is very important because there is a need, I think, to have a specific discussion about the operation of the territory's laws and allow people in the territory to express their view about those matters before we proceed with any changes.

**MR RATTENBURY:** When are you intending to make that referral?

**Mr Corbell:** That will occur before the end of the year. It is imminent. Ms Leigh reminds me that I have already given to the chair of the LRAC a draft terms of reference for that referral, as is our understanding, to seek his views informally before I formally issue a referral.

**MS HUNTER:** This area is quite complex. Are you intending, regarding those draft terms of reference, that the community is going to have some say on the terms of reference—that they will be consulted?

**Mr Corbell:** In my discussions with Professor Rice, who is the chair of the LRAC, I have indicated that I think it would be desirable for the LRAC to conduct some form of public consultation process or seek submissions or expressions of opinion from members of the community with an interest in this area. The LRAC has not previously conducted its work in that way, but the LRAC is still a relatively new beast and I do not see any reason why it cannot do so. I think Professor Rice is open to that process.

**THE CHAIR:** How many references have been made?

**Mr Corbell:** Only one so far.

**THE CHAIR:** Which was?

**Mr Corbell:** It was into suspended sentencing and the operation of suspended sentencing here in the territory. I have just received, in the last month, a report from the LRAC on that matter.

**THE CHAIR:** And where to from here with that report?

**Mr Corbell:** I have yet to consider the detail of that report but, once I do, I will certainly be making that available and indicating what the government's view is in

relation to the matter.

**THE CHAIR:** As we are now finished on this, I am mindful, members, that we have set aside a short period of time for general questioning and I am mindful that we are scheduled to have the DPP at 10. The statutory officers who are coming have got allocated time slots, but before we get to the DPP at 10 or thereabouts, are there areas in legislation policy, or do you want to just continue to range generally on policy issues at this stage?

**MR RATTENBURY:** Yes, I have got a couple, if that is agreeable?

**THE CHAIR:** Okay. Mr Rattenbury.

**MR RATTENBURY:** Thank you. On page 14 of the annual report, there is a note that discussions commenced in early 2010 between the department and the AFP on a new policing arrangement to operate from the start of the next financial year until the middle of 2016. Recently we have seen a recruitment drive for police officers who want to live and stay in Canberra as opposed to moving overseas with the AFP after a couple of years of training. This appears to be a worthwhile initiative, but I am interested to hear if there is any real or perceived conflict between the interests of the AFP in getting trained and experienced recruits from its ACT policing arm compared to having them some of them remaining in the ACT potentially for life.

**Mr Corbell:** I am sorry, I missed the last part of the question.

**MR RATTENBURY:** I guess it is the tension between how are they dealing with people who want to come in for life versus people who potentially want to be posted overseas, and is that working effectively?

**THE CHAIR:** It might be better if we asked the CPO this afternoon.

**Mr Corbell:** It might be better to ask the Chief Police Officer that when he is here, but—

**MR RATTENBURY:** I thought it might be a policy question. I am happy to come back to it.

**Mr Corbell:** I am happy to make a brief observation, which is that I do not see a conflict. ACT Policing is part of the Australian Federal Police. When people join the police they obviously have regard to the fact that there may be opportunities for them to explore career development and career opportunities in the national arena of the AFP, or indeed the international deployments that the AFP undertakes, as well as participate and be part of the effort of ACT Policing. I think that is to our benefit.

There are—and certainly the police that I have met in my time as police minister—those police who love community policing. That is what they do and they stick with ACT Policing. There are those police who enjoy community policing but they also want to have a taste of international and national operations. There are many who come back. Having that experience in the national arena, they come back and work in the community policing environment. And, equally, there are people who flow the

other way. There are benefits in being able to attract people to come and work in ACT Policing by also saying to them, “And you have the opportunity to go and work in these other arenas as part of your career and stay in the one organisation.” That is something that state police services cannot offer. I think it is actually a strength in terms of recruiting.

What we are seeing is a change of emphasis. Traditionally, the AFP have just had general recruitment rounds and then once people have come in they have been asked, “Where do you want to work? Do you want to work in national or do you want to work in ACT Policing?” Traditionally, new entrants who do not come in in any sort of lateral recruitment from other specialised areas and other police services—or indeed, say, the defence services and others—end up in ACT Policing anyway, the community policing function, because that is a basic skill that everyone has to learn. I think it is a welcome initiative of the CPO to say, “We want a particular emphasis on people who want to work for us in ACT Policing.” It is a matter of emphasis, but it is a desirable one.

**MR RATTENBURY:** On the policing agreement, one of the objectives of the current arrangement is value for money. Can you tell us how the ACT government is assessing whether this has been achieved over the life of the current agreement? What is the basis for measuring whether we are getting value for money?

**Mr Corbell:** We use the key performance indicator measures to look at ACT Policing in terms of cost of services versus the services that are being delivered. We also have the material available to us through the assessment of the cost of policing services that is reported nationally through the ABS. We are able to draw comparisons about the cost of police services here versus the cost of police services in other jurisdictions.

**THE CHAIR:** Could I take members and you, minister, to page 23 of volume 1, which is about performance indicators for government legal services. There is the issue of revenue recovered. Possibly this is a Mr Garrison question, if he is here? Yes, he is. There have been huge fluctuations in revenue recovered from \$1.6 million to nearly \$107 million down to \$34,000. I was wondering how those figures could be accounted for. Can Mr Garrison give us an update on where we are at regarding the marvellous \$107 million that we were told to watch this space for?

**Mr Garrison:** Mrs Dunne, unfortunately I am unable to update you further on the very large amount. It is a matter that is still a work in progress.

**THE CHAIR:** Ms Hunter and I are very interested in that.

**Mr Garrison:** The detail of the matter is—

**THE CHAIR:** It is a detailed matter that is just fascinating.

**Mr Garrison:** The detail of the matter is subject to the confidentiality provisions under the revenue laws.

**THE CHAIR:** So is the matter concluded?

**Mr Garrison:** No. In relation to the variation, part of it relates to the fact that my office has wound back its debt recovery activities on behalf of the territory and that has been decentralised back to agencies. They are putting in place their own arrangements in relation to recovery services. It was felt that it was a more efficient allocation of my resources to focus on our mainstream work rather than debt recovery. That is principally the explanation for that.

**THE CHAIR:** Thank you, Mr Garrison. So, if we looked across departments, we should see their revenues recovered increasing perhaps?

**MR HARGREAVES:** That is a little unfair to ask Mr Garrison.

**THE CHAIR:** Sorry; that would be your expectation?

**Mr Garrison:** One would hope so, Mrs Dunne.

**THE CHAIR:** One would hope so, okay. Minister, seeing that your agency was principally responsible for debt recovery over a long period, have you given any thought to another model for centralised debt recovery, or has the government given thought to another model of centralised debt recovery?

**Mr Corbell:** No. Mr Garrison's advice to me is quite right. Obviously, Treasury would have primary responsibility around recovery of territory money, moneys owed to the territory, so it may also be worth directing some questions to that agency if you want to pursue that further.

**Mr Garrison:** Mrs Dunne, to assist you further, a number of agencies conduct their own debt recovery exercises—ACT Revenue in particular—and most of the revenue in past years that we have recovered has been on behalf of Revenue. They now have their own processes in place for dealing with their routine recoveries. A number of agencies also refer their debt recovery activities to shared services which, of course, now sit within territory and municipal services. It is an issue that is, I believe, being actively looked at—and I have certainly promoted it amongst the chief executives—looking at how they implement, in effect, replacing my office internally.

**THE CHAIR:** So, in winding down your debt recovery measures, have you wound down your staff or have you reallocated the staff to things around—

**Mr Garrison:** We are talking one, one and a half, FTE at most, probably less, and those are resources that have just been absorbed into our other mainstream activities.

**THE CHAIR:** Okay. The next line in that table about revenue saved: how does that relate to revenue recovered or is that a—

**Mr Garrison:** That is a measure, as I may have discussed with you on an earlier occasion, which relates to, in effect, the savings that have been made against the estimates on claims against the territory.

**THE CHAIR:** Thank you. Are there other questions for Mr Garrison?

**MR HARGREAVES:** On the same page, you talk about the revenue saved, some \$7 million, down to \$1.8 million and up to \$6.3 million. Can you let us know about that, if you can? Also, for the record, what is revenue saved?

**Mr Garrison:** Revenue saved is a statistic which, I must admit, has its origins in ancient history as far as my office is concerned and it is the difference between the original estimate of the territory's liability on a claim and what we have been able to resolve the matter for, so that when a matter is finalised part of the data that is collected is the difference between the original estimate of liability and what the matter was finalised for.

**MR HARGREAVES:** Okay, and can you give us a little bit of an explanation on the contract values line—

**THE CHAIR:** Yes, thank you, for that.

**MR HARGREAVES:** which goes from 2007-08 \$91,258,000 down to \$136 million, down to—

**THE CHAIR:** I think that is up to 136 million.

**MR HARGREAVES:** Sorry—up. Thank you very much, Mrs Dunne. It is a bit early in the morning. Only one cup of coffee does not a statistician make. It goes up to \$136 million and then down to \$35 million again. That is wildly fluctuating.

**Mr Garrison:** It is and it is simply a function of the timing of the contractual arrangements that the territory enters into. We can add an extremely large contract or a series of very large contracts that are finalised in a given year. Other projects, as the committee will be aware, can sometimes take a year, 18 months, two years, or more, to come to fruition and accordingly those large matters will hit a particular year and it is at that point when the contracts are finalised that the performance indicator is entered into.

**MR HARGREAVES:** On that point, Mr Garrison, it is largely out of your control, isn't it, really?

**Mr Garrison:** Correct.

**MR HARGREAVES:** You just sit back and watch the figures roll.

**Mr Garrison:** I wish. It is a function of the instructions we receive and the matters finalised.

**MR HARGREAVES:** Yes. Where I was going was that, if it is, in fact, an end result of instructions that you receive from your client, maybe it is the sort of performance indicator not really of much help to us.

**Mr Corbell:** I think it is useful, Mr Hargreaves, simply because it highlights the volume of complex work that GSO have to undertake in relation to management of contracts the territory enters into and the types of liabilities they are having to manage

and protect in terms of the formulation of those contracts.

**THE CHAIR:** I am just wondering whether the line “contract values” relates to contracts across the territory.

**Mr Corbell:** Yes.

**THE CHAIR:** So they are not just JACS contracts?

**Mr Corbell:** No.

**THE CHAIR:** But they obviously do not represent the sort of the quantum of contracts that the territory enters into because we would have billions of dollars of capital works contracts at any one time.

**Mr Garrison:** Correct, Mrs Dunne. As you may recall, I now have out-posting arrangements with Procurement Solutions where I have lawyers in-house to provide assistance on a range of goods, services and capital works contracts. That advice can range from, in effect, a casual advice to us being fully engaged in a particular project, which is what normally occurs in major and significant complex matters. These statistics relate to those matters where we have had a substantive engagement in the project and the finalisation of the contract documents. As you are aware, most of the contracts entered into by the territory, even ones for large amounts of money, are in fact fairly routine and issues of contract management are a different issue from the finalisation of the actual contractual arrangements.

**THE CHAIR:** On this same page, and I am sure this question is highly perennial, could you update the committee on the cost to the territory of litigation commenced by Mr Eastman? If you need to take that on notice, I understand.

**Mr Garrison:** Mrs Dunne, on the last occasion that we tried to put these figures together it was actually rather difficult to do because of the effluxion of time and the fact that we had been engaged in litigation with Mr Eastman for in excess of a decade. I would have to say it would be several million dollars. It would be very hard to be more precise. We of course could identify the costs of some of the more recent sets of proceedings.

**THE CHAIR:** Can you identify the costs over the last two financial years perhaps?

**Mr Garrison:** Easily. I will take that on notice.

**THE CHAIR:** Thank you. That would be great. Ms Hunter?

**MS HUNTER:** I want to go to pages 15 and 16 around restorative justice, particularly the paragraph under “referrals”. We have seen an increase in referrals from ACT Policing and from the Children’s Court but we have seen a massive decrease in referrals through the DPP. It was 100 last year and it is down to eight this year, which is about a 92 per cent drop in referrals.

**THE CHAIR:** Is this the time to ask—

**MS HUNTER:** This is actually a question for the department. I wanted to get the minister's view. The DPP's annual report talks about a change in how they assess these referrals or go about these referrals. Previously, they would rely on the advice of the court. Does the department have a view on that new approach being adopted by the DPP? It is quite a massive decrease, so I wondered if you had a view on this change of approach.

**Mr Corbell:** The decline in referrals by the DPP has been counterbalanced by an increase in referrals by the court and the AFP. The DPP has advised that his office has taken a different approach this year. I know that Mr White is present so I am sure you can seek his view in relation to the approach that he has adopted.

**MS HUNTER:** But do you have a view on that, minister?

**Mr Corbell:** I do not think it is really a matter for me to have a view on. The DPP is an independent statutory officer and he makes these decisions based on what he believes is the appropriate course of action for his office. That is a matter for him.

**MS HUNTER:** Do you have a view on who is best equipped to assess whether a referral would meet the objectives of the RJ act—whether it be the DPP, the courts or ACT Policing?

**Mr Corbell:** I think all of those agencies have a role to play in making referrals.

**MR RATTENBURY:** Are you concerned by the drop in the number of referrals?

**Mr Corbell:** The DPP is entitled to take a view as to how his office deals with these matters. It is not for me to make a judgement about that. He is an independent statutory officer and he is entitled to make his own decisions in relation to which matters he believes should be referred from his office. But that does not preclude other elements of the criminal justice system, particularly the police and the court, from continuing to make referrals that they believe are appropriate as well.

A referral can come from a range of points. It can come from the court itself when the court is hearing a matter. It could come from the police and it could come from the DPP. So there are multiple points at which referrals are being made, and if a referral is not made by one agency for a particular reason it may end up being made by another agency in relation to the same person. Certainly what we have seen is that there has been a significant increase in referrals from the Children's Court.

**MS HUNTER:** As I said in the beginning of my question, there has been a significant increase from the Children's Court. There has been an increase from ACT Policing, which then puts the massive decrease from the DPP in stark contrast. You do have overall responsibility for a restorative justice policy so it is around—

**Mr Corbell:** But it is not for me to direct the DPP on how he undertakes the activities of his office. That would be quite inappropriate.

**THE CHAIR:** At that point could we move on to the DPP's office. Mr White might

join us at the table.

**Mr Corbell:** To reiterate the point, it is the same young people moving through the system—police, DPP, court—and really the important thing is that there are opportunities for referral. Police can make the referral, the DPP can make the referral and the courts can make the referral. It is the same cohort of young people moving through the system and I think the important thing is that there is every opportunity for referral to be made and that is why multiple agencies have the capacity to do that. If it is not, for whatever reason, being determined by one agency, it can still be determined by another agency.

**MS HUNTER:** So do you keep some sort of data or information around whether it is the same group of young people, just to ensure that some young people are not falling through the gaps and not having that opportunity of a referral to the restorative justice unit?

**Mr Corbell:** Obviously, if a young person has been charged with an offence, they are going to appear before a court—and the court has the ability to make a referral.

**THE CHAIR:** Mr White, on the subject of historical referrals to restorative justice, is there anything you would like to add before we move more generally to your annual report?

**Mr White:** The key issue here is that there has not been a decline in the number of referrals to restorative justice. The legislation allows for different bodies to refer matters at different stages of the process. We previously were referring a number of matters that probably should have either been referred by the AFP earlier in the process or by the court in the normal process of the court deliberations. And we have taken the view that we should be encouraging the AFP to refer matters early or that we should permit the court to refer matters if they see fit.

Members will appreciate that young people who appear in the Children's Court generally are represented and generally have the ability of their representative to request a referral to restorative justice. The views of the prosecution are sought at that stage. Generally the court will refer the matter if indeed it is thought that it is an appropriate matter to refer.

I do want to emphasise—lest members be concerned that there is no lack of support from the DPP to the system of restorative justice; quite the contrary—we are a very enthusiastic supporter of it. It is really that re-emphasis on the way that our office is operated. Effectively the slack has been picked up by the AFP referring matters earlier or the court referring matters during the court process.

**MS HUNTER:** So you are quite confident that ACT Policing is being greatly proactive and that is picking up the first lot and the court is picking up the next lot. This drop in numbers is reflecting that the earlier intervention is successful.

**Mr White:** Yes, to a certain extent it is. There was some historical reluctance on the part of the AFP to refer matters, for particular reasons. It was often the case that where the victims were AFP officers, for example, there was a reluctance, perhaps

understandable. But that has been a matter of some discussion, certainly not primarily with me, but Mr Hinchey has always been a great advocate for these matters and is always keeping people up to the mark in terms of their rates of referrals and the policy decisions behind referrals, both for us and the AFP.

**Mr Corbell:** We are certainly seeing an improvement in the number of matters being successfully completed and an improvement in the participation rate. Of the 236 victims who were offered the opportunity to participate in a conference, 178 or 75 per cent did so. That is an increase of seven per cent over the same period last year. Of the 188 offenders who were offered the opportunity to participate, 163 did so, or 87 per cent. That is an 11 per cent increase. I think what that highlights is that there may be some value in that earlier referral taking place in getting a much stronger participation rate as a result.

**MS HUNTER:** And certainly those numbers are documented on page 18.

**THE CHAIR:** Thank you, Mr White, for appearing. Can I say, by way of general comment, I always look forward to the DPP's report. It is a slim volume. This is no disrespect to a whole lot of other agencies. It probably makes for the most interesting reading of the year, and I thank you for that, amongst the annual reports that I have to read.

Can I go to page 1 of your report. There are many places I could start but we may as well start at the beginning. The last paragraph on that page states:

A way needs to be found to restrict the work of the Supreme Court to matters of a complexity and seriousness which become the status and resourcing ...

You go on from there. I have not had a chance to really get my head around it. There have been some innovations that the minister introduced yesterday which may serve to do that in relation to bail. Mr White, could you give the committee a general exposition of the things that you believe need to be done to ensure that the Supreme Court is dealing with matters of appropriate complexity?

**Mr White:** The issue of jurisdiction is the key issue there. I am an interested observer. I do not pretend that I play any particular policy role in these matters but hopefully anything I say can offer some guidance.

**THE CHAIR:** You are a high user, though.

**Mr White:** And it does seem to me that there a number of matters that currently go up to the Supreme Court which could be more than adequately dealt with by our excellent bench of magistrates. Those are the sorts of matters that are relatively straightforward, factual disputes. I highlight such matters as aggravated assaults, possibly breach of protection orders—those sorts of matters—which are factual disputes and can be dealt with by the Magistrates Court. Of course the great benefit of that is not only does it unclog the Supreme Court but it has those matters dealt with more expeditiously in the general criminal justice scheme of things.

That, in my view, would make a significant contribution to unclogging the list of the

Supreme Court to allow that court to concentrate on more complex matters, particularly matters involving sexual assault for which there are now a number of special measures which are really quite complex. I hope I may have a brief opportunity to expand on that later but I can report that those measures are operating very effectively. But they do introduce levels of complexity in relation to those sorts of crimes. It maybe thought that it is appropriate for the Supreme Court to be developing its expertise in those sorts of matters and not trying the relatively straightforward aggravated assaults and the like.

**THE CHAIR:** You said earlier on that page that there had been a range of suggestions made about streamlining the court process but that some of those “have been consigned to the bureaucratic ignominy of being placed under active consideration”. Which of those things do you think should be brought forward for active implementation rather than—

**Mr White:** Active implementation rather than consideration.

**MR HARGREAVES:** How do you know they got placed under bureaucratic ignominy?

**Mr White:** Because there was a process with the Supreme Court working group, and that group did deliver a report that effectively, in relation to most of the matters that had been raised by the DPP, simply noted that they would be considered. Perhaps I have been somewhat presumptuous in my characterisation of that. Nevertheless, that is what seemed to me had happened to our suggestions.

I can, however, say that there is now some movement on some of those matters. There is some discussion taking place with the court and the interested parties about some of these reforms, most of which I would refer to as micro reforms but very significant micro reforms. They really are about reducing the number of times people have to appear in court, streamlining the timetabling processes of the court and those sorts of things. And those things by themselves are not particularly significant but as a raft of measures they would be significant.

**THE CHAIR:** And you made these suggestions on the basis of the DPP, you and your officers, being frequent users of the court?

**Mr White:** Indeed, yes.

**THE CHAIR:** You bring that insight to it?

**Mr White:** Indeed I do. For example, I note that one of the issues that have been picked up is in relation to a reform of bail procedures and there is now some legislation to come before the Assembly in relation to that.

**THE CHAIR:** That was the stuff that arrived yesterday, I think.

**Mr White:** I understand so. And that will hopefully have the effect of lessening the call on the Supreme Court’s resources for bail applications. That is one example of the way in which the business of the Supreme Court can be unclogged.

**THE CHAIR:** One of the suggestions that have been made about the way that we can unclog the business of the Supreme Court is increasing the criminal jurisdiction of the Magistrates Court to, say, sentences of five years or some other number, but increasing it from two. What is your view, as the statutory officer holder, about the desirability of, say, moving matters that may have a sentence of five years to a summary jurisdiction and, therefore, depriving people of a potential jury trial?

**Mr White:** I would say that perhaps that issue is best tested by the reality of what happens in our courts. We have seen in the ACT a large uptake of elections for judge-alone trials. I think that is a perspective that needs to be brought to any consideration of this matter. In other words, people eschew a magistrate-alone trial that can be had in the Magistrates Court only to then take a judge-alone trial option when they go to the Supreme Court.

I suppose any discussion about the right of trial by indictment should really take into account the issue that there is no right at common law, so to speak, not to be tried by a jury of your peers, which is what an election for a judge-alone trial is. As I say, this debate would have to be looked at in the context that we have a very high uptake in relation to matters of judge-alone trials in the territory. As I was saying before, there are a number of matters which tend to be matters relating to that five-year jurisdiction which really are matters which involve fairly straightforward, factual disputes which can be determined by magistrates and generally are determined by magistrates in other jurisdictions.

There are a number of different models but the reality is that the uptake of committals in the ACT is higher than just about anywhere else. I think some figures that were put together by JACS have demonstrated that. We have got a higher uptake of committals for trial than anywhere else. So those are all matters that need to be put in the mix, in my submission.

**MR RATTENBURY:** What is your view on why we have such a large uptake of judge-alone trials in the ACT?

**Mr White:** Those are decisions that are made by defendants. The crown has no say in that under the current laws of the territory and I can only assume that market forces are at work.

**THE CHAIR:** I suppose, though, that—

**MR HARGREAVES:** You cannot let him throw that one in like that, throw a hand-grenade into the mix, without telling us what those market forces are.

**Mr White:** One would have to ask that of the defendants who are making the elections but presumably a judgement is made that that is a decision which is more likely to be in favour of the person making the election.

**MR HARGREAVES:** So a person would prefer to have one person decide something than 12 good men and true? But you would not know. Do not answer that question.

**Mr White:** I will not.

**MR HARGREAVES:** We will leave that one hanging in the air.

**Mr White:** Thank you.

**THE CHAIR:** On the subject, though, of having judge-alone trials, does that in itself contribute to the delays? It seems to me that a jury trial can be dealt with, in a sense, more expeditiously than a judge having to reserve his judgement and come back later.

**Mr White:** I think there is an element of that. It is quite a burden on the judges—and I think they have indicated this—to have to formulate their written decisions in judge-alone trials which, under the legislation quite appropriately, they do have to do. The formulation of a written decision, even on a reasonably straightforward matter in a judge-alone trial context, is quite a complex issue. They have to record all their legal directions, they have to record all of their conclusions on the evidence and so on and so forth. So a lot of the matters that are being heard by a judge alone are delayed awaiting the delivery of judgements.

Yes, there is really an element of that. That does, it appears, contribute to the overall delays. And when those judgements are in comparatively straightforward matters which would be dealt with expeditiously in the Magistrates Court, that just exacerbates the delays.

**MR RATTENBURY:** If I can come back to the question Mrs Dunne asked earlier around the five-year jurisdiction for the Magistrates Court, on page 2 of your annual report, you do support that, as I understand it. One of the things I have been contemplating in that context is the potential conflict in the ACT's Human Rights Act—and I will ask the commissioner about this when she comes later—between the right to a jury trial and the right to have your case heard expeditiously. Is that something you have contemplated and you are able to give the committee some views on?

**Mr White:** Other than to reiterate some of the considerations that I have already put forward, I do not think it is particularly appropriate for me to say that. But there are really a number of aspects to a fair trial. The fair trial provided by the Human Rights Act is a fair trial provided to everybody in the community, including the accused person and including victims and so on. All of those interests have to be balanced. That is no doubt the job of policy makers. But it is not a straightforward issue, I would suggest.

**MR RATTENBURY:** Thank you.

**THE CHAIR:** Ms Hunter, I know that you have a question but I want to go back briefly to something that Mr White raised and ask the minister: where are we with the consideration of changing the arrangements in relation to electing for judge-alone trials?

**Mr Corbell:** The department is finalising its position on that matter. I have a submission before the government in relation to election and how that should be

dealt with. That is in the process of being finalised.

**THE CHAIR:** And what do you think the timetable will be?

**Mr Corbell:** I would anticipate the bill being introduced early next year.

**THE CHAIR:** Thank you. Ms Hunter, over to you.

**MS HUNTER:** There were more particular questions on—

**THE CHAIR:** I am sorry, I thought you had something—

**MS HUNTER:** Not particularly on this line of questioning. Mine was on sexual assaults. I did want to go—

**Mr Corbell:** It might be helpful for you to understand the government's position on a number of these issues, particularly around right to a jury trial and so on. As you would be aware, yesterday I announced that the government would be increasing the criminal jurisdiction in the Magistrates Court to five years, and also the civil jurisdiction to a quarter of a million dollars.

Members should appreciate that, in initially proposing the district court proposal, it was to deal with this issue of trial by jury and to recognise that, for matters that were greater than the threshold of two years, the current threshold in the Magistrates Court, and up to five years, a jury trial could be made available, and it could be made available through a district court. Obviously, we know what the history is in relation to that matter. Therefore, the government is proceeding with the alternative package of reforms which increase the criminal jurisdiction in the Magistrates Court.

I think that is essentially the choice that we as legislators have. There are three choices. We can have a lot more jury trials in the Supreme Court for what, as the DPP outlines, are relatively minor, straightforward matters that can be dealt with by judicial officers other than Supreme Court judges; we can have a third forum established to conduct those matters, including jury trial, in the district court; or we can have a much larger number of summary matters being dealt with in the Magistrates Court without a jury,

The Assembly has indicated to the government that it does not support a third court, an intermediate court. So we have two choices. I do not think it makes a lot of sense to load up the Supreme Court with more jury trials for the relatively more minor range of offences. So the only other option open to the Assembly is to increase the criminal jurisdiction in the Magistrates Court.

**THE CHAIR:** Thank you, minister. Ms Hunter, you were going to ask a question.

**MS HUNTER:** I want to go back to the issues around sexual assault cases. You have raised that, Mr White, as an ongoing issue—the delays. Looking through your annual report, there are some that are still outstanding after 36 months. You do mention a number that will be starting in 2011 that actually were begun back in 2009. You also mention that there were some reforms and changes, but what more needs to be done

here to ensure that these cases are addressed in a far more timely manner than we are seeing?

**Mr White:** The primary issue is the backlog in the Supreme Court itself. That is the primary determinant. There are some more micro reforms that can be made to the practice of the court. These are matters that are under discussion with the court in court forums about the scheduling of pre-trial applications and the like.

One of the issues that arises under the new reforms is that there are often pre-trial hearings well in advance of the trial date. In fact, in some instances it is necessary to have, for example, evidence taken in a pre-trial hearing. The difficulty then is the delay until the actual trial of the matter. The other issue that arises are pre-trial applications made by defence in relation to matters of evidence, severing counts on indictment and so on. It seems to us that it would be far preferable if those matters could be determined, not separately from the trial but during the trial itself, at the start of the trial. That would enable some compression of the time to be given.

At the moment there might be a day allocated for the hearing of a pre-trial application, with the trial to then take place some months further down the track. There is a degree of re-engagement with the matter that is involved with the court and the parties. Those sorts of things can be avoided. Those are the sorts of things that really are about the business of the court and the way that the court conducts its business.

**MS HUNTER:** What would need to happen for that change to be made?

**Mr White:** The court would need to come to a new way of doing things, new listing procedures and so on. As I say, there are some very encouraging discussions taking place about that within the court and within relevant forums at the moment.

**THE CHAIR:** This is going to be one of the issues for quite some time about the management of courts to address the backlog in the Supreme Court. Going back to your comments about the ignominy of having your suggestions submitted and placed under “active consideration”, do you know what the process was, Mr White, with the suggestions that you made to the Supreme Court Working Group that were placed under active consideration? Who does that?

**Mr White:** We were a party to the group; we had a representative on the group. We went forward with a number of suggestions to the group and the group furnished a report. Our suggestions were not placed in the “recommendations for immediate action” column. That is all I can say.

**THE CHAIR:** So they were not placed for immediate action by the working group?

**Mr White:** No. We certainly had a very good hearing in the group. I am not suggesting that we did not, but we did not achieve the results that we had hoped for.

**Mr Corbell:** I think it is worth highlighting, Mrs Dunne, that the government has regard to the recommendations of the Supreme Court Working Group and the government has implemented almost all of the recommendations of the Supreme Court Working Group. The matters that have not been implemented to date, but which

are the subject of further work, predominantly revolve around case management within the court.

As you would appreciate, the executive, and indeed the Assembly, cannot direct the court on how it undertakes its day-to-day case management. It is a judicial function. But as you would be aware, the Chief Justice and I have agreed to a new process to review case management in the court. We have commissioned Justice Penfold and the chief executive of my department to undertake that work. We have also secured the assistance of Acting Justice Bernard Teague to assist Ms Leigh and Justice Penfold with those matters. As part of that work, a new reference group is being formed to assist those three people. That includes the DPP, the Legal Aid Commission, the bar and the Law Society, so that they are also able to feed into it.

Getting this right is about getting the Supreme Court to further refine the way it does its case management. That is where there is a real opportunity for improved efficiency in the work of the court. I am pleased that the Chief Justice has agreed that that is work that can be done and that we have a process for tackling that issue.

**THE CHAIR:** Mr White, do you have a feel for how much of an impact, in some sort of quantitative term, would be achieved by streamlining, improvements in case management and reducing the number of times people have to come up for mention and the like before a matter is dealt with and what sort of impact that would have on the workload of the Supreme Court?

**Mr White:** Potentially very dramatic. The ultimate Holy Grail is very effective case management. It has to be said that courts all over Australia have grappled with this in a criminal context. I am aware that the committee that is being set up will have some models available to it where substantial progress has been made, and they will no doubt look very closely at those.

There are really a number of micro measures and possibly some bigger measures to do with the overall philosophy, if you like, of case management. Experience has shown that case management is not really effective unless it can define the issues, and that means tying parties down to agreeing as early as possible the way in which litigation is conducted. By doing that, one can get rid of the necessity of calling witnesses, setting long hearing dates only to have them collapse, all those sorts of things. But it is not an easy process; it has proved difficult throughout Australia. In some respects the committee will have available to it a number of models where that has been tried, with varying degrees of success.

**THE CHAIR:** Would you point to any particular jurisdiction where they have got it close to right or achieving perfection?

**Mr White:** I do not know if perfection will ever be achieved. Certainly, in Western Australia there have been quite recent developments involving the District Court there. In New South Wales, there were substantial improvements to the jurisdiction of the District Court that were brought about. So there are some models where it is working very well.

**THE CHAIR:** I am very conscious of the time; we are behind already. There are

some other questions which are more routine, Mr White, that I will put on notice.

**Mr White:** Yes, thank you.

**THE CHAIR:** That will probably happen along the way. Thank you very much for your time. We will take a short break.

**Meeting adjourned from 10.41 to 10.52 am.**

**THE CHAIR:** I welcome the Human Rights and Discrimination Commissioner and I apologise for us being behind time already, but we are running on a tight time frame today. Dr Watchirs, do you want to make any opening comments in relation to the annual report of the Human Rights Commission?

**Dr Watchirs:** No. We are just prepared to answer questions. Thank you.

**THE CHAIR:** Okay. Thank you very much. I have been contemplating, and this might be a useful time to ask this question because it does reflect on the jurisdiction of the attorney as well as the Human Rights Commission, a discussion process that is out at the moment in relation to what could be called constraining of the third party motor vehicle insurance provisions and the kick onto that in relation to workers compensation.

I am aware that you, Dr Watchirs, wrote in relation to the most recently passed set of reforms in relation to third party insurance that you had concerns about the human rights implications, especially as they relate to young people and to women and people on low incomes. I was wondering if, in the light of the current reforms and the current discussion paper, there are issues that you are also concerned about.

**Dr Watchirs:** We did do an advice last year and it was about what we thought was a disproportionate impact of having a \$30,000 threshold for recovering costs and only making it for economic loss. That means that people who are not employed would have a much more disproportionate impact and be deterred from litigation or recovering their costs. I think that is probably compounded by the proposed reforms.

We have not put in a submission—it is not due until 30 November—but my preliminary view is that there seems to be a discriminatory or even perhaps arbitrary distinction between physical and mental impairments. Mental injuries have to have a threshold of 20 per cent for an impairment whereas I think physical may be about one per cent. There is prevention of aggregating both these forms of injury for a whole-person impairment and in my view that has a disproportionate impact on vulnerable groups, particularly people with disabilities.

There is also going to be a cap on non-economic damages. That is general. At the moment, a person with quadriplegia would get about \$400,000 for pain and suffering and the new cap will be substantially lower than that across the board. There are also issues of fair trial by the appointment of medical assessors by the CTP regulator and only being able to challenge decisions in the case of CTP for substantial injustice, and even worse in the case of workers comp for a denial of procedural fairness.

These blocks on common law can have a human rights impact because of the large number of people with disabilities it will affect in the future and it will take time for that impact to show up. We have not seen the full impact of the last amendments.

**THE CHAIR:** It has been put to the community, Dr Watchirs, that the capping of access to common law, the limiting of access to common law, is brought about by issues of cost and the impact that we are seeing on premiums for both workers compensation and third party insurance in the ACT. Would you like to comment on how we might balance the issues of costs versus the giving up of rights?

**Dr Watchirs:** I think the right to a fair trial is something that is costly and we need to bear that cost in order to have a proper justice system. The premium issue is a complex one that I am not an expert on, but I gather compulsory third party insurance is across the board where in other jurisdictions it may be based on risk and actuarial issues. But certainly the disproportionate impact on vulnerable groups, which is the central client group of the commission, is something that we are here to protect and advocate for their rights—and not just lawyers' rights; it is the impact on the clients.

**THE CHAIR:** I understood from what you said earlier that you are going to make a submission to the—

**Dr Watchirs:** Yes, I think it is due on 30 November, both bills. So, yes, we are continuing to make a submission on that.

**THE CHAIR:** Minister, on the subject of the proposed changes to the Civil Law (Wrongs) Act as a result of this, what role has your department played in the formulation of the current policy?

**Mr Corbell:** Throughout the normal whole of government consultation processes for the preparation of any government policy position, the policy is the responsibility of the Minister for Industrial Relations and policy development is being undertaken by that relevant part of the Chief Minister's Department that supports the Minister for Industrial Relations.

**THE CHAIR:** But you are the minister responsible for the administration of the Civil Law (Wrongs) Act and if this policy is progressed we will see substantial curtailment of people's rights under the Civil Law (Wrongs) Act. What view did you or do your department express about the appropriateness of that?

**Mr Corbell:** The changes to the Civil Law (Wrongs) Act are in the context of reforms to other elements of workers compensation and that is the policy responsibility of the Minister for Industrial Relations. My department provided agency comments as it would in relation to any matter that comes before cabinet that deals with these issues.

**THE CHAIR:** And what were the agency comments?

**Mr Corbell:** They are cabinet-in-confidence.

**THE CHAIR:** Dr Watchirs, you have said on a number of occasions over the years that it might be time for a review of the Discrimination Act. Some recent events in

relation to interpretation of how the Discrimination Act might operate have highlighted some issues for members of this Assembly and members in the community. When do you envisage that a review might be underway?

**Dr Watchirs:** I am hoping the reference will be received later this month or next month, but in previous annual reports the areas I have highlighted as needing reform, because it is a 1991 act, are the broad number of exceptions; I gather there are over 40. There have been cases like not covering volunteers; one against the Scouts where there is no jurisdiction because they are subject to a very broad exception. The vilification provision is very tough, much tougher than the federal racial hatred one. We have an incitement requirement. I think harassment would be a better formulation like the UK model. We do not have a reasonable adjustment criterion for disability discrimination, which is in the federal act that we could improve on.

**THE CHAIR:** What do you mean by a reasonable adjustment provision?

**Dr Watchirs:** At the moment, it is in the case law rather than the legislation, so there is a positive duty to provide a reasonable adjustment for an employee in an employment context where they have a disability, so that is on the employer to do that. In the UK it is even broader; it is a positive duty for people with disabilities generally. In other jurisdictions such as Victoria there is actually a positive duty for people with family responsibilities, and I am quite keen as another area where the ACT could be leading best practice.

We do have some provisions that are not in other jurisdictions. We do not have a comparator. All we require is that a person is treated unfavourably. In my view, that is a very good provision we should keep and other jurisdictions should be catching up with us on that one.

There is a SCAG harmonisation process, but that is on hold because there is a federal human rights framework consolidation of race, sex and disability and other discrimination legislation. So I think we should go ahead with having best practice discrimination law reform and of course can consult the community about the kind of exceptions that they think are appropriate, particularly the one you were talking about with age discrimination and the provision of services by shops to school-aged children.

**THE CHAIR:** Sorry, could you just repeat the last bit? I am having trouble hearing you. I do not know—

**Dr Watchirs:** Sorry. I am aware of the proposed amendment to the Discrimination Act about shopkeepers being allowed to refuse service to children of school age and I think that is something that should be subject to community consultation, looking at the evidence base of what are real anti-truancy measures, and having a principled approach to exceptions, not just a knee-jerk reaction, issue by issue. Probably my colleague the children's commissioner would have more to say about that.

**THE CHAIR:** Before we move on to that, if you do not mind, could we just go back. You said you were expecting a commission to—

**Dr Watchirs:** No, the Law Reform Advisory Council, which I am a member of.

**THE CHAIR:** Right.

**Dr Watchirs:** And Professor Rice is an expert on discrimination law. I have worked with him over a number of years. We actually convened a recent roundtable with him on discrimination law reform.

**THE CHAIR:** And is there a budget allocation for review of the discrimination?

**Dr Watchirs:** No.

**THE CHAIR:** So this is being done on the cheap?

**Dr Watchirs:** Not to the commission. The council has its own funding, which the attorney is aware of.

**Mr Corbell:** There is no requirement for a budget provision for review of the Discrimination Act. There is a funding agreement in place between the territory and the ANU for the operations of the Law Reform Advisory Council. As I have previously indicated this morning, I intend to make reference to the Law Reform Advisory Council on a review of the Discrimination Act. So the process is funded by LRAC.

**THE CHAIR:** Okay. I was just trying to work out what the source of the funding is. Mr Hargreaves, have you got questions?

**MR HARGREAVES:** No.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** I wanted to start with page 5, the start of putting forward the issues around resource constraints that the commission is facing and the ability to adequately meet the objects of the Human Rights Act that you state are being compromised. What activities are not being undertaken by the commission due to these resource constraints?

**Dr Watchirs:** I think that is something on which each commissioner would have a separate story to tell, so if we take it by turn will that satisfy?

**MS HUNTER:** Certainly. That would be great. Thank you.

**Dr Watchirs:** In terms of the Human Rights Act, we have focused on being more reactive and there has been more demand for training so we have been satisfying that and recouping the costs through user pays, which took us through some tough times in terms of paid parental leave for a number of staff at the time in the commission. I had intended doing human rights fact sheets. We have had drafts for a number of years; they have not been finalised. Discrimination pamphlets have been slowed down. We have only got the more general ones, so that is a backlog. We are not doing systemic work. We have not done any own-motion cases. We could in a number of areas, particularly real estate agents, race discrimination allegations, restaurants, retail,

construction industry, allegations of sex discrimination as well as sexual harassment, particularly following the David Jones case.

A number of NGOs have called for a disability group home human rights audit. We have not been able to repeat the detention facilities audit that we did in 2005 at Bimberi and adult facilities in 2007 and we have been cutting our quarterly bulletin *Humanity* down to three instead of four issues. Basically, systemic issues are not being able to be covered. We are much more reactive in responding to government policy.

**MS HUNTER:** We have, in other forums, discussed the lack of capacity to go in and do an audit of the AMC and I note that I think it says in here that 117 complaints came in.

**Ms Watchirs:** Inquiries; we cannot have complaints under the Human Rights Act, but we have recommended in the five-year review that there be civil complaints handled like discrimination ones subject to agreement of the other commissioners and other agencies like the Ombudsman and Public Advocate.

**MS HUNTER:** You talk about, I think it is on page 6, a scoping exercise around funding. Who participated in this exercise and where are the results being sent?

**Mr Roy:** I will answer that question because, as well as being the Children and Young People Commissioner, I am responsible for the corporate functions within the commission. I spend about 35 per cent of my time fidgeting with numbers. The scoping exercise was an internal exercise. We largely looked at our current structure, our current FTEs, our current budget and, as they said, “greenscaped” it—or whatever the word is—in terms of what would be the ideal positioning for the commission. At the moment it is an internal document only, but we have got a rough idea of what we think could bring the commission up to an adequate level of performance.

**MS HUNTER:** When you talk about subsidising the staffing budget with just under \$60,000 from the administrative budget, is that you taking on functions to—

**Mr Roy:** Me personally as Children and Young People Commissioner?

**MS HUNTER:** Yes.

**Mr Roy:** No. It means that the salary budget we receive is not sufficient to pay for the salary we currently have to the tune of about \$60,000. So we subsidise it from our administrative budget currently, which obviously impacts on our capacity to undertake administrative functions, including community education, training, publication, travel and conferences.

**MS HUNTER:** On page 6, at the top, it talks about the efficiency dividend. It seems that, because you are corporately aligned with the Department of Justice and Community Safety, you are not being seen as a small agency. The efficiency dividend in the past year has been one per cent. I am assuming it is going up to 1.5 per cent in the current financial year, rather than the 0.5 and one per cent that applies to small agencies. Do you have anything else to say about that?

**Mr Roy:** You are quite right. Because we are administratively placed within JACS, in a sense—we do not have our own chief executive like some statutory agencies have—we are seen to be part of JACS, so we do have to take the full brunt of the efficiency dividend. We are a small agency. Our FTE is just about 20. But you are right—we do have to have the one per cent, then the 1.5 per cent, which means in future years we will have to remove up to 55 per cent from our budget, which is going to be very, very difficult without losing staff.

**Dr Watchirs:** Can I just add that at the recent Australian Council of Human Rights Agencies that we hosted last week in Canberra most other human rights and equal opportunity agencies are not subject to efficiency dividends at all.

**MS HUNTER:** Minister, do you have a comment on this? It is really a small agency but, because of that corporate alignment, it is being hit with that higher efficiency dividend.

**Mr Corbell:** As part of the justice portfolio, the Human Rights Commission gets the advantages of sharing some of the corporate costs that it would otherwise have to be funded for directly. The fact that the Human Rights Commission sits within the justice portfolio means that some of its costs are effectively allocated to whole-of-JACS functions, particularly around corporate functions and support. It is appropriate to view the Human Rights Commission in the context of the entire JACS portfolio, because the commission does not operate as an isolated entity entirely within the justice portfolio. A range of functions that support the Human Rights Commission are undertaken by the corporate areas of my department as a whole.

**MS HUNTER:** But what percentage of the operation of the Human Rights Commission would be undertaken by the department?

**Mr Corbell:** I would have to ask for some advice on that—I do not have that to hand—and I am happy to do so. But the point I would make is that the commission is being asked to make the same efficiency savings that the government is expecting of all other entities. If the commission does not make that saving, someone else has to, and someone else in the justice portfolio has to find more. I do not think that is fair. I think that all elements of my portfolio have to share in the broader task of achieving efficiencies, returning money to the budget so that government can meet its whole-of-budget objective.

**MS HUNTER:** But surely there is a case that says that because this—

**Mr Corbell:** If one agency is exempted, that means another agency has to find more. I do not believe that the efficiency dividend being asked of the commission is unreasonable. In fact, it is very small in absolute dollar terms. It is the government's expectation that this agency find that efficiency. Other small agencies within the justice portfolio are also being asked to find those efficiencies and they are doing so.

**THE CHAIR:** How much dead rent did the ESA authority pay at Fairbairn?

**MR HARGREAVES:** Can we have that when we have an ESA person here?

**THE CHAIR:** Yes.

**MS HUNTER:** What I am interested in, though, is that we have not even got to the other two commissioners around what they are not able to deliver or pursue because of resource constraints. There already seems to be quite a long list. This is very concerning in a human rights jurisdiction.

**Mr Corbell:** Ms Hunter, all agencies within the government administration would identify areas where they believe they could do more. Whether it is Corrective Services, restorative justice, the Electoral Commission, the Public Advocate or the Public Trustee—I am sorry; that is not a good example—all of these agencies will easily and quite properly identify areas where they believe they can do more if they have more resources. I accept that that is the case, but the reality of the budget context is that all agencies need to deliver efficiency dividends. The government is not going to exempt any agencies from that exercise.

**MS HUNTER:** If my memory serves me correctly, in estimates we talked about the possibility of one-off grants money around particular activities—for instance, the human rights audit of the AMC. We have had a year of operation. At the time, I seem to recall, you said that it was something you would have a look at. I am just wondering whether that is something that you are still considering—being able to look at particular audits, for instance, and particular activities, and to fund those activities?

**Mr Corbell:** I certainly remain open to that prospect. In relation to the AMC, the government's position is that obviously we have a very extensive review of the operations of the AMC coming to finalisation right now, being undertaken by Mr Hamburger and his team. Once we see the results of that, that review will be made public. The government will also outline at the same time its response to those issues.

I think it would be very useful to have the Human Rights Commission's view in relation to that review. I would like to get their opinion on the issues raised by the review and whether they believe there are issues of further interest or concern to them. Once that has occurred, the government will be in a position to decide how to address those matters should, indeed, that need to occur.

**THE CHAIR:** Dr Watchirs, have you had any involvement with the Hamburger review of the AMC or made any contribution?

**Dr Watchirs:** Yes, we have met with three of the consultants. We provided them with correspondence that we had with the department and the minister about issues that arose during inspections, which is an unfunded power I have under the Corrections Management Act.

**THE CHAIR:** Minister, can you just remind me—because it is something that has slipped my mind—what is the cost of the Hamburger review of the AMC?

**Mr Corbell:** It is approximately a quarter of a million dollars, but I can provide the exact figure.

**THE CHAIR:** We can come back to that this afternoon with Corrective Services. It is a distraction. Mr Roy was talking about issues that you had not had an opportunity to deal with. Before you go to that, you said that you spend 35 per cent of your time—did I hear you correctly?—dealing with the administrative part of the commission. How much of the commission’s administration is outsourced to JACS and how much of it is done by officers inside the commission?

**Mr Roy:** That is very difficult to say. As the attorney pointed out, we certainly benefit because JACS undertakes some of the corporate functions on our behalf.

**THE CHAIR:** Such as?

**Mr Roy:** Financially. We have a close relationship with the financial area of JACS. They assist in recruiting and they assist in training in a range of areas. Of course, in saying that, we do contribute about \$300,000 from our budget to JACS, so in a sense we are purchasing a service from JACS. But, yes, it is correct that I spend about 35 per cent of my time doing administrative functions.

**THE CHAIR:** Which covers things such as?

**Mr Roy:** Well, it is from our side of the equation—looking at our budget, looking at our staff and looking at our recruiting.

**Mr Corbell:** I might just ask Ms Leigh to make a comment on that too, if I may, Mrs Dunne?

**Ms Leigh:** I just thought it might be helpful to clarify that. Like all the business units of JACS, the HRC receives support from our corporate areas. As to the particular money that was just referred to, because the corporate areas themselves are not an outcome for the department their costs are attributed back out to all of the areas of the department. So on any balance sheet showing costs you will see against the legislation and policy branch their contribution to corporate. That cost is allocated across the department. It is not just the Human Rights Commission that contributes that.

**THE CHAIR:** Can we get back to the substantive question? I am sorry, Mr Roy.

**Mr Roy:** As I think I have outlined before, I have three key functions, one of which is to assist in resolving inquiries and complaints. The other is to consult with children and young people and the third is to provide advice to government. In all of those areas I think I could do better. With respect to complaints, my complaints have gone up substantially over the last two years.

I say in my annual report that I may have to introduce a triage system, which might be a problem and I would rather not do it. My time limits with respect to handling the complaints have dropped. I am a little bit worried that only 57 per cent of my complaints are finalised within internal time lines, particularly given that one of the criticisms we have of other agencies is timeliness.

Probably more importantly, though, over the last three years I have received about

350 complaints inquiries, which obviously provide a wealth of information in terms of what is and is not working particularly well in the system. I do not have the opportunity to undertake any broad systemic reviews or audits of any of those issues.

In terms of commenting on local issues, there are many times when I am just unable to actually comment on a cabinet submission or a discussion paper that is coming around because of resources. Many of those have impacts on children and I am distressed I have to put in a nil comment on some of those.

I certainly consult a lot with children and young people because I see it as a priority, but I have frequently been unable to fully document or analyse or research the results of those consultations or to get back to the children and young people with the results of those, which is just bad practice.

There are a range of other areas. Actually, I will mention two more. There are a few internal initiatives that I have been keen to progress over the last few years, including child-safe, child-friendly training, for example, and guidelines for the development of legislation et cetera. These are very difficult to progress. We are really focusing on complaints at the moment.

**THE CHAIR:** Is it you or Mr Roy who has primary responsibility for issues that arise at Bimberi?

**Mr Roy:** It is a service for a young person, so it would be me.

**THE CHAIR:** Yes. It says somewhere in the report that there had been a visit to Bimberi during the reporting period, that issues had been raised and they had been addressed. Are there ongoing issues of concern in relation to Bimberi? As to the quantum of your complaints or inquiries, what proportion of them relate to Bimberi?

**Mr Roy:** I believe about 55 of them. I am just trying to find the exact page. About 55 per cent of my complaints involve the Office for Children, Youth and Family Support and I think about 10 per cent of those complaints are about Bimberi, which equates to three or so complaints over the last reporting period. So it is not a huge amount.

Having said that, my primary relationship with Bimberi is one of consulting with young people there. I think it is very important to demonstrate with young people in Bimberi that the adults on the outside are interested in what they are saying because they are young people rather than because they are residents of a detention facility. I visit Bimberi on a regular basis and, in doing so, young people talk to me about their views of what is happening in Bimberi and also staff talk to me about their views of what is happening in Bimberi, both formally and informally.

**THE CHAIR:** So how regularly would you visit Bimberi?

**Mr Roy:** I would say I try to get out there every month or so.

**MS HUNTER:** Could I just follow on from that? Referring to pages 14 and 15, it is interesting to look at human rights issues identified by the commissioner at AMC

versus those that have been identified at Bimberi. There were 10 outstanding human rights issues, as I understand it, at the AMC, whereas there was one human rights issue flagged at Bimberi and apparently it was immediately resolved. My question is about the experience of the commissioner in the different agencies involved here around being able to resolve human rights issues, one of course being Corrective Services or JACS and DHCS, but particularly Corrective Services. There just seems to be a difference in approach. Does that reflect the numbers that are coming in or is there a difference in approach in addressing these issues?

**Mr Roy:** I suppose one of the differences in approach—as I think I understand your question—would be that I am able to take a complaint about a service for a child or young person. I am able to receive a complaint, inquiry or concern about a service for a young person provided in Bimberi. That is not the case at AMC. Of course, the Health Services Commissioner can take a complaint about a health service provided at Bimberi. Some of our complaints do overlap within all of our jurisdictions. Of course, if I receive a complaint about a service provided at Bimberi, there will be human rights implications in that. We all sit within the Human Rights Commission, so everything we do we look at through a human rights lens. Within the three teams, as such, we have necessarily somewhat different approaches.

**MR RATTENBURY:** Can I ask about something else, Mrs Dunne?

**MS HUNTER:** I just wanted to—

**THE CHAIR:** Before you do, we have not asked Ms Durkin about those areas.

**Ms Durkin:** I outlined in my annual report on page 50 the implications for the resourcing constraints of the commission on the Health Services Commissioner. The health services team has had a vacant position for 18 months. That was largely the impact of the maternity leave provisions. I am pleased to say that I have another person on maternity leave at the moment, but this year there is a pool that we can pull down from that JACS has set up. That certainly made things easier this year.

The sorts of things that I have not been able to do include work in relation to services for older people. That has been a feature of the last couple of annual reports. We have not done a lot in developing commissioner-specific publications. And the website content certainly needs a lot of work. Our ability to comment on government policies and influence the development of those has been fairly limited. Also, work has not been completed on providing health service providers with information on how they can inform their consumers about their right to complain. I have also noted that I have not been able to do a commissioner-initiated consideration into systemic matters, like I did in relation to the psychiatric services unit in 2008.

Basically, in the health area, it has been very much a focus on complaints, and not a lot more. I have been handling a complaint load myself from start to finish, which is probably not the best use of my time. But I do see some light at the end of the tunnel. I have noted in my annual report that I have been having discussions with ACT Health about funding in relation to the new process of dealing with complaints under the national registration of health practitioners. I must say that the discussions have been positive to date. So I am a bit hopeful that the current—I would not say crisis but

challenges that the health services team have been experiencing might be relieved a bit into the future. I am concerned that we have developed a backlog, and that is not good, and we are not meeting the timeliness standards that we have been used to meeting.

In the disability area, it has been pretty much the same sort of thing. The ability to do much more than complaints has been compromised. I would certainly like to spend more time with disability organisations to talk through the issues that are preventing people from making complaints et cetera. Again, it is compromised. My disability adviser has come back from maternity leave to part time, so that also makes a difference in our capacity there.

**MS HUNTER:** Ms Durkin, you raise the issue around the low level of complaints coming from people with disabilities, and carers. Do you put that down to a lack of awareness of how they complain or what would fall into a complaint?

**Ms Durkin:** It can be for a number of reasons. One of them is a lack of awareness. As I noted earlier, there is a provision in the legislation, section 95, that requires people to advise people about their right to complain to a service provider and to the commission. Our ability to get out that information to all service providers has been limited. Also in the disability area, because there are ongoing long-term relationships, in many cases, when people are receiving disability services, there is a reluctance to complain, and that is a cultural thing that we need to get over.

We have had a couple of very successful conciliations in recent times. Just getting the word out to the disability community of the value of coming to us and the successes that we can have is useful. I am really positive about the message getting out there, that people know they can come to the commission, but we need to develop a lot more trust in our processes.

**MS HUNTER:** I want to pick up on something else under the Health Services Commissioner, if I may. It is about—

**THE CHAIR:** It has to be short.

**MS HUNTER:** Hopefully, it will be. It is on page 59. You allude to concerns you have about the AMC Crisis Support Unit and that Corrective Services has substantial work to do to respond to those concerns. Can you provide a bit more information about this particular case or situation?

**Ms Durkin:** There have been a number of concerns raised with me about the crisis support unit. We went out to corrections and asked a whole lot of questions and we have recently received a wealth of information from corrections in relation to that. We are currently analysing it, so I do not have any outcomes or decisions on that as yet. It is fair to say that the main concerns that were raised with me were around people being in the crisis support unit for lengthy periods of time when it is meant to be a short-term place to go to, to help people who are at risk of suicide or self-harm or have been threatening others and so on. It appears that there are some people who are spending considerable periods of time in the crisis support unit. I recognise that, until we have a forensic mental health facility, the options are limited.

The sorts of things that I have asked corrections about are the reasons that people have been taken to the CSU, the length of time that they have been staying there, how many people have actually gone there, what level the decision was made at and by whom to send people to the CSU, the level of support that they are getting post CSU and the hours out of cells. One of the concerns raised with me was that, because people are in the CSU, they may be spending more time in their cells than in the AMC community generally. Also, when they are in the CSU they might have limited access to programs. For short-term stays in CSU, that might be appropriate, but when people might be spending a long time there, that could be of concern.

At the moment we are analysing the information that we have been provided with. I am also awaiting the outcome of Keith Hamburger's review by Knowledge Consulting, to look at the extent to which they are covering the issues in that report and to see whether there are any gaps or any further work that I might want to undertake on that. So it is a work in progress.

**MR RATTENBURY:** Dr Watchirs, on page 16 of your annual report it indicates that human rights advice was given on the government's district court proposal. The government has now put in place an alternative plan involving reforms to the Bail Act. Have you provided advice on these bills in a similar way to what you did on the district court?

**Dr Watchirs:** No, I am not aware that we have had the resources to comment on the Bail Act.

**MR RATTENBURY:** Okay, thank you. One of the suggestions in terms of reforming the legal system is a proposal to increase the jurisdiction of the Magistrates Court to include offences that can involve up to five years imprisonment. Have you given any thought to the human rights implications of that?

**Dr Watchirs:** No, I have not considered that in detail. The relevant right is a fair trial, and with delay being one of those criteria. If this assists in responding to the problem of backlog in the Supreme Court, it is probably a positive measure. But I have not considered it in detail.

**MR RATTENBURY:** Thank you. Just on a very specific question, page 13 of your report indicates that you intervened in the case of Islam, which involved delays in criminal trials. Can you please tell us about the outcome of that intervention?

**Dr Watchirs:** There is a 140-page decision that was issued this morning which I have not read or seen, I am afraid, and it is not on the website.

**THE CHAIR:** I think it is a bit current.

**MR RATTENBURY:** Yes, indeed.

**THE CHAIR:** Could I go back to one of the things that you mentioned, Dr Watchirs, in the issues that you would be looking at in the context of the review of the act. Currently, you said there were 34 or 43 exemptions.

**Dr Watchirs:** I think 47—around that figure.

**THE CHAIR:** Are those exemptions designed for a particular purpose like the protection or enhancement of the rights of a particular group? What are the purposes of those exemptions? Are there some that particularly need to be addressed more than others?

**Dr Watchirs:** I do not think there is a principled approach to the exceptions. There has never been a reason given as to why voluntary bodies are exempted. Religious groups is an issue. They have the broadest exemptions of any group in Australia and it has been reformed in other jurisdictions such as Victoria.

Special measures are an exception, and that is one required by human rights treaties. You can treat vulnerable groups by letting them discriminate to employ people such as people with disabilities to provide a disability advocacy support service. So that is a very principled exception that I would not want interfered with. But a lot of them seem to be a grab bag. The broadest one is if there is a provision in another act then that is a blanket exception. That has been reviewed in a number of other jurisdictions and it would need to be reviewed in light of the Human Rights Act in terms of compatibility.

**THE CHAIR:** Are children and young people considered a vulnerable group, for the purposes of the act, that need particular protection?

**Dr Watchirs:** It is pretty broadly defined, but I do not think expressly.

**THE CHAIR:** The Human Rights Act does have things to say in relation to protecting children because they are children, but there are not similar blanket provisions in the Discrimination Act?

**Dr Watchirs:** Not that I am aware of, apart from youth wages and issues like that.

**THE CHAIR:** At this stage we will have to thank you very much for your time. Members will put any other questions on notice. You, of course, will receive a copy of the transcript et cetera. Minister, I know that we are supposed to finish at a quarter to; could we perhaps devote a quarter of an hour or so to ORS and then we can send them on their merry way.

**Mr Corbell:** That is quite okay.

**THE CHAIR:** In relation to the Office of Regulatory Services, I suppose this is a problem that I have with a lot of the areas. It is hard to get a breakdown within each output class. This is not just a criticism of this report; it is a problem that we often have. We have an output class for the Office of Regulatory Services but it is very hard to see how the staff is allocated in to the Office of Regulatory Services and then to the myriad functions that you have inside the office. Could someone give me a general exposition and perhaps provide us with some more detailed information on notice.

**Mr Corbell:** Mr Phillips can assist you, Madam Chair.

**Mr Phillips:** Loosely, we are structured across four or five areas, being the registration-type services area, the compliance area, a policy and community relations area and an area that is now known as WorkSafe ACT. Effectively, the compliance area in parking operations, which is part of the compliance area, and the compliance area in WorkSafe ACT are at Callam, at Woden. The registration and client services area, which is the licensing area, and the parking operations area are at Fyshwick. The registration and client services area comprises what is the Registrar-General's portfolio. It has got births, deaths and marriages, land titles, rental bonds and the business industry licensing area.

**THE CHAIR:** That would be liquor—

**Mr Phillips:** Liquor, the front-of-house-type things. There are about 48 to 50 people there. In relation to the statistics, they are primarily on the pages in the annual report under the business industry licensing, births, deaths and marriages and land titles. If I could point out to you, the figures in relation to the numbers of people in that area have remained constant for a few years and the productivity has increased by about 10 per cent or 20 per cent. They are increasing their systems and they are increasing their output work.

In relation to WorkSafe ACT, that does the work safety compliance; so it has the responsibility for workers comp, work safety, work health and safety and the regulation of dangerous substances. There are about, I think, just over 30 people. There are a number of staff that are going to come on board over the next couple of weeks in relation to that function.

**THE CHAIR:** Is that new recruitment or is that looking—

**Mr Phillips:** New recruitment. In relation to the other compliance area, that involves the fair trading type, the liquor inspectors, tobacco inspectors, advice and complaints area, the people that ring in and complain about fair trading issues, the parking review office and the parking operations office.

**THE CHAIR:** Are they all physically located at—

**Mr Phillips:** They are physically located at Callam.

**THE CHAIR:** Could you give us a breakdown of how many staff we currently have?

**Mr Phillips:** Certainly.

**THE CHAIR:** And that might take into account the new recruitment entries. That is your area and Mr McCabe's?

**Mr Phillips:** Yes. Do you want them broken down by section?

**THE CHAIR:** Yes, that would be fine. Ms Hunter?

**MS HUNTER:** Thank you. I want to go to page 37. Fair trading compliance

inspectors completed over 2,000 inspections during the financial year. Only 35 of those inspections were serious enough to warrant an infringement notice, which of course is welcomed. However, 34 of those 35 infringement notices related to the security industry. Why are there such a large number of security breaches? What is going wrong there?

**Mr Phillips:** The security breaches primarily relate to officers who are engaged by security firms. Either their licences have expired or they do not have their identification on them.

**MS HUNTER:** So that is the primary reason?

**Mr Phillips:** That is the primary reason.

**MS HUNTER:** How many security licences are there in the ACT?

**Mr Phillips:** There are around 2,500.

**THE CHAIR:** Sorry, they are individuals who own licences or companies?

**Mr Phillips:** They are individuals who do not have their licences on them. In relation to that, if that occurs and they are employed by a master licensee, very often the master licensee will also receive an infringement notice for engaging someone who is not licensed.

**MS HUNTER:** What are you going to do in the next year to engage the security industry to try to improve compliance?

**Mr Phillips:** We have a number of guidance materials in relation to the security industry. We undertake much compliance activity in relation to the security industry to have it comply. In relation to the number being 35, a lot of those inspections are done with respect to the after-hours inspections of licensed premises for liquor. Whilst there is a number of 35, it is not a high level of infringements in relation to the number of inspections and the number of times that people are asked to produce their identification.

**MS HUNTER:** Just to clarify it, you are saying that most of these are occurring in relation to security at nightclubs—

**Mr Phillips:** Security at places like licensed premises and, on one occasion, retail stores, shopping facilities. When the inspectors are out and about doing other things, they would ask the security officers for their licence and on occasions it is that the licences are not in their possession. People will get warned and, if they do not listen to the warning, then they will be penalised.

**THE CHAIR:** These 2,525 inspections cover the whole range of fair trading?

**Mr Phillips:** Fair Trading.

**THE CHAIR:** Thanks very much. Mr Hargreaves?

**MR HARGREAVES:** I was just looking with some amusement at pages 33 and 34 about the ban on consumer fireworks sale. I could not go past it. You say, in fact on page 34, that, when you had that recovery over a couple of weekends where people could come and hand over the stuff that people had been hoarding, you got 298 kilograms of unused fireworks. Did you have any complaints—I did not get a handle on it this year—of fireworks going off illegally? They would normally come to you, would they not, and to the police?

**Mr Corbell:** Or the police.

**MR HARGREAVES:** What has been the general community response?

**Mr Corbell:** Overall, compliance has been very good. Anecdotally, there have been a small number of complaints but, compared to previous years, virtually none, and a very high level of compliance.

**MR HARGREAVES:** There was a suggestion, I think, that perhaps people would not take advantage of the amnesty, still hang on to them and then progressively, over a number of years, would let them off. And there was a worry, I know, shared by ORS that these goods actually deteriorate over time and become quite dangerous. I was wondering whether or not there has been a trickle of use over the last 12 months or so. I have not detected it but I was just wondering whether anything had been reported. No? Thank you.

**Mr Corbell:** There was some usage around the Queen's Birthday long weekend but it was very low, from what we can tell.

**MS HUNTER:** I had one on page 37, table 14. It indicates what appears to be a significant shift from prosecuting liquor licensees to prosecuting under-age drinkers. The government took four licensees through ACAT, which is around a six-fold decrease on the previous year, whereas there has been a five-fold increase in the under-age cautions and prosecutions. Does this represent a deliberate change of approach from ORS and the police to focus on under-age drinkers rather than the venue?

**Mr Phillips:** We always have focused on under-age drinkers in licensed premises. In relation to the reduction from 26 to four, that has occurred because of the change of structure in relation to the Liquor Board being replaced by ACAT. In the past, a number of minor breaches of licensed premises in relation to the condition of toilets and whether there were escape routes and various things like were taken through the Liquor Board for some disciplinary action. We have sat and had a look at what we think could be properly dealt with by way of working with licensees and what we actually think needs to be taken to ACAT for disciplinary proceedings.

In addition, with the additional inspectors that we have on board, it gives us the opportunity to inspect the premise on more than one occasion during the period of a night. So if we go there and find there are some difficulties with blockages in exit doorways, we can go back an hour later to make sure that those things have been shifted. And if that compliance work is done on the night, then there is no need for

further action because, in our view, the licensee has complied with our directions up front. I think you see the shift in relation to that also by the change of our compliance philosophy to actually work with the establishments a lot closer than we have in the past.

**THE CHAIR:** Can I move on to the area of workers compensation and work safety generally? This is a development or bedding-in phase for a range of functions in this area. You touched on this, Mr McCabe. There is a recruitment process that is just about to come to a conclusion. Can you give the committee a run-down on the staffing in your area and the major activities at the moment?

**Mr McCabe:** Yes, I can. We have been in a recruitment phase for the last couple of months. There was new funding allocated by the government from 1 July this year. We have, over the last couple of months, recruited three new middle managers. They are now in place.

We are nearing the completion of recruitment of five new inspectors. We have a couple of those starting next week, and the remainder starting in the following weeks. That will augment our numbers quite substantially. Over the last couple of months, we have been preparing for the influx of those managers and integrating the office of the commissioner into the pre-existing WorkCover. We have also in that period been reviewing our processes and our approach, I guess, to regulation and education in anticipation of those additional resources.

**THE CHAIR:** One of the issues that had some prominence about a year or so ago was the issue of asbestos and the management of asbestos and whether there should be an asbestos register. Where are we with the thinking on the asbestos register?

**Mr Phillips:** The Chief Minister's Department has established a task force in relation to asbestos. I understand that it is about to report to government in relation to providing further guidance as to where we go down the line in relation to asbestos.

**THE CHAIR:** That has been done by?

**Mr Corbell:** The Office of Industrial Relations has responsibility for asbestos policy.

**THE CHAIR:** Office of Industrial Relations rather than WorkSafety. Thank you. Mr Hargreaves?

**MR HARGREAVES:** There are two things. One is a compliment. One of the things that you will hear me talk about regularly is having comparative data year by year. I have cause to congratulate JACS for putting that information in the annual report. Having information over three financial years is particularly helpful. I want the record to show that I do appreciate that. Thank you very much for that list.

The one that I was interested in was at page 34, table 11. Apart from the absolute joy of seeing the applications for fireworks go down to diddly-squat, I notice the number of shot-firer licences has gone to 17. Does that indicate some sort of activity going on around the place?

**Mr Phillips:** I suspect it is the Cotter Dam.

**MR HARGREAVES:** That would explain some of the other growth in the other numbers on that. I will stop at that point.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** Has the expansion in the solar industry caused regulatory issues for ORS and, if so, what are the issues? How have you responded if that is the case?

**Mr Phillips:** We receive complaints in relation to the installation of any sort of equipment from time to time. I have not noticed a huge jump in relation to complaints about the solar industry. Some of the complaints—yes, I will leave it there.

**MS HUNTER:** I also notice on page 36 there were 15 formal complaints investigated by ORS under the Unit Titles Act. I was wondering whether there was a common theme running through these complaints and were the issues that were raised fed into the review of the Unit Titles Act?

**Mr Phillips:** The complaints are not necessarily common. They cross a number of paths. There are complaints in relation to the residents committees. There are complaints that relate to the body corporate managers. There have been inquiries relating to confusion with sinking funds and there have been inquiries in relation to tenants who receive bills where they have got leaking plumbing or various things like that. So there are a range of complaints. They do not actually pinpoint one particular item.

**MR HUNTER:** Were any of these issues fed into the review of the Unit Titles Act?

**Mr Phillips:** Those issues are fed into the review.

**THE CHAIR:** You had a question, Mr Hargreaves?

**MR HARGREAVES:** I have got a couple of them. Table 12 on page 35 gives the workers comp statistics. In the second line, formal notices, you go from 76 to 288 and then down to 43. Can you tell me why that spike occurred?

**Mr Phillips:** We believe that is a typing mistake. We think it should be 28, rather than 288.

**MR HARGREAVES:** Maybe it is the same thing again in the phone calls, or is that the impact of the Canberra Connect call centre?

**Mr Phillips:** The phone calls are in relation to our reconfiguring our business systems. We replaced the particular workers comp and work safety databases with one business system and it just reflects a different methodology in the way we have counted the calls.

**MR HARGREAVES:** So there were 8,000 redirected somewhere else?

**THE CHAIR:** Where were they redirected to? Sorry, I am not quite sure I understand that.

**Mr Phillips:** The phone calls in relation to the 2008-09 year relate, I understand, to phone calls that were recorded incoming to the office in general and not the workers comp area. So the difference in the data is elsewhere.

**THE CHAIR:** So they are accounted for elsewhere?

**Mr Phillips:** Right.

**MR HARGREAVES:** On the same subject, in table 13 on the next page the information phone line has dropped from 79 to 72 to 58. Is that the Canberra Connect one? You have indicated elsewhere, I think, in the report that the Canberra Connect call centre has had an impact on the number of calls registered going through to—

**Mr Phillips:** That is in relation to parking operations, the Canberra Connect. In relation to the difference in the numbers in the table on page 13, that relates to the increase in the number of emails. And whilst there does not seem to be a corresponding increase in the number of emails, the counting methodology for the phone calls has been that, if someone rings up six times, then it is counted as six phone calls. If we respond to someone six times by email, we count it as one piece of correspondence.

**MR HARGREAVES:** And that is because you have got the actual history of the whole thing in that email stream?

**Mr Phillips:** That is right. So that is what that reflects.

**THE CHAIR:** One very quick one, Ms Hunter?

**MS HUNTER:** Thank you, Madam Chair. It is on page 36. The Greens have received a lot of complaints from the public about retailers who are not complying with the new egg display requirements, for example, around the signage and so forth. Of the 98 inspections performed under the act, what percentage of the retailers were complying with the new labelling requirements?

**Mr Phillips:** I do not have the percentages. I can say that the initial raft of inspections shows that there was a level of noncompliance. The second round of inspections has shown a high level of compliance.

**MS HUNTER:** When you were finding that there was noncompliance, that was around an education process?

**Mr Phillips:** An education process, yes.

**MS HUNTER:** Thank you.

**THE CHAIR:** We will have to pull up stumps because we are supposed to be back here at a quarter to one for ACT Corrective Services. We will be busy today. Thank

you very much, members. Any other questions we have in this area we will place on notice. I thank officials who have been here this morning. The rest of us will be back this afternoon for another jolly time.

**Meeting adjourned from 11.58 am to 12.46 pm.**

**THE CHAIR:** We are now resuming our annual reports hearing in relation to the annual reports of the Department of Justice and Community Safety and related entities. We will start with Corrective Services. Welcome back, minister, and good afternoon, Mr Ryan. Do you want to start, Mr Hargreaves?

**MR HARGREAVES:** Yes, thank you very much, Madam Chair. When the prison first kicked off, it had an operational capacity. A lot of people mistook the operational capacity for the total number of beds available. Those people who have known Corrective Services for a long time would know that you never, ever have 100 per cent, because you are going to have no flexibility—

**THE CHAIR:** A question, Mr Hargreaves. We are going to be busy this afternoon.

**MR HARGREAVES:** What is the operational capacity at the moment and what was it a year ago?

**Mr Ryan:** The total number of beds has always been 300 until recently, when we made provision to ensure that if there is a surge we can meet that. That provision is being made by getting some additional beds, double bunks, for some of the cottage rooms but not all of them, and spread those double bunks around in a way that does not have any huge impact on the common areas that are used by every group of five in these cottages, which are divided into groups of five and a total of 20.

We are also looking at making provision for additional bunk beds in the cells. We are dealing with New South Wales, who manufacture these, and they should be ready, should we need them, by the end of this month. So whatever pressure there is, we have, in part now and in full by early December, if we need it, an additional 20 beds. That has come at a fairly small cost and it gives us a deal of flexibility.

The other flexibility that we hope to gain is by way of repositioning the location of the program that we run, together with ADFACT. Presently, they have been tying down a cottage of 20 for fewer than 10 people. We think that has been driven by the fact that not many prisoners like to be working in that program, called therapeutic community, when they are cheek by jowl with other sentenced prisoners who may well give them a hard time about being in a program. So there are a few things happening that we can do to ameliorate the effects of any problems with insufficient accommodation.

Going back to the first part of your question about what our operational capacity is, it is in the order of 240 or 250, depending on what sort of mix you have at any given time. There are pockets of distinct groups which, within themselves, could reach operational capacity, such as women. In the women's area we have a total of 25 beds. We have been concerned at times that we have crept close to that, but we have never, ever reached the situation where we have to search for additional double bunking in their area.

Now, as of today, we are sitting on 229 beds. That is not the highest we have had. The highest we have had was about a week or so ago, where we hit 230. So we are still short of the projected figure of around, say, 245. But even if we get to that, we have provision already made to give ourselves an extra 20 beds.

**MR HARGREAVES:** Can you also tell us as at, say, 30 June the proportion of sentenced to remand prisoners? I could not find it in here.

**Mr Ryan:** It runs generally throughout the year at approximately fifty-fifty.

**MR HARGREAVES:** And the average length of stay?

**Mr Ryan:** I cannot pull that off the top of my head.

**Mr Corbell:** We can take that on notice, Mr Hargreaves.

**Mr Ryan:** Yes, we will take that on notice.

**MR HARGREAVES:** Thank you.

**MS HUNTER:** Has there been any analysis done of the reason for the growth in numbers?

**Mr Ryan:** We have tried to look at what is causing that. I do not think we can point to any particular, definite reason for it. You could argue that it is all driven by the courts anyway. But another theory, and I think it is only that, is that what is occurring is really only bringing it back to the long-term trends. If you go back to the beginning of this decade and track it through, you will find that the dip that we essentially had last year was a fairly definite dip, for whatever reason. Now, what is happening seems to be just bringing that back on trend. But we do not really know what is causing it.

**MS HUNTER:** Have there been changes in the sorts of charges that people are coming in with?

**Mr Ryan:** I could not answer that. I should add, though, that to predict prisoner numbers is an extremely difficult thing. We faced that when we set out to build the prison in the first place. We had no less than three or four different estimates made of what the projections would be and we used consultants from universities and other places to try and come up with what we thought we might need. We took advice from other jurisdictions and they all agreed that this was very difficult to predict.

**MS HUNTER:** So there really is not a way to predict if this trend is going to continue?

**Mr Corbell:** There is no clear, established methodology that is seen as the methodology to rely on. That is driven by the fact that every matter that appears before the courts is different. What sorts of matters end up appearing before the courts is very difficult to predict. Subsequently, obviously, the sentencing decisions of judges and magistrates once a person is found guilty of an offence are equally very

difficult to predict. So it is effectively a factor over which the prison and Corrective Services have no control.

**MR HANSON:** I have a supplementary, Madam Chair.

**THE CHAIR:** Yes, Mr Hanson. On this subject?

**MR HANSON:** On this subject, yes. Mr Ryan, you talked about a trend of upward movement that you can track—that there was a dip but now it is moving up. If you were to extrapolate that line continuing, I would imagine you would be able to at least have an estimate of what the growth is going to be. From the figures that you just gave us, it looks like we are potentially going to hit capacity with about 15 additional prisoners, depending on what category they would be, whether it be female, sentenced, remandee and so on. Have we started looking at the need to build additional facilities, beyond the bunking arrangements?

**Mr Corbell:** At this stage the government is giving consideration to the options that Mr Ryan has outlined, which is the use of double bunks in some circumstances to meet any short-term surge that may occur.

**MR HANSON:** Specifically, though, have we started looking at the need to build additional facilities? I am talking beyond double bunking. Have we looked at the need to build additional cottages or facilities to cope with that capacity? I imagine that, if you extrapolate that line, we are going to reach that sort of capacity, with the growth that we have had, reasonably soon. Are we planning to deal with that so that we do not end up with the position where we do not have the capacity? That will need to go into next year's budget, or sooner rather than later. Has the government given thought to that?

**Mr Corbell:** The government is keeping all options under consideration.

**MS HUNTER:** With the double bunking, Mr Ryan, what sort of processes do you go through to identify those that will share a cell and what sort of security assessments or risk assessments do you put into that process?

**Mr Ryan:** It is a process that involves making sure that they are of the same security classification, that neither one of the two is, say, on protection. If there is protection, they both have to be on it. Also, there is looking at things like how well they get on with each other and whether any issues are likely to arise out of putting them in the same room. As you can imagine, when locked down for a long time, if it is not managed properly by way of selecting the right people to go together, issues can arise.

We are lucky in that we do not lock people down for as long, say, as they do down the road at Goulburn, where they are locked down from about four in the afternoon through to seven in the morning. They have a much bigger problem. But they have worked through this problem themselves over the years, as has every other jurisdiction. If you do not get it right, the penalty is that there can be bashings, assaults and so on. So it is something that we do consider very carefully.

**MS HUNTER:** Have we had any bashings or assaults from—

**Mr Ryan:** As a result of being together? No.

**THE CHAIR:** Ms Bresnan, you had a supplementary on this?

**MS BRESNAN:** Thank you, Madam Chair. Ms Hunter asked whether you have done any analysis around sentencing issues. Has there been any analysis done of what sort of level of sentencing you are seeing going to the AMC? I am trying to get a sense of whether there are lower level convictions—whether those levels of imprisonment have increased since the AMC opened.

**Mr Corbell:** To what end?

**MS BRESNAN:** I am trying to get a sense of what have been the reasons behind the fairly steep increase which is acknowledged here in the annual report.

**Mr Corbell:** Most periods of imprisonment are not for long periods of time. They are the exception more than the rule—long periods of imprisonment. By that I mean more than a couple of years.

**MS BRESNAN:** Is there a fairly high level of direct-release prisoners at the moment as well?

**Mr Corbell:** What do you mean?

**THE CHAIR:** Is that a new line of questioning?

**MS BRESNAN:** Sorry, it is in the same line of questioning.

**Mr Corbell:** Sentencing trends are difficult things to track. Sentencing trends would be undertaken not so much by Corrective Services but by the legal policy area in my department. We need to improve our capacity to review the database, and have a coherent database that we can review when it comes to sentencing decisions. That is a matter which my department has been pursuing through its analysis of options for upgrades to various IT systems within the courts and within the department as a whole. That is where we get the dataset that we need. Rather than having Corrective Services looking at something, it is more around that legal policy function.

**MR HANSON:** I have a further supplementary.

**THE CHAIR:** This will be the last supplementary. We do need to go on.

**MR HANSON:** A lot of fanfare has been put out there about this being a 300-bed facility. In any of the discussions until this has eventuated, around the fact that, “Oh no, it’s really only got a 245-bed capacity,” there was a lot of fanfare also about everyone getting their own room and a single bed. It seems that now we are finding out that our 300-bed jail is actually a 245-bed jail at maximum capacity and that the human rights compliant jail where everyone gets their own room is not going to occur because we are having to retrofit this and wedge people in. What has gone wrong?

**Mr Corbell:** I do not know why it is a surprise to you, Mr Hanson, because I do not think it is a surprise to anybody else. It is always the case that the ability to utilise beds is determined by the level of separation that you require amongst your prisoner population, and that will vary from time to time as your population varies. So it may be a surprise to you but I do not think it is a surprise to anyone else.

**MR HANSON:** Clearly, if we have designed a jail here so that you have got that amount of capacity currently used, it does not seem to be utilising the 300-bed maximum capacity particularly effectively.

**THE CHAIR:** I think that was a statement and not a question, Mr Hanson.

**MR HANSON:** Fair enough, because they do not want to answer it.

**MR HARGREAVES:** I have a last one about the use of doubling up in the buddy system. The buddy system is about where people are vulnerable, and that is an assistance process. That is part of the process, too, isn't it?

**Mr Corbell:** It can be for some types of prisoners; that is correct. The buddy system can be effective for some types of prisoners but not for all prisoners.

**MR HARGREAVES:** And that was factored into the actual nature of the prison when it was built?

**Mr Corbell:** We have a number of double cells in the prison where there are interconnecting doors between cells. That was built with particular regard to Indigenous prisoners.

**THE CHAIR:** Could I go back and take up the issue that you touched on, Mr Ryan, about drug and alcohol programs in the prison. You spoke about one of the cottages being used for a drug and alcohol program. Could you expand on the drug and alcohol programs in the prison, touching on the one that we have already touched on but also expanding on it?

**Mr Ryan:** Yes. The one that I touched on was the therapeutic community program that we run in conjunction with ADFACT. In addition to that, there are a number of other programs which are mentioned at page 48 of the report. It will be of interest to the committee, I think, to look at those to see the number of participants that we have got in programs. And I can compare those numbers with what is happening so far this year.

We, at this stage, have a number of organisations coming in from outside to assist us in this effort in drug and alcohol, in particular Directions ACT. They have only begun to work with us in the last 12 months; so they did not run for a full year last year. There is also the Alcoholics Anonymous organisation coming in once a week. We have various religious groups who are not directly aimed at that particular topic but they touch on it. And more recently too, we had Kyros commence work with us, Kyros being an organisation that is involved in, I think it is, some 400 prisons around the world and quite a number in Australia. I cannot say exactly what it is.

The drug and alcohol approach that we have taken differs slightly to that which is conducted in the community in that we have always had a requirement that the participants address their offending behaviour as part of what we do. Programs that are conducted for people in the community obviously do not have that emphasis. We are working together with ACT Health and others in the community such as Directions ACT to look at what we have done so far and whether or not that is the best way to approach these drug and alcohol programs.

There have been no decisions made yet, nor have we put any suggestions to our minister yet, but in working through this it looks as though there may be some scope for greater involvement of community organisations in the effort that we currently do with our own staff in the AMC. The issues that we still need to look at include: is it cost effective? Can whoever does this for us from external organisations sustain it and do we have the right things in place to audit it properly?

Suffice it to say, what we do now is run by us, with the exception of those few organisations I have mentioned. It is pretty much the same sort of thing as people would get in the community, except for that emphasis on addressing offending behaviour.

**THE CHAIR:** On the therapeutic community program, you said that was run out of the cottage but that meant that the cottage was essentially underutilised. Is that correct?

**Mr Ryan:** Yes, and underutilised because of our inability to recruit to the full numbers that we could cope with.

**THE CHAIR:** How many can the cottage cope with?

**Mr Ryan:** Fifteen. It is a 20-bed cottage but one, five-bed, part of it is taken out for use for central activities such as meetings and discussions and so on.

**THE CHAIR:** So that is part of the program?

**Mr Ryan:** Yes, that is part of the program. They all live together and they all support each other. It is reorganising their thoughts and their approach to their offending behaviour. It is a very successful program but it was positioned so close to the sentence cell block that those who did not like the idea of the program and would not participate used to bring pressure to bear on those who were in the program. Why? It is difficult to explain, except perhaps that part of the program involves exposing one's past to the other participants with respect to how they got on drugs, where they were getting the drugs from and that sort of thing. I guess there is a fear by others that they might be mentioned. I do not know.

**Mr Corbell:** I met with ADFACT, which provides some of the staff for the therapeutic community and oversight its delivery in conjunction with Corrective Services. They have certainly raised with me their concerns about the proximity of the therapeutic community to the sentence cell block and the fact, as Mr Ryan indicates, that that has proven to be a disincentive for some prisoners to participate in the program.

The physical proximity is such that, even though the prisoners are physically separated, it is quite easy for prisoners, particularly as prisoners are moving to and from the cottage, if they are in the cottage, to walk past the caged exercise area of the sentence cell block in particular. And they can be subject to taunts and other abuse as part of that, and threats, and that can act as a disincentive for people to continue with what is already a very challenging program of cognitive awareness and the need to focus on one's behaviours and past actions.

So that is something for which we are looking at options in relation to resolving that situation and moving forward, to first of all provide an even better environment for the conduct of the TC so that there is actually potential to get more people into it. And equally, it has the added benefit of better utilising the space we have in terms of the overall prisoner population.

**THE CHAIR:** One final question on the therapeutic community, if prisoners end up participating in that program do they, subject to behaviour and stuff like that, stay in that program while ever they are in the AMC or do they graduate?

**Mr Ryan:** Depending on what they do by way of transgressing the rules that attend their behaviour, they may or may not stay in the program. But if they are in anyway disruptive or still cannot continue with it because of their behaviour, they are removed from the program.

**THE CHAIR:** But do the people who stay in it stay in for the length of their sentence or do they graduate out of that program and still remain a prisoner?

**Mr Ryan:** Thus far most of them have done the program short of the expiry of their sentence and then moved onto something else. Ideally what we would like to do is have them in that program just prior to their eligibility to move outside, to the cottage outside called the transitional release centre, and then into the community from the transitional release centre and then discharged.

**THE CHAIR:** So it is not something that prisoners might participate in for the length of their sentence? It is seen as part of the transition?

**Mr Ryan:** That is right.

**THE CHAIR:** Are there any other questions on drug and alcohol issues, perhaps?

**MS BRESNAN:** Yes.

**THE CHAIR:** Ms Bresnan?

**MS BRESNAN:** Thank you, Madam Chair. In relation to the drug strategies mentioned on page 54, you have outlined the various programs and the different cognitive programs that are all part of what is happening at the AMC. It is not in here—I apologise if it is and I could not find it. I am referring to the performance measures that have been set against some of the drug and alcohol programs and how the AMC is progressing against them. Is there any further information that can be

provided on that? I was not able to find performance measures. I appreciate that the prison has been open for a short amount of time. Is that going to be developed if it has not now?

**Mr Corbell:** Mr Ryan advises me that really the main measure is how many people complete programs successfully get to the other end.

**MS BRESNAN:** Do you have any figures on that as yet?

**Mr Corbell:** We can certainly provide that to you. I have to take it on notice.

**MS BRESNAN:** I have one further question. I appreciate this may be something that cannot be answered in this forum. I was wondering, in terms of the measures that are being undertaken now to prevent drugs getting into the prison, whether you have any estimate of how many instances there have been where there has been an active stopping of something going into the prison.

**Mr Corbell:** Yes, we certainly do have those figures. I do not know whether I have those at hand but I receive a regular report from Corrective Services on these matters. The figures I have available are, for the most, for the financial year that this annual report covers. These are monthly figures. They are not cumulative figures, I assume. I would have to take it on notice to give you a cumulative figure.

**MS BRESNAN:** That is all right. Thank you.

**Mr Corbell:** For example, in June 2010, there were 11 seizures of drug contraband, eight seizures of other prohibited items. These include seizures both within the prison as well as in areas of the prison outside the secure compound such as the car park and the visitor reception area.

**MS BRESNAN:** Mr Ryan, you mentioned earlier the evaluation of the success of the programs that are operating. Did you say there had been a formal evaluated process that had been started in conjunction with some of the community organisations? I know you mentioned Directions and obviously ADFACT. Was that a formal evaluative process that you mentioned earlier in relation to a question Mrs Dunne asked about looking at the success of the programs?

**Mr Ryan:** Are you asking in reference to our present examination of the extent to which we are doing things in-house as compared to bringing others in to do it, how we have gone about that? Is that what you are asking?

**MS BRESNAN:** You mentioned earlier that you were looking at the success of the programs. Was that a formal process that had been undertaken?

**Mr Ryan:** Formal in the sense that there are a number of committees presently working on what we think is the best way to go now that we have had more than a year's experience with it. Indeed, one of those is a separate committee that is looking at such things for Indigenous offenders. The Indigenous offenders effort includes not just Corrective Services but ACT Health and representatives from the justice centre and the Indigenous peak body. I think that is about it. That group will

finish its work next month and we will decide what we think is best by way of handling drug and alcohol programs for Indigenous people.

At the same time, there have been a number of groups meeting, including one that is community based. I think it is driven by ADFACT. There is also another group that is meeting, involving various departments and stakeholders in the community, that is jointly chaired by Corrective Services and Chief Minister's Department. There have been a couple of other one-off groups meeting as well. All of this effort is mainly based on getting opinions as to what is the best way to go about it.

The inescapable fact seems to be that, if we are going to move towards a proper through-care model, it makes sense to get those who deal with them in the community—and we will have these people long term anyway, long after their sentence has expired and their supervision post sentence has expired—involved much more in what happens in the jail.

**MS BRESNAN:** It would be fairly crucial to have them involved.

**Mr Ryan:** Yes.

**MS HUNTER:** Can we have a full list of the community organisations that are working now in the AMC?

**Mr Ryan:** Yes.

**THE CHAIR:** And what they are doing?

**Mr Ryan:** Yes.

**THE CHAIR:** Mr Hanson, you have got a quick question?

**MR HANSON:** Yes, a supplementary. Have you been able to track how extensive drug use is in the AMC and what drugs are being used commonly?

**Mr Corbell:** Corrective Services undertakes widespread urinalysis as part of its drug testing of prisoners. And that is in addition to the use of various other detection equipment, including passive alert drug detection dogs, various forms of searches of prisoners and visitors, intelligence gathering and the use of the X-ray scanner and ion scan technology.

In terms of drug use, I do not have, in this brief, figures on the number of prisoners testing positive. However, I can advise that Corrective Services conducts random whole-of-prison urinalysis testing. In the past 12 months this has been conducted twice.

**MR HANSON:** Can you give me the dates on when that was conducted?

**Mr Corbell:** Yes, December 2009 and October 2010. Approximately 400 prisoners were tested in these rounds, well in excess of five per cent of the total prisoner population. This one we are testing is conducted at least once a year. In addition, in

the 12 months from June 2009 to May 2010, Corrective Services conducted over 500 urinalysis tests comprising both targeted tests and tests of prisoners newly admitted, with an average of 44 tests per month. Again, this is well in excess of five per cent of the prisoner population.

**MR HANSON:** If I can go back to my original question then, given that all that testing has occurred, can you give me an idea of what the drug use is in terms of quantity and in terms of—

**Mr Corbell:** Perhaps I will take the question on notice. I am happy to provide you with that data.

**THE CHAIR:** Thank you, Minister. Ms Hunter, you said you had some questions?

**MS HUNTER:** I had some questions around volume 2, pages 28 and 29. Page 28 goes to the variances between the original budget and the total appropriated. We have, under the capital injections, a difference of \$3.662 million for the AMC. Also under that there is the chapel and quiet place. And then there are the transitional costs. I was wondering whether we could have an explanation as to what is going on there.

On page 29, under the capital injections, there are underspends or rollovers. We have the chapel and quiet place and the correctional facilities again. Could we have some explanation of what is going on there?

**Mr Corbell:** In relation to the chapel and quiet place, the territory went to tender for the construction of a chapel and quiet place at the AMC. None of the tenders submitted were deemed satisfactory. They were all significantly higher than the budget allocated for the project. As a result, I directed the department to cease the tender process and to reconsider the tender process at a later point.

The advice I had was that it was highly likely that the increased tender prices were a result of a very strong construction market, an overheated market, and that it would be sensible to delay that project and the tendering and the awarding of a tender pending what was hoped to be some stabilisation in the market. In relation to this financial year, those are the circumstances around why that amount is reported in that way.

In relation to the Alexander Maconochie Centre itself and transitional costs, Mr Ryan might be able to assist with that. I might ask Ms Crowhurst to come up.

**Ms Crowhurst:** In regard to the rollover for the Alexander Maconochie Centre, while the majority of the works have been completed, the remaining funds are the balance of the money owing to the builder during the construction contract and some contingencies. There are some outstanding contractual issues which were not resolved at the end of the year. As there is a dispute between the territory and the builder in regard to these defects, the balance was rolled forward.

**MS HUNTER:** So that dispute is ongoing and has not been resolved?

**THE CHAIR:** Are these the outstanding lists of defects, 1.6—

**MR HANSON:** 2.6, Mrs Dunne.

**THE CHAIR:** Is 2.6 still the outstanding defect or are there other outstanding defects?

**Mr Ryan:** I can speak to that. 2.6 is not resolved. The last time we came before this committee we indicated that we thought it would be resolved by now. It is not. It is going to independent arbitration. Agreeing on who should do that has taken much longer, once again, than we thought.

**THE CHAIR:** It has needed arbitration as well, has it?

**Mr Ryan:** Yes.

**MS HUNTER:** I thought it had been to independent arbitration and there had been some sort of—

**Mr Ryan:** No. The one that went to independent arbitration was the matter to do with the fans, the year before last. That was central to whether or not liquidated damages would apply from a particular point or not. That was resolved in our favour. This is to do with 2.6. It is a matter that will go to independent arbitration, hopefully in the next few months, but we have said that before.

In addition to 2.6, there are a number of other defects that come up by way of not fair wear and tear, given the length of time the place has been open. We have been working through those with BLL and resolving a lot of them. Some of those too may be disputed. But hopefully those ones that are disputed by them will be relatively small and we will not have to go to arbitration to fix those.

**MS HUNTER:** So your expectation is that the only arbitration you will need is around 2.6.

**Mr Ryan:** 2.6.

**MS HUNTER:** That was a showstopper, wasn't it?

**THE CHAIR:** That was one of the showstoppers, yes. Does that mean that while you have not resolved the issue of defect 2.6, you have not resolved the issue of liquidated damages?

**Mr Ryan:** Yes, in the sense that the liquidated damages are based on a percentage of the total project costs and then when we figure out at the end what the total project costs—and that obviously involves who does what in relation to 2.6—we can come up with a figure. But it will be, we think, in the order of three million-plus.

**MS HUNTER:** So we will continue to see this money rolling through until this is sorted out?

**Mr Corbell:** That is correct.

**MR HANSON:** As a supplementary, on the overheating of the market, I think it was either in estimates or annual reports last year that you said it was, essentially, because of the building the education revolution. We have got a situation where the government has pumped a sum of money into one area of the building market and it has inflated prices to such a point that the government is unable to deliver on promised infrastructure projects. That is what has occurred in this case.

It may be beyond your portfolio responsibilities here, minister, but it does seem to be a pretty ridiculous situation where we have put so much money into one area and inflated the costs so that the government cannot actually deliver because the market is overheated and you cannot do projects within the price that you want to. Have you got a comment on that or does it go beyond the—

**Mr Corbell:** The comment I would make, Mr Hanson, is that, last time I looked, the ACT government was not financing the building the education revolution.

**MS HUNTER:** Just on the matter of the quiet place. You have taken it out of that tender process?

**Mr Corbell:** Yes.

**MS HUNTER:** When are you going to put it back out to the market?

**Mr Corbell:** At this stage that it is yet to be determined. It may be the case that the government will reprioritise that project in the context of other issues that emerge in the budget process. I am not in a position to give an indication of the time frame at this point. It is subject now to the forthcoming budget process.

**MR HARGREAVES:** The prisoner numbers over the last 12 months have comprised predominantly people from the old Goulburn regime, to which has been added a number of people who are sentenced in ACT courts. So there was a ratio of commencements which was skewed very heavily in terms of the people coming from New South Wales. What is the ratio of new people to those old ones? I am trying to get a sense of the effect on the recidivism rate regarding the programs that we are doing.

**Mr Ryan:** We could produce those figures for you, but when we do I am not too sure that we could deduce much from them. It is just a little bit early yet. But the balance is changing—there are no two ways about that—and it is certainly evident in the expectations that come out of the group that have only ever been in our jail compared to being elsewhere.

**MR HARGREAVES:** I think we will recall having conversations over the last couple of years about this. I would not expect to be making value judgements on the recidivism rate until the place has been operational for at least five years. But I guess what I am trying to do, as I do each year, is get a little bit of a sense—particularly from you, in a professional sense—of how you think it is going to track. Are we headed in the right direction with respect to that? I know it is probably a little early for that, but—

**Mr Ryan:** We are in the game to make sure that it does make a difference, and hopefully when we do start to track it we will see that our home-grown prisoners who have been nowhere else probably are doing better than they would otherwise. But getting the basis for comparison and the model to use to track this is something we have not addressed yet.

**MS BRESNAN:** Through you, Madam Chair, there was some questioning about this in estimates as well, about when we can expect to see some performance indicators measured against recidivism and when we can expect to see some reporting against the rehab focus, which is very much a big part of the prison.

**Mr Ryan:** I would think probably not for a couple of years. But now is the time we should be starting to look at how we are going to measure those things and develop a model. That in itself will probably take a year or so.

**MS BRESNAN:** Has that work started?

**Mr Ryan:** No, it has not.

**THE CHAIR:** Ms Bresnan, have you got a new substantive line of questioning?

**MS BRESNAN:** No, that was probably my next line of questioning.

**THE CHAIR:** Mr Hanson?

**MR HANSON:** Could you give us an update on the Hamburger review? When is that going to be tabled and have you received an interim report of it?

**THE CHAIR:** I asked before, Mr Hanson, what the cost was. This is probably the time to answer it.

**Mr Corbell:** As members would recall, Mr Hanson, I received a progress report earlier this year which I tabled in the Assembly. The report is being finalised. It was due with me today, but the reviewer has requested additional time to complete his review, which I have agreed to. He has requested an additional two weeks at this period to complete his review. At this stage I anticipate receiving his report in two weeks time. Obviously the government will then need to consider the report and its response to the recommendations and issues arising from it, and I would expect to make those public next year.

**THE CHAIR:** The issue of costs that was raised this morning—what was the cost of—

**Mr Corbell:** The cost of the Hamburger review?

**THE CHAIR:** Yes.

**Mr Corbell:** Ms Leigh?

**Ms Leigh:** The quote that we received for that work was \$171,000, plus GST, and there was an additional estimate for disbursements of \$25,000.

**MR HANSON:** In terms of the content of it, will it be examining human rights compliance, because it has been an issue with the human rights commissioner and her inability, I guess, to do a comprehensive review of the jail in terms of human rights? The question I have, I suppose, is that the reports that come out of—

**Mr Corbell:** Human rights considerations are included in the terms of reference.

**MR HANSON:** Will it give a certificate of human rights as such, or how are you going to approach that? The claim is that this is a human rights compliant jail, but then some of the stories that we hear coming out about assaults and alleged rapes of remandees and drug use and so on would indicate that this jail is not dissimilar to other jails. What makes this human rights compliant or not, and who is making that assessment other than a sort of arbitrary—

**Mr Corbell:** I would draw your attention to the terms of reference, Mr Hanson. The terms of reference require that there would be an analysis, particularly in terms of reference 2—that the requirements of the Human Rights Act are met. The Human Rights Commission gave evidence this morning that they have had a number of discussions with Mr Hamburger drawing to his attention those issues that they believed he should be aware of in terms of complaints around human rights compliance or otherwise. It is specifically mentioned in his terms of reference.

I believe that this will allow Mr Hamburger to identify those issues that he believes require further work, if indeed there are any, in relation to human rights compliance. As I have said previously, if there are issues raised in this review that indicate the need to look further at human rights compliance issues, I am certainly open to doing so and to commissioning the Human Rights Commission to do that work.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** I have a question around the crisis support unit. Earlier we had the Health Services Commissioner and in her part of the annual report she raised concerns about the crisis support unit. There were issues around the length of time that people were staying in the unit and the implications of that. She said that Corrective Services are undertaking considerable work in responding to this and that she is having some ongoing discussions. What is your view around the issues that have been raised by the Health Services Commissioner?

**Mr Ryan:** We have had some problems in the crisis support unit. The first is perhaps the inability to house the numbers that we want to put in there and the fact that there is only one crisis support unit. It therefore has to cope with people on remand, people who are sentenced, people on protection and so on. That complicates the management, as you can imagine, of the small number of beds that we have in there. As for the comment that they stay there for too long, we would agree with that, but at this stage there is not yet any forensic unit for them to be sent to.

**MS HUNTER:** Which the commissioner did raise as an issue as well.

**Mr Ryan:** Yes. At the other end we are learning, and perhaps still not on top of it, the difficulties in managing the desire of some people to actually stay there. If ever anyone exhibits signs of suicide and self-harm we always take the option of treating it as real. Therefore, it is fairly easy for someone who wants to stay there to manipulate it by just saying, "I want to harm myself." That causes the bank-up that we receive. The alternative—

**MS HUNTER:** The people in there would be assessed, wouldn't they, by a health professional?

**Mr Ryan:** Yes, they are assessed. We also have our own psychologist who acts as a gatekeeper. But it is a difficult thing to do. You just can't afford any mistakes in doing it. The other alternative is to bleed out from the crisis support unit into the mainstream those that perhaps are on the edges of needing to be there or not, but that in turn generates separate supervision, usually on the basis of every 15 minutes, at best 30 minutes, of observations throughout the day wherever they may be.

If we had our time over we would perhaps have made provision for more beds there. Certainly, we will be delighted when the new forensic unit is up and running. We know, though, that even when it is up and running the forensic units tend to be clogged up with people who, once they go in there, do not move on. This is the experience that is seen in every other jurisdiction. There also will be a tendency for the mental health authorities to want to use whatever beds they have got for such people, even though they might not yet be under our supervision in any way. Over a period of time it is a problem that we cannot solve.

At present what we are doing is the best we can in relation to, in particular, the separation of people, keeping them safe. We also had problems with the unexpected length of time people were staying there and therefore perhaps the inadequacy of providing for their activities and their access to services. We are still wrestling with those things.

**MS HUNTER:** Could you just remind me how many beds are in the unit?

**Mr Ryan:** Ten.

**MS HUNTER:** Yes, we did go on a tour through there. People who are also in protection or in protective custody are there. They are there for the long term; is that right?

**Mr Ryan:** If they are in need of being in such a facility because of their suicide and self-harm ideations, that is where they go. When we first kicked off, there was an expectation that we may use the three wards in the clinic, and they are each two-bed wards, and for various reasons we have never been able to do that, although at present we have one of those wards taken up—we think thankfully; we think it is working—by one of our high profile prisoners who had been spending a lot of time in the CSU anyway.

**MS HUNTER:** So why are not those beds in operation in that manner? You were just

saying “unfortunately”. Why is that the case?

**Mr Ryan:** Because of the needs of the clinic. Their needs have developed in a way that they need that space for other things. The initial intention was to use those beds as a holding capacity for people who were sick but not sick enough to be in hospital, not fit enough to go to their cells or out into the mainstream, including the use of those beds overnight. But that has never quite worked out for us.

**THE CHAIR:** Ms Bresnan?

**MS BRESNAN:** On pages 46 and 47 you talk about community-based corrections. My question is in relation to the table on page 47 about the number of offenders whose assessed risk has reduced over time. Does Corrective Services have any target for reduction in the rates of reoffending in relation to these particular programs and how are you performing against the target?

**Mr Ryan:** You will see on the second line that it talks about the percentage of offenders whose assessed risk has reduced over time. I think it would be better measured perhaps in future by saying “those whose assessed risk has stayed the same or reduced over time”. Those figures are in part affected by the fact that in any given year there is a different number of them who did not go either way. That is the only explanation that I can put up for it.

**MS BRESNAN:** Is it perhaps a matter of what you said, that there are some who are not going either way, in actually having that breakdown? Perhaps there are some who might be improving and some who might be staying the same. You just said there are different classifications across that and it is not a single group as such.

**Mr Ryan:** As you probably know, we assess that with a particular tool that measures things like where they are living, if they are working, who their associates are, plus attitudes and what have you. It is a tool that is as good as any, the LSI revised tool that is used now across the country in most jurisdictions.

**THE CHAIR:** LSI, Mr Ryan?

**Mr Ryan:** Level of service inventory. It is an inventory of things against which things are measured.

**MR HANSON:** It just strikes me, Mr Ryan, that this is probably your last hearing, is it?

**Mr Ryan:** I hope so!

**MR HANSON:** I would like to thank you for your service and wish you all the best for the future. Noting the time, I probably will not get the chance to ask another question. Could you pass on my thanks to all of your staff as well. I know it has been a challenging year and I wish them all the best for the Christmas period and into next year.

**Mr Ryan:** Thank you. It has certainly been my privilege to serve the various ministers

that have come before this committee.

**THE CHAIR:** And there have been a lot, haven't there?

**MS HUNTER:** I have a question relating to page 44. It was around the breakdown of the 290 unsentenced people at the AMC. What is the breakdown between those who are on remand and those who are found guilty but who are waiting for sentence? Do you have those figures?

**Mr Ryan:** No, I do not. We can get those for you. We usually express them as unsentenced, and just that. It would be a small percentage, of the total number, of those who have been found but not yet sentenced. I do not know what it is but we can get that for you.

**MS HUNTER:** Thank you.

**THE CHAIR:** On page 51 it talks about the victims register and how Corrective Services maintains the victims register. What is the function of Corrective Services and what is the relationship between Corrective Services and the people on the victims register? Is it your responsibility to notify regarding people who may be on that register, if someone is being sentenced in a manner that they have an interest in—when they might be released or whatever?

**Mr Ryan:** Yes. It is not a compulsory thing but people who wish to avail themselves of the system are kept abreast of any changes that occur in relation to the offender's whereabouts and the sorts of things that they may feel threaten their life. I could not give you the percentage of people that actually use it but it works in that way.

**THE CHAIR:** Is its existence well known in victim circles? If someone presents a victim impact statement at the time of sentencing would they be made aware of this register's existence and given an opportunity to participate in the register?

**Mr Ryan:** Yes.

**THE CHAIR:** I think you said you are not sure what proportion of people do—

**Mr Ryan:** No. Once again, we could give you that.

**THE CHAIR:** That would be very helpful, thank you. We are coming to the end of the allocated time for Corrective Services. Are there any pressing issues that people have?

**MS HUNTER:** I have one about whether you have a target for the number of former inmates who are employed upon release. If so, what is that target and are you meeting it?

**Mr Ryan:** It is an embarrassing figure to give because the target is to have 100 per cent of people on release going to either a job or training leading to a job. We are nowhere near that yet, and it should be eminently achievable in the ACT. It is because of two things. Our prisoner employment program, compared to, say, Singapore's, is

not as widely known or as well supported in all parts of the ACT community. I think their program is successful because it is based very strongly on compassion and forgiveness, and we have yet to get that across.

**MS HUNTER:** Are you focusing those voc ed programs within the prison around where you can see the greatest numbers of skill shortages?

**Mr Ryan:** Yes, and we are getting better at that.

**THE CHAIR:** Thank you, Mr Ryan, for your presence here today. There may be some extra questions on notice which will come through the department, and the department will receive a copy of the transcript. Could I also, Mr Ryan, echo the sentiments expressed by Mr Hanson and thank you for your years of service. We have had a long association over the years and I wish you well in the future.

**Mr Ryan:** Thank you.

**MR HARGREAVES:** The whole committee does.

**Mr Ryan:** Thank you.

**THE CHAIR:** We will move now to output class 3.1, Courts Administration, followed by the Emergency Services Agency at 3 o'clock. I welcome to the table Ms Purvis from the Courts Administration.

**Ms Purvis:** Thank you.

**THE CHAIR:** Is this your first annual reports hearing in this guise?

**Ms Purvis:** It is.

**THE CHAIR:** I would like to revisit, minister, some of the issues that arose this morning in our discussion with the Director of Public Prosecutions in relation to streamlining of court procedures. First of all, can you give a summary of where you and the government are up to in the light of the tranche of legislation introduced yesterday and what the next steps are after that.

**Mr Corbell:** Certainly. As I outlined briefly this morning, Mrs Dunne, the government remains of the view that structural reform of our courts is the most effective reform option available to the government and to the community to maintain timely access to justice, particularly in the Supreme Court. However, as members would be aware, other parties in the Assembly do not support the structural reform that the government proposed, which is the establishment of a middle tier or district court. Therefore, the government is pursuing other options.

The options that I have announced are, first of all, reform to bail. Reform to bail was going to proceed regardless of whether or not the district court was established, but it is now, as members would know, in the Assembly. That streamlines the process of bail, it allows for greater consideration of bail by magistrates and reduces the need, we anticipate, for applications of bail to be heard in the Supreme Court.

Secondly, the government is proposing changes to the jurisdiction of the Magistrates Court. Those changes involve lifting the criminal jurisdiction to a five-year sentencing threshold and, in relation to civil matters, to a quarter of a million dollars from the existing \$50,000 threshold. I anticipate that legislation implementing those changes to the criminal and civil jurisdiction of the Magistrates Court will be introduced into the Assembly in the December sittings. I am pretty sure that is the case.

**THE CHAIR:** That is what we are aiming for?

**Mr Corbell:** I am being nodded at; good. Drafting of that legislation is close to finalisation. Thirdly, there is the matter of active case management in the Supreme Court. This is a matter on which the government is not able to direct an outcome. It is up to the court to identify further measures to improve case management, and those are the types of matters that the DPP was referring to this morning.

To that end, I am pleased that the Chief Justice and I have reached agreement about a process to review case management in the Supreme Court, and I thank him for his consideration of that. That review will be undertaken by Ms Leigh from my department and, from the courts, by Justice Penfold. It will be assisted by Acting Justice Teague, who brings considerable experience from the Victorian Supreme Court, where he was the judge responsible for the criminal division of that court. Therefore I think we have a strong team of people to review case management practices, to identify areas for improvement and to draw on the experience of those jurisdictions that are doing case management in a manner which is regarded as best practice.

There is no doubt in my mind that there is significant opportunity for further improvement in the management of cases in the Supreme Court to reduce delay and to increase the effective use of the public resource which is the court, and I am confident that this process will be a very constructive one.

**MS HUNTER:** In volume 2 on page 28 it goes to the capital injections around the court case management system. On page 29, we have the rollover or underspend of the court case management system. How is that fitting into these discussions about how to improve case management in an effort to reduce delays?

**THE CHAIR:** Is that the computer system or—

**MS HUNTER:** Well, I am assuming it is the computer system that is linked to case management practices.

**Mr Corbell:** That is IT infrastructure and upgrades of that IT capacity are needed in any event, regardless of how cases are managed. The upgrading of the existing system is one that is needed. Ms Purvis can give some more detail around that for you. Before I ask her to do that, I should also highlight the other two steps the government has taken in relation to addressing the workload issues in the Supreme Court which I did not mention and which I should have. One is the appointment of additional acting judges to the court. There are now three judges appointed as acting judges to assist the court.

The other is the construction of an additional jury court. That jury court has now been established. It is in the Magistrates Court but it is utilised by the Supreme Court. I understand it was utilised for the first time earlier this week by Justice Refshauge for a jury trial. So that capacity for additional jury courts has now been implemented. That will also assist the Supreme Court in managing its workload because it will be able to have another space for jury trials and will not be limited to the previous number it had available to it in the old Supreme Court building. In relation to the IT matters, Ms Purvis can give you some more detail.

**THE CHAIR:** Just before we go to the IT, could I follow up, minister? The three acting judges are Justice—

**Mr Corbell:** Justice Nield, Justice Teague and Justice Mathews.

**THE CHAIR:** Are they all here together or are they—

**Mr Corbell:** They are here at different times, but in total they will provide nine months of service to the territory.

**THE CHAIR:** Could you give us on notice when they are here and when each one begins and ends?

**Mr Corbell:** To the extent we can, yes.

**THE CHAIR:** Sorry, Ms Purvis. You were going to talk about IT.

**Ms Purvis:** The case management system at the courts is an old one. It was built in 1991 originally and copied to the Supreme Court in 1992 and 1993. So it is an ageing system. The capital injections for the system in the last few years have been to maintain it and add some functionality to it to allow it to do reporting requirements that are now required through the Productivity Commission and also to automate some of the functions for the registry staff to be able to produce forms automatically, and those sorts of things.

**MS HUNTER:** So that project is on time? Those upgrades are going ahead?

**Ms Purvis:** Yes.

**MS HUNTER:** And within the budget and providing the functionality that you need?

**Ms Purvis:** Yes. They were meant to be finished in June last year. We are finishing off the last of those, which is an upgrade to the Supreme Court's MAX system.

**MS HUNTER:** So that accounts for the rollover?

**Ms Purvis:** Yes.

**MR RATTENBURY:** Yes, thank you. Following on from the discussion about the timing of matters in the courts, I want to ask about timing in the Coroner's Court.

From page 61 of the annual report it seems to be a good news story. There seems to be a downward trend in the numbers over the last three years. The number of cases in the six and 12 months old categories seems to have steadily reduced, which is a good thing. Just to be sure that this is as it seems, are statistics kept on the number of cases that are 18 months and two years old? I guess I just want to check that they are not growing out of the reported data set.

**THE CHAIR:** Sorry; what page were you on, Mr Rattenbury?

**MR RATTENBURY:** Page 61, about a third of the way down the page. It is not bolded.

**THE CHAIR:** Yes, it is not bolded. That is why I could not find it.

**MR RATTENBURY:** Is the question clear?

**Mr Corbell:** From my reading of the table, Mr Rattenbury, the measure is matters greater than 12 months old.

**MR RATTENBURY:** That is my reading too. I just wanted to confirm that I was reading it correctly, in a sense.

**Ms Leigh:** That is right, and the greater than six includes—

**Mr Corbell:** Yes. As Ms Leigh quite rightly points out, greater than six—

**MR RATTENBURY:** I realise that. I did pass high school.

**Ms Leigh:** Well, it might not be apparent from the table as to whether they are cumulative or if they have been separated—

**MR RATTENBURY:** That is exactly what I was seeking to clarify. Thank you.

**THE CHAIR:** So are they cumulative?

**Mr Corbell:** Yes, they are.

**Ms Leigh:** Yes. The six includes the 12.

**MR RATTENBURY:** Thank you. That being so, I wondered what has been done in the Coroner's Court to produce that improved result and whether there are lessons we can learn from that in terms of our broader court delay issues?

**Mr Corbell:** There certainly are in general terms some lessons to be learnt from the Magistrates Court and I think the Magistrates Court is taking a very proactive view of how it can continue to improve its case management practices.

In relation to matters in the Coroner's Court, I have some sense of what may be the issue there, but I would like to have that tested before I gave that answer, because there may be other factors that I am unaware of. Nevertheless, the improvement is

welcome. I know that the new Chief Magistrate, Chief Magistrate Burns, has taken a very strong interest in ensuring timeliness in the conduct of the Coroner's Court's operations and that I think is probably assisting.

**MR RATTENBURY:** Okay. Thank you. Page 45 of the annual report states that there are 18 judges who hold the primary commission as Federal Court judge but can hear ACT cases.

**Mr Corbell:** Yes.

**MR RATTENBURY:** How many of those 18 judges heard cases in the reporting period in the ACT?

**Mr Corbell:** I would have to take that on notice. We are always grateful for the assistance of Federal Court judges who also have commissions as visiting judges of the ACT Supreme Court. It is particularly important during Court of Appeal matters but also in relation to other matters where our resident judges may be conflicted. I would have to take on notice the number, but certainly some are more active than others and it does very much depend on their particular area of interest.

Anecdotally what I hear is that Federal Court judges enjoy coming to the ACT Supreme Court because they are able to, in particular, hear criminal matters to a greater degree than they are able to do in the Federal Court, and for those who have a background in criminal law it is a matter of an opportunity that they like to take up.

**MR RATTENBURY:** I know that during 2010 the Assembly legislated for the judicial exchange process. In light of the passage of that legislation, are you aware, attorney, if there are any barriers left preventing judges appearing in the ACT that you know of?

**Mr Corbell:** No. In fact, the process is a very smooth one. In relation to visiting judges from the Federal Court, that is a very smooth process. It requires three points of approval—me, the commonwealth attorney and the Chief Justice of the Federal Court—and that is a process which takes a little bit of time to do, because you have to get each person to agree, but I have never encountered a circumstance where it has not been agreed. So I am grateful for the assistance of the commonwealth attorney on those matters.

**MR RATTENBURY:** Thank you.

**THE CHAIR:** Could I just ask something a bit techy about those tables on pages 60 and 61. Table 33, civil cases, goes over pages 60 and 61. I presume that in the 2009-10 column there should be a percentage. In the headings it has got "% ACT" for the 2007-08 percentage.

**Ms Leigh:** Yes, that is correct.

**THE CHAIR:** Okay. I just wanted to make sure that we were not swapping to whole numbers. And can you give us a quantum of how many civil cases there are before the Magistrates Court, because my understanding from conversations with the Chief

Magistrate is that it is a very small number?

**Ms Leigh:** A very small number of civil cases in the Magistrates Court?

**THE CHAIR:** Yes, because the jurisdiction is so small.

**Ms Leigh:** Compared to what one might expect in a Magistrates Court, I think that would be correct. The lower level jurisdiction always has a volume of cases.

**Mr Corbell:** 3,300 lodgements in the Magistrates Court.

**THE CHAIR:** In the last financial year. Thank you.

**Mr Corbell:** A very low threshold for civil matters in terms of monetary value would also have an impact there.

**THE CHAIR:** Yes. Have you done any modelling, minister, about the extent to which those lodgements will increase if you increase the jurisdiction to a quarter of a million dollars?

**Mr Corbell:** Yes. We do have some figures on that. I do not have those immediately to hand but I would be able to provide that. The key issue here was the observation that in relation to commercial leasing matters the Magistrates Court, if I recall correctly, are already dealing with matters up to a quarter of a million dollars in relation to commercial leasing disputes and obviously if that is the type of threshold they are dealing with in relation to those matters I could not see why it could not be a threshold dealing with other matters.

**THE CHAIR:** What was the thinking behind choosing the figure of \$250,000?

**Mr Corbell:** I had a range of discussions with practitioners in that area and I think the view was that you could go anywhere from 200 to 250.

**THE CHAIR:** Are there going to be accompanying measures to ensure that if people take to the Supreme Court civil matters that could be dealt with in the Magistrates Court there might be directions about the awarding of costs to ensure that the costs reflect the different jurisdiction?

**Ms Leigh:** Yes, Mrs Dunne. That is one of the aspects of doing that that we will be providing for. We have had some preliminary discussions. I have had a preliminary discussion with the chief justice about that.

**THE CHAIR:** And is this going to be in the—

**Ms Leigh:** It is already the case, Mrs Dunne, I should make clear, so it will be a matter of adjusting that for the higher level.

**THE CHAIR:** It is already the case but it seems to be somewhat discretionary. It has been put to me by a range of people, including the chief justice and the chief magistrate, that there is not enough disincentive by way of costs.

**Ms Leigh:** It is up to the judge to make that order, so they have a certain discretion in making it.

**THE CHAIR:** And is there any mechanism whereby we might limit that discretion or in some way encourage the appropriate application of costs?

**Ms Leigh:** I think that is why things have to be looked at in formulating this.

**Mr Corbell:** There are limits on what you can do in that type of scenario.

**THE CHAIR:** Members, other questions on the core administration? This is sort of in general; I want to move on to the ACAT at some stage soon.

**MS HUNTER:** I want to move on to circle sentencing.

**THE CHAIR:** Do you want to take the questions on circle sentencing.

**Mr Corbell:** Yes, that is fine.

**THE CHAIR:** Okay. Ms Hunter has got some questions then.

**MS HUNTER:** On page 57 around the circle sentencing court, I am wondering what the court assesses about whether a particular referral fulfils objects of the act. What are the key factors in that assessment?

**Mr Corbell:** I do not think we are able to assist you, Ms Hunter. We would have to get some advice. I will ask Ms Field.

**Ms Field:** With circle sentencing, generally what happens is that the court will refer an Indigenous person to circle sentencing and then the circle court itself will assess whether they are appropriate to be dealt with by the circle.

**MS HUNTER:** So do you have an understanding of what is relied on in that assessment? What sort of factors, what sort of information?

**Ms Field:** What sort of factors the circle court looks at?

**MS HUNTER:** What I am trying to get at is what is involved in making an assessment that, yes, this person we will take off for circle sentencing.

**Mr Corbell:** Ms Leigh, I think, can assist you.

**Ms Leigh:** Perhaps it would be useful to start with noting that there is actually a practice direction of the court that sets out how the court is to operate and it does go through in some detail, setting out the eligibility requirements and suitability and how that is to be determined. First of all, a person has to apply to be referred for assessment for circle sentencing and—

**MS HUNTER:** Would we be able to have a copy of that?

**Ms Leigh:** I am sure it is a public document. I am sure it will be available on the website, but I am certainly happy to provide it.

**MS HUNTER:** Thank you, Ms Leigh. I note on page 57 that 11 Indigenous offenders were referred to the circle sentencing court. How does this compare to the total number of Indigenous offenders?

**Mr Corbell:** We would have to take that on notice, Ms Hunter. I do not have that available.

**MS HUNTER:** And is there any indication available of how many of that total number of offenders were eligible for a referral to the circle sentencing court.

**Ms Leigh:** That might actually be difficult to establish because eligibility would only be determined once somebody had—

**MS HUNTER:** Said that they wanted to go to that process.

**Ms Leigh:** sought to be covered by that process. So the eligibility depends for a start on identification as an Aboriginal or Torres Strait Islander person. So, unless somebody put themselves forward and then the various other criteria would be applied, it is not possible to say who else could have been eligible if they had put themselves forward.

**MS HUNTER:** Have there been any issues raised by the circle sentencing court around resourcing, that they may need more resourcing to take on more people in that process? Has that been raised as an issue at all?

**Mr Corbell:** I am not aware of concerns being raised about resourcing. There certainly have been concerns raised about the remuneration of community members of the court, and that is a matter that my department is currently considering options in relation to. There was a project undertaken, identifying work to strengthen circle sentencing in the ACT, and that report was prepared for my department earlier this year.

As a result, a range of steps have been undertaken to improve the operation of the court and to provide a range of new things, for example, development of a training package for elders and panel members, development of a selection process for elders and panels members. The practice direction itself was revised. A dedicated hearing room was identified and established in the Magistrates Court. The appropriate presentation of that room was undertaken in terms of its physical appearance.

There are also a range of other measures put in place in relation to debriefing for panel members and elders in relation to what could often be a fairly traumatic hearing or circumstances surrounding a hearing. The management of the circle coordinator position was transferred to the restorative justice unit in my department. A whole range of steps have been undertaken as a result of that strengthening project to strengthen the operation of circle sentencing and I think, generally speaking, those have been well received.

**MS HUNTER:** Are we able to get a copy of that report?

**Mr Corbell:** It is a working paper of my department. It was not prepared for more public circulation. I will take that on notice and have a look at the document.

**THE CHAIR:** Can I move to the Civil and Administrative Tribunal. In relation to the workload in the Civil and Administrative Tribunal, what is the clearance rate in the various jurisdictions? I note that some of this might need to be taken on notice. In the various divisions of the Civil and Administrative Tribunal, what are the clearance rates?

**Mr Corbell:** The clearance rate overall is 113 per cent for this reporting period. In relation to the various divisions—

**THE CHAIR:** The extra 13 per cent comes from where?

**Mr Corbell:** That means you cleared more matters than you lodged.

**THE CHAIR:** Than you started with, yes.

**Mr Corbell:** In that reporting period. In relation to the various areas of ACAT's jurisdiction, I will have to take that on notice and provide that.

**THE CHAIR:** That will be fine. Although you might take that on notice, are there any areas where there are particular standouts, either high achievements or where there is a backlog that needs to be addressed?

**Mr Corbell:** Do we have those figures?

**Ms Purvis:** Sorry, I do not have the figures with me but I understand that mental health is one of the areas that are performing very well. But we certainly can get you those figures.

**THE CHAIR:** Thank you very much for that.

**Mr Corbell:** The advice I have is indeed mental health, discrimination, civil disputes, guardianship, management of property, residential tenancy, and energy and water are performing particularly well in terms of timeliness.

**THE CHAIR:** There are particular provisions that require that planning matters are dealt with in a statutory time frame. Are all planning matters being dealt with in the statutory time frame?

**Mr Corbell:** Again, I would need to take advice on that.

**THE CHAIR:** I do not know whether this is in the reporting period but I would like to know this anyway. We have changed the planning act so that there are not two bites of the cherry in ACAT. Has that helped address any planning backlog that there might be?

**Mr Corbell:** That was in relation to internal review. There were only a very small number of cases that had attracted internal review before that discrepancy was identified and rectified. I thought it was only, literally, one or two cases that had been triggered.

**THE CHAIR:** I thought it was in the area of 10 or 11.

**Mr Corbell:** Again, I will take that on notice and provide you with that figure.

**THE CHAIR:** Thank you very much. Members?

**MS HUNTER:** I want to ask about upgrades to security because I do notice in volume 2 there was either an underspend or a rollover in the upgrade of court security facilities. Could we have an update because it does seem to be an issue that crops up every now and again around security in courts?

**Mr Corbell:** Generally speaking, security in the courts is a matter which I take very seriously. A range of additional measures are being identified for further action by my department following a number of more high-profile security breaches of concern to me and users of the courts. In particular, I have indicated to my department the need to develop a legislative framework for better management of the responsibility of security within the courts and between the courts and the court precinct as a whole.

In relation to that, my department is in the process of commissioning additional work in relation to further examination of improvements that can be made to security in the courts. \$1.9 million was provided in 2007-08 to upgrade security in courts and that was for the installation of the airport-style screening technology that members are probably now familiar with. A range of other steps will be considered in the context of the forthcoming budget process to further enhance and improve the provision of security services in the courts as well as the legislative framework issues which I referred to previously.

**MS HUNTER:** Is this \$677,000 a rollover and what work still needs to be completed with that money?

**Ms Purvis:** Yes, that definitely was a rollover and that was money from that original \$1.9 million. It is work that is ongoing and it relates to changes to our key-box system, our swipe card system and our cameras, the internal CCTV system. So there is ongoing work with that. It is due to be finished very soon but it will mean that the keys are common for all areas of the Magistrates Court building, which is something that I am not happy with.

**THE CHAIR:** Could I ask, minister, in relation to the advertisement for expressions of interest for a new justice, what is the timetable? Do you anticipate that you will be in a position to have a new justice to take over directly after or very soon after the retirement of Justice Gray?

**Mr Corbell:** It is my intention to finalise that appointment process so that the new judge can commence work immediately following the statutory retirement date of

Justice Gray, and that process is on track at this point in time. Obviously, the only proviso I put on that is that it depends on who the successful candidate is and that person's own availability.

**THE CHAIR:** I understand that.

**MS HUNTER:** I was looking at the completion of the sexual assault reform program equipment installation and the improved technology. What it is saying here is that there are now six courtrooms which connect to four remote witness rooms. How often have these facilities been used in the last 12 months?

**Ms Purvis:** Certainly the facilities for remote witnessing are used quite commonly. The other equipment that has been put into the courts is used much more, the document readers so that evidence can be shown on the screens in the court, and the facilities that allow practitioners to plug their laptops in and show evidence on the screens. Those sorts of things are used daily. But certainly remote witnessing depends on the cases being heard and how often the remote witnesses—

**MS HUNTER:** Has there been any further talks with Bimberi? There was, I guess, a hope at one time that there would be able to be some video linking with Bimberi so that young people did not sit in the cells all day waiting their turn in court. Do you know whether anything has progressed on that matter?

**Mr Corbell:** I think that is probably a matter you need to ask DHCS and Minister Burch about because the installation of that remote facility would be a matter for that department. Obviously there is—

**MS HUNTER:** Certainly but I am wondering whether it has been raised.

**Mr Corbell:** Obviously it is technically feasible, contingent on resources being made available and the need for it being justified. So I think it is best to ask Minister Burch about that.

**THE CHAIR:** Anything else, members? I think that has probably covered most of the issues we want to cover in relation to court administration. Sorry, no, there is one other issue, with members' indulgence. It does not really cover this reporting period but, Ms Purvis, could you tell us about the implementation of the court fine recovery process, all those fine systems, and where we are at? That would have come into effect on 1 July. Is that right, minister? And how is that fitting into the court structure?

**Mr Corbell:** I am advised that the fine enforcement unit is now operational.

**THE CHAIR:** When did it become operational?

**Mr Corbell:** It became operational earlier this year and work is now underway setting up procedures for the recovery of outstanding fines. The unit has made contact with several government agencies to assist in the recovery of outstanding moneys. So the procedures and practices are now being put in place. Recruitment of staff occurred during March and May this year and procedures and practices are now being implemented to recover moneys.

**THE CHAIR:** When does it become operational?

**Mr Corbell:** When that recruitment was completed, which was in May this year.

**THE CHAIR:** And which agencies have been participating in those fine systems?

**Mr Corbell:** Which government agencies?

**THE CHAIR:** Yes.

**Mr Corbell:** I do not have that information at hand.

**THE CHAIR:** Could you—

**Mr Corbell:** I could take that on notice.

**THE CHAIR:** Thank you very much. I know that I have already filled the cap.

**MR HARGREAVES:** Do not tell anyone about it.

**THE CHAIR:** I got an email about it so I just thought it was—

**MR HARGREAVES:** I did not.

**THE CHAIR:** I think we might adjourn now to allow people to have a smoko break. And we will be back at 3 o'clock, we hope.

**Meeting adjourned from 2.24 to 3 pm.**

**THE CHAIR:** We are moving on to output class 4.1, emergency services. We welcome back the minister and officials from the Emergency Services Agency.

**Mr Corbell:** Madam Chair, just before we commence ESA, can I clarify an answer I gave shortly before the break. I was asked when the new provisions took effect in relation to recovery of fines from the courts. The unit started operating on the dates I advised but the legislation did not take effect until 1 July this year.

**THE CHAIR:** I understood that; okay. Minister, do you want to make some opening comments in relation to the Emergency Services Agency?

**Mr Corbell:** No, thank you, Madam Chair.

**THE CHAIR:** Could I start with a subject that I touched on earlier this morning. To date, how much money has been paid out in rents for unoccupied buildings for the Emergency Services Agency headquarters at Fairbairn?

**Mr Corbell:** I think I have answered this question—

**THE CHAIR:** I am just looking to see if there is any update, minister.

**Mr Corbell:** on a number of occasions on notice. I would have to again take that on notice, Madam Chair.

**THE CHAIR:** Okay. Could you give us an update, minister, on the development of the Emergency Services Agency headquarters at Fairbairn? Are all the building works completed and are all the agencies that are supposed to be there in situ yet?

**Mr Corbell:** All components of the relocation project for the new headquarters and training centre will be completed by the end of 2010, with the exception of the training centre outdoor props. There are two projects. There is the project at Fairbairn and there is the training facility at Hume. What is now complete is that the building 183 at Fairbairn, the secure compound at Fairbairn, the workshop and vehicle compound at Fairbairn and the headquarters at Fairbairn are effectively complete and operational. Those headquarters are now operating as anticipated.

With the training centre at Hume, work has been delayed as a result largely of wet weather and the management of water on the site which has proven to be more complex than anticipated. It is also due to delays amongst contractors supplying some of the building structures—the prefabricated building structures that will be located on the site. So that has been delayed until early next year. The helibase at Hume is underway and is due for completion by early December this year. So that is the status of those projects.

**THE CHAIR:** You said, minister, that the buildings at Fairbairn were completed. Are they occupied?

**Mr Corbell:** Yes, they are all—

**THE CHAIR:** Are they fully functional?

**Mr Corbell:** Yes, they are occupied. ESA headquarters has transferred to Fairbairn and is operating from Fairbairn.

**THE CHAIR:** And there is no redundancy at Curtin? At one stage a few weeks ago there was discussion about there being remaining redundancy at Curtin until there was a complete—

**Mr Corbell:** The triple zero call-taking centre has now transitioned to Fairbairn and is operating from Fairbairn. There is still technical redundancy to the old comcen room at Curtin, but comcen is operating from Fairbairn.

**THE CHAIR:** How long has it been doing that?

**Mr Crossweller:** Since the first week of November.

**Mr Corbell:** So approximately a month.

**MR SMYTH:** Just on that point, has running the two comcens put any additional pressure on staffing?

**Mr Corbell:** The commissioner can outline that. The dual-site operations occurred for a relatively limited period of time. That was needed whilst transition occurred to ensure continuity of triple zero call-taking capability. As to the exact impact on staffing, I will ask the commissioner to give you more detail.

**Mr Crossweller:** Thank you, minister. Mr Smyth, there was a brief period due to the complexities of the transition where there were some pressures on staff to maintain capability at Curtin whilst transitioning to Fairbairn. It is one of those rare projects that we had to undertake. Probably we would only do it once every 25 to 30 years, and we had to go hot site to hot site. So the complexities of project managing were planned as best we could and resourced as best as possible. There was a brief period where the resources were under pressure, but we did plan for that, we did expect that and we were able to transition seamlessly without any technical or other failures.

**MR SMYTH:** Was there any time when we had to call on New South Wales to provide officers to help in the command centre?

**Mr Crossweller:** Certainly, as part of the transition planning, the Ambulance Service of the ACT engaged briefly some patient transport services from New South Wales to help alleviate some of the staffing pressure. That was part of the planning for the transition, part of the costing and part of the process. So they were not called in at short notice; they were actually part of the planning for the transition.

**MR SMYTH:** So how many, how long and for how much?

**Mr Crossweller:** I would have to take that on notice, Mr Smyth. I do not have the exact figures with me.

**MR SMYTH:** Do we regularly supply services across the border?

**Mr Corbell:** Sorry, supply what?

**MR SMYTH:** Do we regularly supply ambulance services across the border into New South Wales?

**Mr Crossweller:** We do from time to time when New South Wales Ambulance request our assistance. Likewise, occasionally they will provide assistance into the ACT. So arrangements are in place, cross-border arrangements, but, to the best of my knowledge, Mr Smyth, that is not regular. Perhaps Mr Foot from the Ambulance Service may be able to give a more specific answer.

**Mr Foot:** Mr Smyth, we have an MOU in place with the Ambulance Service of New South Wales for cross-border assistance. As Mr Crossweller has just alluded to, we do on occasions provide assistance across the border and New South Wales provides similar assistance to us. An example of that would be the Oaks Estate. The Queanbeyan station is located in much closer proximity to Oaks Estate than the ACT station. We enjoy an excellent working relationship with New South Wales.

**MR SMYTH:** I understand, for instance, at the most recent Murrumbateman Field

Day we provided an ambulance for the duration of the field day?

**Mr Foot:** I am not aware of it.

**MR SMYTH:** You are not aware of it? Would you take that on notice?

**Mr Foot:** If you would like me to, yes.

**MR SMYTH:** I understand that ambulance came from the Gungahlin station and left no services out of Gungahlin.

**Mr Foot:** I would have to take that on notice and check with our planning area.

**MR SMYTH:** All right. While you are checking that, while our ambulance was in Murrumbateman at the field day, did New South Wales ambulances have to come from Yass to assist us?

**Mr Foot:** Mr Smyth, I am not aware of that. As I said, I am happy to take that on notice and check for you. But we do, as I said, have cross-border arrangements in place with the New South Wales Ambulance Service. We assist them on a regular basis and they do the same for us.

**MR SMYTH:** All right, thank you.

**MS HUNTER:** In volume 2, page 29 is around the underspends or rollovers. There are some significant dollars there. One is around \$10 million for the new headquarters. If people have moved in and it is operational, what is that money allocated for?

**Mr Corbell:** This is for the financial year to the end of June.

**MS HUNTER:** Certainly.

**Mr Corbell:** Obviously, the headquarters were not completed at that time.

**MS HUNTER:** So it has been spent since then?

**Mr Corbell:** I would need to take advice on what amount has been expended since that time. Moira, are you able to assist?

**Ms Crowhurst:** The rollover reflects the cash budget moving from 2009-10 to 2010-11, to this financial year. The project is not fully financially completed at this stage so the cash will be required this financial year.

**MS HUNTER:** So between 1 July and now how much of that \$10 million has been spent?

**Ms Crowhurst:** I will take that on notice.

**MR SMYTH:** While we are on the numbers for the headquarters, I notice on page 138 of volume 1 that there are a number of contracts. There is \$691,000 for Hume but

there is a line for the fit-out of ESA Pialligo headquarters of \$1.9 million. Are we building two headquarters? I checked the map of Pialligo and it does not include the airport?

**Mr Corbell:** The Pialligo unit of the State Emergency Service is located within what is known as building 189, which is part of the overall ESA complex at Fairbairn. The Pialligo SES unit have their facilities within building 189 at Fairbairn. So I presume, unless someone corrects me, that that is—

**MR SMYTH:** So there is not a new building going into Pialligo?

**Mr Corbell:** No. That is a fit-out within building 189 but it is for the Pialligo SES unit, otherwise known as the headquarters unit SES.

**MR SMYTH:** That is fine. That is not what it actually says but yes. There might be a better descriptor in the future.

**THE CHAIR:** Mr Rattenbury?

**MR RATTENBURY:** Thank you. I wanted to ask a general question. The restructure has taken place so that each of the four areas now has its own chief officer and it seems to be largely well accepted as a good move. Certainly the Fire Brigade listed it as a specific highlight this year in the annual report. I wondered if we could perhaps have a rundown of what are the benefits of the move and what difference it is making on the ground. Can you give us a bit of an overview?

**Mr Corbell:** Just in general terms I will ask the commissioner to provide more detail. From my observation it has been well received by all four services. The focus on having a single point of operational leadership at a senior level for each of the services has been well received. It allows for those services to focus on their core activities, to have an advocate and to have a key leadership position for the organisation and communication conduit to the ESA as a whole and to the government. So I think there is desirability in that. It also assists the services in maintaining their own individual sense of corporate identity, organisational identity, but within the overall ESA family. So I think it has served a valuable outcome in that regard. The commissioner might like to add to that.

**Mr Crosswell:** Thank you, minister. In support of the minister's comments, the reinstatement of the chief officers has allowed the services to maintain their cultural identity whilst also providing that integrated approach through the broader ESA. So it has had the benefit of both an integrated service capacity plus a cultural differentiation, which is important, I think, for emergency services.

We have seen, particularly at the volunteer level, a much happier base of volunteers. We have got clarified roles, responsibilities and leadership that advocate very strongly for their cause. So each chief officer is advocating strongly in that space but also has a high level of integration and interservice operability, so I think it is working out exceptionally well. That seems to be the case through the membership and through the industrial arena as well. So it is working well.

**THE CHAIR:** Yes. Mr Hargreaves?

**MR HARGREAVES:** Can I just ask a question about the community fire units. I am looking at page 67 in the annual report and it says that you established six new ones, bringing the total to 44, and then also you say in here that the government will be increasing the total number of CFUs to 50 over the next financial year. That means that over this financial year it will go up by another six, which is sensational. Could you tell me where the six were in the financial year covered by this annual report and where the next six are likely to go—if you have made up your mind about that?

**Mr Corbell:** On my sheet it says the six new CFUs are marked in red. But unfortunately it is a black and white photocopy so I am unable to assist you, Mr Hargreaves.

**MR HARGREAVES:** And there you have it in black and white.

**Mr Corbell:** Maybe someone can scramble while I provide some context. The six additional units in the reporting period are funded as part of the government's election commitment to bring the total number of CFUs to 50—12 this year and 12 in this current financial year. That 50 is the number that has been identified by the Fire Brigade as the optimal level to provide an additional level of protection to the most vulnerable elements of the urban interface. Obviously, it does not give coverage for the complete urban interface, but that is not practical or reasonable. The focus is on those areas deemed to be at the highest levels of risk. A large number of them are in the Tuggeranong Valley, Mr Hargreaves.

Those are areas which have been identified as areas needing coverage and I am very pleased that we are getting a strong level of take-up. Eight hundred and eight Canberrans have signed up as CFU members as of the end of this reporting period, and that is a very good outcome. The new units are in Gordon, Bonython, Kambah, Deakin, Chifley and Fadden and the last six to be established this financial year are two in Pearce, two in Duffy, one in Fraser and one in Cook.

**MR HARGREAVES:** Thank you very much—great stuff. That is the optimum as recommended by the Fire Brigade. Do you have an intention perhaps to every five years or so review the situation about the placement and whether or not we need any more or less? What I am thinking about, for example, is the Molonglo development—

**Mr Corbell:** Yes.

**MR HARGREAVES:** and it may be that that is a rather delicate area.

**Mr Corbell:** Certainly the Fire Brigade have identified that there will need to be further work planning and risk assessment undertaken in relation to the Molonglo development as it proceeds and that has certainly been foreshadowed in the work they have undertaken to date. Obviously, the government's view on this is that, if the Fire Brigade identify further areas of high risk on the urban interface that do need protection in terms of community fire units, we will give serious consideration to that.

**MR HARGREAVES:** I am also aware that the Rivers RFS brigade is not that far

from that particular part of the world in any event, but I just wanted to know roughly how often you would re-look at it, I suppose. But I think you have answered that. Thank you.

**MS HUNTER:** How many community fire units do we have out in that west Belconnen area, particularly now with new developments going on in—

**Mr Corbell:** Maybe I should invite Mr Swain.

**MR HARGREAVES:** Should we just perhaps have a copy of the complete list? That might actually assist.

**Mr Corbell:** Yes, we can give you a copy of the list.

**THE CHAIR:** And all of the CFUs that are operational, do they have a sufficient number of volunteers to keep them operational?

**Mr Swain:** At the moment we have sufficient volunteers. We have done a complete review of our CFUs prior to this bushfire season and we have actually reconfigured the way that we recruit volunteers. We have engaged the team leaders from each of the community fire units to be actively involved in recruitment in their local area so that there is a two-pronged attack to recruitment from a brigade level and from a CFU level up. Already that is showing significant increases in people putting their hand up to volunteer for CFUs over the last four to six weeks. And every year we will review our CFU locations, depending on residential development, and make an assessment as to whether we need more CFUs or whether we have CFUs that are struggling for numbers because of their location and a whole range of other things.

**THE CHAIR:** So would it be possible, Mr Swain, that as further development moves, say, west, you might decommission one that is no longer on the front and move it further west or towards the firebreak.

**Mr Swain:** Yes, that is correct.

**THE CHAIR:** Okay. Thank you.

**MS HUNTER:** I wanted to ask about the SMS alerts. I would like to follow through on the ability to send the text messages direct to all phones in a particular geographic area at a point in time. Clearly it is a benefit to be able to communicate with everybody who happens to be in the path of a fire on the day, and this was a capability that the government had asked be included. So my question is: do we have that capability in place for the summer season?

**Mr Corbell:** Phase 2 emergency alert, as it is known, which is a telephone based emergency warning system, has been expanded to include the capability for messages to be sent to mobile phones within a defined geographic area. That phase became operational as part of the national system in November this year so that is an important expansion of the existing capability.

**MS HUNTER:** So it is in place now?

**Mr Corbell:** That is the advice I have, yes.

**MS HUNTER:** And I am aware that there are some technical issues that may exist with certain telcos blocking certain messages thinking that they are spam. Has this come up as an issue with emergency alert?

**Mr Crossweller:** Not at this stage it has not. The SMS system, as I understand it, has been activated. Phase 2 has yet to be used in anger, so to speak, so we will be running a series of tests early in the new year just to re-test the emergency system and phase 2 and will obviously pull data from that test to make sure there are no concerns. But that specific issue about the problem with a telco has not been raised with us, to the best of my knowledge.

**MS HUNTER:** You say you are doing phase 2 early next year, so will this be in place for this summer?

**Mr Crossweller:** It has already been activated through the telcos. Much like we did last year, we will prepare the community for a series of tests—probably smaller tests than last year—just to make sure that the system is operational, so that would just be part of our annual testing process. We will also re-alert the community to the hazards as the summer moves on, and part of that second stage of that campaign would be the emergency alerts.

**THE CHAIR:** Finished on emergency alerts? Mr Smyth?

**MR SMYTH:** Minister, on the station relocations project, where is that at at this time?

**Mr Corbell:** The ESA has commissioned additional work, as I have indicated to, I think, the standing committee looking at this issue previously, in response to concerns raised particularly by industrial representatives, unions, from the Fire Brigade and Ambulance Service. That work has now been completed. That work was undertaken by an international consultancy firm called Operational Research in Health Ltd, who specialise in emergency response planning and mapping. Now that that additional work has been undertaken, the ESA has prepared a combined final report that looks at the agreed recommendations from the work previously undertaken by SGS and the work undertaken by ORH and that combined series of reports is now under consideration by the government to inform our future decisions about capital investment.

**THE CHAIR:** So, minister, how many reports is it?

**Mr Corbell:** As you would appreciate, the first report that was commissioned from SGS, Spiller Gibbins Swan, is the station relocation feasibility study. There were some methodological issues raised in relation to that report when it came to the response time assessments for Fire Brigade and ambulance. As a result of that, the commissioner commissioned additional work, which was undertaken by ORH, looking at the Fire Brigade and ambulance issues.

**THE CHAIR:** And who are ORH?

**Mr Corbell:** That is Operational Research in Health Ltd, which is a specialist consultancy from the UK that deals with these issues. It commissioned a series of additional reports looking at Fire Brigade and ambulance. What we now have is the original report from SGS, which is valid in relation to RFS and SES matters and also has some relevant content in relation to Fire Brigade and ambulance, and then we have the additional report from ORH that has the additional material in relation to Fire Brigade and ambulance. That has been combined, if you like, in a covering assessment from the Emergency Services Agency, so we have a series of documents, a summary document from the ESA, and that is now being considered by the government.

**MR SMYTH:** Could we just confirm something. Minister, you told the estimates committee this year on 25 May that you had not received the final copy of the station relocation report. However, on 12 March last year you told this committee that “the station relocation study is currently before me for consideration”. Indeed, you told Ross Solly on 31 May this year, “I was briefed on the report around the beginning of 2009 and that was something that I looked at very closely.” Which of those three statements is correct?

**Mr Corbell:** I think the confusion arises from what was the status of that document. What became clear, particularly on the receipt of additional advice from Mr Crosweller when he took over the commissioner role, was that there were additional pieces of work that had to be done. It was unclear, I think, at that time as to how that would occur and so my comments around that matter really were alluding to the fact that effectively the SGS study was not completed because there were outstanding issues—

**MR SMYTH:** But it was called the final report. That is what the questions were about.

**Mr Corbell:** I am explaining the context of my comments and I think that is quite clear to you. Therefore, and as a consequence of that, additional work has been commissioned.

**MR SMYTH:** But you did tell this committee last year that the report was before you for consideration, and that was before the additional work started. When we had this discussion at estimates, it was about the report that you received last year. So which is true: did you receive the original study that was called the final study or did you not receive it?

**Mr Corbell:** I received the document from SGS, yes, but the comments that I was making, as I have said, were alluding to the fact that I was then aware that there was additional work that needed to occur.

**MR SMYTH:** I will go back and check. In regard to other reports, the Lennox review is still before the government. When will we have an outcome or a government response to the Lennox report?

**Mr Corbell:** The Lennox report is informing government’s consideration of a range

of issues about additional resource provision. The report itself has been released, Mr Smyth. It was released on budget day this year.

**MR SMYTH:** Yes. I am asking when we will have the government response.

**Mr Corbell:** In relation to the recommendations that the report makes, the government does not intend to provide a formal response document as such. What we intend to do is to use the report to inform our decision making on future resource allocation to the Ambulance Service. Indeed, a number of the recommendations of Lennox have already been implemented by the government in the funding decisions we took in the most recent budget.

**MR SMYTH:** Why won't the government deliver a formal response to the recommendations?

**Mr Corbell:** Because effectively the issues raised by Lennox require further work, analysis and discussion, in particular with industrial representatives. The recommendations are in nine separate areas, including managing demand, a funding model, interface between ACTAS and ACT Health, ambulance service delivery models, education and training, clinical governance, non-emergency patient transport, workforce issues, and management team capacity.

The steps that we have already taken include the provision of \$5.1 million in the most recent budget to enhance the capability of ACTAS to increase the level of support to front-line staff. These include: six intensive care qualified clinical staff in the comcen to manage demand more effectively by making clinical decisions and prioritising cases from the moment the call is made; three additional call-taker positions to boost the triple zero call-taking capacity in the comcen; one professional development and audit position to enhance training and professional development of ambulance paramedics; and one general management position to provide increased operational support to front-line staff and allow them to focus more on front-line activities. So that is what we have already done and—

**MR RATTENBURY:** Are all those positions filled?

**Mr Corbell:** They are either filled or in the process of being filled. The additional work that Lennox identified that needs to occur includes the development of a sustainable front-line resourcing model for the ACT Ambulance Service which considers utilisation rates, current and future community demand projections and demographic factors. This has been informed by the work undertaken by ORH in the work I referred to earlier about the future location of stations.

There is also the establishment of a full-time policy officer appointed by the Chief Officer, Ambulance Service to undertake a 12-month body of work to further strengthen the existing clinical governance framework, preliminary work to engage suitable qualified personnel to review the current funding model for the Ambulance Service, and the commencement of negotiations with key stakeholders to make changes to the current student program to improve student retention rates.

**MR SMYTH:** The ambulance officers, the intensive-care paramedics, won a pay

increase on the value of their work, which I think we all approve of. Since they have been awarded that, have we been able to fill all of the rosters on a day-to-day basis with intensive-care paramedics?

**Mr Foot:** Since 1 July this year, there have been six instances of station closure here in the ACT and two instances of partial closure.

**MR SMYTH:** So six full and two partial?

**Mr Foot:** Correct.

**MR SMYTH:** The question actually was: are we filling rosters on a day-to-day basis? Do we have the full complement of officers?

**Mr Corbell:** Not at those times that we have station closure, Mr Smyth.

**MR SMYTH:** You might not close a station but you can still be slightly understaffed. I am told that, as a consequence of the increase in pay, officers now no longer have to rely on overtime. Given that, they are not taking up the opportunities for the extra shifts and that is causing problems. Are we filling our rosters?

**Mr Foot:** I am sorry, I am just wondering what the question was.

**MR SMYTH:** Are we filling our rosters every day?

**Mr Foot:** When a roster position becomes vacant, all attempts are made to fill the vacant position. I am not sure that the pay increases actually reduced the engagement of staff to work an overtime shift if one becomes available. Obviously, about 95 per cent of our absences from rostered shiftwork relate to short-notice personal leave. We have put in place an attendance management policy in the department over the last six months. We are working with a number of our staff to improve attendance in the workplace. But our staff are not unlike any other government department. They do get sick. Especially in our type of work, having someone that is sick within the workplace and then coming into contact with patients that have got lowered immune systems at the time is just not a good look at all.

**MR SMYTH:** Is it possible for the committee to have a copy of the attendance management policy?

**Mr Corbell:** I will take that on notice, Mr Smyth.

**MR SMYTH:** As a consequence of putting that policy in place, how many officers have been interviewed about their attendance?

**Mr Foot:** The policy works in three stages. When someone's attendance becomes of concern to the service, there is an informal discussion with the officer involved. The policy is not about targeting people, because we recognise that people do get sick and they cannot report for duty. It is about providing a supportive framework and early identification of issues that are impacting on the officer, either on a professional or on a personal level, and working with that officer to improve their attendance at the

workplace. Not everyone that goes sick has that policy enacted on the spot. We have trigger points built within the policy where it is enacted.

**MR SMYTH:** So informal is the first. What is the second step?

**Mr Foot:** The second step is a formal interview process, which is also where the officer is provided with a contact officer within the department who then monitors their attendance at the workplace and works with the officer to improve that. The third step, if the attendance does not improve, is obviously moving under section Q of the certified agreement.

**MR SMYTH:** So how many officers have had informal chats, formal chats and section Q enacted upon them?

**Mr Foot:** No officer has been subject to disciplinary action, Mr Smyth, at this point in time under that policy.

**MR SMYTH:** How many formal or informal interviews?

**Mr Foot:** I could not tell you that at the moment.

**MR SMYTH:** You will take that on notice?

**Mr Corbell:** We will take that on notice.

**MR SMYTH:** The union was reported some months ago as calling for a 10-year plan. Is the government going to work towards that for the Ambulance Service?

**Mr Corbell:** What the government is going to work towards is the establishment of a sustainable funding model for the ACT Ambulance Service into the future. The existing sources of funding are increasingly out of date in terms of the reliance on payment for services, budget funding and so on. We need to review the arrangements there. I think that is one of the most important pieces of work the government can do. I have requested the ACT Ambulance Service and the ESA to start work on preparation of options in relation to that matter. A sustainable funding model will drive improvements and maintenance of service capability and customer service into the future.

The other issues that are important are about response times, maintenance of response times and maintenance of capability as the city continues to grow geographically. That work is being informed by ORH, the work done by ORH as part of the station relocation. So that is, in effect, a long-term plan for where ambulance services need to be located, what level of crewing we need and how services should be delivered into the future. So we are putting in place steps for a long-term strategy for our Ambulance Service, recognising and taking account of growth in the city.

**MR RATTENBURY:** Can I go back to the new positions. One of the stated aims of putting on the new comcen staff was that they could defer non-urgent calls so that ambulances were only diverted to the most urgent cases. Can you tell us a bit about how that is working and what it means in actual practice?

**Mr Foot:** What it essentially means is adopting a model that has now been implemented or is still in the early stages in a number of states and territories—a practitioner model. It is referred to as STAR, which stands for secondary triage alternate referral. Essentially, if we receive a triple zero call into the communication centre that definitely, in the opinion of the practitioner, does not require an emergency ambulance to be dispatched to it, the call could be alternatively referred to another provider, such as Health First, or their local GP as well. It is still quite early days. This has not been in place for long in a number of the other services, but it is seen as quite a valuable strategy in assisting and managing demand placed on the communication centre.

**THE CHAIR:** This is to address the issue that you raised probably last year, Mr Foot, about the Ambulance Service basically having to turn up if somebody calls an ambulance and often those are not even sub-urgent?

**Mr Foot:** If you look at the recent advertising that the Ambulance Service of New South Wales have commenced, the advertisement where the father is drowning in the pool and they have asked members of the public to keep triple zero for emergencies only, that probably signifies it. There has also been a lot of media coverage in the *Daily Telegraph* recently about the sort of triple zero calls that New South Wales is receiving. We certainly do not see that volume of calls in the ACT, but some of the calls we do receive definitely do not require ambulance attendance.

**MR RATTENBURY:** What sort of proportion?

**THE CHAIR:** Could you quantify that?

**Mr Foot:** I can give you examples of certain triple zero calls we have received.

**THE CHAIR:** I know the sorts of things, but have you actually quantified the number of triple zero calls that really do not fit the category of triple zero call?

**Mr Foot:** No, we have not actually measured it as an indicator previously, but we have noticed an upsurge. Essentially, with some of the issues in the ACT, if someone feels that they may get access into the accident and emergency centre quicker if they come in by ambulance, there is an urge to ring triple zero. If people are having difficulty accessing their GP, one of the issues is they may try and ring triple zero as an alternative. There has been research undertaken through Monash University on access to GPs and a belief that they will get into the hospital quicker if they ring us, and people do that.

**Mr Corbell:** There are two issues here, though. There is the issue that Mr Foot refers to and there is also the issue of the triaging of calls for ambulance attendance. Obviously, the resourcing that the government has made available means that the Ambulance Service is able to more discretely triage the calls that are coming in and determine those calls that are less urgent and those calls that are more urgent, so that appropriate priority can be given to the dispatch of ambulances. So there is also that demand management task, which is very important and can have real and meaningful outcomes in terms of the workload for the Ambulance Service.

**MS HUNTER:** Mr Foot, you mentioned Health First and GPs. What is happening there when you have a non-urgent call or someone who obviously has been triaged down? What advice is given? Where are people being sent?

**Mr Foot:** This initiative has been funded in this financial year. What we are seeking to do is implement paramedic practitioner positions within the comcen. Once we receive a triple zero call, it is triaged initially by the call-taker. If, based on a matrix we are developing, the call does not warrant the response of a triple zero ambulance, that will then be passed to the practitioner or the call will be triaged by them and the patient will be provided with relevant advice. It may be that we are going to transfer their call to the Health First system, which is manned by registered nurses. It may be that we make a suggestion to the patient that they should attend their general practitioner as a more suitable means, as opposed to treating it as a triple zero emergency. As part of that strategy we are putting steps in place where we do monitor and report against those sorts of calls and also measure it from a quality assurance point of view.

**MR SMYTH:** Minister, what is the Ambulance Service policy following a request from a GP for an ambulance to take a patient from a surgery to the hospital?

**Mr Corbell:** I think you are alluding to a complaint that a GP has made on this issue. Mr Foot is familiar with all these issues so I will ask him to answer the question.

**Mr Foot:** Thank you, minister. The policy of the service, Mr Smyth, is that we do not actually have a specific policy on this. The case you are alluding to was where the officers have attended the scene, the general practitioner had assessed the patient and made a decision that the patient required transport to hospital. When the officers arrived at the scene, the patient declined transport to hospital, against the advice of the general practitioner and against the advice of the paramedic staff. The paramedic officers then remained with the patient until such time as a family member arrived at the scene to take carriage of that case.

**MR SMYTH:** Do we have a policy? I might go to a couple of specific cases later, but what is the general policy—or is there a policy at all?

**Mr Foot:** Normally, if the general practitioner has requested transfer of the patient based on clinical needs, we would effect that transport. However, if the patient declines that transport and they are in a sound mind to make that decision, we have got to respect that.

**MR SMYTH:** So when a decision is made not to transport a patient, does the ambulance officer then inform the surgery that they are not taking that patient to hospital?

**Mr Foot:** No. That is not our normal procedure, but this was actually discussed with the physician in question this morning. There was a conversation between my office and that physician this morning. We will be talking to the Division of General Practice about this very issue. The issue here, in the case you are referring to, is that the practitioner was concerned that she had not been notified that the patient had

declined transport. We have already advised her that that was inappropriate at the time. At the end of the day, the decision always rests with the patient. We cannot force people into our cars.

**MR SMYTH:** Sure. There was a similar case back in 2007.

**Mr Foot:** That is the case I am actually referring to.

**MR SMYTH:** There was another case more recently. I have an email here dated 29 October 2010, where the doctor in question says: "I still have not had a reply to my previous complaint in 2007 and I can now report a *deja vu* experience." The doctor is just asking, "Please advise whether the Ambulance Service is obliged to follow the treating doctor's request for transport to hospital."

**Mr Foot:** I spoke to that physician this morning, Mr Smyth, and the discussion that we have had is that, at the end of the day, if the physician has requested transport of the patient to hospital but the patient declines that transport when our officers arrive, we cannot force that patient to go, irrespective of what the doctor has requested.

**MR SMYTH:** All right. You will follow that up with the Division of GPs and come to an arrangement?

**Mr Foot:** I have spoken to the doctor in question this morning and will also be raising it through our medical adviser with the Division of General Practitioners, yes.

**MR SMYTH:** Thank you.

**THE CHAIR:** I think you would like to move on to the Fire Brigade, Mr Hargreaves. Thank you, Mr Foot.

**MR HARGREAVES:** Thank you. It is actually on page 67.

**THE CHAIR:** Page 67, yes. We are actually on the same page, Mr Hargreaves.

**MR HARGREAVES:** We haven't been on the same page for so many years, Mrs Dunne. I can go to hell now.

**THE CHAIR:** In a hand basket.

**MR SMYTH:** The outbreak of harmony is disturbing.

**MR HARGREAVES:** Yes. It is infectious, isn't it? I am curious about two issues. We were talking about 51 per cent of the incidents from the Fire Brigade being automatic alarm initiated calls. Do we have any numbers on how many of those are false alarms?

**THE CHAIR:** And do you get paid for them?

**Mr Corbell:** I imagine that we would have to take that on notice. I think most of them would be.

**MR HARGREAVES:** I would imagine, unless there has been a dramatic change in human behaviour and these alarms, that a fair amount of these would be false alarms. Perhaps, Mr Swain, you would know?

**Mr Swain:** I have not got the exact statistics, but I do not disagree with your premise at all.

**MR HARGREAVES:** If you would be able to let us know how many of those were—

**Mr Corbell:** Yes, we can take that on notice.

**MR HARGREAVES:** Thank you. I guess you would charge for attending a false alarm, would you?

**Mr Corbell:** There is a charging regime in place, Mr Hargreaves. It is contingent on repeated false alarms and there is a policy in relation to that. I do not have the detail in my hand, but the government did introduce an automatic fire alarm false alarm fee, similar to what other jurisdictions have in place, in the 2006 budget. There is a policy around that. Building owners are charged following a certain number of repeat false alarms within a specified period.

**THE CHAIR:** So they get a period of grace?

**Mr Corbell:** They do.

**THE CHAIR:** Okay.

**Mr Corbell:** But if it is clear that they are not maintaining their fire alarm system and there is a repeated fault then they start getting billed for that.

**MR HARGREAVES:** The next question I had was on severe weather and natural events. You have noted 1,062 incidents. I notice on the following page that the SES has got, for storm and flood, 1,078. Are they the same events?

**Mr Corbell:** The ACT Fire Brigade also responds to storm and flood damage, particularly where there are challenges around height and so on that may be beyond the capability of the SES to deal with. Fire Brigade and SES seem to be the primary response agencies for those events.

**THE CHAIR:** I suppose the question is—

**MR HARGREAVES:** The question really was: to what extent—and this will have to be, I suspect, an on-notice job—are they the same incidents that the Fire Brigade and the SES are attending? Why are we looking at 2,000 events there?

**THE CHAIR:** 2,000 events or so.

**MR HARGREAVES:** So if you could just have a look at that and give us a yell

back?

**Mr Corbell:** Yes, we can certainly do that.

**MS HUNTER:** Is it not usual that the Fire Brigade will come out and do an assessment and then they might call the SES—having had that experience myself when a tree fell down? Maybe I called TAMS and they sent the SES.

**Mr Foot:** It would depend on the type of damage and what the safety implications are. When we have a storm event a whole series of incidents have got to be attended. If there are no particular safety issues, the Fire Brigade will leave it for SES to come along, chop the tree up and clear it. But if it is across a driveway, a pathway or the road, we will either cut it up and remove it or cut it up into small areas, depending on how many calls. The three agencies—it is just not SES and the Fire Brigade; it is RFS as well—certainly cooperate together to mitigate the incidences of storm damage.

**MR HARGREAVES:** Can I ask you then also to let me know—you have got 1,201 other incidents—what sorts of things constitute “other incidents”?

**THE CHAIR:** A cat up a tree?

**MR HARGREAVES:** A cat up a tree?

**Mr Foot:** We do not have too many cats up trees, with a bit of luck, but we can certainly take that on notice.

**MR HARGREAVES:** No, I just wanted to know. Can you give us a few examples? I do not want to know the exact numbers.

**THE CHAIR:** Kids’ heads in the rails?

**MR HARGREAVES:** Mrs Dunne’s child’s head in the rails?

**THE CHAIR:** Actually, they did do that once.

**MS HUNTER:** It is quite a significant number to be going under “other”.

**Mr Corbell:** We are happy to give you more detail on that.

**MR HARGREAVES:** The reason for the curiosity is that it is a number slightly higher than the road rescue figures—for example, road accident lists. I was just wondering if you can give us a couple of examples.

**Mr Foot:** I am not 100 per cent sure so we will take it on notice.

**Mr Corbell:** We will take it on notice.

**THE CHAIR:** In the paragraph above that table, table 39, it says that in 2009-10 the Fire Brigade attended 11,029 incidents which involved 21,700 responses by operational group. What is the difference between an incident and a response so that

we get almost twice the number?

**Mr Foot:** We may have an incident which involves a house fire and we might have a response of three vehicles to the house fire. So that is the difference between incident and response.

**THE CHAIR:** Thank you.

**MS HUNTER:** So is the response related to the number of vehicles or people or—

**Mr Foot:** Vehicles.

**MS HUNTER:** Thank you.

**THE CHAIR:** Mr Smyth?

**MR SMYTH:** Just further to the Fire Brigade, minister. If a report is received of a house that has overgrown vegetation around it and it presents a fire threat, what is the role of the Fire Brigade or the Emergency Services Authority in enforcing the clean-up of that block?

**Mr Corbell:** As I understand it, and Mr Crossweller or Mr Swain can correct me or add to it, the Emergency Services Agency, the commissioner and the Chief Officer of the Fire Brigade respectively have powers under the relevant legislation to deal with circumstances which they consider to be a hazard and pose a threat. At the extreme, directions and orders can be made requiring these holders to rectify certain issues that present a hazard or a threat.

These issues also cross over into other areas of government activity—for example, lease compliance under the planning legislation. They may also cross over into health protection, health regulations, if there is, say, rubbish, vermin and so on that presents issues. It will depend on the particular circumstances of each matter. That is my understanding of the general arrangement, but perhaps the commissioner and chief officer can elaborate on that.

**Mr Crossweller:** Thank you, minister. We prefer, if the matter is brought to our attention, to write what we call the nice letter to the resident, because they may not be aware that the hazard exists or they may not understand the context of the hazard. We would seek to have it cleared. If, after a reasonable period of time, the work is not undertaken then there is capacity under the legislation to serve a letter for the purposes of clearing and, if they fail to do so, there is a penalty attached. In the vast majority of circumstances the first notification is enough because people simply do not realise that what presents at their property is a problem.

**MR SMYTH:** Minister, I have forwarded a letter to you, or an email that originally went to Ms Burch. I will just read one paragraph:

The property in question is in such a state it is difficult to describe. The back yard has not been mowed in a long time. On Friday morning as the weather was fine, the grass was upright and dry. It was so high it touched the horizontal bars

of the clothes hoist. The density of the untended weeds and growth and utter crap in that yard is such, that I can no longer remain silent on this issue.

In a case like that, the Fire Brigade or ESA will, firstly, send them a nice letter, as it were. How long do you wait before you take further action? The resident is also concerned about health and issues of snakes as well.

**Mr Crossweller:** Mr Smyth, our local fire brigade station would inspect immediately upon notification and provide advice to the resident. In circumstances such as that, the period of time between the advice and then us acting would be relatively short. We do not allow these things to go on for months once they are brought to our attention. If they are made known to us then the local stations will inspect them immediately, provide that advice and then if that resident fails to act we can serve a notice. Particularly this summer, Mr Smyth, with the prolific grass growth, as we have all seen, we do have some challenges in that space.

**MR SMYTH:** Minister, the letter has gone to you, if you could pass it on.

**Mr Corbell:** I will certainly be referring it to the appropriate agencies.

**MR HARGREAVES:** On the same thing, can I ask about the bush and grass fires, please? On page 67, you have got bush and grass fires. There were 268 incidents that the Fire Brigade attended. If you flick the page to table 40, the Rural Fire Service attended 112 incidents. I just wanted to know how come the Fire Brigade attended 268 fires and the RFS 112. There would be a reason for that.

**Mr Corbell:** The Fire Brigade and the RFS have different response responsibilities. The Fire Brigade is responsible for all fires in the built-up area of the city. Those include fires—grass fires, bush fires—that occur within the built-up area. The Rural Fire Service certainly assists with fires in the built-up area but, depending on the nature of the fire, often the Fire Brigade is the first response, because obviously it is on call and available. It is available to respond often more quickly than our volunteer brigade, unless that volunteer brigade is stood up.

The volunteer brigades have primary responsibility for fires outside of the built-up area and shared responsibility under certain operational arrangements for fires in the bushfire abatement zone, which is effectively the urban interface. Obviously there are more fires in the built-up area and therefore the Fire Brigade are responding to those fires more often.

**MR HARGREAVES:** I have got two questions on that one to follow up. I do not have the number of grass and bush fires from the previous year. It just seems to me that 112 incidents for the RFS to attend is quite a lot, actually, given that they are not stood up all the time. Is it the opinion of the commissioner that this is a large number—112?

**Mr Corbell:** Could I just draw your attention, Mr Hargreaves, to the ACT RFS table? It actually differentiates between fires which are the responsibility of ACT RFS to respond to in the first instance and fires where the RFS assisted the ACT Fire Brigade. That, effectively, is a differentiation between fires within the built-up area where RFS

was in assistance to the Fire Brigade and where RFS was the primary response agency.

**MR HARGREAVES:** What I was trying to get a handle on was this: having said that the RFS, in fact, is responsible, generally speaking, for stuff outside the urban interface, I would have thought that 112 incidents was quite a lot. Is it?

**Mr Crossweller:** No, Mr Hargreaves. It is probably about an average year. Based on my own experience, none of those—as far as I am aware—in the last 12 months developed to anything of significance. They were all extinguished quickly. That rate of incidents in a jurisdiction such as the ACT would not be unreasonable.

**MR HARGREAVES:** My last question on this one is in relation more particularly, I suppose, to the fire brigade's 268 incidents. When you talk about the structural fires, houses et cetera, you have got a pretty good record for working out the cause. You have got 96.3 per cent for determining the cause against a target of 95 per cent for the structurals. Do you have a bit of a handle on how many of those bush and grass fires are deliberately lit?

**Mr Crossweller:** We have an opinion.

**MR HARGREAVES:** I would like to hear it.

**Mr Corbell:** I will let Mr Swain speak to that.

**MR HARGREAVES:** This is a professional opinion.

**Mr Swain:** There is no surprise that most bush and grass fires are where the people are, not where the people are not and it just—

**MR HARGREAVES:** You sound like you have been listening to too much Rex Hunt: do not fish where the fish are not.

**Mr Swain:** We suspect that most of them are deliberately lit.

**THE CHAIR:** But do you investigate each bush or grass fire that you would attend?

**Mr Swain:** There is certainly an investigation but what it is and where it is depends on the extent of the investigation.

**Mr Crossweller:** The differentiation is often between careless use, accidental and deliberate. Careless use is someone using a fire for a purpose and losing it.

**THE CHAIR:** Letting it get away.

**Mr Crossweller:** Accidental is the spark off the back of a tractor. Intentional is someone lighting it with a match. So we tend to differentiate in those three ways.

**MR HARGREAVES:** Hopefully it has gone down as there are no fireworks any more?

**Mr Crossweller:** And the fourth way is natural cause, which is lightning. So they are, generally speaking, the categories we call spontaneous combustion.

**MS HUNTER:** I guess the question is: is the proportion of those that you know or suspect to be deliberately lit going up? Is it turning up, is it the same or is it going down?

**Mr Crossweller:** In specific terms, we would take that on notice. In general terms, we are in the ballpark of the national average in terms of the arson incidents and those which are determined to be deliberate, as opposed to accidental or careless use. I cannot really comment on the trends in that space at this point but we can take it on notice.

**MS HUNTER:** I was interested in the number of motor vehicle fires, cars that are torched or that just ignite for some reason. That is quite a number that you are attending there, 331. What is the proportion of those that are an accident and how many are being deliberately torched?

**Mr Swain:** If there is a car that has been deliberately torched, obviously that then becomes a police matter for investigation. There are a whole—

**MS HUNTER:** So they would then investigate and decide whether that be the case or not?

**Mr Swain:** Yes. It is a criminal activity or potential criminal activity. There are a lot of car fires as a result of car accidents and vehicles that are not maintained to the level that they should be. There are a whole range.

**MR SMYTH:** On the RFS and the sheds, if we could quickly, minister, Jerrabomberra upgrade is—

**MR HARGREAVES:** You have got Guises Creek. What else do you want? You are bullying your way into that.

**MR SMYTH:** It is on time, on budget?

**THE CHAIR:** Is anyone going to mention the T-word?

**MR SMYTH:** TWU?

**THE CHAIR:** No, Tidbinbilla.

**MR SMYTH:** We will get to Tidbinbilla.

**Mr Corbell:** In relation to the Jerrabomberra shed, there have been a number of factors that have delayed the finalisation of works at this site. First of all, the project managers for the works, Boss Constructions, discovered unidentified services below the proposed driveway, including a 500-millimetre water main at 50 millimetres below surface. This required a full redesign of the driveway, for obvious reasons.

The proposed new site has also experienced significant in-ground drainage issues that were not originally identified and this, coupled with the recent level of rainfall, has limited the ability to work on the site due to high levels of water retention.

**MR SMYTH:** So now it is due for completion when?

**Mr Corbell:** The culmination of these issues means that it is now scheduled for completion at the end of January 2011.

**MR SMYTH:** I was going to ask: are there any savings to be achieved at Jerrabomberra? Probably not. What will be the additional cost of this?

**Mr Corbell:** This project and the project at the Rivers Brigade are within the allocated funds of \$2.27 million.

**MR SMYTH:** And Rivers is at what stage?

**Mr Corbell:** That is progressing well. There have been some delays experienced due to recent weather again and a delay in the fabrication of structural steel. It is envisaged that the Rivers Brigade works will be completed at the end of 2010.

**MR SMYTH:** Tidbinbilla is at what stage?

**Mr Corbell:** That is not in the reporting year for this report but—

**THE CHAIR:** He is going to ask anyhow. You know that.

**Mr Corbell:** I knew you would ask. I am sure I have it here somewhere.

**MR SMYTH:** I am sure you would have been disappointed if I had not.

**MR HARGREAVES:** Get back to us next November at annual report time.

**Mr Hammond:** Tidbinbilla is progressing as we speak. At this stage, we have identified a site and we are going through all the appropriate due diligence. We are looking for Indigenous artefacts, heritage and environment. We have a contractor under contract at the moment and design has commenced. At this stage, it is on track to be completed by the end of this financial year.

**MR SMYTH:** So June 2011?

**THE CHAIR:** Where is the site?

**Mr Hammond:** At Birrigai.

**MR SMYTH:** The Hume outdoor training area is due for completion when?

**Mr Prince:** The Hume training centre has experienced some delays, as the minister has already intimated. We are due to be finished in February 2011.

**MR SMYTH:** While you are there, the headquarters at Fairbairn, when is it due for opening?

**Mr Prince:** Due for opening?

**Mr Corbell:** The opening will occur, I think it is, early next month.

**MR SMYTH:** On the revised timetable, it is on time?

**Mr Corbell:** The ESA headquarters is operating now.

**THE CHAIR:** All of it?

**Mr Corbell:** Yes.

**THE CHAIR:** The whole box and dice?

**Mr Corbell:** The whole lot. The workshop is there. Comm centre is there. Everyone is there.

**MR SMYTH:** And you took on notice earlier the question about the total cost of the headquarters?

**THE CHAIR:** That was the rent?

**Mr Corbell:** The question about rental, I took on notice.

**THE CHAIR:** That was the question on rental.

**MR SMYTH:** The sum that the Auditor-General found in her report on the delivery of this project was \$75 million and she expected the cost to be higher. Comparing like with like, could we have an update on the final cost of that project?

**Mr Corbell:** Sorry, comparing?

**MR SMYTH:** Comparing like with like. Taking into account all the components that the Auditor-General put into the \$75 million cost, could we have an update on that cost, please?

**Mr Corbell:** Yes, we can take that on notice.

**MR SMYTH:** Thank you.

**THE CHAIR:** Wonderful. It is past the scheduled time we were supposed to roll in the police force. I would like to thank officers of the Emergency Services Authority for their attendance today. There may be some other questions that will be on notice. Thank you for your participation today.

I welcome the Acting Chief Police Officer. We are going to have a wander through the police annual report. I notice that on page 14 of the annual report you talk about

the police consultative committees and they had a low success rate. Will you continue with the police consultative committees and can you tell us what the operational costs of the police consultative committees have been since they came into operation?

**Mr McLean:** In relation to the first part of your question, it is our intention to continue with the concept of community consultative committees. However, due to the, I guess, lack of interest or take-up in the traditional sense in trying to arrange the meetings towards the end of last year, we intend at this stage to take advantage of our new ACT Policing website to create virtual forums so that we might attract more varied and more interested folks to meet with us online to discuss those concerns we might otherwise discuss in more traditional community-based meetings.

As to the second part of your question, there was some funding allocated for the consultative committees. However, I do not have those figures to hand. I can certainly take that on notice and the extent to which those funds were expended in those initial efforts.

**Mr Corbell:** I asked that a small amount of funding be made available through ACT Policing's existing crime prevention budget. No additional funding was provided by the government. It was utilised from the existing budget allocation.

**Mr McLean:** If I may, could I at the outset tender the apologies of CPO Quaedvlieg who is on leave. He has some personal commitments in Queensland at the moment and obviously cannot be here today.

**THE CHAIR:** Thank you very much for delivering that apology. Mr Hargreaves?

**MR HARGREAVES:** I think the cops do a great job.

**Mr Mclean:** Thank you.

**MR HARGREAVES:** The police scouts, how are they getting on?

**Mr McLean:** That is a very good question.

**MR HARGREAVES:** I know.

**Mr McLean:** They are very small in number and, to be honest, the only time that I have seen them over the course of this year was at National Police Remembrance Day.

**MR HARGREAVES:** Me too.

**Mr McLean:** I will have to take that on notice, I am afraid. I do not have a lot of visibility on the extent to which we are continuing to attract them or even keep them interested in being part of our broader community-based efforts.

**MR HARGREAVES:** When they kicked off, I had a little bit to do with them. Part of the reason was to give some recalcitrant young people something better to do with their time, stop them ripping off other people's motor cars and start training them in

rock climbing and stuff like that but, more importantly, teamsmanship, responsibility for themselves, responsibility for others. There were young people who were targeted by the local police officers in the given suburbs for that sort of treatment. Is that sort of thing still going on?

**Mr McLean:** Yes, all of those things you described are ongoing, if you like, in terms of objectives and activities on behalf of ACT Policing, but through a range of other crime prevention initiatives, not least of which is the PCYC and a number of programs under the reconstituted PCYC that we continue to fund.

**MR HARGREAVES:** Before we pass to my colleagues who are busting to have a go because they love you so much, I noticed an ad in the paper recently for police volunteers that actually assist in doing the non-sworn officers' stuff, the day-to-day stuff. Have you had a good response to that ad?

**Mr McLean:** I cannot speak to the response to the advertisement but I will take the opportunity to speak highly of the volunteers that we do have. We get an extraordinary amount of good service from them, born of a genuine desire to contribute to the community. They like doing it in partnership with ourselves. We rely on them very heavily. Unfortunately they tend to be older folks. We tend to ask a lot of them. They give a lot and we are trying to refresh their numbers. The more the merrier, so to speak.

**MR HARGREAVES:** With every respect to the volunteers, this leads me onto Neighbourhood Watch. It needs a bit of cardiac rehab. In some places it is difficult to keep it going. I notice there was some publicity—I think in the *Chronicle* a couple of months ago—about how it is still difficult. Is the police force still having difficulty in getting community interest going in that?

**Mr McLean:** No, I do not think so.

**MR HARGREAVES:** There was a surge in Gungahlin, I think, for a little while.

**Mr Corbell:** It is actually going very well.

**MR HARGREAVES:** Is it going well?

**Mr Corbell:** Certainly the advice I have from Neighbourhood Watch is that we are seeing quite a strong renaissance of Neighbourhood Watch around the ACT, particularly in Tuggeranong, I have to say, Mr Hargreaves, where a number of groups have been re-established by the Neighbourhood Watch governing committee in recent years. The government has provided additional funding to Neighbourhood Watch to assist them with some of their basic administrative costs and allow them to focus more on the activities of strengthening and re-establishing Neighbourhood Watch communities where they do not currently exist.

We have certainly seen a number of Neighbourhood Watch groups re-establish as a result of those efforts. I am actually quite pleased with the progress of Neighbourhood Watch. Certainly they have got a very active and dedicated executive who work closely with ACT Policing through their crime prevention area. I think it has been a

very good outcome for Neighbourhood Watch in recent years.

**MR HARGREAVES:** Thank you. I will come back.

**THE CHAIR:** Can I just touch on a couple of operational issues? First of all, minister, can you bring us up to date with where we are at with the new Belconnen police station and the timetable for that? It has been parochial.

**Mr Corbell:** As I indicated in my statement when I commenced work with the Chief Police Officer on the site symbolically, work is expected to finish on the project in mid- to late 2011. Late 2011 is still the confirmed time frame at this point. There have been some delays in relation to the project. These include the need to finalise and make the changes in relation to the security requirements for the building, which has added some cost pressures to the project.

**THE CHAIR:** Could you elaborate on that, minister?

**Mr Corbell:** The AFP, as a matter of course, requires a certain level of security consideration to be built into the design of the building. That can include everything from protection of the physical external areas of the building from possible attack, such as vehicle ram attacks, through to security within the building itself and access to the building. A number of changes need to occur. That has impacted on the budget assessment for the building. Equally, a number of other factors have arisen, including the failure to identify services underneath the site. These will need to be taken into account.

**THE CHAIR:** More water mains et cetera?

**Mr Corbell:** Actew utilities as well as sensitive communication infrastructure. So those need to be taken into account as well. This is having some impact on the budget for the project and, therefore, the delivery of the project. Another factor has been the high cost of tenders awarded which have been significantly higher than the quantity surveyor's estimates. In some cases, tenders have been double budget estimates and double the quantity surveyor's estimates for the project. All of these factors are placing pressure on the project. I am advised that it is still expected that the project will be completed late in 2011.

**THE CHAIR:** What is the current budget for the project?

**Mr Corbell:** A total funding of \$18.2 million has been provided for design and construction.

**THE CHAIR:** Can I just ask, for comparison's sake, what was the funding for the Woden police station? That is probably the most recent one before that.

**Mr Corbell:** I would have to take that on notice.

**THE CHAIR:** Thank you. When you take it on notice, can you give us a comparison in terms of the number of officers who will be using the Woden station and those who will be using the Belconnen police station? Can we just have some sort of

comparison? This is not to sort of smack everyone around for the price increases. Prices have increased since the Woden police station was built. It is just the most recent police station.

**Mr Corbell:** Sure. I can certainly provide that, but I would caution against using that as the only comparator, simply because the geographic nature of the sites are different and the physical constraints of the sites are different.

**THE CHAIR:** Yes. For instance, are you building similar numbers of holding cells—those sorts of things—and how many workstations and things like that would be at the new site, the Belconnen site, compared with the Woden site? I am quite happy for you to take those on notice.

**Mr Corbell:** We will provide what detail we can on that, Mrs Dunne.

**THE CHAIR:** Thank you.

**Mr Corbell:** The buildings are quite different.

**THE CHAIR:** I think you said, minister, that there was pressure on the budget as a result of the unforeseen constraint issues. Have you got any idea of the quantum of that and to what extent is that \$18.2 million going to grow?

**Mr Corbell:** I would be reluctant to do so at this stage, simply because it is subject to budget and cabinet consideration. I am not in a position to disclose that ahead of cabinet's consideration at the moment.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** Obviously, I also note that the station is aiming to achieve a higher green star rating, so there might be up-front costs, but of course the ongoing running costs of the building will then, hopefully, be lower—lower than older buildings over time.

**Mr Corbell:** Indeed, but that is not the primary issue here in terms of cost escalation. It is the other factors I have mentioned.

**THE CHAIR:** Can I just go back and see if I can clarify it? You said that there were issues about the security design of the building which had not been foreseen. Building police stations is not a new thing. What sorts of things were overlooked in the original design that needed to be revisited?

**Mr Corbell:** I might ask Mr Hammond if he can provide some context around this. Are you able to do that? He is probably not happy about me asking him to do that!

**Mr Hammond:** I will give it my best, minister! To answer the question, certainly from the initial brief put together for the project there was a requirement for security, but they are very broad definitions. It is only when you actually get into the design process that you start to get a realisation of what that means. In the built form, in the progression of the design and also the translation from the police security manual to

the actual built form—that is where this was realised. That was after the initial budget was set.

**THE CHAIR:** It is not as though the specifications for security have changed? It is actually how you implement them in the design that you choose?

**Mr Hammond:** That is correct. That is my understanding.

**THE CHAIR:** Okay. Ms Hunter?

**MS HUNTER:** Yes, thank you. My question is to the Acting Chief Police Officer, and also my thanks to you and to Ms Kendrick and the team for the tour. That was a couple of months ago now. It was a very informative night and I enjoyed it.

**Mr McLean:** You are very welcome.

**MS HUNTER:** It was a great experience. I wanted to go to the five-year policing arrangement. It is due for renewal next year, I understand. I would be interested in your thoughts on how you have been involved in the discussions around that policing arrangement. From your perspective, are there any areas for improvement on the current arrangement that is in place? Have you had those discussions about where it needs to improve or change?

**Mr McLean:** Thanks for the question. I might defer to Ms Kendrick on that and the work of the steering committee, which I have not been a part of to date.

**Ms Kendrick:** I certainly would like to say that we feel very involved. We are part of the working group. There is a broad consultative process that is being undertaken as part of the development of the new arrangement. As to your question as to things that could be improved, I would suggest that always things can be improved. I do not know that I can pick up any particular area that has been a cause of concern for us, but I sincerely hope that out of the broad consultative process that has been undertaken we can provide an arrangement that better meets the needs of the community and government.

**MS HUNTER:** Does the new recruitment drive need to be reflected or protected in that arrangement?

**Ms Kendrick:** I am not quite sure what you mean by the new recruitment drive.

**MS HUNTER:** I guess we have had this bit of a shift. It is around recruitment and seeing how we can target or identify those who would want to come in and stay with ACT Policing over time.

**Ms Kendrick:** I see what you mean.

**MS HUNTER:** Does that need to be identified or protected in that arrangement, do you think?

**Ms Kendrick:** In my opinion, no. I think that if government and others outline what

the requirements are of police, we meet those requirements. I think that the requirement itself, in terms of the broad principles the government requires us to fulfil, should be articulated, with the hows of it perhaps left to other means, but not in the police arrangement per se. Commander, would you have an opinion on it?

**Mr McLean:** No, I would not disagree with that. I guess it reflects the expectations of the government in terms of the services to the community that they expect and the capability we provide. Then we break that down year on year in terms of our key performance indicators and the extent to which we will meet that broader headline agreement.

**Mr Corbell:** It is important to stress the arrangement is the high order agreement—

**MS HUNTER:** The overarching framework; I do understand that.

**Mr Corbell:** between the territory and the commonwealth on the terms on which we engage the Australian Federal Police to provide ACT Policing services. They are very much about governance and about how the relationship operates, whereas the delivery of services is very much focused in the agreement signed each year between the territory and ACT Policing.

**MS HUNTER:** The annual agreement, yes.

**MR HARGREAVES:** Could I draw your attention, please, to pages 31 and 50 of the annual report? Page 31 talks about the Indigenous community liaison, and I am aware of how much good work the police do with the Indigenous community, but I actually also looked at the table on page 50, which shows the size of the problem in terms of the number of people taken into custody, both juvenile and adult, who are Aboriginal. Those numbers in percentage terms are huge compared with the number of Indigenous people we actually have living in Canberra. I was wondering if you would like to have a comment on, firstly, how effective you think the community liaison is—I know how highly regarded they are out there—and is there anything else that you can think of that can help reduce these numbers.

**Mr McLean:** My first observation would be that it is an issue, extraordinarily complex, long standing and one that we are not going to resolve any time soon. On the question of whether our Indigenous liaison officers are effective, the answer in our opinion is an unequivocal yes, they are an essential part. Indeed, they are the access in terms of our relationship with the Indigenous community here in the ACT. Are we doing more? Can we do more? The answer to both of those questions also is yes and we are. We are fully engaged with the other service providers, both within government and without. There is a range of task force like activities, if you like, that are on foot at the moment and starting to bear some fruit, so we push on in hope. Every young person that we can divert is a success and we go out there every day in an effort to do that.

**MR HARGREAVES:** Do you get a sense that—I am particularly focusing in here on the juveniles—there is an assumption that some of these young people are from the same family groupings and they are sort of repeat visitors, as it were? Do you get a sense that sometimes the confrontation between the youngsters and the police is as

much about a rite of passage and an initiation into manhood as it is about just being off the rails?

**Mr McLean:** As to the latter part of your question, I do not know how they perceive it, in terms of a rite of passage. Certainly recidivism is definitely a feature in this particular landscape, as it is with criminality in general: I do not think it is unique to the Aboriginal community, the issue of recidivism. It is a small community, it is 1.2 per cent of the ACT community, and it comprises a large number of extended families so, yes, a lot of these people are related to one another.

**MR HARGREAVES:** And 20 per cent of those people taken into custody in the juvenile section; we have got 1.2 per cent of the population representing 20 per cent of the people who have been taken into custody.

**Mr McLean:** Quite stark figures.

**MR HARGREAVES:** I will come back to something else, but I just wanted to congratulate you on the annual report, on the whole thing. I have been here for half my life and I can remember the early ones with “please turn over” on both sides of the page, to keep people like me busy for hours. I have to say I really love the snippets—the patrol, the hourly what happens to the police officer during the day. One of the things that I found with annual reports is that they can be so boring and can fix sleeplessness really quickly, and you have added a levity into this which is laudable. Thanks very much.

**THE CHAIR:** It is not all humour. The one on page 79 was pretty funny.

**MR HARGREAVES:** The one on page 79 is an absolute ripper. If anybody is listening and you have not had a good laugh, go and have a look at that one.

**Mr McLean:** Thanks, Mr Hargreaves. We are a very small policing jurisdiction, a very small police force, but a very proud one and this year we presented our annual report with a different look and feel and, as you will see on page 7, it is very much our story and we have offered it up as such in the hope that people can better relate to what we have been asked to do for the community here and what we have set out to achieve.

**MR HARGREAVES:** You did it too.

**THE CHAIR:** Mr Rattenbury.

**MR RATTENBURY:** Thank you. On page 36 there is a table with a large number of performance indicators, most of which have been met, which is obviously a positive result. I am particularly interested in No 19, though, which talks about the number of established complaint issues against police. The number seems well above the target. I wonder if you could tell us a little bit about that outcome.

**Mr McLean:** Yes, thanks, Mr Rattenbury. There is a qualifier to that particular statistic, if you like, insofar as what it represents is the number of persons charged. The target there should have been a much larger number based on the number of

complaints, if you like, as opposed to the number of individuals.

**MR RATTENBURY:** Sorry; could you just run me through that again?

**Mr McLean:** There was a mistake in the preparation of the data, which we have corrected now on our online version.

**MR RATTENBURY:** I see.

**Mr McLean:** The number there represented as 45 represents the number of individuals against whom complaints were made but the proper comparator should have been the number of complaints in total.

**MR RATTENBURY:** I see.

**Mr McLean:** So it would appear on that basis then, looking at the figures as you see them, that we have exceeded extensively the target we set for ourselves when in fact it is an error.

**THE CHAIR:** So what you are saying is that individuals make more than one complaint?

**Mr McLean:** That is right. One interaction with me, for example, might generate three or four complaints based on—

**THE CHAIR:** But the thing is that there may be a number of complaints in particular areas which may be legitimate, so why do you only count the interaction?

**Mr McLean:** The data over time in terms of the level of complaints against our members, the actual number of complaints that we accrue each year, if you like, is a much higher number and should have been the relevant number against which we were comparing ourselves in the annual report—not the number of individuals against whom complaints were made. So that was the error in this year’s annual report, which we have fixed online. I do apologise; I actually do not have the proper number that we would substitute there.

**THE CHAIR:** So is the annual target wrong as well?

**Mr McLean:** Yes.

**THE CHAIR:** Right. So would you be able, on notice, to provide us with the update?

**Mr McLean:** We can provide the revised figure there, certainly.

**THE CHAIR:** Thank you, because I was going to ask that question as well.

**MR RATTENBURY:** I want to ask now about tasers. There is not much reference to them in the annual report. Page 86 is the only express reference where it lists that operational training for officers includes the “Taser X26 User Program”. How does the training in this program compare to that undertaken in other police forces in

Australia? Is there a standard course manual? Can you tell us a bit more about that?

**Mr McLean:** Yes, thanks very much, Mr Rattenbury. The use of tasers within ACT Policing is currently restricted to our police tactical response team, so that is our very high end capability. Those teams are completely interoperable both in terms of their equipment and their training with all of the police tactical groups around the country. So the training that we deliver to our members meets best practice certainly across all the jurisdictions in Australia.

**MR RATTENBURY:** And is information on the training course publicly available?

**Mr McLean:** No, it is not made publicly available by us. You will not find it on our website if that is the type of publicly available information you were referring to.

**MR RATTENBURY:** The electronic version of the annual report includes a hidden broken web link for the training course. Is that a web link publicly available or is it only an internal one?

**THE CHAIR:** Does it?

**MR RATTENBURY:** Apparently.

**Mr Corbell:** Which page are you referring to?

**MR RATTENBURY:** I am talking about on the electronic version. I do not have a page number for the electronic version. I can give you that on notice, if you like.

**Mr Corbell:** That is all right, no.

**Mr McLean:** I would not expect that our techniques and so on would be intentionally posted on the internet. I will have to look more closely at that, if I may, and then I can respond.

**MR RATTENBURY:** Sure, no problem. Just on the use of force more broadly, I am interested in the use of force continuum adopted by the AFP. You may be aware that we debated this in the Assembly recently and of course with the discussion about tasers publicly. In the interests of public transparency and increasing confidence in the police force, the government committed a couple of years ago that the continuum of force would be made publicly available. It is not in the annual report. Is it available on the website?

**Mr McLean:** I do not believe it is.

**MR RATTENBURY:** I guess, minister, maybe this is a question you need to answer: why not, given the government committed to making it publicly available? My understanding is that the use of force continuum is an abbreviated version of the confidential commissioner's order No 3, so I understand it is a sort of a desensitised version that can inform the public without giving away operational matters.

**Mr Corbell:** Yes, I would have to review the recommendation and the government's

response and then identify what has occurred, Mr Rattenbury. I am not in a position to do that today but I can take that on notice and provide advice to the committee. Obviously the key consideration here would be protecting that information that could compromise operational safety of police.

**MR RATTENBURY:** Certainly. We have debated this week an update of the matters around child sex offences. But I am interested in the role the police have under the Crimes (Child Sex Offenders) Act 2005. Page 17 lists the act but there is not much more information. My understanding is that the police maintain the register and perform risk assessments of people listed on the register. Am I correct in understanding that?

**Mr McLean:** You are. We have what we call a CSORT team, CSORT being the acronym, child sex offender registry team, and they are responsible for all the monitoring and record keeping which indeed is subject to its own audit processes, external audits.

**MR RATTENBURY:** And what process do you use to perform the risk assessments?

**Mr McLean:** Specifically?

**MR RATTENBURY:** Obviously there is a level of detail we do not need to go to but I guess what I am interested to know is: is there a certain risk that needs to be triggered before the police act? What I want to explore, and we debated this in the Assembly just this week to some extent, is really whether police have enough powers under the existing legislation to intervene in order to provide the necessary protection. One of the objects of the act is to reduce the potential for offenders to reoffend and it is certainly my understanding that in some other states there are different levels of powers available to the police and it is an issue I wanted to explore.

**Mr McLean:** My response to that would have to be limited to the fact that I am not actually aware of any deficiencies or deficits, if you like, in our capability to do our job in that area in terms of intervening where children are at risk.

**THE CHAIR:** Perhaps it might be something, Mr Rattenbury, that we might like to pursue in a briefing.

**MR RATTENBURY:** Yes, it seems like it might be better to do it in detail.

**Mr Corbell:** Yes, I think it is a complex area, Mr Rattenbury, and I have to concede that I find it complex also. I am happy to provide a briefing to you. It is worth noting that some states and territories have modified their schemes to include a prohibition order scheme. The ACT has not done so at this point because our position is that our scheme should remain consistent with nationally agreed reforms so that our legislation remains nationally consistent.

This is a matter that is currently subject to discussion amongst officers supporting the ministerial council on police. There is a meeting of that ministerial council next week and I think it may be listed as an update in terms of progress. Police ministers have asked their officials, including police, to look at the operation of schemes around the

country, in particular having regard to the fact that some jurisdictions have made changes that are outside of the nationally agreed arrangements, and identify whether or not there is a need to amend the nationally agreed scheme so that other jurisdictions move in line with those changes or whether those changes are desirable as nationally agreed, nationally consistent, measures.

**THE CHAIR:** While we are on the child sex offenders register—and this may be something that I should take up as a briefing as well—minister, could you briefly outline the role and function and what is envisaged for the pornography image register—

**Mr Corbell:** ANVIL, the Australian National Victim Image Library.

**THE CHAIR:** It has got a name, a name of which I cannot—

**Mr Corbell:** The acronym is ANVIL, the Australian National Victim Image Library.

**THE CHAIR:** Right, and so what is the aim and the remit of the library? Is that an AFP national function or is everyone involved in that?

**Mr McLean:** It is another national common police resource, if you like, or repository, not unlike a lot of the other services that CrimTrac provide across the country so that we can have one central registry of the victims.

**THE CHAIR:** I had an opportunity to visit the national association for missing and—

**Mr McLean:** Exploited children, in the United States.

**THE CHAIR:** Near Washington. Is that the same sort of program that they run?

**Mr McLean:** It is similar. It is difficult to compare our federated arrangements to NCMEC, which I am also familiar with. But it performs essentially a similar function.

**THE CHAIR:** Our federated arrangements sound like a walk in the park compared to what they have to do.

**Mr McLean:** Very similar, in essential terms.

**THE CHAIR:** The other thing in relation to the child abuse register is that in the United States there have been moves, I think federally and in some state jurisdictions, to put people convicted of trafficking minors for sex on the sex offenders register as well. Has that been canvassed in Australia?

**Mr Corbell:** The offences around trafficking are commonwealth offences and the bill I have just introduced into the Assembly incorporates those offences into the ACT statute and has regard to them. So I am not quite sure about the relationship between those offences and the sex offenders register but I think they are included. I would have to get some advice on that but my understanding is that they are captured by that.

**MS HUNTER:** I want to ask about juveniles who were referred through diversionary

programs. Earlier today we heard that there was an increase by ACT Policing in diverting juveniles into restorative justice programs. I want to follow up by finding out where they are being diverted to—what different types of programs. I know about restorative justice but what other programs are they being diverted to and what work is being done to ensure that all police officers know that that is an option they can pursue?

**Mr McLean:** On your latter point, we have very firm guidance to all our members on diversion and restorative justice—in particular around alcohol, simple drug offences. And they are to consider and pursue, where appropriate, diversionary options. I guess that is the first point I would make. That guidance is firmly put and firmly understood by all of our members.

In the financial year covered in the report, we exceeded our own targets or the KPI for diversion. We did that by a good margin, albeit the numbers settle at around 77 in terms of actual diversions; I will not comment upon the success of them, and time goes on. But there is a range of programs. We have mentioned the PCYC; there are a number of initiatives within our crime prevention area. We have film schools, film projects, movie-making projects, art classes, we have had art shows, we have produced booklets. There are a lot of different and innovative programs—trade skills, driver training.

There are a lot of different approaches to try and give people life skills and to move away from traditional notions of PCYCs as places where we teach you how to box and to play basketball. We know that kids are into a lot of different things now, so we cater for a lot of different interests, more creative interests, more creative kids. There is a range of programs. I do not have them all in front of me in terms of their specific objects.

**MS HUNTER:** I am pretty familiar with the PCYC.

**Mr McLean:** PCYC is probably one of the best-known examples but there are many others. At the moment we have about six programs which we have designed and agreed with PCYC in terms of what we fund them for and what they will deliver to us. Indeed, the Children's Court have actually acknowledged one of our programs most recently as a diversionary option. That was very strong third-party endorsement for the work we are doing with PCYC, and I think emblematic of where we will get to in the future. With the greater diversity of programs, we will pick up even more kids.

**MS HUNTER:** Obviously, there is one PCYC down south, but it was previously located in Turner before moving out to west Belconnen. There have been some issues raised about that location. Are you aware of any of those issues or any need to look at spreading the PCYC into Gungahlin and what work might be undertaken to have a look at that?

**Mr McLean:** Concern with the current Erindale site or concern with the old Turner site?

**MS HUNTER:** They have moved from the old Turner site out to Charnwood, I understand. There are people putting forward the view that Gungahlin really needs to

be covered as well. Do you have any discussions around that? I know PCYC stands to the side a bit.

**Mr Corbell:** I have not met with PCYC recently but when I did meet with them some time ago they indicated to me a desire to have a presence in Gungahlin. The issue there is leveraging the value of their site in Turner to fund the establishment of a site somewhere else on the north side of Canberra, preferably in Gungahlin, I think was their view, although they had not reached a concluded view on the issue.

I think these issues are tied up around the question of the use of the now closed site in Turner and how that site can be redeveloped with some return being made available to the PCYC to fund expansion of activities. I am not sure where that is at recently. It seems to be quite a protracted process, which does not surprise me, given the leasing issues that I think revolve around that site.

**THE CHAIR:** It is probably a community concessional lease.

**Mr Corbell:** I think it is; I think it definitely is.

**THE CHAIR:** I think some of us have views about that.

**Mr Corbell:** There are some issues with that. The last I heard from the PCYC it was the subject of quite detailed consideration but I have not heard the outcome.

**MS HUNTER:** I would like to congratulate ACT Policing on the increase in the number of juveniles being diverted and I hope to be seeing an even greater number next year.

**Mr McLean:** Thank you.

**THE CHAIR:** Could I ask about Operation Patronus. It was reported as being quite successful and it resulted in a number of arrests. Are you seeing an ongoing residual benefit from Operation Patronus or do you see that there is a need to reactivate in those areas?

**Mr McLean:** The answer is we have. What we have done in response to Operation Patronus is set up a crime targeting team now which operates out of city station which is focusing expressly on volume crime. We have drawn people from patrol, from among our detectives, our intelligence people, and we have put a team in there which, with its full complement, is approximately 25 members. They are focusing exclusively on volume crime.

Notwithstanding that we did not meet one of our KPI targets around property crime in the annual report in front of you, I can reassure you that those figures have come down considerably and continue to trend down, certainly since about February-March of this year. So we are enjoying some success at the moment. We tend to refer to these as suppression activities, accepting that it is very hard to eliminate property crime, but we are certainly doing what we can.

**THE CHAIR:** I suppose when you are dealing with outbreaks of property crime you

are probably dealing with what the courts might call frequent flyers as well.

**Mr McLean:** Indeed.

**THE CHAIR:** If you have a successful operation, you might actually obviate the problem for a while, while they are being dealt with by the courts, and perhaps a custodial sentence, but then they might reappear. There was some discussion recently about people who are, as they used to say in the classics, known to the courts and were regular attenders. What sort of interaction do you have with other agencies within the justice system about how you deal with that small group of repeat offenders?

**Mr McLean:** The first point I would make is to alert you to the emphasis that we place now on trying to ensure that bail conditions are as stringent and thereafter are monitored as closely as we possibly can. That may seem straightforward and you may assume that that occurs in the ordinary course of business, and it does, but we have added extra layers to that insofar as the property crime team are brought in now and we employ the corporate memory and corporate knowledge within the property crime team in designing bail conditions that we hope will be most effective in curtailing the activities of some of these frequent flyers, to use the expression that you used. We are working more closely with the DPP in trying to achieve those outcomes and certainly putting as compelling material as we possibly can before the courts.

**THE CHAIR:** Does that mean that, as an arresting officer, you would be making suggestions about what might be appropriate bail conditions?

**Mr McLean:** Yes, absolutely.

**THE CHAIR:** What sort of things might you be suggesting?

**Mr McLean:** Typically, it will be to reside at a particular location, not do certain things, not to associate with certain people, to abstain from alcohol, drugs and so on—anything that we think that reasonably we can do to restrict the person's behaviour and ensure their next appearance in court.

The point that I make around having a more coordinated approach to this is that it is not uncommon, for example, for a person to be arrested out at Gungahlin and the patrol officer out there can see that the person is recorded but they might put them before the court on a relatively simple matter. With the volume of work, there is always the potential that the coordination or the awareness will break down—that this person is actually very well known as a property offender to other people within the property crime team. So whenever those persons come to our attention again, we engage as a matter of course our property crime team and some consultation takes place. They are not treated in isolation for this particular offence; we have a more coordinated approach that extends to our interaction with DPP and the prosecutors as well.

**MR RATTENBURY:** Can I ask about terrorism laws?

**THE CHAIR:** Yes.

**MR RATTENBURY:** Thank you. During the week the attorney presented the review of the 2006 terror laws that deal with preventative detention. The review briefly states that ACT police support the rollover of the laws for another five years. I would be interested in hearing some more of the detail that supports that position from the police.

**Mr McLean:** That is a very expansive part of the law, Mr Rattenbury. Can I get a particular piece of that, if you like?

**MR RATTENBURY:** I can be a bit more specific. The review reports that the provisions of the terror laws have not been used since they were introduced. Can we infer from that fact that there have been no terrorist concerns in the ACT since 2006?

**Mr McLean:** I am not aware of us employing the specific provisions of the terrorism-related statutes in my time here, which extends to 12 months now. Unfortunately, I cannot go further back in time than that.

**MR RATTENBURY:** Attorney, would you like to add anything?

**Mr Corbell:** I would simply reiterate what I have said to the Assembly, which is that, whilst the preventative powers that exist under the territory's extraordinary temporary laws have not been utilised in the territory, there have been instances of terrorist-related activities that have been investigated, charged, prosecuted and convictions found in other Australian jurisdictions, including most notably the successful prosecutions in Victoria for Australian citizens who have been convicted of terrorist offences, of planning terrorist activity.

It is quite clear that there is the very real prospect of Australian citizens planning terrorist activity. Regrettably, that is a very real and live prospect for law enforcement agencies. I think it would be unwise for the territory, which is also the seat of government for the commonwealth, and host therefore to a broad range of diplomatic missions, to not have its own suite of laws, should ACT police, as the primary response agency for these types of matters in the territory, need to investigate, detain, question and ultimately, if necessary, charge people who may be engaged in planning criminal terrorist activity.

That is the justification. I think the bottom line is that there is nothing to suggest, in any of the security assessments, that the risk has diminished since 2006. Indeed, the evidence points to some Australian citizens participating in planning terrorist activity.

**MR RATTENBURY:** I am just interested given that the additional laws have not been used. Does that not point to the fact that the laws that existed pre-2006 provided authorities with sufficient powers to deal with matters?

**Mr Corbell:** No, it does not. What it shows is that there have not been individuals in the territory engaged in that process, to the best of our knowledge.

**MR RATTENBURY:** Thank you, Madam Chair.

**THE CHAIR:** Thank you. Are there any other questions?

**MR RATTENBURY:** I think we will put the rest on notice at this point in time.

**THE CHAIR:** I think we might give the police and the minister a two-minute early mark. If there are further questions, they will be placed on notice.

Members, if anyone wants to put questions on notice they should do so by this time next week. The secretary and I cannot remember the time that we have asked the department to bring them back but I think we said before Christmas. We will clarify that through the department. Thank you, minister and officials, for your participation today and thank you, commander.

**The committee adjourned at 4.58 pm.**