



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2010-2011](#))

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 2 NOVEMBER 2011

**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

Justice and Community Safety Directorate.....	1
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Amended 9 August 2011

The committee commenced at 2.04 pm.

Appearances:

Corbell, Mr Simon, Attorney-General, Minister for the Environment and Sustainable Development, Minister for Territory and Municipal Services and Minister for Police and Emergency Services

Justice and Community Safety Directorate

Leigh, Ms Kathy, Director-General

Goggs, Mr Stephen, Deputy Director-General, Community Safety

Playford, Ms Alison, Deputy Director-General, Justice

Crowhurst, Ms Moira, Chief Finance Officer

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

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

Beattie, Ms Liz, Acting Executive Director, People and Workplace Strategy

Jackson, Ms Rachael, Acting Executive Director, Governance

Garrisson, Mr Peter, Solicitor-General for the ACT

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

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

Krajina, Ms Danielle, Senior Director, Registration and Client Services, Office of Regulatory Services

McCabe, Mr Mark, Senior Director, WorkSafe ACT, Office of Regulatory Services

Greenland, Ms Karen, Executive Director, Transport and Road Safety Policy

THE CHAIR: I thank the minister for attending. The secretary has just reminded me of Mr Hargreaves's apology for this afternoon's hearings. We were waiting on him in vain; he has an unavoidable commitment.

I open the first of the public hearings in relation to the annual and financial reports of the Justice and Community Safety Directorate and welcome the minister and officials. Can we take it as read that we all understand what is on the blue card? Excellent. Minister, would you like to make any introductory comments? We will have some general questions and then move into output classes.

Mr Corbell: Thank you for the opportunity to appear today. I do not intend to make an opening statement but I and my officials, as always, will try to answer your questions.

THE CHAIR: Going to policy advice and justice programs, output class 1, my eye turns immediately to liquor reform. There is a new discussion paper out. When will the government table its response to the JACS report, given that I have in mind that all liquor licences are up for renewal on 30 November? Or is that going to change?

Mr Corbell: The government was not proposing to make a response to the report. The report was requested by the Assembly and is a report from the government. That is what the purpose of that document was. Obviously I have had regard to the findings and the matters raised in that report in ascertaining what the level of liquor licence

fees should be for the forthcoming licence period. I expect to announce details of the new fees shortly.

THE CHAIR: Is “shortly” tomorrow or Friday?

Mr Corbell: I have not yet made the regulation.

THE CHAIR: You have not yet made the regulation?

Mr Corbell: No, but I intend to shortly—certainly very soon.

THE CHAIR: That is essentially a government response. The discussion paper has a number of approaches. It has some approaches suggested by industry.

Mr Corbell: Yes, that is correct.

THE CHAIR: Somewhere along the line the government is going to have to make a definitive decision about the quantum and the structure of liquor licensing fees. Where is the government’s thinking in relation to the quantum and structure of liquor licensing fees?

Mr Corbell: I have already flagged that the government does believe that some adjustment of the fees, particularly in relation to small to medium-sized businesses, is appropriate. The issue is how that works in relation to the rest of the fee structure. Those are issues that I expect to make a formal determination about shortly.

THE CHAIR: Do you see, minister, that the fee structure has to recoup the same amount of revenue as is the case under the current fee structure?

Mr Corbell: Yes, it does.

THE CHAIR: And that includes a significant contribution to the cost of the extra police on the beat?

Mr Corbell: Yes. The government has been very clear about that. This is about recognising that there is a direct financial contribution that should be made by liquor licensees who receive the benefit of improved policing activity, enhanced policing activity, and regulatory activity—as do the broader community as well. It is about reflecting the fact that some level of contribution from industry is a reasonable expectation.

MR RATTENBURY: Chair, could I follow up on liquor licensing?

THE CHAIR: Yes. If you want to follow up, yes.

MR RATTENBURY: Minister, you said “shortly”. Obviously the new liquor fees are due by 1 December this year; that is four working weeks now. When can the licensees expect to know what the fees are going to be for the next year?

Mr Corbell: I have given direction to my directorate on what I want to be in the

instrument. The instrument has not yet been presented to me for signature, but it will be shortly, and then I will be announcing what the determination is.

MR RATTENBURY: You were speaking with Mrs Dunne about the new police on the beat. We saw some figures released a few months ago about the drop in alcohol-related violence in the city. Do you have any update on those figures? I know they were preliminary ones at the time. Is there any—

Mr Corbell: Yes, I do. The sustained reduction I do not have immediately in front of me, but I can certainly recall that I have received advice from the Chief Police Officer that, over the period since the new liquor licensing fees took effect, we have seen a reduction in the order of around 21 per cent in alcohol-related arrests—since the new fees took effect.

THE CHAIR: Do you see that it would be necessary to take any other steps to address alcohol-related violence in what is usually the high point, the summer period?

Mr Corbell: ACT Policing do increase their presence, in city nightspots in particular, over the summer period, particularly on key dates—obviously new year's eve and general periods over the Christmas-new year period. ACT Policing make their operational assessments about that; I am very confident that they have all the capability they need to do that as and when they deem it necessary.

THE CHAIR: This may be a question on notice, but how many charges have been laid under the new provisions in the Liquor Act?

Mr Corbell: I have seen those statistics; I do not have them immediately to hand. There have been a number of charges laid, a large number of warnings issued and disciplinary action taken against some licensees as well. Here we are: 38 cautions have been issued by the alcohol crime targeting team; 90 infringement notices have been issued; 10 matters are under investigation with a view to possible prosecution or referral to the Office of Regulatory Services for occupational discipline.

MR RATTENBURY: Are those infringements against licensees or against individuals? There are some new provisions in the act for—

Mr Corbell: Against licensees.

MR RATTENBURY: What about individuals then and some of those new penalties? Do we know if those provisions have been used at all?

Mr Corbell: On-the-spot fines are being used by police for failure to abide by, for example, a direction to leave premises. I do not have those figures in front of me, but on-the-spot fines are being exercised by police. Police report they are useful but, more importantly, licensees are reporting that they are useful in gaining compliance from patrons who might otherwise be rowdy or disrespectful or who refuse to obey directions of bar staff or licensed premises staff to leave premises or to tone down their behaviour and so on.

THE CHAIR: Could you provide on notice the number of fines and the like that have

been taken out against individual drinkers?

Mr Corbell: Yes, happy to do so.

THE CHAIR: Has there been any opportunity or any recourse for the police to use the temporary shutdown provisions in the law?

Mr Corbell: I think there has been one instance, but I would have to check that.

THE CHAIR: There was one reported.

Mr Corbell: I think there has only been one instance.

THE CHAIR: Just on notice.

MR RATTENBURY: Mrs Dunne earlier asked about the summer peak. I recall that in the last festive season Operation Unite, I think, was the approach the local police took.

Mr Corbell: Yes.

MR RATTENBURY: I was interested in the fact that that was a national approach. What benefits did the ACT derive from being part of that national strategy? How did it play out in terms of being a national approach?

Mr Corbell: I think the benefit of that strategy through that national approach is that it is coordinated across all policing jurisdictions and the benefit of it is the publicity and the attention it gets right across the community, both interstate and locally, about the attitude and the approach policing will be adopting towards alcohol-related crime and violence. That is the most powerful message. It is a community message from police, and obviously a national campaign gets national media. So we are not just relying on local media; we are relying on national media outlets, including those that broadcast here into the territory and publish here in the territory, to get that message out, to remind as many people as possible about their responsibilities and the need to adopt responsible behaviour when it comes to enjoying a night out.

MR RATTENBURY: Have you got anything else on the liquor fees?

THE CHAIR: Is there a plan for a repeat of a national approach this year over the Christmas period?

Mr Corbell: I really cannot say. You would need to ask ACT Policing. This is not a matter where the government is involved. It is collaborative between various police services.

MR RATTENBURY: Just back on the timing of the liquor fees, are you able to give an undertaking that they will actually be signed off this week, given the imminent deadline of 1 December?

Mr Corbell: They will be signed off as soon as possible.

THE CHAIR: Ms Hunter, have you got a question?

MS HUNTER: Yes, under this output class. You had in your annual report the top four priority areas. We have touched on liquor fees, but I want to go back to the Aboriginal and Torres Strait Islander justice agreement. This is on page 11 of the annual report. It commenced on 1 July 2010, so this is the first annual report that it appears in. There were 105 actions listed, so it was quite comprehensive. I know that there will be a report card issued in 2012 after two years of operation, but I was wanting to know what progress had been made on those 105 actions. How many have been actioned? Can you give us a bit of an update?

Mr Corbell: Sixty-five of the 105 action items have been completed. These items are now subject to ongoing monitoring, as a significant number of them relate to funded programs. This is very good progress, I have to say, in relation to such an extensive report and such a complex range of issues that need to be addressed. The government will be providing a report card to the Assembly in the latter part of next year on ongoing progress in relation to the agreement.

MS HUNTER: One of the key performance measures in the agreement was a long-term reduction in the numbers of adults in custody measured through a decrease in the percentage of days in custody for Indigenous and non-Indigenous. I cannot see that measure reflected in the annual report. Is it just that I have missed it? Has that information been collected and reported?

Mr Corbell: It is not an item that we would normally report on in the annual report. I am advised that it is reported in the quarterly criminal justice statistical profile.

MS HUNTER: My understanding from the plan itself is that it will be reported in the annual report.

Mr Corbell: Are you suggesting that the government had agreed to do that, Ms Hunter?

MS HUNTER: It says in the ACT Aboriginal and Torres Strait Islander justice agreement on page 23:

The effectiveness of the activities within this Agreement will be measured through performance measures listed below ...

I understand that some of these measures will be in the annual report. Is that your understanding?

Mr Corbell: I think the answer to your question is that this is the annual report for the period preceding the justice agreement's commencement.

MS HUNTER: Even though it was signed and it has been in place during this last year?

Mr Corbell: I think the approach would normally be to have a full year's worth of

data before reporting on it.

THE CHAIR: For clarity, when was the Aboriginal justice agreement signed?

MS HUNTER: That was on 1 July 2010.

Ms Field: No, it was, I think, 4 August. It was either 2 August or 4 August 2010.

THE CHAIR: So it just misses out.

MS HUNTER: So we will see it next year?

Ms Field: Yes.

Mr Corbell: I would draw your attention to page 58 of the annual report which does show the daily average sentenced detainee population by category, including Indigenous and non-Indigenous persons. So there will be the opportunity for comparisons to be made about that, obviously, as future years report.

Ms Field: Sorry, can I correct that? It was 2 August, not 4 August.

MS HUNTER: Thank you, Ms Field.

Ms Field: Not 4 August.

THE CHAIR: In relation to court reforms, there is active work going on in relation to court scheduling and management of schedules and the like. What progress has been made in the financial year in relation to those and what are the next steps that we could see?

Mr Corbell: At this stage, no. The Acting Chief Justice agreed to the establishment of a review of court procedures, including listing procedures and case management procedures in the ACT Supreme Court. That work was undertaken by Ms Leigh and Justice Penfold, and that very valuable piece of work reported to both me and the Chief Justice earlier this year. Only in the last, I think it is, two months, it reported. That report outlines a wide range of opportunities for improvements in the way the court manages its business, lists matters and hears matters. And I understand that those matters are now the subject of very active discussion with both the profession, the Law Society and the Bar Association, and with the court itself. Ms Leigh will be able to give you some more background.

Ms Leigh: As the minister indicated, Justice Penfold and I were asked to conduct that review. We have had a number of meetings with representatives of the profession, the Bar Association, the Law Society, the DPP and Legal Aid. We had a first-line, exploratory meeting very early on, after the reference was given. We then had extensive discussion with judges and retired judges around Australia who have been recognised as having achieved significant importance in case management in their courts. From that, we gathered a significant number of suggestions about improvements that might be applicable in the ACT. We were particularly mindful that the ACT is a small jurisdiction, and so the approaches that have been taken in some

large jurisdictions might not be readily transferable, and we therefore focused particularly on successful measures taken in smaller jurisdictions.

We are continuing to meet with the profession. We are very keen to work with the profession to come up with a solution that addresses issues raised, rather than simply putting out a discussion paper and then getting responses and having different positions, to actually work through all the issues. And that has been very successful, and in fact we have got another meeting scheduled for this coming week with the profession, at the request of the profession. We have been focusing on a wide range of measures.

I think to sum up the key themes, if one looks at the cases coming before the court, a significant proportion, a little over 50 per cent, of those matters that are committed for trial, if you just look at criminal trials, do not actually go to hearing. And of the ones that do not go to hearing, 60 per cent of those actually fall over on the day of the trial. You can imagine there are a lot of cases listed, taking up the court's listing time, that in fact will never eventuate. So a key measure is to look at how the parties can focus earlier on the matters in dispute so that they can come to a decision much earlier on that will not require a hearing and then not fill the court's time listing matters that are not actually going to go to hearing. So quite a number of the proposals that we have been looking at are targeted at achieving that outcome.

THE CHAIR: In that instance, are you talking about charges where people decide to plead guilty but do so at the eleventh hour?

Ms Leigh: That is correct. One reason they might do that is that the DPP might decide to actually offer a lesser charge. So it is both parties turning their mind to all the issues and sharing information so that they can then make an assessment about the case. And at the moment, that usually happens just in the weeks before the trial.

THE CHAIR: Once it has already been listed?

Ms Leigh: Yes.

THE CHAIR: So what you are trying to say is that there needs to be a better way of focusing the mind than the listing of a case.

Ms Leigh: That is correct.

MR RATTENBURY: On the court reform process, if I might, there was a discussion paper, the review of case management listing procedures, which you have touched on. Can you tell us how many submissions were made to that discussion paper?

Ms Leigh: As I mentioned, we have preferred to work on an initiative basis. So the profession has not put in any submissions, because—

MR RATTENBURY: None at all?

Ms Leigh: No, because they are continuing to work on that paper with us. And it may be that we simply do not end up with submissions, because, instead, we just move on

to proposals. A number of the actions that might be taken are actions for the court rather than for the legislature. So it may be that we will simply move to some decisions that the court will adopt, which will have the benefit of those decisions. We have been having very detailed meetings with the profession, quite extensive, detailed meetings, instead of, as I say, one discussion paper, one submission.

MR RATTENBURY: I think there are 23 questions asked in the discussion paper. Are they the areas that you remain focused in, or has the discussion broadened out?

Ms Leigh: No, I think that is likely to be areas that we have been discussing.

MR RATTENBURY: And you are finding a level of consensus on the answers to those questions?

Ms Leigh: Yes, within reason. I am not saying that everybody is going to come to exactly the same view, but it has been a very constructive discussion.

THE CHAIR: At the end of the time, will we actually see a new court case management system or will it be a series of iterations of changed practice that gradually bring us somewhere else? Is there going to be a drop-dead date when everything will change and something new will happen the next day, or what?

Ms Leigh: As I indicated, a large part of that is a matter for the court to decide, and the significant steps that will need to be taken to form a basis for that change are matters that are for the court. However, the discussions have advanced considerably and the court has been looking in detail at what it might do. Certainly the objective is that there will be a significant change in the case management approach of the court, and there might be additional measures that could be taken in support of that, but there would certainly be a core decision to make some significant changes to how the court manages its cases.

THE CHAIR: But is there some sort of time limit on this discoursing process?

Ms Leigh: The difficulty for me is that I do not want to place a time limit on something that the government has no control over or I, as a member of the review panel, have no control over. The legislature is not the body that needs to take the action; it is actually a court matter, a judicial matter. But I can say that the court has been having, the judges themselves have been having, detailed discussions about this, and I have been assisting with those discussions. So they are well advanced. That is probably the best information I can give you.

THE CHAIR: What do you envisage will be the most significant changes that will appear?

Ms Leigh: I think it is about the judiciary taking an active role in managing the cases coming before them. This has been the direction taken across Australia for some years now, that it is for the judiciary to actively manage matters that are filed so that the time of the court is used efficiently on the things that require presentation of argument to the court for it to make its decision.

It is about making every event in the court count, not having events that might simply be pro forma practice directions, court appearances where everyone knows what the directions are that will be given, but instead where the judges take on a case from the earliest point and engage with counsel on the issues that counsel will be presenting and ensuring that the issues that the judges need to have presented to them in order to make a judgement will be presented to them. This will also assist with judgement writing, because we will be sure that the judges have had presented to them the issues that need to be presented to them in order to prepare their decision.

MR RATTENBURY: On the court backlogs, I want to ask about a statement at page 73 in your report that backlog rates for both criminal and civil matters in the Supreme Court showed a decline from 2009-10 to 2010-11. However, page 75, table 40, which deals with criminal cases, shows that for the Supreme Court the number of cases that are older than two years has actually grown in the reporting period. And there are similar statistics for the Magistrates Court. Can you take us through whether I have misunderstood that or whether there is data you are relying on somewhere else that supports the statement?

Ms Leigh: The distinction is, as you say, in matters greater than two years old. With the matters that are greater than 12 months old but less than two years old, there has been considerable action in that area by the court, but the older matters, which often become the harder matters, are the ones where there has been less improvement. That is the distinction between the two.

MR RATTENBURY: Okay.

THE CHAIR: So what particular strategies are there in place to address the more aged of these matters?

Ms Leigh: Perhaps the most important is a longer term change in case management to ensure that this does not become an ongoing issue. There is an issue about some existing cases, but there is also the issue about into the future how will this not keep occurring, so the key really is that review of case management practices, and then there is an issue about moving through those existing older cases. But I understand that the judges are doing that.

THE CHAIR: These matters that are particularly aged: are they a combination of things that have not been heard or only part heard, or are they matters that are awaiting judgment?

Ms Leigh: They would be a combination.

THE CHAIR: Can we get some sort of breakdown as to what factors are involved?

Ms Leigh: I will see whether we can get that for you.

Mr Corbell: Yes, we will see what we can provide.

MR RATTENBURY: On page 73 there is quite a good outline of the various changes that have been made in the last 12 months to reduce the backlog. What data

will be used to measure the success of those reforms; for example, from the various steps that have been taken will you be able to distinguish which ones have been effective and which ones perhaps have not?

Mr Corbell: Level of effectiveness will vary from measure to measure, but in simple terms we will be able to measure changes in a number of areas. For example, with issues around bail applications we already have very clear data that demonstrates—I was just looking at the total—70 fewer lodgements for bail in the Supreme Court compared to the previous year, the previous period, as a result of the reforms in relation to bail.

Bail in and of itself is not a significant workload matter for the court; nevertheless, any reduction in the number of bail matters they do have to hear is of benefit in terms of judges' time. Other measures I guess will take a little bit longer for us to ascertain how the court is performing. But the most obvious measures we have are in relation to bail and I will give you those figures. In 2010 the Supreme Court heard 149 bail matters, in 2011 the Supreme Court has heard 79, and the number of bail matters in the Magistrates Court has gone up from 576 to 632, and that is for—

Ms Leigh: The July to September period.

Mr Corbell: I beg your pardon; that is just for the July, August, September period in each of those years, so the relevant period since the changes took effect.

MR RATTENBURY: I guess one of the policy intents of the legislative reform was to shift matters back into the Magistrates Court—

Mr Corbell: Yes.

MR RATTENBURY: and we are seeing almost a direct shift, as I hear those figures.

Mr Corbell: That is correct.

MR RATTENBURY: Okay, thank you.

MS HUNTER: I want to go to the property crime reduction strategy on page 12. I note that there is a new strategy being developed, which is going through the 2011-14 strategy, and of course this is running on from the 2004-07 strategy. One of the key objectives you talk about on page 12 of the annual report is this idea of justice reinvestment. I just wanted to hear a bit more about what this justice reinvestment is or what your idea of the concept of justice reinvestment is.

Mr Corbell: This is about recognising that there are dividends that come from reducing crime and that they can potentially be reinvested into activities that prevent crime moving forward. For example, if we are to spend more money in crime prevention activities—diversion of people away from the criminal justice system, encouraging better engagement of people in a range of other activities so that they do not resort to criminal activity or feel driven into criminal activity—that is a saving for the budget and should instead be reflected in increases in that level of investment in another part of the budget. Those are the types of opportunities that we are looking at.

So, for example, as is mentioned also on a similar page, we have the high density housing safety and security project, which has proven to be a valuable project.

MS HUNTER: And that is being evaluated at the moment; is that right?

Mr Corbell: Yes. The types of programs that are being delivered there are things like community art programs, which have engaged tenants of high-density public housing precincts in community art based programs to encourage a greater sense of community belonging, greater personal wellbeing, a sense of personal wellbeing and self-worth, and they are the types of program that can potentially improve people's perceptions of themselves and of the community they live in and prevent a drift towards criminal behaviour or engagement with criminal behaviour and so on.

MS HUNTER: So this strategy is being drafted with this very much in mind, around this bit of a shift to more early intervention, prevention?

Mr Corbell: Certainly early intervention is one of the key concepts in the strategy. There are three elements to the strategy. One is about stopping the cycle of offending through justice reinvestment. The second is by engaging disengaged people, so early intervention, and the third is creating safer, more secure communities, supporting victims of crime, making buildings and public places safer and more secure and making cars more secure.

We have had some really positive outcomes from the response side of the equation in terms of the efforts of police in driving down different types of crime. Motor vehicle theft declined by 37.3 per cent over the financial year. That equates to over 1½ thousand fewer motor vehicles being stolen in the ACT. Burglary offences declined by 32 per cent or approximately 700-odd fewer burglaries during the period, and property damage declined by 21 per cent or nearly 2,000 fewer property damage offences.

Those are really positive outcomes from a proactive targeted policing effort, but we need to consolidate that and we need a strategy that focuses on a range of other proactive measures to keep those rates at that level because, whilst it is great, obviously, to have police targeting and dealing with offending behaviour, we also need to try and prevent the offending behaviour from occurring, and that is where this strategy is very important.

As an example, we did a trial of a grants program in the previous financial year where we provided small grants to not-for-profit community organisations that wanted to improve security of their premises: scout halls, church halls, community organisations, sporting clubs, all of which have premises out in the community, frequently the targets of vandalism or break-in or property damage. So we provided a grants program. It was only a \$150,000 grants program, very modest in its total amount available. The average grant amount was about \$4,000, \$5,000. We supported 30 community organisations to do things like install security grilles in doors, lighting, alarms, security locks, and CCTV in some instances. That has been a very popular program and it helps build that resilience and helps reduce the prospect of damage being done to those—

THE CHAIR: Is that a one-off program or is it recurring?

Mr Corbell: That was a one-off program but I am currently looking at how we can continue that program, because it was very popular and one which I think has great merit.

MS HUNTER: And is the high density housing safety and security project a one-off as well? I understand you were going to evaluate it but—

Mr Corbell: That was funded over a four-year period. It comes to the end at the conclusion of this financial year—or was it last financial year?

MS HUNTER: It says in the annual report, because people were moving in and out because of some works onsite, that it ran over a bit longer.

Ms Leigh: We extended it, yes. We extended it for another 12 months, so we are currently looking at ways to fund it going forward.

Mr Corbell: The government is considering the continuation of that program in the context of the forthcoming budget.

THE CHAIR: Just on the property crime reduction strategy, when will the 2011 strategy become available?

Mr Corbell: I am advised that it is being finalised. It has not yet been presented to cabinet. Once it is presented to cabinet, it will be considered and presented, but I would expect at some point in the first half of next year.

THE CHAIR: So the 2011 calendar year will be over before the strategy sees the light of day?

Mr Corbell: Yes, I think that is realistically what the time frame is at this point in time.

THE CHAIR: I am just trying to get a handle on it. We have got a four-year strategy. What is currently in place? Is there nothing in place? Was there a strategy that sort of wound up in 2007?

Mr Corbell: The previous strategy expired in 2007.

THE CHAIR: Yes.

Mr Corbell: So there has been an interregnum, but that does not mean there has been no crime prevention or crime reduction activities occurring. Obviously there has been extensive crime reduction behaviour, certainly on the part of policing and through the types of programs the government has continued to deliver, such as the high density housing, safety and security project and the infrastructure safety and security grants programs. They have been occurring despite the fact that a new strategy has not yet been developed.

THE CHAIR: Despite the fact that there is no formal strategy. The other issue that you touched on—you have touched on it on a number of occasions—is the reduction in motor vehicle thefts.

Mr Corbell: Yes.

THE CHAIR: To what extent has that project been evaluated and to what extent is the reduction in motor vehicle theft an indicator of the change in the age of the fleet generally? More and more cars have in-built immobilisers and it is harder to break in than it used to be.

Mr Corbell: There is no doubt that as the private vehicle fleet is updated over time the security of those vehicles and the fleet overall improves because of the new technology that is available in new motor vehicles. But a 32 per cent reduction in a single 12-month period you could not put down to simply factors around the relative age of the fleet. The fleet does not improve so quickly over such a short period of time.

THE CHAIR: So what analysis has been done of the factors that have brought about this change?

Mr Corbell: I think those questions are probably best asked of ACT Policing when they appear because obviously they have been delivering this crime reduction effort. The police have put together a dedicated volume crime targeting team so they have been focusing on volume crimes, such as motor vehicle theft, burglary, break and enter, property damage and so on, so a dedicated intelligence unit, a dedicated volume crime targeting team unit, as a sustained, ongoing presence in ACT Policing, and that has allowed them to use their intelligence holdings much more effectively, to target and to arrest and charge those who have been engaged in this behaviour.

Certainly, as we all understand in the ACT, it is a relatively small number of people involved in these crimes and, regrettably, sometimes they are repeat offenders and therefore the intelligence holdings of the police are very valuable in targeting and preventing further recurrences of these crimes. I am sure ACT Policing would be able to give you a more detailed explanation than that as to the factors.

MR RATTENBURY: I want to ask about the directorate's ecologically sustainable development data on page 218 of the annual report. The figures show a noticeable increase in both electricity use and natural gas use between the 2009-10 and 2010-11 years. Can we have an explanation as for why that is the case?

Mr Corbell: Can you just indicate where you are referring to, Mr Rattenbury?

MR RATTENBURY: Yes, page 218, under "Stationary energy", about halfway down the page.

Mr Corbell: Yes.

MR RATTENBURY: Electricity use has increased. Natural gas use has got about an 80 per cent increase from year to year. It is such a substantial number, I am quite interested in what has changed in the directorate that has seen such a considerable

increase.

Ms Leigh: I would just appreciate the opportunity to check something. Could I come back later in this hearing to you on that?

MR RATTENBURY: Sure. I have got a couple of other questions. I shall indicate what they are now and perhaps that can be part of the same thing.

I also note that the renewable energy purchase declined from nearly 43 per cent to 14 per cent. I am interested in why that has occurred. I know there is a whole-of-government contract and these things move around a little bit, but, again, it is well below the government's target.

The other question I have is that total transport energy use has increased, although not so substantially. Then halfway down page 219—line L26, if that helps—the report notes that total greenhouse gas emissions from stationary energy use has, in fact, declined, whilst on the other page stationary energy use is reported to have increased substantially. I am interested in how the total greenhouse emissions have fallen given substantial increased consumption.

THE CHAIR: And a reduction in green energy.

MR RATTENBURY: Yes, amplified by that.

The last question I then have is at L29, under “Intensities”, the greenhouse gas emissions per square metre show a 94 per cent decline, which I am tremendously impressed by, although slightly sceptical. If you have achieved it, I would love to know how you have achieved it, because it will be a benchmark for all government agencies.

Ms Leigh: On that point, the answer may relate partly to how this information is recorded, because previously it was not possible to break it down except to whole of building. JACS occupies parts of a number of buildings, so what was allocated to us was the usage for the entire building. This year for the first time it has been possible to break it down to the area that we are actually responsible for. That is the reason for some of those decreases.

THE CHAIR: Could I ask also by way of clarification, when we are looking at this, is this just directorate by directorate, or does it also include outlying statutory bodies?

Ms Leigh: It includes all of the parts of the portfolio.

THE CHAIR: So that would include the Human Rights Commission and the DPP?

Ms Leigh: Exactly.

Mr Corbell: ESA stations, fire and ambulance stations.

THE CHAIR: It is not just the office space in Moore Street or anything like that?

Ms Leigh: No, it is not.

Mr Corbell: Office of Regulatory Services and so on.

MR RATTENBURY: Thank you for that explanation about the buildings, but the rest of the detailed questions we will come back to?

Mr Corbell: We will come back to you, Mr Rattenbury.

MR RATTENBURY: Thank you.

THE CHAIR: I am conscious of the time, but I want to ask about victims of crime, because it is a bit of a hardy perennial for me. There have been changes to services for victims of crime, and a lot of moving of those services more into the department. At the same time, while there is a new system, one of the principal non-government providers is still complaining to me about bureaucratic inefficiencies in dealing with grants and the grants program. I know that we discussed this during estimates, about where the contracting arrangements for victims of crime are and how they will be resolved. What do you envisage to be the directorate's ongoing relationship with VOCAL?

Mr Corbell: Before I comment on the issues effecting VOCAL directly, it is probably worth restating what the arrangements are for service delivery for victims of crime. The Victims of Crime Commissioner, through his office and associated arrangements, delivers Victim Support ACT, which is an in-house agency that delivers specialist assistance and support to victims of crime, including coordination of services such as specialist psychological counselling and support and also assessments around assistance for physical rehabilitation and those sorts of matters.

The specialist and detailed support services are provided through Victim Support ACT. VOCAL has a contract to deliver what is called the volunteer support scheme, which is basically considered a general aid scheme. It entails VOCAL providing volunteers to assist victims of crime with general tasks around support or recovery from a criminal event. This is very much aimed at practical support, so things such as providing someone to assist, say, a victim of break in, for example, with cleaning up their house and managing the issues with disturbance or damage to personal property and so on. It is very much a shoulder-to-cry-on type service, so someone is there just to talk with the victim and to assist them, particularly in the stages immediately following a criminal act occurring. So that is what VOCAL provides, in contrast to the specialist service.

The situation with VOCAL's contract is that, first of all, there has never been a competitive process to ascertain either the adequacy of VOCAL's services or to test it against what other community-based organisations may be able to provide in relation to the victim volunteer support program. The government has taken the decision that it is timely to allow an open, transparent tender process in relation to that contract. VOCAL have, of course, been invited to tender, and I am advised that they are intending to do so.

In September this year, a procurement process for the tender of the program

commenced, and three tenders have been received. A selection process is currently underway in terms of reviewing those tenders.

MR RATTENBURY: What is the time line for the implementation of that tender? Is it 1 January?

Mr Corbell: No, I do not think it is that soon. The current agreement between the territory and VOCAL was extended to 31 December this year. So I stand corrected, sorry. I am advised that a decision on the tender is imminent.

MR RATTENBURY: That was a six-month extension from a previous 30 June expiry.

Mr Corbell: That is correct, yes.

MR RATTENBURY: What was the date that VOCAL was given the extension of that contract?

Mr Corbell: It was before that date.

MR RATTENBURY: It was a matter of weeks, if I recall correctly.

Mr Corbell: Yes, it was before the end of the financial year. I indicated to VOCAL that the tender would be extended for six months prior to the conclusion of the previous financial year.

MR RATTENBURY: The concern I have with this matter is that it seems that—and this is a practice that seemingly occurs across government more often than it should—VOCAL were only given an indication of the final decision a matter of weeks before the expiration of the contract.

Mr Corbell: This is partly because VOCAL themselves were making representations to have previous decisions about going to tender revisited. So they were reopening the question and asking the government to consider their position. So we were in a similar situation last calendar year, and the government agreed to extend the existing contract I for a further 12 months.

Ms Leigh: Last year.

Mr Corbell: Yes, last year. So we actually said, “Okay, we’ll extend it for another 12 months while we have further discussions about whether we should go to a competitive process.” VOCAL, at regular intervals has made representations to me saying: “We don’t want you to go to a tender. We think we should be allowed to continue to receive the contractual payment without tender.” So there have been extended discussions around that. Also, during the previous 12 months, VOCAL themselves were in discussion with another not-for-profit organisation in Canberra about whether or not it was feasible for them to amalgamate with them and possibly provide services through a larger organisation.

So the ground was changing every few months as these discussions waxed and waned

and progress or not was made in relation to the options around amalgamations and so on. VOCAL ultimately decided they were not interested in amalgamating with a larger not-for-profit organisation, as is their right. That meant that, necessarily, a final decision on whether or not we would go to tender and whether or not there was a need for a further contract extension of the existing contract could not be made until quite close to the end of the financial year.

THE CHAIR: I am mindful of the time. I was going to move on to output class 1.2, but can I just ask: what happened to output classes 1.4 to 1.6, because there are not any output classes for those? What were they or what has happened to them? The annual report reports on output classes 1.1, 1.2, 1.3, 1.7 and 1.8. So what were the others, and where are they?

Mr Corbell: I am advised that the other outputs relate to statutory office holders.

Ms Leigh: Who have their own annual reports.

Mr Corbell: Who have their own annual reports.

THE CHAIR: Right. In relation to output class 1.2 and government legal services, the performance measures on page 119 of volume 2 look at the actual total cost of government legal services being up five per cent to \$8.9 million. I want to get some clarification as to how the total cost for government legal services at \$8.9 million relates to the table on pages 196 and 197 of volume 1, which is essentially outsourced legal services. Is that in addition or is that a subset of the \$8.9 million?

Mr Corbell: I will ask Mr Garrisson to answer that.

Mr Garrisson: The costs shown in volume 2 relate to the total funding of the office of the ACT Government Solicitor. The costs in table 77 on page 196 of volume 1, in fact, represent outsourced costs which are funded in addition to those other figures set out in the costed service.

THE CHAIR: So this table here is in addition to—

Mr Garrisson: Correct.

THE CHAIR: The tables on pages 196 and 197—do they relate entirely to advice within the JACS portfolio or is it broader?

Mr Garrisson: No, that is for the entire government.

THE CHAIR: That is for the entire government?

Mr Garrisson: Through my office, of course.

THE CHAIR: Is there legal advice that does not go through your office or are you now the gatekeeper for—

Mr Garrisson: I am largely the gatekeeper. There are a couple of statutory

organisations that been using external lawyers. Of course, the territory-owned corporations have their own arrangements for legal services. Predominantly it is all provided by the ACT Government Solicitor, with occasional outsourcing by my office when required.

THE CHAIR: I am just trying to get my head around this. This 8.9, which is the total cost for outputs for the 2010-11 year, is legal services to the government by the Government Solicitor's office across the mainstream departments but not necessarily some of the smaller outsider organisations or government-owned corporations?

Mr Garrison: It is very much all of the ACT government legal services. I cannot speak for organisations such as ACTEW, of course. The Land Development Agency, for example, was outsourcing all of its legal services, not within the reporting year but subsequently. Those services are now being undertaken by my office as well.

THE CHAIR: But there are parts of the government that have their own legal counsel inside their—

Mr Garrison: In-house?

THE CHAIR: In-house as well.

Mr Garrison: Only to a very limited degree, Madam Chair. There are two or three organisations which require day-to-day assistance from lawyers just in the administration of their routine business and I have agreed with the heads of those agencies—for example, the Office of Regulatory Services have got some in-house lawyers to attend to providing day-to-day advice to their officers in relation to their statutory obligation powers and so forth. Anything more complex is referred to my office for advice.

There is a similar issue, for example, with the office of children. They have a couple of lawyers that are in-house, so to speak, who provide some routine advice to their officers. But, again, anything controversial or complex is referred to my office. So, by and large, all the legal services are provided by my office. There is also a smattering of lawyers in various places who, in fact, do not provide legal services, but they provide policy advice and contribute to a range of other activities.

THE CHAIR: Would it be possible to provide the committee with a list of where outlying organisations have their in-house legal advice, or would we have to go to individual agencies?

Mr Garrison: I hope that I can tell you exactly where they are. There are some in the—

THE CHAIR: There used to be some in ACTPLA. I presume there still are.

Mr Garrison: Yes, there still are. It is ACTPLA, the office of children and the Office of Regulatory Services. Of course, within the policy areas of JACS there are a number of lawyers.

THE CHAIR: But they are not doing legal advice?

Mr Garrison: They are not providing legal advice as such. Obviously, when policy advice is being provided there are legal elements to it. There are persons who are legally qualified who do not give legal advice who are in a range of other roles.

THE CHAIR: So those figures collected together are the sum total of the cost of legal services in the ACT. There is \$1.7 million and, looking at pages 196 and 197, those people would be across the department in a range of—

Mr Garrison: Across all departments.

THE CHAIR: Across all departments. How do we select these people? Do we have a panel, people who are pre-qualified or what?

Mr Garrison: There is not a panel. Predominantly the service providers referred to in table 77 are counsel. As is disclosed, I think we have used about 45 counsel in a range of areas of our practice. We use barristers from the local bar and from Sydney and Melbourne, depending on the particular matters involved.

There is quite a rigorous process in the selection of counsel, particularly if counsel is being selected for the first time. It matches their skills and experience, similar matters that they have undertaken, the fee that they are proposing to charge and any particular experience they have got with that particular client in the past or similar matters. All of those criteria are considered when determining whether a particular barrister is to be briefed.

It is not at the whim, so to speak, of the individual lawyers. There is a process within my office in relation to engaging counsel. It has to be signed off by a section manager and then by one of the deputies or me. There are a number of trigger points at which either (a) the need to brief counsel at all or (b) the appropriateness of the selection of counsel is reviewed.

THE CHAIR: So all of the people who have been engaged, as listed in table 77, would have been signed off by your office?

Mr Garrison: Yes.

THE CHAIR: Okay. Just by way of clarification, are there two Louise Donohues at the bar?

Mr Garrison: No. I noticed that when I was looking at the figures myself. I think it is just an accounting entry.

THE CHAIR: Okay. Is there anything else on the Government Solicitor?

MS HUNTER: Yes, I had one. On page 27, it talks about service delivery and human rights—a continuing commitment to human rights and providing advice to the Attorney-General and so forth in cases and matters. If you go over to page 28 there is table 6 with performance indicators. It indicates that there were 2,237 opinions given.

I am just wondering how many of those opinions had some human rights aspect to them. Is that something that you can pull out?

Mr Garrison: That would be very difficult to describe, Ms Hunter. Perhaps I can explain the approach that our office takes in relation to it. There are matters that come in for advice which clearly are requests for advice in relation to the operation of the Human Rights Act and its implications in relation to a particular set of circumstances. Other matters will come in—for example, it could be a matter from Housing ACT—where we will look at the claim and say, “Actually, there’s a human rights issue there,” and therefore we provide advice.

The other element to it—and certainly I am trying to have it as a matter of routine—is that with all matters that come into our office for advice my lawyers are expected to reflect upon whether there are human rights implications. It can, in fact, range from “yes, there’s a theoretical issue in relation to human rights but it’s not directly relevant to this matter” to a very significant advice or piece of litigation that involves the act.

MS HUNTER: So you are not able to identify the ones where it has been a primary issue?

Mr Garrison: I could certainly provide you with a number, but of course, as with all things, a mere number really does not do justice to the level of work that is undertaken in relation to it.

MS HUNTER: Certainly.

Mr Garrison: In any given year, if I were to hazard a guess, I would say that there would be probably 30 to 40 specific advices on the Human Rights Act. I am happy to take it on notice and provide you with some more information. For example, in the last couple of years I think the attorney has intervened in seven matters, but we would have put submissions in on 28 or 30 matters in which the Human Rights Act was involved.

Those submissions can arise because the attorney has intervened, because we are acting for an ACT government agency and submissions are being put in on the Human Rights Act or because, as indeed we do from time to time, we provide assistance to the Office of the Director of Public Prosecutions when human rights issues arise in relation to some of their matters. We provide informal assistance in that way. The breadth of our coverage means that it is actually difficult to give you a precise number on what we do.

MS HUNTER: Thank you for that explanation. On table 6 on page 28, halfway down there is revenue recovered and revenue saved.

THE CHAIR: There have been lean years since 2008.

MS HUNTER: That is right, which we have always been fascinated by. It is just to get some idea about this past financial year and the sorts of areas that revenue has been recovered from but also saved, because that is still a significant number.

Mr Garrison: I think perhaps dealing with revenue saved—and, Madam Chair, I may have had a discussion with you in relation to that particular figure on earlier occasions—

THE CHAIR: Yes.

Mr Garrison: it represents the difference in relation to principally personal injury litigation where an assessment is done at the outset and an estimate is provided as to the potential liability of the territory in relation to a particular matter and the matter is resolved for an amount less than that.

MS HUNTER: Less than that, yes.

Mr Garrison: In relation to revenue recovered, that covers a multitude of recovery matters that we undertake—everything from recovery of moneys overpaid to former employees in certain circumstances, recovery of compensation payments in relation to victims of crime from the perpetrator, and obviously the more conventional litigation when recovery is achieved for moneys that are owed to the territory.

THE CHAIR: The bumper year of 2008-09 with \$106 million—was the bulk of that principally from one case about which we must not speak?

Mr Garrison: That about which we must not speak, Madam Chair, yes.

THE CHAIR: How much of it was not that?

Mr Garrison: I think you would be testing my memory at this juncture. I would be hard-pressed to give you the precise figure.

MS HUNTER: That matter is now finished?

Mr Garrison: It is concluded.

THE CHAIR: Yes, but we must not speak about it. In that table—criticisms and compliments. What are they? There are not very many criticisms.

Mr Garrison: No, fortunately.

MS HUNTER: That is right. You have got lots of compliments.

Mr Garrison: Compliments are, in fact, written compliments that are received by my office from our clients.

THE CHAIR: I see. Could I just ask one final thing? Did the Government Solicitor's office advise the Chief Minister in relation to matters which are currently before the privileges committee?

Mr Garrison: I have provided advice to the Chief Minister, yes.

THE CHAIR: You did provide advice to the Chief Minister?

Mr Garrison: Yes.

THE CHAIR: What is the billing arrangement for advice like that? Is it billed to the CMD or is it billed to the Chief Minister's office or—

Mr Garrison: Madam Chair, as you may be aware, about 70 per cent of our work is actually done for no charge, so that there is no charge raised from my office to the directorates. Approximately one-third of our operating costs are met through revenue which comes from billing of the commercial enterprises of government—the ACT Insurance Authority, the LDA and a couple of others, plus—

THE CHAIR: But there is not a billing practice from agency to agency?

Mr Garrison: No.

THE CHAIR: Not even a notional billing practice?

Mr Garrison: There is notional billing.

THE CHAIR: There is notional billing?

Mr Garrison: In fact, I can draw your attention to volume 2. On pages 46 to 47 and following you will see a line in many of the directorates there for resources provided free of charge and there is an item there for legal services. That represents the value of the legal services that were provided.

THE CHAIR: So it is valued; it just is not charged out and billed and—

Mr Garrison: One hopes it is valued, Madam Chair.

THE CHAIR: Right.

Mr Garrison: The rate that is charged is a cost recovery rate; it is not a commercial rate.

THE CHAIR: Okay. The advice to the Chief Minister—is it normal practice to advise ministers before privileges committees?

Mr Garrison: I can receive a request for legal advice in relation to a range of matters and that advice will be provided on any number of matters that are before the Assembly. I think, as Mr Rattenbury is aware, my office has provided advice to the Clerk in relation to matters from time to time.

THE CHAIR: So it is just the normal course of—

Mr Garrison: The normal course of business.

Meeting adjourned from 3.16 to 3.32 pm.

THE CHAIR: Before we move on, it occurred to me that although Mr Garrison has gone, I just needed to clarify this. The table that you referred to on page 46 refers to services provided to various directorates. Perhaps, Ms Leigh, you could take this on notice or someone might be able to answer. It does not refer to legal services or drafting services provided within your own directorate. So I was wondering whether they could be quantified. Seeing the number of pages of elegantly drafted material that, as the shadow attorney-general, I have to deal with, there must be considerable drafting services provided within your own directorate. Where is that quantified?

Ms Leigh: I am advised that that is in appendix 3 on page 244.

THE CHAIR: Appendix 3, volume 1?

Ms Leigh: Volume 1, yes, value of services, page 248.

THE CHAIR: I only really asked that question because I was asked by your staff to wish happy birthday to Ms Sandra George. I was reminded of this by her staff as I was coming back to the hearing. They were briefing me on something. I was challenged to do it. I met the challenge. I hope I get even more elegant drafting as a result!

Mr Corbell: Before the break, Mr Rattenbury asked a number of questions about greenhouse gas and sustainability measures. We do now have an answer on that, if that is possible to provide.

THE CHAIR: That would be good, yes.

Ms Leigh: The answer is that the measures where energy consumption has increased relate to the AMC building, which of course is the 24-hour continuous operation building, and that was not included in the figures last year.

THE CHAIR: Is that the first year or is that the first full year that the AMC—

Mr Corbell: I think it is the first year the AMC has been included in the reporting arrangements for sustainability measures.

THE CHAIR: But it is not the first year that we would have been reporting on this in relation to the AMC?

Mr Corbell: No, it is not.

THE CHAIR: Mr Rattenbury pointed to the reduction in the L29, the greenhouse gas emissions per square metre.

Ms Leigh: That is correct, and L26. And the answer I gave earlier applies to L26 and L29—that is, that previously it was not possible to have the data broken down where JACS only uses part of a building.

THE CHAIR: Moving on to courts, you can start, Ms Hunter.

MS HUNTER: I also want to go to an energy efficiency question. At page 216, there is a case study there. And that case study documents the efficiency upgrades that the Magistrates Court implemented during the year, including the use of smart meters. So I am wondering what the energy savings achieved due to these upgrades were.

Mr Corbell: I am advised it is too early to determine that at this point in time. The measures have not been in place for a sufficient period of time to ascertain that. But in regard to the changes that took place, just under \$130,000 was expended. The work involved a range of measures to improve energy efficiency in the court building. And those measures are now being assessed in terms of what trends we can see in relation to energy consumption.

THE CHAIR: When is it likely that you would see some quantitative assessment of the \$130,000 worth of measures?

Mr Corbell: I am advised in the coming months; so I would expect over the next six months in particular, as obviously buildings perform differently in terms of their energy consumption as the seasons change. So over the next six to 12 months, we would have a good assessment of the relative energy performance of the building compared to before the measures were put in place.

THE CHAIR: Was there any assessment done, before the money was asked for or expended, on what the likely improvements would be? Was there a business case put forward?

Mr Corbell: I understand there was a business case put forward. I am not familiar with the detail, though. I would have to take that on notice.

THE CHAIR: Thank you.

Ms Leigh: The assessment was of the opportunities to improve the building. It is a 20-year-old building and there were a number of measures that clearly could be taken. In addition, it was seen as an opportunity to run a pilot and to take measures, because the measures were both physical measures and changed management in terms of staff behaviour. So it was seen also as an opportunity to provide a pilot and identify what works in terms of energy and energy efficiency.

MS HUNTER: When you have that data, you will have the reduction in the use of utilities, for instance. Are you going to quantify that in money terms?

Ms Leigh: The savings?

MS HUNTER: Savings.

Ms Leigh: That should come through automatically.

THE CHAIR: Can I ask about the centralised registry for courts? How long has that been operating now?

Ms Purvis: We moved the first part of the registry section to the single registry from

the Supreme Court on 4 July. That included all the civil staff and the counter staff. And then in August, we moved the criminal clerk and the Court of Appeals clerk over to the Magistrates Court building.

THE CHAIR: So everyone is now fully co-located?

Ms Purvis: There is still some presence over in the Supreme Court building. The listing clerk is still in the Supreme Court building. The unit manager spends some time over there because we have a bail office arrangement over there for dealing with bails in that building.

THE CHAIR: Minister, where are we with our thinking in relation to the refurb of the Supreme Court building? You made an announcement a while ago of gutting and building larger on the site option. What analysis has been done of that option since then?

Mr Corbell: The government has undertaken a series of feasibility and site assessment studies to determine the most suitable site for a new Supreme Court building. That resulted in the decision of the government earlier this year that the substantial redevelopment of the existing Supreme Court building was the most appropriate course of action.

Moneys have been rolled over from previous budgets for a range of works associated with feasibility and forward design for this project, and that money is now being expended to provide for a range of projects—due diligence and development of a business case for the full design and construction of the new court building. So we are now drilling down to the next level of detail. Now that we have ascertained that that is the most suitable site, a business case for the full design and construction of the project will commence on detailed design options and design parameters that will inform funding.

THE CHAIR: So what factors led the government to decide that that was (a) the best site and (b) the best approach would be to sort of maintain the site and knock everything else down?

Mr Corbell: A number of considerations. The first was that the court building itself, if not used as a court, would, nevertheless, require some level of upgrade and enhancement to allow it to continue to be used in some form after, say, a new Supreme Court building was built somewhere else. There was always the issue about the government having to identify an alternative use for that site should the Supreme Court move elsewhere. So that was certainly a consideration.

Secondly, another consideration was that the court symbolically sits very prominently at the centre of an existing precinct, and we felt it was desirable, given the significance of the building and the precinct, that if it was possible and feasible and efficient to do so, having the building continue to be used as a working court would be a good outcome from a design and urban planning perspective as well as from respecting the heritage values of the building and the precinct in which it sits.

These are in no particular order but, thirdly, the government assessed a range of other

alternative sites, and they were considered to not deliver the same level of functionality or opportunity that could be achieved from effectively providing for a single courts complex by linking the existing Magistrates Court and the existing Supreme Court buildings and that there were actually limited other opportunities for the courts to move into other locations.

So a detailed matrix was put together of the various objectives the government had, and an assessment was made against each of those objectives. The relative assessment indicated that this option overall was the best option for the new building or for the new court.

THE CHAIR: So what other sites were considered?

Mr Corbell: A range of other sites were considered, including sites to the immediate north of the existing Magistrates Court, that is, the car park area between the Magistrates Court and London Circuit. There was also another site immediately adjacent to the Magistrates Court close to the Northbourne Avenue-Vernon Circle interface. There is a smaller site there. Other sites that were considered included the possible use of the existing city police station site as well as a site to the immediate south of the existing Supreme Court site, which is part of the Leightons development site in the car park immediately to the south of the existing Supreme Court site.

THE CHAIR: All the sites were essentially in the same precinct?

Mr Corbell: They were all in the general area, yes, that is correct. And I guess that is one of the issues. This is a substantial and important civic building. It is a civic building that will have to perform its function in that form for another 50 to 80 years, say. So it is important that the placement of an important civic building is in a prominent civic location and has proximity to the operations of other courts, particularly the Magistrates Court, because the government is continuing to endeavour to get a more seamless courts precinct between the various jurisdictions.

THE CHAIR: How much money has been spent on the refurb of the two rooms in the Magistrates Court to have jury facilities in them?

Mr Corbell: \$450,000 was allocated in the 2010-11 budget for the adaptive reuse of two hearing rooms in the Magistrates Court to provide for an additional jury-enabled court room and a jury deliberation room.

THE CHAIR: And how much was actually spent?

Mr Corbell: That was the amount that was expended.

THE CHAIR: Has that room been used?

Mr Corbell: Yes, it is used regularly.

THE CHAIR: What contingencies are you thinking about for relocating the Supreme Court for what I imagine must be a couple of years of reconstruction?

Mr Corbell: Yes, it will be necessary to relocate the existing Supreme Court's functions whilst the new building is constructed. Assessments as to the feasibility of the options available to achieve that are part of the current works that are funded this financial year. That will involve an identification of options for the relocation of the court's functions for the construction period.

THE CHAIR: There would be considerable effort that needs to go into providing appropriate levels of security and functionality.

Mr Corbell: Yes.

THE CHAIR: It would be very difficult to have hearing rooms, for example, dispersed all over the city while we are refurbishing the building. That would militate against an efficient court system.

Mr Corbell: Clearly, all of these issues will need to be considered. This has occurred in relation to other Supreme Court projects around the country. There have been other state Supreme Court projects which have necessitated the relocation of existing Supreme Court functions whilst redevelopment work occurs, particularly in some of the more historic Supreme Court buildings that have been added to or upgraded. It has occurred before. We will look closely at all of those factors.

THE CHAIR: Are there any further questions on courts? Let me refresh my memory. Actually, I think there is a whole issue I have missed. The court-imposed fine enforcement scheme and the mechanisms behind that, where are we with that? What inroads have the changes in legislation and the establishment of the system made to the backlog of outstanding moneys?

Ms Purvis: The fine enforcement unit was set up in the Magistrates Court after the money was received. We have been working very hard to catch up on the backlog of outstanding—

THE CHAIR: How many are in the unit, Ms Purvis?

Ms Purvis: There are three members of the unit—a team leader and two staff assisting her. They have been working to clear the backlog of old files; 6,732 reminder notices were sent out in 2010-11. Work has been continuing between JACS and TAMS to integrate the court and RTA computer systems. That has been a big job. Because of the sanctioning of licences being part of the suite of available parts to the project, that has been a difficult process. There is still some work going on around that to make sure that the correct people are being sanctioned at the correct time.

THE CHAIR: There was something that came in in a JACS bill recently to address some of those issues. Is that right?

Ms Purvis: There was. The JACS bill was looking at, I understand, the credit reporting requirements that were also in the suite of measures available.

THE CHAIR: I thought there was something about that if someone was making an arrangement to pay, there currently is not appropriate communication between the

court fines unit and the RTA. So they might be breached in the RTA, even though they have made arrangements to pay. That had to be addressed.

Ms Purvis: I am not aware.

Mr Corbell: No, the change that is proposed in the JACS bill No 3 deals with concerns about the need to ensure the arrangements are consistent with commonwealth privacy laws. In particular, it was originally proposed that there should be the capacity for people who did not meet their obligations in relation to payment to potentially have their details reported to credit reporting agencies. That has since been ascertained as not permissible under commonwealth privacy arrangements or laws. Therefore, we are clarifying that it is not a matter that can be reported to credit reporting agencies.

THE CHAIR: Ms Purvis, you said that 6,000-odd reminder notices have been sent out. What inroads have actually been made to—what was the figure? Was it \$13 million of outstanding fines?

Mr Corbell: I do not have that information to hand, Mrs Dunne, but we can provide it. It is a large amount.

THE CHAIR: Are you satisfied, attorney, that we are starting to address that backlog?

Mr Corbell: I do believe that we now have a range of mechanisms in place that allow us to start to make inroads into that backlog.

THE CHAIR: Are there any performance measures about when you would expect to see that backlog coming back and the rate at which you expect to see it coming back?

Mr Corbell: I would have to take that on notice, Mrs Dunne, and get some advice on that.

THE CHAIR: Anything else on courts, Ms Hunter?

MS HUNTER: No.

THE CHAIR: I think that might be all we have for courts. We will turn to the Office of Regulatory Services. Mr Phillips, your office is the enforcement arm for a range of services across not just this portfolio but government. Does the office make representations to policy areas in, say, industrial relations or elsewhere across the government about how policy and implementation might better mesh? Is that part of your remit?

Mr Phillips: You are quite right. I think we undertake operational work for almost every agency in the ACT with the exception, I think, of education. But what tends to happen is that we are actively involved in policy initiatives that are developed by the ACT government inasmuch as we are advised of policy initiatives as they tend to come up. We then get the opportunity to feed into those policy initiatives and we then also get the opportunity to feed into legislation as it is drafted on most occasions.

THE CHAIR: Are you in a situation where you might initiate the discussion about a policy initiative because you are the people on the ground actually implementing the policy?

Mr Phillips: Yes, when we implement legislation and feel that there need to be some tweaks to the law or that things are not working correctly or as well as we think they should, I tend to write to the relevant policy area and just point those issues out. So we do inform the policy bodies.

THE CHAIR: So how frequently would you do that?

Mr Phillips: I tend to try to do it in a lump sum rather than fire off an email every time someone approaches me with a perceived problem they have. In relation to the legal policy area, perhaps once or twice a year I raise issues with them in relation to some of those issues that I think need to be tweaked. I might say that you see some of those reflected in JACS bills in relation to the operations of the Registrar-General's functions and various other things like that. Yes, we do; we do not do it every time a problem arises, but we do it periodically.

THE CHAIR: I had someone raise with me an issue recently that there is no service provided by the Office of Regulatory Services to officiate at marriages like there is a registry office service. Is that the case? If someone wants to marry in New South Wales you might go to the courts or whatever and you can contract a marriage. You have a marriage service there. Do we not provide that service in the ACT? Is it all subcontracted out?

Mr Phillips: No, we have provided the service. I will ask Ms Krajina to respond, because she has provided the service herself.

Ms Krajina: The ACT actually has not provided civil marriage services for about eight years. The market seemed to lend itself to private provision by the local civil celebrants. However, we do provide some services for civil partnerships on an occasional basis. It is not to say we cannot provide those services, but it is certainly something we have not provided for the last eight years.

THE CHAIR: Do you get many requests for such a—

Ms Krajina: No.

THE CHAIR: Okay. Ms Hunter.

MS HUNTER: Yes, I wanted to go on to the issue of bullying. On page 41 of the annual report mention is made of some educational activities. I know that has included bullying education. Under the current laws for dealing with bullying complaints, what opportunities do those who are making the complaint have for conciliation services or for alternative dispute resolution?

Mr McCabe: That kind of service, a conciliation-type service, is one that we would expect to be provided by the employer. The employer has the responsibility to provide

a healthy and safe working environment in relation to bullying as well as a whole range of other matters. There are a range of ways a bullying matter could be resolved, including mediation or conciliation. We would expect the employer to access those services as required, depending on the case.

MS HUNTER: Is conciliation mandatory?

Mr McCabe: No. What is in place that gives some specifics around bullying is a code of practice. The code of practice outlines a range of ways that a bullying matter can be dealt with. As you would be aware, a code of practice is not mandatory; it is just one way of meeting the obligation. So no, it is not mandatory—not under current legislation.

MS HUNTER: I note that on page 43 you had the takeaway food outlet safety campaign, table 10. We have got some percentages there about compliance. Workplace bullying was at 66 per cent, which does seem to be low. Can you talk us through that and what can be done to improve that?

Mr McCabe: Yes. That particular campaign was targeted at takeaway food outlets, which, by their nature, are generally microbusinesses. We were testing the existence of policies and procedures; we found a very low compliance with policies and procedures in those kinds of organisations.

Since we identified that finding, we have gone and had a look at the documentation that is available. What is available for a business is a code of practice which, from memory, is something like 30 or 40 pages long, which is probably not going to be that useful to a microbusiness. We are in the process of developing a very quick guide to dealing with bullying in a business where there may be only three, four or five workers so that they can still meet their obligation but in a way that really is practical and that you could reasonably expect a small business or microbusiness to achieve.

It is not so much an indicator that implies that they are non-compliant in relation to bullying; it is more that if a bullying matter did come up, they do not have a policy in place to deal with it.

MS HUNTER: You have had a compliance of 98 per cent with young workers. What does that mean?

Mr McCabe: I must confess that I do not know the detail of what was asked in relation to that. I would assume it is induction of young workers, but I could take that on notice and come back to you, if you like.

MS HUNTER: Thank you. Do you have any indication of how widespread bullying is in different industries? We have just looked at this particular campaign, but do you have any idea?

Mr McCabe: We had 36 matters raised with us in the 2010-11 year. That, of course, is not an indication of how much bullying—or allegations of bullying—is out there. I would like to think that is because all the rest were dealt with wonderfully within the employer. I could only give you a gut feel. My gut feel is that there is a fair bit of

bullying out there. I think that a large number of employees are dealing with that, and I think some are struggling to deal with it. It would be very hard for me to put a definitive number on the types of cases.

MS HUNTER: Are there particular industries that seem to be struggling with this more than others?

Mr McCabe: I have some stats on the number that came to us. Of the 36 allegations that came to us, 44 per cent of them were from large businesses, 42 per cent were from small employers and 14 per cent were from medium. Sixty-seven per cent were from the private sector and 33 per cent from the public sector. The stats and our general experience seem to indicate that there is no one area where this is happening. Where it does occur, it is fairly widespread across industry groups and the size of businesses.

MS HUNTER: I understand that the Greens—it would have been my colleague Ms Bresnan—put in a question to the minister recently, and the answer was that WorkSafe now requires bullying matters to be overseen by a team leader. The question is: do any of the team leaders or investigators have specific training in psychosocial issues?

Mr McCabe: No, they are not specifically trained in it. Our inspectors are trained to deal with any work safety matter that arises. They are trained in the specifics of the legislation and how to apply the general OH&S principles to resolving risks in the workplace, no matter what that risk is. So no: no specific training of that nature. A number of them have undertaken the training courses that we run for businesses, so they are aware of it in that sense. But no: no specific training.

MS HUNTER: Do you think that it is important or necessary to be able to fill this job?

Mr McCabe: No, I do not, but I do think that these are cases that require oversight by senior staff within WorkSafe, because of their complexity. For that reason, at various points during the progress of the investigation, it is considered by the team leader and, if necessary, more senior members of WorkSafe, including me from time to time. The matters that come to us range from very simple matters to extremely complex ones, and there is an equal distribution right across the spectrum. So a couple are extremely complex, a couple are very simple and there is a whole range of them in the middle as well.

MS HUNTER: You were saying that the larger percentage were in the private sector. Is that indicating that there does need to be some sort of partnership between, say, WorkSafe, the ACT government and private sector organisations or representative bodies in that area, to be able to start getting this message out?

Mr McCabe: Yes, that could be so. That is something we are considering—talking to people like the Canberra Business Council and the chamber of commerce. I personally think it is more a reflection that the public sector is better at procedures and has policies in relation to these matters, so there is a structured process that people who feel they are being bullied can go into to attempt to have it resolved, whereas the

private sector is not as good at procedures so there is a higher tendency to turn to WorkSafe rather than to something that is existing within the employer. I am not convinced that it necessarily means that the private sector has got more bullying than the public sector—just that they need to do more work on having a structured approach to it.

MS HUNTER: Do you think that penalties are sufficient in the ACT for very serious incidents of bullying? We have seen some changes to the law in Victoria recently. That was particularly with a serious case of bullying that involved encouraging the young woman to self-harm.

Mr McCabe: I do think the penalties are high enough. The difficulty with bullying cases—I do not have the answer to this; I welcome any suggestions—is the difficulty of getting definitive evidence. That is for a couple of reasons. One is that many of the matters raised end up being “He said”, “She said” or “She said”, “He said.” But also, in many cases witnesses are not prepared to come forward, just because of the very nature of the issue itself.

I think all jurisdictions are struggling with this—not so much the penalties but how you get definitive evidence. It is much easier to get definitive evidence when you can go out and look at a piece of scaffolding. It is extremely difficult to get people to go on the record. And probably more so in a small town where, even though there are all sorts of protections built into legislation, you still have to work in a small town. To speak out against people takes some courage, as you would understand. That is the real hurdle that we have to overcome, I think—encouraging people to come forward and be prepared to go on the record. We can offer people some protections in relation to that, but it is still a personal choice as to whether they are prepared to go down that path or not.

MS HUNTER: What sort of protections do you offer?

Mr McCabe: There are protections in the legislation. For example, if someone reports a health and safety matter and then some action is taken against them, the legislation actually puts the requirement on the employer to demonstrate that that action was not because of the matter they reported. It almost becomes a reverse onus of proof in that sense. That is a pretty strong obligation on an employer. It is rarely brought into play, although, on occasion, we have had to remind some employers of it and had a good outcome as a result of that.

There are also provisions where we can instruct or require a person to give evidence to us. When we do that, they are bound to come before us and give that evidence, but they cannot self-incriminate themselves. That sometimes gives people the protection they need in the sense that they are obliged by us to give the evidence; it is not as though they volunteered to speak out against it. That sometimes gives people the level of comfort that they require. We have used that on occasions as well.

THE CHAIR: Have you successfully prosecuted people for workplace bullying?

Mr McCabe: No, we have not had a successful prosecution at this point, but I think it is inevitable that there will be one soon.

THE CHAIR: How often do you contemplate going down the path of prosecution? Have you taken it to court and not been able to find the matter proved, or have you decided that you have not had a strong enough case?

Mr McCabe: It is the latter, really. We have not yet had a case where we have felt we had a case that we could put to the DPP to recommend prosecution. We have had cases where we have issued prohibition notices, which are probably the strongest sanction just short of prosecution. We have put prohibition notices on certain individuals managing staff in an organisation while the matter was being investigated, but not gone that extra step.

MS HUNTER: Is this back to the issue of it being difficult to get that evidence together because of the “He said,” “She said” nature of it?

Mr McCabe: That is right. And unfortunately, what happens in relation to bullying cases, certainly the ones that come to us, is that they are usually a long way down the path before they come to us. That also hampers the gathering of evidence. People are reluctant to buy into the mess of a bullying investigation and will put it off until it becomes absolutely intolerable. That means it is very hard to garner the evidence that you need, because it may be several years ago that that thing has happened. Getting definitive evidence that will stand up in a court can be difficult in those circumstances.

We are trying to encourage people more and more to come to us early in the piece—assuming that they cannot get satisfaction from the employer, because these matters are best resolved within organisations themselves.

MS HUNTER: You talk to your colleagues in other jurisdictions?

Mr McCabe: Yes.

MS HUNTER: Around how to move this forward?

Mr McCabe: That is right. They are all struggling with it. A couple of the bigger jurisdictions have created dedicated teams, but they have significantly more resources than we do. Victoria, for example, has a team of 10 staff that are dedicated to bullying investigations, but that is out of an inspectorate of 200. If we did that on a similar ratio here, we would have one person dedicated to it, which really would not work, because as soon as they are away you would have a problem.

It is an area that we are constantly trying to improve. Earlier this year we took a more formalised approach to investigation of the claims, and we are now reviewing that approach to see if that is working. But it is an area we are constantly trying to improve and where we are trying to keep the message out there that there are consequences to bullying where it can be established that it has happened.

THE CHAIR: Could I move on to issues about asbestos. Where are we with our thinking on and the development of an asbestos register in the first instance?

Mr McCabe: I am not aware that an asbestos register is being contemplated for the

ACT government at this stage.

THE CHAIR: What is the current policy thinking on dealing with asbestos incidents in the ACT and getting abreast of where they might turn up?

Mr McCabe: Matters are referred to us on a regular basis, just as they are for any other health and safety matter. If it is a serious matter, and asbestos matters usually are, organisations or employers are required to report them to us. And we get a high percentage of reports from members of the public and workers as well.

I would say that we are aware of a very big percentage of the asbestos issues that are out there. I believe that at the moment in the community there is a very high awareness of asbestos-related matters. I do not think we are missing out on too many of them, because of that high awareness. That is a good thing and a bad thing, coming from the publicity that does surround the matters when they do come up. It has created a high awareness; therefore, people bring them to our attention more and more.

MS HUNTER: There was a report in the *Canberra Times* recently, talking about the fluffy asbestos in commercial buildings because the 1980s program had focused on residential housing. Have you got any plans to be doing anything in that area, or is it just that building owners are aware so that, if they do any renovations or demolish, they follow the procedures?

Mr McCabe: The current legislation requires building owners to have an asbestos management plan and an asbestos register, and we rely on that. We have a campaign that we are planning at the moment, to go out and do a bit of an audit of those asbestos management plans as a reminder to business. We feel that the controls that are needed are there. Where we come across businesses that are not meeting that obligation, we will follow through and take appropriate enforcement action.

MS HUNTER: One of the things going on at the moment is the national OH&S regulations and the codes of practice. They have been released. Could you tell us if any of these regulations represents a weakening in the ACT OH&S practices—for example, with asbestos regulations? That is always a bit of an issue—when we do this harmonisation and whether we are going to the lowest common denominator.

Mr McCabe: It is probably a policy question for the Minister for Industrial Relations—that particular aspect.

Mr Corbell: The government has had some general discussion about the national developments around OH&S law. It is the case that the ACT's asbestos regime is the most comprehensive and thorough in the country. It would also be fair to say that other jurisdictions are quite happy for that to be the case but have no intention of following us. It is not the territory's intention to substantially change the existing regulatory arrangements.

MS HUNTER: On Boral, the Fyshwick incident, can you give us an update?

Mr McCabe: Um, yes. I guess the “um” is that Boral have been a bit reluctant to speak about what they are doing in relation to this, but I am conscious of some of the

things that are happening. Boral have relocated their premises to a different building than the one they were in. The building that they were in that we still have a prohibition notice on is not being used and we will not release that or remove that prohibition notice until we are satisfied that the building is fit for work to be conducted in it.

We are in ongoing discussions with Boral about what needs to be done to that building to remediate it. We have a report from a licensed asbestos assessor in the ACT which says that the walls and the roof of that building need to be replaced, and that is our current position until there is expert advice to the contrary. No other advice has been presented to us at this stage.

MS HUNTER: In your engagement with Boral have they been cooperative right throughout?

Mr McCabe: Yes, absolutely. In fact when we put the prohibition notice on that building the requirement was that they clean up the asbestos that had been left lying around and then we would consider whether we lifted the notice. Boral took the extra step of deciding to move their premises, at least for the medium term, until they considered what they would do with the full remediation of that building, which was always going to have to happen. So I think they actually took the extra step and did the right thing. So now we are waiting for them to actually do that final step and fully remediate the building.

MS HUNTER: So they have been cooperative?

Mr McCabe: Absolutely.

THE CHAIR: Could I go back to one of my hardy perennials and ask Mr Phillips what practical or effective changes you have seen in the administration of liquor licensing since the new regime. With the increased number of police on the beat what changes have you seen in the impact that that has had on your staff?

Mr Phillips: It has enabled us to refocus, firstly, in relation to what we do. I think in the last 12 months we spent a considerable period of time out and about in relation to liquor inspections. I think we did something like 1,450 or thereabouts in the last 12 months, and we have done a few hundred, I think, this year as well, or a couple of hundred this year. It has enabled us to free up some night shift and put an inspection compliance regime in those licensed premises—that might be on licences; that might be restaurants—and that just adds to our ability to cover the whole field. So in that regard I have noticed that it is quite useful for a staff management type issue.

In relation to the noticeable effects of change, we still get noise complaints in relation to antisocial behaviour that we have always had. But I certainly have not noticed that there has been any spike in them. There seems to be a lessening of complaints that we get through our office. I have not examined the figures but certainly in relation to our disciplinary action we are noticing that at this stage—and I think this is just early days of the new regime—we have not taken an awful lot of disciplinary proceedings in the last 12 months, certainly since the implementation of this.

What I do notice, though, is that there is a very strong working relationship between ACT Policing and the Office of Regulatory Services. There is a fortnightly/monthly meeting between the relevant compliance officers from ORS and from police. They discuss very closely the issues that are out on the streets that are common to both of us and that might be unique to us or to the police. So in that regard I find the new regime has caused a very close working relationship as much as anything else, Mrs Dunne.

THE CHAIR: So you have seen less compliance action this year?

Mr Phillips: We have undertaken less enforcement action. I have not used my powers as much as commissioner in relation to disciplinary action in ACAT.

THE CHAIR: What do you think is the cause of that?

Mr Phillips: I think it is a cause of, for a start, bedding in new legislation. I think some of the occupational disciplinary matters that would previously have been taken before the old liquor board are not being taken now. So we are not taking action for people who do not put the hinges on their toilet, to lock up—put their suit coats on the toilet doors. That used to be taken once upon a time.

THE CHAIR: The dreaded hook behind the door.

Mr Phillips: The dreaded hook behind the door. So in that regard I think we have matured as a regulator over the last few years in relation to what matters we think are worth taking for occupational discipline in the tribunal. I think also that the police in their investigations of matters are considering a number of matters to refer to me to consider exercising my powers. So when I say “we” have not noticed, I have noticed a bit of a decline in the compliance activity using my powers, but I think that the police have a number of matters that they are considering for referral. So I might see a spike of that over the next few months.

THE CHAIR: So you are the person who has the powers in relation to licensing, occupational disciplinary action?

Mr Phillips: That is correct.

MS HUNTER: And when we are talking about these figures we are talking about the 1,459 inspections and the 10 disciplinary actions?

Mr Phillips: Yes.

MS HUNTER: Could I just ask: were all venues inspected during the year?

Mr Phillips: I think everybody got an inspection last year.

MS HUNTER: What was involved in these disciplinary hearings, as a general overview—

Mr Phillips: The majority of them are serving to underage.

MS HUNTER: Okay. And how are these venues going with getting people trained up in the responsible service of alcohol?

Mr Phillips: We have registered 13 RSA trainers. The minister granted an extension to the end of May next year—

Mr Corbell: That is right.

Mr Phillips: for people to undertake training. I have not heard any negative comments about training. So in the absence of associations raising those issues with me I assume that those matters are going on quite well.

MS HUNTER: Mr McCabe, page 41 mentions the recruitment of five new inspectors. I just wanted to know how many inspectors you have in total now.

Mr McCabe: I believe there are 24 altogether—three workers comp inspectors and 21 doing primarily health and safety, but we have moved to a model where those 21 will often ask workers compensation questions as well when they are out. So we are trying to multiskill—but 24 inspectors in total.

MS HUNTER: And that multiskilling is working well?

Mr McCabe: Yes, absolutely. It is working very well. We are getting much more coverage of workers comp issues because whenever a health and safety inspector goes to a work site they ask some very simple questions about workers comp coverage, and it has greatly expanded our capacity to check on workers comp policies.

MS HUNTER: So the employment of more inspectors has made a significant difference to—

Mr McCabe: Absolutely.

MS HUNTER: What you have done there is the way that you have structured it but I am just wondering if these five have made a significant difference or—

Mr McCabe: Absolutely. There are a couple of positives which are sort of buried in the statistics because they are annual statistics. I think we did 2,600 investigations or site visits this year, and last year it was 2,100. But the vast bulk of those were in the second half of the year, after we had acquired the new inspectors. If you extrapolated that sort of ratio forward, we would be well over 3,000 in a full year compared to just over 2,000 the previous year.

As well as that, the vast majority of the improvement notices and prohibition notices also came out of the second six months, so they are not only out on more sites; they are finding more issues. It has given us the capacity to become more proactive rather than just reactive. What is also happening is that we have a lot more cases in the pipeline for referrals to DPP for the strongest of all enforcement action. So we are not only getting to more sites; we have got the capacity now to be a bit more focused on which sites we go to and so of course as a result we are picking up more non-compliance. That is probably what you would expect but I think that is a good thing.

There is a strong message going out to the elements of the jurisdiction that we have got to so far that there is now quite a likelihood that a WorkSafe inspector will turn up and that if you are doing the wrong thing there could be a consequence.

MS HUNTER: And is that also helping with being able to resolve the issues and complaints and investigations within a more timely manner?

Mr McCabe: Yes, it does. I guess the qualification there is that serious incidents, the really big ones that come along, really throw a spanner in the works, as you can imagine. We have just had a very big spate of them in recent times.

MS HUNTER: There are a number documented in here.

Mr McCabe: Yes, but that is what happens with regulatory bodies always from time to time. You have to be able to find the balance between dealing with those extremely significant incidents and still doing the work for all the other incidents as well. So it is an ongoing challenge.

THE CHAIR: We will now go to transport regulation. Ms Greenland, is this your first appearance at JACS in this guise?

Ms Greenland: No, I think my second actually.

THE CHAIR: So have you physically moved into JACS or are you still in Macarthur House?

Ms Greenland: No, we are still located in Macarthur House.

THE CHAIR: What is the plan for moving? Is there a plan for moving?

Ms Greenland: Yes, there is a plan for moving, and that is being managed within JACS.

THE CHAIR: Which functions did you bring with you out of TAMS into JACS? Parking inspectors were already in the Office of Regulatory Services.

Ms Greenland: That is correct. The functions that were brought were transport regulation and regulation of driver licensing, vehicle registration, road safety, road rules and public transport regulations. The operational elements of those are now with the Office of Regulatory Services, so Mr Phillips's area. There is a small transport policy and road safety component that is moving to the legal policy branch within JACS.

THE CHAIR: Taxi compliance issues, where do they fit?

Ms Greenland: Taxi regulation, public transport regulation, is with ORS. A couple of legacy projects are still being handled within the road safety and transport policy area.

THE CHAIR: What are they?

Ms Greenland: The wheelchair accessible taxi booking service project. That was one of the recommendations of the taxi review. And also some—

THE CHAIR: Which taxi review?

Ms Greenland: This was the taxi review that was conducted in 2009-10.

THE CHAIR: There have been a few.

MS HUNTER: Could I just ask a question here?

THE CHAIR: Yes.

MS HUNTER: On page 55 of the annual report, it talks about the 26 wheelchair accessible taxi licence plates, and 19 of them are operating. I want to get a bit more information on that. Why are seven of them not being used at the moment?

Ms Greenland: There are actually 18 operating at the moment. A number have been out of action for a number of years, and they are not able to be reissued other than through a ballot. The intention is to consider whether or not those should be rebaloted later this year once the issues around the wheelchair accessible taxi booking service are resolved.

But what is interesting at the moment is that I had some information provided by the public vehicle regulation area about the current performance of the taxi networks. The taxi networks provide monthly data to public transport regulation about how the taxi services are performing against set standards. At the moment, even for wheelchair accessible taxis, they are meeting the standards even with only 18 taxis on the road out of the 26 licences. The advice I have been provided is that a number of those taxis that have gone off the road, where the licences have been handed in, were not doing a substantial proportion of the wheelchair taxi work. So they have not made a huge impact in terms of the actual performance of the taxi network.

In previous reviews, there has been a view that the size of the ACT wheelchair taxi market, if you like, probably could be quite well served by a fleet of between 14 and 18 taxis, provided they were well managed. I guess that is possibly also pointing towards the fact that it is not the total number of taxis; it is about the amount of wheelchair taxi work that each of those operators is doing.

MS HUNTER: That is interesting, because the ACT taxi industry review—which would have been probably the 2009-10 review—recommended for more licence plates to go out. So you are now finding through advice that that may not be the way to go?

Ms Greenland: I think the recommendation was based on a concern that a number of the current plate owners were not committed to doing wheelchair taxi work, and there was a view that it would be useful, potentially, to provide an opportunity for new wheelchair taxi operators to enter the market who had a high level of commitment to providing wheelchair taxi services. It may be that, with a number of plates now having been handed in, there is an opportunity within the total of the 26 at the moment

to reissue those plates to people who have that commitment. So it may not be necessary—obviously it would be a matter for government—to continue with the recommendation that was made to issue the additional four plates and to consider just reissuing the plates that have been handed back. That may be sufficient to get new operators into the market.

THE CHAIR: So how do you test whether a potential operator has a high level of commitment?

Ms Greenland: The intention is, when WAT plates are reissued, to have a higher threshold for obtaining a WAT plate and some demonstrated commitment on the part of the operator. Suggestions about how that might be achieved have included requiring them to demonstrate some understanding of the market they will be serving—people who use wheelchair taxis—possibly some experience in having either been perhaps a wheelchair taxi driver in the past with a good record of providing service or some other connection with the disability sector. So trying to establish that there is some understanding on the part of the operator that they are serving a particular market with particular needs.

MS HUNTER: How do you get that feedback from people using the service about whether it is working for them or not?

Ms Greenland: We rely largely on reports of poor service, if that is what people are experiencing. But one of the difficulties that we have encountered is that wheelchair taxi users are somewhat reluctant to upset the apple cart because they are highly reliant on the providers. So I think there is probably a level of under-reporting of poor service at one level.

The other thing that is also worth noting is that a lot of people who use wheelchair taxis have now come to arrangements with the taxi driver of their choice and will actually make bookings direct with that person and, presumably, are receiving a reasonable level of service because they have established a relationship with a taxi driver who they know they can ring up. They may not always be able to provide the service at the time they want it, but they will negotiate an alternative arrangement.

That, in itself, is less than we would expect as users of standard taxis because, when you ring up for a taxi, you expect to be able to get it at the time you want it and not to have to negotiate an alternative time, but that is one of the reasons for wanting to have a better management of the taxi fleet that enables people to actually book taxis more spontaneously so that they can participate in community life in a way that we would understand that everybody else can.

MS HUNTER: Back in March of this year when Mr Stanhope was Minister for Transport, he said that by the end of the year the centralised wheelchair accessible taxi booking service would be in place. Where are we up to on that?

Ms Greenland: We have had a request for proposals advertised, and that is closed. We are in the process of advising the minister on the outcome of that process.

MS HUNTER: What is the proposed time line?

Ms Greenland: We will provide advice to the minister over the next week and then take the process forward from that point.

THE CHAIR: Without divulging who might be a successful applicant, what sort of physical infrastructure do you need to improve the WAT booking system?

Ms Greenland: It would require a booking service. The statement of requirements that was advertised called for someone to provide a booking service to which all the wheelchair accessible taxi operators would be required to be connected at certain times, to arrange the bookings, to dispatch the bookings, and to provide reports to the regulator about both the volume of work that was being done and the performance of the operators, any drivers who refused to do the work. So the intention of the centralised booking service was to provide that centralised management of the fleet and also a capacity to independently report to the regulator when there was under-performance.

THE CHAIR: Are there penalties for drivers who seem unwilling to—

Ms Greenland: There are existing penalties for drivers, that is correct. But, as I say, part of the challenge at the moment is actually getting reports or complaints which enable action to be taken in terms of issuing infringements for those sorts of behaviours.

MR COE: I have been contacted by representatives of and members within the hire car industry about potential over-regulation in that space in terms of the reporting requirements. Will you please outline what reporting requirements they have to go through and also what you actually use that data for?

Ms Greenland: I would have to check. From memory, the reporting requirements are possibly similar to the taxi industry, which is monthly reporting on the number of booked hirings. But I would have to check just to confirm that they are required to report those figures. That is the only thing I can think of that would be required.

MR COE: Whether it be taxis or hire car operators, what do you use that information for?

Ms Greenland: In the case of taxis, there are performance standards that taxis are required to meet, so the data that is provided monthly indicates how the taxi networks are performing against those standards in terms of waiting times in both peak and off-peak times. With respect to the data in relation to hire cars—again, I would have to check and just make sure I am correct in understanding that they are required to report monthly on the total number of jobs—there are no performance standards for hire cars in the same way that there are for taxis. The only obvious use of that data would simply be to understand the level of demand for services and the amount of activity in the industry.

MR COE: I understand that they have to report, in effect, every job they do. That gets tallied up; whether it is monthly or quarterly, I am not sure. Given there are not the performance standards that exist in the taxi industry, it would seem to me that, given

not many other industries would require the submission of that sort of data simply so a department could monitor the industry, there is scope for that to be streamlined.

Ms Greenland: I have to say that I have not heard from the hire car industry that they are concerned about it, but if there is a concern there about the requirement to report it, then, certainly, there is scope to have a discussion with them about what those concerns are based on.

Mr Corbell: It is, of course, worth making the point, Mr Coe, that hire cars are a regulated industry in terms of the provision of licences to operate. Obviously, the issuing of those licences can be informed by understanding the volume of demand for those services provided by the industry.

MR COE: Yes. I have seen correspondence from at least one operator who has contacted the department through the minister, and the minister has provided some information about this, but I know that the extent of the concern extends beyond that operator.

MS HUNTER: I have a question about the point-to-point speed cameras that were put in place and the exact location of the point to point.

Mr Corbell: On Hindmarsh Drive?

MS HUNTER: Yes, but after Hindmarsh Drive. I am trying to get an exact location of where they are going to be in place.

Mr Corbell: The government has not determined the next location. There is a ranked list of possible sites, and that is based on an assessment that has been undertaken in relation to traffic volume and safety considerations. The government will draw on that analysis in determining future sites.

MS HUNTER: So when will that work be complete? When will you make a decision?

Mr Corbell: The government has made provision in the budget for one speed camera site at this point in time. Is that correct?

Ms Greenland: There was provision for two, I think, minister.

Mr Corbell: I stand corrected. The government at this point in time has not taken a decision as to whether or not to establish a second site. At this point in time we have only decided to proceed with the first site on Hindmarsh Drive; decisions will be taken over the course of the year as to whether or not to proceed to a second site.

MS HUNTER: You were talking before about there being some sites identified and they are going through a sort of prioritisation or some sort of process.

Mr Corbell: Yes.

MS HUNTER: What are the criteria that you are using?

Mr Corbell: There are two key factors that have been used. One is the safety record of the stretch of road in question, so looking at accidents, fatalities, other injuries and so on. The second is the relative volume of traffic, and both are taken into account in assessing whether or not the site is a suitable site for a point-to-point camera.

MR COE: I believe you have in effect got what you believe to be the top 10 or 20 sites for safety and traffic and then you have attributed a weighting of 50 per cent for safety and 50 per cent for traffic.

Mr Corbell: That is correct.

MR COE: Why did you come up to fifty-fifty as opposed to weighting at 80 per cent towards safety as opposed to traffic?

Mr Corbell: That is a question I asked too when I became the minister and I did ask for a comparison of the fifty-fifty ratio versus a much higher ratio on safety considerations. Interestingly, the top sites were the same on both weightings. Hindmarsh Drive came out on top on both ratings, whether you took a stronger weighting on safety versus a fifty-fifty weighting on safety versus traffic, and certainly that is an issue that we will continue to take into account.

We do, however, take the advice of the police, in particular on this matter, and the police have indicated that it is sensible to adopt a fifty-fifty weighting between traffic and safety. The reason for that is the ability to use the technology in such a way as to expose a large number of drivers to the technology so that we have more drivers modifying their driving behaviour more often. The rationale from the police is that more drivers will modify their behaviour if more of them are exposed to point-to point cameras, and not just on that stretch of road but more generally. That is obviously a desirable outcome. If the use of point-to point cameras encourages drivers to monitor their speeds and drive according to the speed limit and the conditions more frequently, that is a desirable road safety outcome.

MR COE: That sort of behavioural approach is understandable, but the police also want to use the data for a lot more than what the legislation now allows them to. So was that—

Mr Corbell: No, no, they do not.

MR COE: Judging by the minutes of the steering committee they certainly did. And to that end could it be that the high traffic would therefore lead to higher data and therefore be more useful to the police than simply looking at it from a road safety point of view?

Mr Corbell: The only issue that was raised in the minutes of the relevant meetings you refer to, Mr Coe, was the issue of whether or not data obtained from point-to-point cameras could be used for the purposes of tracing or tracking stolen motor vehicles or motor vehicles that were involved in a police pursuit. The issue that Policing I think quite legitimately raised was the potential for the use of this technology as opposed to requiring a police vehicle to pursue a vehicle and engage in

a police pursuit. Obviously Policing are conscious of community and political concerns about the desirability or otherwise of police pursuits and they, I think quite sensibly, raised whether or not this technology could alleviate the need or reduce the need in some way for police to have to physically pursue vehicles. That was the context in which that issue was raised.

MR COE: There were actually quite a few potential uses raised in those minutes and I believe another issue was the capability to link together the different sets of point-to-point speed cameras to form a complete picture, or as complete a picture as possible, of some people's driving habits so that they could in effect track their movements around the different point-to-point zones. To that end, if these are part of the motivations for police wanting more data it is understandable. I understand where they are coming from—

Mr Corbell: I do not think there is much value in re-litigating the debate we have had in the Assembly about what the data can and cannot be used for.

MR COE: I think it is important, because we do need to understand how you got to a fifty-fifty determination.

Mr Corbell: Madam Chair, the legislation is very clear about what the data can and cannot be used for, and that debate has been had in the Assembly.

MR COE: But I think it is important when it comes to decisions about where these future nine cameras are going to be located—because it did state there were going to be 10 locations around Canberra—that we make sure that we have the right weighting of safety versus traffic.

Mr Corbell: As I said, the top ranking sites are effectively the same regardless of the ranking you place.

MR COE: Is that just the first one—

Mr Corbell: For a number of the sites.

THE CHAIR: What are the road safety criteria that were used in assessing the sites?

Mr Corbell: They are outlined, I think, in the AECOM assessment—

Ms Greenland: They are.

Mr Corbell: which is publicly available.

THE CHAIR: And they would cover things like accident rates, fatalities?

Mr Corbell: Yes.

THE CHAIR: And that stretch of Hindmarsh Drive hit the jackpot?

Mr Corbell: It is number one.

THE CHAIR: I have a philosophical question—I think it is a philosophical question—about point-to-point cameras. Generally speaking, speeding is a strict liability offence—you get pinged, but it is a sort of point-specific event. What have we done in legal terms to change the criteria so that we say, “Somewhere in that period of time between when you entered Hindmarsh Drive at Dalrymple Street and exited at Palmer Street it appears that you have exceeded the speed limit”? That is quite a different philosophical approach to monitoring and policing speeding from what we have previously done. What are the philosophical shifts that we have made? You cannot pinpoint the point at which somebody exceeded the speed limit. You just know at the end that they probably did.

Mr Corbell: I think it is more than “probably”.

Ms Greenland: The legislation makes it clear that the offence is now exceeding the average speed as calculated according to a formula, which is based on the length of road over which the vehicle has travelled and the speed at which a vehicle could travel over that road without exceeding the speed limit. It is the same formulation that is in place in the other jurisdictions that have point-to point cameras, both interstate and overseas. In effect, for a person to be infringed for an offence captured by point-to point cameras they will have to have exceeded the speed limit over that stretch of road at some point because they would not be able to get from point A to point B in the time that they have gone between the cameras without having been speeding.

MR COE: That is true, but you still cannot actually pinpoint where in that zone it was.

Ms Greenland: No, that is why it is now the average speed. That is right. That is the legal construct that is used, yes.

THE CHAIR: It is quite a different legal approach.

Ms Greenland: It is a different legal construct, yes.

THE CHAIR: Did you have questions on cameras generally or just on point to point, Mr Coe?

MR COE: Page 55 of volume 1 states that an additional 61 sites were located and designated for mobile speed cameras. How were those sites determined?

Ms Greenland: They were determined by looking at locations where it would be suitable to place the speed cameras in terms of physical suitability to locate those cameras. The principle of mobile speed cameras is that they should be able to be used across the network in locations where speeding may be occurring. You do not want them at the same location on every occasion you use them. The factors that have been used for selecting those sorts of sites are the usual ones which relate to the traffic record, the volume of traffic and the type of road that the camera vans can be placed upon.

MR COE: Are you happy that the vans pulling over on to median strips is actually safe?

Ms Greenland: There is an assessment done for each location where vans are used. Before a site can be used, there has to be an assessment from an OH&S point of view, both from the point of view of the van operator and also in terms of any risks associated with having a van there for other road users. So each site is assessed to make sure that it is safe for those vans to be in those locations.

MR COE: And are those sites periodically reviewed from an OH&S point of view or from an efficacy point of view?

Ms Greenland: I would have to check with road user services and the traffic camera office but certainly if there was an incident that suggested that the assessment required review they would definitely undertake that review. I cannot see why they would review it unless there was some change to the environment in which the van was operating or there had been an incident to suggest that there might need to be a review.

MR COE: And are you aware of any mobile speed camera locations that have been taken off the list?

Ms Greenland: I am not aware of any, but I can certainly check and find out, if you would like to get some information.

MS HUNTER: I wanted to go to the dot point earlier, which is around changes to tighten up laws about using mobile phones in cars. Has that had an impact?

Ms Greenland: I would probably need to get advice from the AFP on that. They are obviously the people who see instances of use of mobile phones.

MS HUNTER: So you do not know if they have had some sort of blitz?

Mr Corbell: They have. In the last six months ACT Policing have had one month dedicated to raising awareness around not using your mobile phone while driving, and that has been done through mobile sign messages and fixed variable sign messaging on major roads. It has been part of their media campaigns and active and targeted enforcement action.

MR COE: The previous Minister for Transport said on one occasion that he would like to work towards a policy or legislation whereby even talking on a hands-free phone or on a car kit would be outlawed. Is that something that the current minister is pursuing?

Ms Greenland: I think the issue of using mobile phones at all has been raised in the national road safety strategy. At this stage I am not aware of any jurisdiction that is pursuing the banning of using hands-free kits, but it has certainly been raised as something that needs to be examined in the context of the national road safety strategy.

Mr Corbell: It is not something that I have pursued since becoming minister.

THE CHAIR: I have a question about the car crash figures that are on page 56. I presume that these car crash figures are deaths on ACT roads. Do we collect data on

deaths of ACT residents on other roads, because I understand that that is actually a higher figure?

Ms Greenland: There certainly are a number of ACT residents who are killed or injured on interstate roads. I would have to check with my colleagues about how accurately we get the figures from the other jurisdictions in terms of whether the people concerned are ACT residents, but we are certainly aware and do have some data that comes to light.

THE CHAIR: Anecdotally it has been said to me that there is a sort of a pattern: we in the ACT have relatively good roads and driving in country areas on not as well surfaced roads is probably a more problematic issue for Canberrans than it may be for other people because we do not have as much country driving experience. Is there anything to bear out those assertions?

Ms Greenland: I think there is anecdotal evidence that ACT residents do go interstate and on unfamiliar roads or in unfamiliar environments and come to grief in accidents. The statistics certainly do indicate that there is a proportion of ACT residents who when they are in those sorts of unfamiliar environments are involved in accidents or crashes.

THE CHAIR: These figures are deaths per hundred thousand population. Is that the standard means of collecting these figures, or do we also have an alternative approach, which would be deaths per kilometres travelled?

Ms Greenland: That data may be available, but the deaths per hundred thousand population is the standard used as part of the national road safety strategy and it is the standard used in other jurisdictions. When jurisdictions see how they are performing against the national road safety strategy targets that is the standard that is used.

THE CHAIR: I suppose Canberrans, because we probably do not travel as much as others, are probably not as comparable. Any other questions on road safety, transport regulation?

MR COE: I have got one—

MS HUNTER: We have only got about two minutes.

THE CHAIR: Okay. You get one minute each.

MS HUNTER: Thanks, chair. Mine was around incentives through vehicle registration charges, around encouraging, I guess, greener vehicles, and whether there is an issue that has come to your attention that some of the hybrid cars can be quite heavy and so they may actually be charged more. Has that issue been raised?

Mr Phillips: Ms Hunter, it is an issue that I have recently become aware of, only in the last two or three weeks, I think. It is such that the registration fees are charged on the basis of weight of vehicle given the wear and tear of roads in the ACT. So you are correct that vehicles that are hybrids, if they are heavier, will pay a larger fee.

MS HUNTER: So this is an issue you are going to take up, because I guess there is—

Mr Phillips: It is an issue that I need to consider and give the government advice on, Ms Hunter.

Mr Corbell: There is a balance here, obviously, regardless of whether or not the vehicle is a hybrid or even an electric vehicle. If it is a heavy vehicle, a heavier vehicle than other vehicles, it has greater cumulative impacts on the road network because of its weight.

MS HUNTER: And that puts in a disincentive to—

Mr Corbell: Yes, that is right.

MS HUNTER: get those vehicles, so—

Mr Corbell: But these are issues that the government is looking at.

THE CHAIR: Mr Coe.

MR COE: Regarding bus regulation, the bus operators at the airport and also the ability for non-ACTION bus operators to pick up in the ACT, as it stands at the moment are any other operators allowed to pick up in the ACT, and does that apply to the airport as well?

Ms Greenland: Your question is: can other operators pick up at the airport?

MR COE: Can they pick up anywhere in the ACT, like a suburban street and an arterial road, but also at the airport?

Ms Greenland: The airport has its own arrangements. The airport is privately owned so it could come to an arrangement with the bus operator about who could pick up at the airport. In terms of using public roads and bus stops, the arrangement that is in place is that if an operator, like Deane's, for example, wanted to pick up at locations in the ACT they would apply to the Road Transport Authority to get agreement to be able to use those locations.

The purpose of doing that is to make sure that if another bus service, such as ACTION, is using the same stops there is not any overlap or disconnect between times when that operator and ACTION might want to use them. There is no legal impediment to another operator, if they saw an opportunity to apply, being able to use those locations.

MR COE: Are you aware of any rejection that has been issued of late to any operators for picking up in the ACT?

Ms Greenland: I am unaware of any application or rejection.

THE CHAIR: Okay. It being 5 o'clock, we will call an end to it today. I thank members, the minister and your staff for participation. The transcript will become available and we will have five days after the transcript to get questions on notice?

MS HUNTER: From today.

THE CHAIR: Sorry, it is five days from today. Sorry. Excuse me; it changes from time to time—five days from the time of hearing for members to get questions on notice, and we are asking for a turnaround of three weeks from the directorates.

Mr Corbell: Madam Chair, can I just clarify an answer I gave earlier today?

THE CHAIR: Yes.

Mr Corbell: I was asked about the jury court room at the Magistrates Court.

THE CHAIR: Yes.

Mr Corbell: I was asked how often it is utilised. I need to correct my answer and just clarify that the room is regularly listed for matters, but a large number of those matters settle before the court is actually exercised.

THE CHAIR: Getting back to the point I made before.

Mr Corbell: I am advised that approximately three jury trials have been heard in the court room and that the deliberation anteroom for the jury is used regularly for a range of care matters.

THE CHAIR: Thank you, minister. Thank you, officials.

Mr Corbell: When does the three weeks for replies commence—from the time the questions are received?

THE CHAIR: When you get the questions, you have got three weeks. Ideally we would be seeing the bulk of them before Christmas.

Mr Corbell: Thank you.

THE CHAIR: The hearing is now adjourned.

The committee adjourned at 5.04 pm.