



**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**

**MONDAY, 7 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

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*Amended 9 August 2011*

## **The committee met at 2.05 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

Crowhurst, Ms Moira, Chief Finance Officer

Mitcherson, Mrs Bernadette, Executive Director, ACT Corrective Services

Crowweller, Mr Mark, Commissioner, ACT Emergency Services Agency

Doverly, Mr Mark, Director, ESA Station Upgrade and Relocation Project

Swain, Mr Paul, Chief Officer, ACT Fire and Rescue

Foot, Mr David, Chief Officer, ACT Ambulance Service

### ACT Policing

Quaedvlieg, Mr Roman, Chief Police Officer

### Office of the Commonwealth Ombudsman

Larkins, Ms Alison, Acting Commonwealth Ombudsman

Merryfull, Ms Diane, Senior Assistant Ombudsman

Fleming, Mrs Helen, Senior Assistant Ombudsman

Hardy, Mr Michael, Acting Senior Investigation Officer

**THE CHAIR:** Could we open proceedings for the second of a series of public hearings of the annual and financial reports of the Justice and Community Safety Directorate. I welcome the minister back and I welcome the Chief Police Officer and officials.

I begin by going to some comments in the ACT Policing annual report. Mr Quaedvlieg, you talk about the challenges that have been police assaults. Could you, for the purposes of the committee, outline the nature of the assaults, the number of assaults and how they compare to previous years.

**Mr Quaedvlieg:** In terms of the statistics on police assaults, they are relatively steady and have been over the last four to five years. On average we record 57 assaults on police per annum. There is some indication, through our occupational health and safety statistics, that the severity of those assaults is marginally increasing. We believe that the key to mitigating assaults on police lies in the operational arena. As many members of the committee will be aware, we have recently introduced conducted energy weapons—that is, tasers—as one of the operational tools that I believe will assist in that regard. We are also doing a bit of additional work within our own analyses in terms of identifying how assaults may be taking place, trends in those assaults and how we can more accurately capture some of the severity levels in the assaults, which we do not currently capture. That is with a view to attempting to reduce some of the risk on the front line to police.

**THE CHAIR:** You say in your report that there were 48 assaults and 17 incidents of

spitting. Is the 17 in the 48 or on top of the 48?

**Mr Quaedvlieg:** They are included within the 48.

**THE CHAIR:** Thanks. You said that the long-term average was—

**Mr Quaedvlieg:** Around 57 per year.

**THE CHAIR:** So 48 is down in number, but your belief is that it is up in severity?

**Mr Quaedvlieg:** Yes. I have some concerns about the severity. I recently addressed this issue when I wrote a letter to Mr Rattenbury. We have not traditionally undertaken any capturing of the data around the severity of assaults; there are no systems or templates within our recording systems to record the severity of those assaults. That concerns me somewhat, because my impressions, from 20 months or so in the role, are that there are instances of what I call mobbing assaults—multiple offenders on one police officer. The issue of spitting on police causes me some grave concern in terms of blood-borne and saliva-borne viruses. I think it is incumbent upon us to understand a bit more how the levels of severity are increasing or otherwise.

**THE CHAIR:** Would the AFP nationally or other police services which do more face-to-face policing collect that sort of information? Are we remiss in this?

**Mr Quaedvlieg:** No; we are pretty much on a par with other jurisdictions. Of course, other jurisdictions have a specific offence around assault on police, which makes it easier to quantify the actual assaults, but their qualitative data in terms of the severity levels are also lagging.

**THE CHAIR:** Questions, members?

**MR HARGREAVES:** Thanks very much. I am not sure whether this is one for the minister or for the Chief Police Officer, or both. Again, I am looking at the stats in the Chief Police Officer's foreword. The percentage reduction in burglaries and motor vehicle theft, both in excess of 30 per cent, is a huge number, a massive number. But also there is the 21 per cent, nearly 22 per cent, drop in property damage. What I am interested in knowing is this. Firstly, how on earth can you achieve those sorts of size reductions? It is remarkable. But presumably you have apprehended some long-term recidivists and now they are having a holiday at our expense. What will happen when they come back? Are we going to see the spike again, which is traditionally what happens? What other things have contributed to those large percentage falls?

**Mr Quaedvlieg:** Thank you for that question. I would like to take the opportunity to get some of the statistics on record, because they are quite remarkable. In terms of stolen motor vehicles, we have seen a 37.3 per cent reduction. In terms of house burglaries, we see a reduction of 32.7 per cent. For offences such as armed robbery, other theft and property damage, we have seen a reduction across the board for all those three crime types of 22 per cent.

I have said publicly, and I will reiterate the point, that I do not think Policing can claim full credit for that reduction; there is a whole raft of other factors that are at play

in terms of crime trends. But can I say that in the last 18 months we have embarked upon a very aggressive crime reduction strategy that has incorporated three elements. One is an operation called Neapolis, which focuses on compliance with bail conditions; obviously that targets recidivist offenders. We have stood up a property crime team of between 25 and 30 full-time equivalent; their mandate directly from me is to focus on high-end recidivist offenders. And the third element, the third key plank, of our anticrime strategy is to lead with intelligence.

We have disaggregated our crime prevention portfolio and disaggregated those functions across the entirety of our business, putting crime prevention activities into the stations, into the front line. Those three key planks have contributed to a large degree to some of those statistical reductions that you have seen in the last 18 months.

**MR HARGREAVES:** I notice that over the last few years there has been an increase in the number of front-line police officers, particularly around antisocial crime. Is there a correlation between the additional police officers available to you as a resource and those statistics?

**Mr Quaedvlieg:** Yes, very much so. We have driven a philosophy in ACT Policing of giving priority to the front line. Everything we have done in terms of finding efficiencies and increasing the use of intelligence in crime prevention activities is about putting capacity back on the front line. When you look at the alcohol and crime targeting team as an example, in nine months of operation with that team we have seen a reduction, in general terms, of 21 per cent of alcohol-related crime; more specifically, in that same period, we have seen a reduction of assaults that relate to alcohol consumption of 12 per cent, and the lodgement of intoxicated persons has reduced by 17 per cent. I attribute a lot of that decline in statistics to placement on the front line of operational police.

**Mr Corbell:** There is no doubt, Mr Hargreaves, that the availability of dedicated alcohol crime targeting capability has been very important. That is supported directly by the resources received through the liquor licensing fee regime, which is directly funding those additional police. I think that licensees, businesses and the broader community are all winning from having that additional capability on the street.

The other additional increase in police resourcing has been through funding for the RAPID capability, which was funded in the budget before last. That capability is increasing the presence of police on the street in terms of traffic-related matters. That is also proving to be very effective. There have been significant increases in the total number of police, but they have been in those dedicated areas of traffic enforcement through the RAPID capability that has been established and through the alcohol crime targeting team.

The efforts of ACT Policing around the volume crimes—motor vehicle, burglary, break and enter, property damage and so on—are to be commended. These are areas where traditionally the territory has had above the national averages for these types of crime. To see reductions in the order of 37 per cent in motor vehicle theft is translating into real and measurable benefits for the community. It means effectively 1½ thousand fewer cars stolen in the last financial year than in the year before. It means about 700 fewer homes and businesses burgled. It means nearly 2,000 fewer

instances of property damage in our community. That is a really encouraging outcome and one that the police should be commended for.

**THE CHAIR:** Any questions on that, Mr Hanson?

**MR HANSON:** Yes. It is a rare moment when I and the minister agree wholeheartedly, but I would like to commend the work of ACT Policing as well. The figures speak for themselves. We will wait to see whether they can be sustained, of course, but I would like to commend ACT Policing for the great work that they have done in these areas. The community is appreciative for the work you have done.

I notice that there is one that bucks the trend, which is armed robbery. I would be interested to know why that is, when the others are all trending one way and that is trending the other. Have you got any thoughts on that? Otherwise, I commend you on the work that you are doing.

**Mr Quaedvlieg:** I do not have the answers to that. Occasionally we will see spikes in crime types. Because it is a relatively small dataset that we are working on, if we have some, shall we say, professional armed robbers working in the territory, those statistics can spike up fairly quickly in terms of percentages. Again we have a dedicated organised crime team that is looking at this particular phenomenon. We are actively engaging currently in a number of operations which are targeting persons that we believe are responsible for that. I do not expect that upward trend in armed robberies to be sustained for any length of time.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** I have a brief follow-on before another question.

**THE CHAIR:** I did not mean to skip over you.

**MS HUNTER:** That is okay. You had 10 employees less in this financial year than last financial year. Is that the case? I will try and find the figure.

**MR HANSON:** It is page 85.

**MS HUNTER:** Thank you. Where did they come from? In 2009-10, you had 956 and in this last financial year it was 946. Was that a particular operation or have you just restructured in some way?

**Mr Quaedvlieg:** You need to be careful in making those comparisons on a year-to-year basis, because the figures are taken as a snapshot in time and there is an ebb and flow of numbers during the course of any given year and at any given point in time in terms of whether we have got a recruit class coming in or numbers of people going out on attrition, either to outcome 1 or leaving the service. We had an affordable of 926 in the 2010-11 year. At the estimates hearings in March, I think we said we had 1,009 that were current at that point in time. It shows that there is a variation, depending on when you actually do that calculation.

**MS HUNTER:** Thank you.

**MR HARGREAVES:** Just to follow up on that one, are these numbers—the number of staff employed—a headcount? Does that include sworn and unsworn staff?

**Mr Quaedvlieg:** That is correct. It does.

**MR HARGREAVES:** Thank you.

**MS HUNTER:** On page 43, under “Use of force and assaults against police”, I want to pick up firstly on the use of force. I am just wondering if the next annual report will include data on the number of times that use of force was used and under which categories—whether it was a handgun, a taser or whatever. Are you intending that that will be in the next annual report?

**Mr Quaedvlieg:** It is something we are certainly considering. I am not opposed to placing those figures in the annual report. It is not something that we have traditionally done. Having said that, there is a very robust recording and governance system around our use of force. There has been some suggestion on the back of the institution of conducted energy weapons within the territory that those figures in the annual report would be of benefit to the community. I am certainly not opposed to it. We have not made a final decision on it, but I do not see any in-principle objection to it.

**MS HUNTER:** Minister, in 2008 the government agreed to a JACS committee recommendation that this data be reported on annually. Is that something that you still intend to support?

**Mr Corbell:** As the Chief Police Officer has indicated, yes, I think it is something which can be developed. I think it is important to have regard to the range of use of force incidents that occur in the function of policing. Use of force can capture a very broad range of actions. It will be important, in developing a reporting methodology, to have something that has appropriate regard to the variations in use of force that are used—obviously from the use of potentially lethal force down to less lethal action. I think it is appropriate that we get a nuanced reported regime rather than just a raw number that gives us X number but does not really tell us much more apart from that.

**MS HUNTER:** I agree. Minister, on 17 August this year, you made a statement in the Assembly in regard to talking about tasers or conducting energy—

**Mr Corbell:** Tasers is fine.

**MS HUNTER:** Yes, thank you. Minister, you said that the evidence provided to you indicates that since 2010-11 ACT Policing recorded an increase in incidents involving use of force by police officers, underlining an upward trend over the last few years. Are they statistics that can be provided to this committee?

**Mr Corbell:** I will take that on notice, Ms Hunter.

**MS HUNTER:** Thank you.

**Mr Corbell:** I am sure it can be provided. I do not have it immediately to hand, though.

**MS HUNTER:** Thank you.

**MR RATTENBURY:** Regarding tasers specifically, during the year there was a review of a rollout of two front-line officers and a report was prepared for the minister. I have previously requested a copy of that, or a version of it, and I think Mr Hanson might have as well. Is that report or that document available yet?

**Mr Corbell:** I was just going to say, before the CPO answers it, that the approach we have endeavoured to take on this is that obviously there are some issues around operational confidentiality that are a relevant consideration. These are essentially operational decisions for police and they are decisions that I support. However, I know that members are interested in this issue and the Chief Police Officer, I understand, has extended the opportunity to Mr Hanson for a briefing in relation to these matters. I think the same could be extended to you, Mr Rattenbury, but I will ask the CPO if he wants to add to that.

**Mr Quaedvlieg:** Thank you, minister. Mr Rattenbury, it is misleading to attribute the issue of tasers to a single report. It is actually a suite of reports commencing with an internal review that ACT Policing conducted between November 2010 and February 2011. That particular internal report then went the operational safety committee of AFP national under a covering report. That particular committee undertook some considerations and deliberations on our report and the recommendations. It—the committee, that is—generated its own reports in relation to this issue of tasers in the ACT.

Then once the operational safety committee had made a determination, the AFP commissioner and I then consulted broadly for a long period of time, until August. Part of that consultation included conversations with the minister. Those consultations also generated a number of additional reports and ultimately led to a rollout of tasers on 22 August this year. So my previous comment is that I am quite prepared to discuss and brief members of this committee or this Assembly more broadly in relation to those reports, those document, and their linkages with each other. I think it would be out of context and risky to provide a single report which could be misleading.

**MR RATTENBURY:** The expanded rollout is set to be reviewed by the AFP's operational safety committee, I seem to recall. Is that a report that will be publicly available?

**Mr Quaedvlieg:** I doubt that. What we have committed to do is to review the rollout of the expanded taser model after 12 months of operation. So in August next year that review will be conducted by the operational safety committee. Those deliberations are conducted by an independent committee which is constituted by AFP members, which we are represented on. Their deliberations go to issues of operational security, and ordinarily their deliberations and their documents that they generate would not be made available to the public. What I can commit to, though, is that I can paraphrase the findings of that review in broad terms.

**MR RATTENBURY:** Okay. That would be very helpful at the time. I look forward to it. Just a couple more on this. The Ombudsman has suggested that taser cams be fitted to all tasers in the ACT. Is that a recommendation that you have adopted in light of the rollout?

**Mr Quaedvlieg:** In relation to taser cam, it was an issue that we considered in the initial review of tasers. We decided against the implementation of tasers with camera mounts in the first instance. Subsequent to that decision and in that period of consultation that I spoke about, which was between February and August, in discussions with senior police members from other jurisdictions, I became persuaded of their potential utility and value in the ACT. I then had a conversation with the AFP commissioner. In conjunction, the commissioner and I directed the operational safety committee to consider the mounting of cameras on tasers across the entirety of AFP, including ACT operations.

When I contacted the Ombudsman on 17 August to advise him that we were rolling out tasers in a broader capacity, he then asked me whether we were considering taser cam. I indicated to him what I have just indicated to you and that matter is still under active consideration by the operational safety committee.

**MR RATTENBURY:** Why was that not determined before the rollout took place?

**Mr Quaedvlieg:** No, it was something that was considered, but the reasons we decided against using taser cam at that time were some of the limitations around the use of taser cam. Leaving aside issues of cost and logistics in terms of implementing a data download and analysis system—and that is not an inexpensive exercise, mind you—a lot of jurisdictions which employ tasers, both internationally and domestically, have chosen not to have taser cam, because it does not contextualise a scenario. What it shows is the scenario from the moment the taser is drawn, because that is when the camera is actually activated. Sometimes these circumstances have a long lead up time. There has been some conjecture about their value or use.

However, having said that, as I say, I have consulted broadly with very senior members of other jurisdictions where taser cam is used, I have viewed taser cam footage personally, and I think that, on balance, there may be some value to be achieved with having taser cams on our units.

**MR HANSON:** On the taser question, we have rolled tasers out to front-line sergeants, as I understand it. Have you had a look at how that is operating, whether that is far enough forward, whether that is providing adequate response times? Obviously you want to get to a situation as quickly as you can. Are you comfortable with that at the moment or what process of review are you going through to make sure that that is far enough forward?

**Mr Quaedvlieg:** Yes, thank you, that is a good question. We have taken a very conservative approach to the expansion of tasers beyond our specialist units. We believe that because of the operating environment that we have, in that our sergeants are out on patrol with their crew and are able to respond in a very short space of time to operational incidents, we have the model right. But the model is, as I have just

described, primarily what is going to be under review in 12 months time—whether it actually works for us, whether there are any trends identified out of that particular model and whether we need to modify it or not.

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

**MR HANSON:** I have another question that is not taser related.

**MR RATTENBURY:** Just a quick taser question?

**THE CHAIR:** One last taser question.

**MR RATTENBURY:** At the time of the rollout, the Ombudsman had concerns about the training that should accompany that rollout. Can you tell us what those concerns were?

**Mr Quaedvlieg:** I do not know what the Ombudsman's concerns were, because he did not tell me what the concerns were. I spoke to the Ombudsman on 8 March, where I indicated to him that we were considering expansion of our taser model. He at that time expressed an interest in the broader use-of-force training regimen of the AFP. I made a number of commitments to him in relation to allowing him, his office and his staff to view our operational safety training. Subsequent to that, we have extended multiple invitations to the Ombudsman, some of which have been taken up, for his office to view our training and our governance systems. So I cannot answer the question about what his concerns are about our training.

**MR HANSON:** On page 63 of the annual report there is a discussion about extraneous administrative costs. This relates to traffic infringement notices and criminal infringement notices. Currently you are doing them by hand. That is an administrative burden. Can you quantify that in terms of man-hours or dollar costs? Perhaps, minister, you or the CPO could update us on when that is going to transition to an automated system?

**Mr Quaedvlieg:** I could certainly give you the quantification in terms of manpower or personpower. We are currently issuing criminal infringement notices at a rate of approximately 500 per year, or just under. We issued 469 last financial year, the period of this annual report. As at the end of August, we were up to around 415; so we are tracking at about the same rate. Our back-end administration of that, which involves manual maintenance of a spreadsheet, is roughly around 300 hours per annum at that current issue rate.

**Mr Corbell:** In relation to the future management of on-the-spot fines—criminal infringement notices—the government is considering options to provide for a more automated processing of these notices. Initially, when CINs were first proposed, the expectation and the advice to government was that the RTA's database, *rego.act*, could be utilised, because other on-the-spot-fines such as speeding and traffic notices issued by police were administered through *rego.act*.

It was subsequently advised to government that because the matters involved in the expansion of CINs, criminal infringement notices, were not traffic related and did not

link into, say, a registration number of a vehicle, it was not feasible to utilise rego.act. The system was not designed to handle something that did not deal with a registration or a licence number.

So ACT Policing have agreed to undertake a manual processing of these on-the-spot fines as an interim measure. The government understands that that is the basis on which they are doing that work. I am committed to looking at a more permanent solution for this. That will need to be considered appropriately through the budget process.

**MR HANSON:** You are not able to give me any time line as such?

**Mr Corbell:** All these matters are subject to considerations in the budget process.

**THE CHAIR:** Are there models in other jurisdictions? It is not unique to us that we issue infringement notices.

**Mr Corbell:** Yes, there are. Other jurisdictions have developed basically a municipal infringement notice system. So there are examples that can be drawn on, but it nevertheless requires an appropriation of funds for that work to occur.

**Mr Quaedvlieg:** I should add that we have a relatively small issue rate, whereas other jurisdictions issue a lot more tickets. So economies of scale are much easier to find in an automated system for multi thousands of tickets, whereas we are issuing 500-odd a year.

**THE CHAIR:** What is the process for that? You said that there are about 300 man-hours that go in. After someone gets a ticket, what happens?

**Mr Quaedvlieg:** We need to monitor whether that criminal infringement notice is paid. If it is not paid, then it triggers another judicial action. Therefore, we have to summons someone to court. So it is a matter of monitoring whether a criminal infringement notice has been paid. If it has not, then we need to then notify the issuing officer, who then needs to undertake other actions to bring that person to court.

**THE CHAIR:** So it has to come back to the issuing officer?

**Mr Quaedvlieg:** That is right.

**THE CHAIR:** Presumably, when they go back to the station, they have to actually manually enter that data so that there is a centralised system?

**Mr Quaedvlieg:** Yes, they make a record of it, which then goes to a central area which we call judicial operations, which does the monitoring of whether CINs have been paid or not. If they have not been paid, our judicial operations people go back to the operational staff and say, "This has not been paid; it is up to you now to take this further."

**THE CHAIR:** Why is it necessary to go back to the initial issuing officer to take that matter further?

**Mr Quaedvlieg:** Because the initial officer is the action officer, I guess. That person is responsible for deciding whether a person should go through the judicial system or not. That person needs to put the facts into a summons, then make sure that that summons is served and that the person actually ends up going to court. That is the way we operate our system, otherwise it will fall to someone else to do that.

**THE CHAIR:** Thank you. I will start a new line of questioning. I notice that on page 84 there are issues about drugs of dependence, types of offences and also the number of people who have been diverted into drug programs. Also, it has been drawn to my attention that the University of New South Wales drug and alcohol research study has shown that half of the injecting drug users in the ACT are using ice. I was wondering whether you could outline for the committee the implications, the ramifications of that change of behaviour. Have you seen an increase in the use of ice? Have you seen an increase in arrests related to ice?

**Mr Quaedvlieg:** It is a very difficult one to answer without statistics in front of me. Anecdotally, we believe that there is an increasing preponderance of the use of amphetamine type substances, of which ice forms part—injected or otherwise. In terms of the behavioural traits part of your question, amphetamine users tend to display high levels of aggression, because it is a stimulant, as opposed to other drugs. Heroin, for example, is a narcotic. So you will get polarised behaviours in terms of that type of drug use.

We have certainly seen incidents where we have detained or arrested amphetamine users where they have shown high levels of aggression. I cannot give you any statistics, because I do not have them before me, in terms of whether we can statistically support the view that there is an increase in the use of amphetamines in the ACT.

**THE CHAIR:** Could you follow that up?

**Mr Quaedvlieg:** I could certainly take that on notice.

**THE CHAIR:** Mr Hargreaves?

**MR HARGREAVES:** Yes, my question is related to the one I was asking before around those rather remarkable clear-up rates or drops in activity. Page 25 talks about the public confidence in the police. The national average was 82 per cent and ACT Policing is 80.4 per cent. I am searching around trying to find what it was last year and I just cannot find it. I am wondering a couple of things: what is the value of comparing ourselves with the national average, given the absolute differences between the police forces around the country and all the different activities they do? The ROGS report is a nice piece of fiction when it comes to comparing jurisdictions in policing.

I notice that a lot of the annual report addresses the community's perception and reception about good stats like that—the 37 per cent decrease. You might like to comment on what you think is the relevance of the ROGS-type approach, how we went against it last year and how you can get the message out. There is some really

good news in this annual report. How are we going to get it into the heads of the people? Some of the stats talk about people feeling safe at night and at home, and the worst is when they are out jogging at night and that kind of thing.

**MR HANSON:** Is this a question or a speech?

**MR HARGREAVES:** Yes, it is, Mr Hanson, and you are welcome to join the committee any time you have got a spare couple of weeks.

**THE CHAIR:** Mr Hargreaves, could you just—

**MR HARGREAVES:** I will not be baited by people like that.

**THE CHAIR:** Mr Hargreaves, can you just go—

**MR HARGREAVES:** Mrs Dunne, I am not going to put up with that. If you want to put up with it as chair, feel free, but I am not.

**THE CHAIR:** Mr Hargreaves—

**MR HARGREAVES:** I will not do it.

**THE CHAIR:** Could you just concentrate on the question.

**MR HARGREAVES:** I would like to know how it is that we have such perceptions of safety in the community on the graph contained in this report and yet the surveys show there is an 80 per cent satisfaction rate. How are you going to address that? How are you going to fix that?

**Mr Corbell:** I am sure others can add to this. This is an issue we discuss frequently, because these performance measures are the performance measures which are regularly the most difficult to achieve in terms of ACT Policing's overall performance reporting. Perceptions of crime are important. Perceptions of community safety are important. They are important not just from a statistical perspective, but they are important because they impact on a community's wellbeing. If people do not feel safe, even if that feeling is not necessarily entirely based on the evidence, they are less likely to participate as broadly as they otherwise would in the community.

Perceptions of safety, perceptions of crime, perceptions of whether people think they are going to become victims of crime are important. That is why the measures are there in relation to those perceptions. It is the case that the longer term trend in relation to property crime—in particular, motor vehicle theft, break and enter, burglary and so on—has been above the national average, so perhaps that has fed into people's perceptions around feelings about whether or not they are going to become victims of crime.

The very good results we have seen in just over 12 months in relation to driving down those offence types needs to be sustained, and that is why the government is developing a new property crime reduction strategy, which was discussed in the last hearing of this committee for this portfolio, so that there are both proactive and

reactive measures to deal with property crime. Over time we would expect that would assist in changing people's perceptions about whether they believe they are more likely to become victims of crime and, I would hope, feed into their perceptions about the effectiveness of ACT Policing.

I have to say that, overall, the performance of ACT Policing is very, very good and the satisfaction rating is only slightly below the national average. I think that comes down partly to reporting of crime and how people respond to that. There has been much less coverage of the reduction in property crime than there would have been if we had seen a rise of that level for those crime types. So that, I think, highlights the dilemma the police often face: success is perhaps not rewarded with the same amount of media attention as failure to address increases in crime.

Those are challenges our police service has, but I think our police service is doing the right thing in pushing out as much information as possible to the community about what the reality is on the ground. The new media engagement and community engagement strategy that Policing have put in place, the very strong website presence they have now in place and the Twitter and other social media capabilities that have been employed are all very important in getting the message out there about what is actually happening, what the reality is of crime in our community and what the reality is of community safety in our community. I think over time—and it could be quite an extended period of time—that will ultimately lift people's appreciation of the work police do and also improve their perceptions around safety, community safety and personal safety in the community.

**MR HARGREAVES:** I notice that on page 75 in figure 8.9.6, the ACT's achievement is marginally above all of the national standards about feelings of safety by location and time of day—at home during the day, at home during the night and walking or jogging during the day—all of those are in the 90s. Walking and jogging during the night is at 48 to 49 per cent, and catching public transport is at 61 to 63 per cent. The one I am a bit interested in is catching public transport during the day. How would ACT Policing be able to change people's perceptions about feeling safe with that?

**Mr Quaedvlieg:** Can I add to the minister's comments before I come to that question specifically? This is not a problem that's unique to the ACT. I have spoken very recently with fellow commissioners internationally and nationally about this absence of correlation between good operational performance and community perceptions, or what we call quality of life issues. When you look at our operational performance for 2010-11, you see we have had the best operational performance for eight years, and yet those KPIs that we have missed—marginally given—relate to those perceptions about people being fearful of their houses being burgled or their cars being stolen, and there is absolutely no correlation.

I have long held the view that the responsiveness of community perceptions lags behind operational programs. I expect to see improvement in community perceptions this time next year on the back of our very strong 2010-11 operational performance. But many commissioners lament that they are performing well operationally—albeit not to the extent of these statistics we talked about earlier—and yet they cannot seem to budge the issue of people's quality of life perceptions.

The answer partially is in relation to some aggressive marketing in terms of their operational results, and we are doing that through a whole range of media. I have often said that you can have the best police service in the world, but unless you are telling the community about it, you are only doing half the job. I believe on the back of our strength of operational performance of 2010-11 and our constant marketing of that, we will see an increase in community perceptions over the longer term.

**THE CHAIR:** I am just conscious of the time, but, Ms Hunter, do you have a final question?

**MS HUNTER:** Yes, thank you, chair. I want go to page 36 around the mental health community policing initiative. Of course, you have had the clinicians and mental health workers who have been embedded out at Winchester. I am wondering how that trial has gone and where it is up to now.

**Mr Quaedvlieg:** Thank you for that question. I think that is a really good success story at this point in time. I talked earlier about liberating front-line capacity, and this is a great example of it. If you recall at our hearing earlier this year, we did a pilot study for April last year. We identified that up to 10 per cent of our response capacity in that month was taken up by mental health consumer management. We initiated a strategy with two key planks: one was training our staff to better triage and identify mental health issues and divert those consumers into the health sector as opposed to the justice sector; the second was the embedding of clinicians and psychologists into our operations centre.

We are running at a statistical rate of approximately 100 referrals to those clinicians per month. I think we are up to around 700 or 800 occasions where the clinicians and/or the psychologists have provided advice and guidance to us in terms of how to deal with a front-line issue involving a mental health consumer. Whilst we are still in the early stages of review, I think you will find that, after 12 months, we will have identified not just a significant liberation of capacity on the front line, but a sequence of better outcomes for mental health consumers. It has been a really good success and one I am very proud of.

**MS HUNTER:** With the training that was rolled out, you mention it here but I cannot see it mentioned on page 128 where you mention the other training—unless I am missing it. And was there a particular peak time for mental health related calls during the day or night?

**Mr Quaedvlieg:** There is. In answer to your first question, the reason it does not appear in that report is because the training did not commence in earnest until this financial year.

**MS HUNTER:** In here I think it said June, that is why.

**Mr Quaedvlieg:** Yes. We are aggressively rolling out mental health training—I do not have the exact figures, I will come back to you on that one. In terms of your second question, we have mounted the critical mass of our resourcing in the mental health initiative between Thursday and Sunday in the evenings, which is the standard

witching hour for most policing issues.

**THE CHAIR:** Thank you for that, Chief Police Officer. I am conscious of the time, and we have a very busy program this afternoon. I thank you and your officials for attending this afternoon, and we will move on to output class 2.1 in the JACS annual report in relation to corrections? I note that Mrs Mitcherson is here. This is your first visit?

**Mrs Mitcherson:** It is, thank you.

**THE CHAIR:** Minister, do you want to make any opening comments in relation to corrections?

**Mr Corbell:** No, thank you, Madam Chair.

**THE CHAIR:** Beginning at the beginning, the average cost of prisoner days in 2010-11 was \$416. What makes up this cost and how does it compare with the cost of prisoner days in other jurisdictions? For instance, how does it compare with what ACT taxpayers were paying when prisoners were housed in New South Wales?

**Mrs Mitcherson:** It was \$416 per day this year, that is correct. I think last year it was \$477. The contributing factors early on for us would be the high costs of depreciation, which come down a little bit over time. But in the ACT, where we have one correctional centre for a number of different classifications, we can expect the cost to be a little bit higher.

For example, in New South Wales you might find a prison farm with a cost—I will not be held to this cost—of between \$90 and \$110 a day. But that is very low security with very little electronics and open planned, whereas the cost for someone in a very high security area would be much higher. We have a combination where everyone is housed in the one facility. That certainly contributes to the cost. We also have a great emphasis on education and rehabilitation, which is fantastic and is one of the joys for of me being here with that emphasis. But it does contribute to a higher cost overall.

**Mr Corbell:** It is worth highlighting that particular aspect that Mrs Mitcherson mentions. ROGS data shows that in 2009-10 total prisoners in education in the ACT was 92 per cent and the Australian average was only 34.8 per cent. So a much higher percentage of our prisoner population is formally engaged in education, which certainly adds to the cost.

**THE CHAIR:** But how does that \$416 compare to what we were paying when prisoners were housed in New South Wales?

**Mrs Mitcherson:** I do not have the details of the New South Wales cost. I can take that on notice.

**MR HANSON:** \$263 a day.

**Mr Corbell:** We would have to take that on notice; we do not have the data.

**MR HANSON:** \$263 a day.

**THE CHAIR:** Take it on notice. Just to clarify, when you take that on notice, can you provide us with the last full year that we had prisoners in New South Wales?

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

**THE CHAIR:** Mr Hargreaves.

**MR HARGREAVES:** This is on Mrs Dunne's question on the comparative cost. My understanding is that prior to the AMC opening up we had prisoners incarcerated in the New South Wales jail system; also those on remand were actually incarcerated here.

**Mr Corbell:** That is right.

**MR HARGREAVES:** At the moment we have them both housed together. I would be interested, when you do those numbers, if we can disaggregate the numbers so that we see that the comparison is about sentenced prisoner per day cost against the other one. And if it is not, you might let us know about that.

**Mr Corbell:** We can endeavour to do that, Mr Hargreaves.

**MR HARGREAVES:** Thank you.

**MS HUNTER:** I would like to go to page 59 and some questions around the crisis support unit. In the Knowledge Consulting report a number of concerns were raised about the crisis support unit. One of those concerns was specifically about the fact that it was designed for short stays, yet there appeared to be people who were being held there for longer periods of time. I think there was a case of someone who had been in there for nine months. What is being done to address this particular issue?

**Mrs Mitcherson:** Thank you for the question. The Knowledge Consulting report had a number of recommendations in relation to the crisis support unit. The numbers in that unit change every day. Today there are eight. I check the numbers each day. Two weeks ago there were five and it has been down to three. So we know that the length of stay is not as long as it was early on. I understand there were some issues early on in relation to—understandable, I think—commissioning a new sentenced facility in terms of managing that unit.

The crisis support unit is quite complex and it is not one case fits all. It is certainly for people who may be at various stages of suicide ideation, but it is not just for that. We spoke earlier today about the use of ice. Sometimes we might have someone who has come in to remand; they might be coming down from an amphetamine, and may be in there for a couple of weeks and on a regime to reduce them down and then they are back out into the main. So the reasons why people enter into the crisis support unit are quite varied.

Having said that, with the recommendations, there are about 15 in relation to crisis support that range from the architecture of the building right down to our program

facilities and how we manage that. I have initiated some discussions with Health in relation to the model for managing detainees in that unit. We are making some changes to the way we do our case management and our programming which will be more likely to be reported in the next financial year.

In summary, I can say that we have reviewed the role of the case manager. We are creating an intensive case manager just for the crisis support unit, which will also feed into the management unit, where you might have generally young men who may not be in crisis but who may need some intensive management in relation to their behaviour or how they might be managing in custody.

**MS HUNTER:** With respect to the situation with the types of detainees coming in, the suicide ideation and people who have ongoing mental health issues, does this in part point to the fact that there is a need for a forensic mental health unit, minister?

**Mr Corbell:** I do not believe so. You are talking about very different circumstances there. A forensic mental health facility would really be dealing with those individuals who, because of their mental illness, are not fit to plead, not fit to be found to have had the necessary elements to prove particular intent. So they really are in a higher order category than perhaps the types of issues that would be dealt with in the CSU. They are a different category of prisoner.

**MS HUNTER:** You mentioned talking to Health about some of the improvements that could be made. I note also in that report there was talk about how there was little opportunity for people in the unit to get some fresh air, to actually get out of the small concrete exercise yard that is attached to each of the cells. Is there any movement on that?

**Mrs Mitcherson:** I can certainly comment on a couple of those issues. Just to build on what the minister has already said in relation to mental health, there are occasions when someone comes into custody and they may be undiagnosed or may be unstable on their medication. So they can become stable in the crisis support unit and would not necessarily require being scheduled to forensic or psychiatric institutions. We would always have someone in custody who may need stabilisation or medication review and then is able to go back outside.

We meet with Health regularly in relation to crisis support and all other matters. We have a clinical review team set up fortnightly now. It is mainly over AOD issues, but a lot of people with AOD issues also have issues in relation to mental health. The Public Advocate comes along to those fortnightly meetings. So I have been quite encouraged that there is a lot more collaborative work going on in that area.

In relation to the exercise, I would like to comment on a couple of things. Given that I see the numbers go down and up quite frequently in crisis support, I am confident that the length of stay is not as long as it was. Having said that, the Knowledge Consulting report also talks about the possibility of a step-down program. In a larger facility, that may mean another structure, like it would in Silverwater Women's, but we would not be looking at that.

I am talking about someone who may be stepped down into the main—for example,

they may be becoming stable and have a period of time where they are going out into the main part of the jail and coming back in and having their time graduated, coming in and out. So we are going to look at those kinds of things down the track. I am confident that that will get better. I am not suggesting that we are finished with the crisis support unit by any stretch at the moment, but with the intensive case management, combined with better collaboration with Health, and we are reviewing our programs as well, I think the length of stay will continue to be reduced. There may often be a couple of very unwell people who are unable to survive in the main part of the jail, but I am confident that we will have a much different story to tell next year in the annual report in relation to how we are going in that area.

**MS HUNTER:** I have a final question on this. Of the 10 beds in the crisis support unit, how many would you say on average were taken up by people who had manipulated the system to get in there? It is something that we have heard. How many would have severe mental health concerns?

**Mrs Mitcherson:** It is more than anecdotal. I have actually spoken to a couple of young men in there in particular—how they are going and whether they have settled down. They say, “I want to stay in here,” and they have actually threatened to self-harm if you put them out again. That can be for a number of reasons. The reason someone might become suicidal could be because of mental health. It could be because they have had a really upsetting issue with their relationship. They may have just got a sentence that they were not expecting to get and it has put pressure on their family and they are feeling quite depressed.

So there are a combination of reasons as to why people become unwell or suicidal. Certainly, I can tell you there are cases where people have manipulated the system to be there. But having said that, people manipulate for a reason—they are unwell or there are other things in their life that are a bit chaotic. Again, we work with that person to embed some strategies to get them back out again. Certainly it does happen. I would not want to put a percentage on it but it happens on a semi-regular basis.

**MS BRESNAN:** You mentioned you were having meetings with ACT Health and the Public Advocate. Have you had any input into the forensic facility in terms of what you might be seeing in the prison itself and how that feeds into that process? Has there been any discussion of that issue?

**Mrs Mitcherson:** Not in a formal sense but we certainly work collaboratively. We have a discussion about the kind of patients we have. There are a couple that we have sent to the psychiatric unit, and after a couple of weeks they have come back to us. So we have a discussion around those issues but not formally at this time.

**MS BRESNAN:** So there has not been a formal discussion about the forensic facility and whether or not there is a need for that in the ACT?

**Mrs Mitcherson:** Not formally about whether there is a need, with me personally.

**Mr Corbell:** There is a dialogue.

**MS BRESNAN:** Is there a dialogue with corrections about that? It could potentially

have quite an impact on corrections—whether or not this facility goes ahead.

**Mr Corbell:** There is an ongoing dialogue between relevant parts of the government about those issues.

**MS BRESNAN:** Are there ever any discussions with the courts or with the magistrates about some of the cases they might be seeing? I know you said that when it comes to sentencing, people go into forensic facilities for a particular sort of case, or person. But as you said there is quite a bit undiagnosed and the magistrates have some restrictions in terms of what they can do with sentencing. Do you ever have any discussions with them about those particular issues?

**Mr Corbell:** We do. We do get feedback from magistrates and judges as they deem it necessary to raise those matters. Members might recall that a number of years ago there was quite a strong level of commentary from the courts on these matters. That is not prevalent today; nevertheless I am sure that these issues do arise when people appear before our judicial officers. Pre-sentencing reports, Mrs Mitcherson reminds me, are an important element of trying to identify these issues and take them into account in the sentencing decisions that judicial officers make.

**MS BRESNAN:** I guess that sometimes depends on some of them actually having someone who can advocate for them as well, doesn't it—that the person who is presenting has someone to do that? I know I am getting off-topic slightly.

**THE CHAIR:** We need to move along.

**MS BRESNAN:** I have a quick question about the report—the crisis support unit.

**THE CHAIR:** We have had three or four questions on the crisis support unit at this stage.

**MS BRESNAN:** It is fairly brief.

**THE CHAIR:** One quick question.

**MS BRESNAN:** One of the other issues that was raised was about medications and detainees getting their night-time medications between five and six. Is that an issue that has been addressed at all?

**Mrs Mitcherson:** That was one of the recommendations in relation to the task force. Health are dealing with that particular recommendation. My advice from Health is that it has been signed off by the task force. That particular recommendation has been dealt with and managed.

**MS BRESNAN:** Thank you.

**MR HANSON:** In the budget this year there was money put in for a capacity review because of some of the constraints. Can you give me an update on where that review is at, who is doing it and what the status will be, given that it has not already been released and so on?

**Mr Corbell:** It is currently proceeding to tender.

**Mrs Mitcherson:** The tender was let a few weeks ago to a company called RPL and went through—

**MR HANSON:** Who, sorry?

**Mrs Mitcherson:** RPL—a full procurement tender. We were quite pleased when the tenders were received and I am very happy to announce to the committee the tender with RPL. We have met on a number of occasions already. So the study will look at feasibility for short and long-term options in relation to accommodation but not just accommodation. The big issue is flexibility in relation to how we manage that accommodation. For example, when I joined the ACT in April we had almost even numbers of remand and sentenced detainees. A few months later, those numbers have shifted where we have just over a third remand and higher numbers in the sentenced area. We also have flexibility issues around protection and segregation. So we will be looking at ways of providing facilities that can actually be changed from one kind of unit to another without impacting on the operations.

**MR HANSON:** And the terms of reference for that review, have they been published at all?

**Mr Corbell:** There is not a terms of reference but there is a scope of works that the government is engaging the consultant to undertake.

**MR HANSON:** And has that been released or is it able to be seen?

**Mr Corbell:** I think that would be in the tender documentation, which is public.

**MR HANSON:** And when is that report due to government?

**Mr Corbell:** It is a piece of contracted work which will be provided to the government later this financial year.

**MR HANSON:** And will it be publicly available once it is released?

**Mr Corbell:** That would depend on what the information is used for. If the information is used to inform budget processes it would attract the normal protections in relation to budget cabinet.

**THE CHAIR:** Following up on the capacity in terms of the some of the figures that are on page 58 but also those which have been in previous reports, we have seen an increase in the average number of prisoners from 111 in 2009-10 to 136 in this report here, an increase in the number of unsentenced prisoners from 77 to 91 and at the same time a substantial decrease in the number of people serving less than two years. What factors lead to those changes and what are the implications for capacity in the future?

**Mr Corbell:** Mrs Mitcherson can probably address the second part of the question but

in relation to the first part of the question these are obviously decisions that corrections do not have control over. These are not circumstances that corrections have control over. This is driven by other parts of the criminal justice system, in particular the operation of our courts and the decisions they make around findings of fact and sentencing decisions. It would be fair to say that the increase in remand is driven by some delay we are seeing in the hearing of more serious criminal matters in the Supreme Court. The government has a range of strategies and actions in place in collaboration with the court to try to address those issues, and those issues have been subject of much discussion here.

So certainly there is some contribution. I would not say it is the entire factor for the increase in prisoners on remand but a factor would certainly have to be some delay in having matters proceed to trial in a more timely manner. But there are other factors, which are probably much more difficult to quantify, around when crime occurs and when prisoners ultimately end up being sentenced.

**THE CHAIR:** You did mention that there are issues in relation to long waits for matters to be heard. Are there also people who are on remand, having been convicted and awaiting sentencing, and what is the average time for that category?

**Mr Corbell:** As you would appreciate, Mrs Dunne, there is a breakup between prisoners whose matters have been heard but where the judge has reserved their decision and is yet to hand it down and other circumstances where matters are yet to go to trial. So there is a combination of those matters. I think you asked a question about that in the previous hearing, about the breakup between matters reserved and matters still awaiting trial, and the government has taken that question on notice.

**THE CHAIR:** Ms Hunter.

**MS HUNTER:** I want to ask about women in prisons because, as stated at page 58, there is not a large female population in the AMC. One of the things that have come out over the last year or so has been the concern that the women do not have the same access to policies and programs and do spend a lot of time sleeping, for instance, because there is not a lot else available. Could you give a bit of an idea of what is available or whether there have been any particular programs put in place since these concerns were raised?

**Mrs Mitcherson:** Thank you for the question. It is a great question. I have a history of working with women in prisons, so it is an area that I know quite well and feel quite strongly about. And often women are in such small numbers and quite marginalised. Today we have five women in custody, two on remand and three sentenced. No Aboriginal women are in custody today. So the small number is fantastic and we do not want the numbers to grow. Having said that, small numbers also create issues in relation to program efficacy and how we actually do our business.

Since I have been here in the last six months, the numbers did get up to about eight or 10 or just over but they have not been much higher than that. We talked about subgroups in the large male population. Even in the small female population you still do have subgroups. We are doing a number of things in that area. I have been meeting regularly with a number of women's groups. In fact, they all met recently at the

coordinator body, AMC, to look at who is providing what service and how we can do that better.

I am excited about a couple of things. We are working with the Women and Prisons Group. There is a lot of evidence to suggest that, for women, peer support programs are best done by women who have been in custody. So we are actually formalising a peer support program for women which is involving women ex-detainees. It is working really well and the feedback has been quite great in relation to that.

We also have some funding through Karralika for a women in prison project and she commenced work, I think, this financial year. She probably will not be reporting until next year. At the moment she is based in the women's section, with the officers there, and meets in the morning and afternoon with the women. A part of having small numbers means we really have to be open about the issue, which is partly about breaking down the subgroups. So the first part of working together with women is about how can we actually work together and get rid of the subgroups so that we can move on because, to be frank, often detainees, including women, are not very nice to each other. We actually have to get over a few of those barriers first.

So I am quite excited about both those programs. We also now have the education program down in the women's area. It saves them having to sort of timetable in the men's section, in the education area, plus the space in the women's area is big enough for that to happen. So rather than have to go to education, education now comes down through to the women's section.

We are doing a number of things—a lot of green shoots, a lot of working with non-government agencies and other government agencies—and I am quite confident that is only going to get better in the next 12 months.

**MS HUNTER:** Moving on to the work with non-government agencies, looking at page 144 about the advisory boards and committees, I cannot see the through-care committee that had been talked about. Is that still up and going?

**Mrs Mitcherson:** Yes, it is. I co-chair that committee with the Chief Minister's office and the SIG. That committee, I think, met for the first time when I joined, the second week after I started. I have to say that I came away from that committee feeling quite excited because I think one of the attractions for the ACT for me as a practitioner is that the numbers are so small. There is such an ability to actually make a difference and the engagement with the community is really positive, whereas in somewhere like New South Wales, while there are really great agencies and people, it is so big and disjointed that the same level of the engagement is harder. So I am quite excited about the possibilities there.

If we look at things like length of sentence, it is true that in most jurisdictions in Australia, I would hazard, most detainees would do a sentence of probably 18 months or less—80 per cent. We are all struggling with the issue of providing programs for detainees who do short sentences and while I do not have the figures exactly with me, I would suggest that probably people on remand for three months do a sentence for six months. It is not a lot of time. So we actually need to be working with the community to make sure that we have got everything set in place so that when someone goes out

we have got things like accommodation, financial independence and those sorts of things sorted.

**MS HUNTER:** And how often are you going to meet?

**Mrs Mitcherson:** I have not got the exact timetable there. We meet as we need to. We have just put together a paper, which is not available at the moment. It depends what comes out of that. But we have a lot of contact in terms of emails, phone calls and other things as well.

**THE CHAIR:** Ms Bresnan.

**MS BRESNAN:** To follow up, Mrs Mitcherson, you said they meet when they need to. Is there going to be formal sort of planning?

**Mrs Mitcherson:** There are formal meetings and formal planning but we have put together a paper based on a series of meetings that everyone has been to. So it will depend on the outcome of the paper in relation to that and the option put up through through-care in relation to that.

**MS BRESANN:** What are some of the things that are covered in the paper?

**Mrs Mitcherson:** There are different models of what might work well in relation to through-care. There are a number of models that are used by different jurisdictions. Some jurisdictions use a brokerage model. Some use a one-on-one case worker model. There are a number of different ways that it can be achieved. From our point of view in the correctional centre, we do not always have supervision of someone when they leave. They may be on parole for a period of time but they may not be, and there is no obligation for them to stay in contact with us. For us, I think all the models have benefits and disadvantages, as most models do, but I do not particularly favour one over the other. It is just there are a number of advantages, depending on which one you go for.

**MS BRESNAN:** And is that paper going to feed—

**THE CHAIR:** Sorry, we have to move on.

**MS BRESNAN:** Quickly on that, is it going to feed into the budget process? Is that what it is designed to do?

**Mrs Mitcherson:** Yes.

**MS BRESNAN:** Very quickly, on the women, the Sydney education program you have gone down to, is that a full education program so that they will have access to computers and all that sort of thing?

**Mrs Mitcherson:** Yes. We will report next year, because we changed this year. We did our contract but there is a big emphasis now on language, literacy and numeracy. So for every detainee that comes into custody, we do an assessment on their language and literacy and we have an individual learning plan. A lot of that will depend on the

detainees themselves and their readiness for that but having a good baseline of literacy and numeracy not only informs the individual learning plan, it allows us to develop our programs based on the need and it will give us a baseline over 12 months of where the literacy and numeracy levels are. If we know that they are coming at a certain level, that can also inform other government agencies in terms of what impacts on people coming into custody. I am quite excited about that as well, but I will not be able to report on that till next year. That includes the women and what their particular individual needs are.

**THE CHAIR:** Mr Hanson, presumably you have some quick follow-ups as well.

**MR HANSON:** I have some very quick questions. The remediation of the AMC following on from the Hamburger report was—I am just trying to track the amounts that have been put towards that. There was an amount in the budget of \$1.2 million, I think. I asked a question on notice on 27 October. There was another million that had to be transferred across. So there seems to be a bit of money being transferred across to corrections, which appears to be about issues arising from the Hamburger report. How much money did we spend and what was that on?

**Mrs Mitcherson:** The money was transferred in relation to some areas identified in the Hamburger report. Maintenance, utilities, workers compensation and overtime were the general areas in relation to baseline funding. The money for the feasibility study which you referred to earlier was \$620,000, I believe.

**MR HANSON:** Yes, there was that money. Then there was the \$1.2 million in the budget for the matters arising from the Hamburger report, but is there another amount that has been transferred? I have seen somewhere there was an amount, I think in the Treasury update or something, that showed another million dollars had been transferred across.

**Ms Crowhurst:** The \$1 million you are referring to was a section 15 transfer in the 2010 financial year. That was a one-off transfer relating to the last financial year. The other funding is the new budget initiative that relates to the 2011-12 financial year, the \$1.2 million.

**MR HANSON:** Can you give me—and it might be difficult to do now but maybe on notice—the amount of money that has been provided? There was an amount for the AMC—and there is still an amount in dispute when we get to that—but there have been other amounts provided incrementally. I am just trying to get an idea of what all those amounts are. Would you be able to provide that either now or on notice?

**Mr Corbell:** We can certainly provide you with a reconciliation of that. In summary, there are two amounts, I think, that you are asking about. One is the amount appropriated in the most recent budget, which is obviously itemised in the budget papers and has been subject to scrutiny in the estimates committee process, which is an amount of funding to address particular high priority items arising from the Hamburger report. The other is a transfer of money from within the justice portfolio to assist with some other cost pressures within the AMC.

**MR HANSON:** What were those cost pressures?

**Mr Corbell:** Overtime costs, detainee costs, building maintenance and utility costs.

**MR HANSON:** They are the only two amounts—the amount in the budget and then that amount?

**Mr Corbell:** That is correct.

**MR HANSON:** Thank you.

**THE CHAIR:** That money, the section 15 transfer that Ms Crowhurst has referred to, was a one-off?

**Ms Crowhurst:** That is right.

**THE CHAIR:** That has not been built into the basic funding for corrections?

**Mr Corbell:** That was a one-off.

**Ms Crowhurst:** There was the \$1 million transferred in 2010-11 that Mr Hanson was referring to. The 2011-12 budget provided the additional supplementation of the \$1.2 million. So we had \$1 million last financial year and there is the 1.2 for basically the same types of expenses for Corrective Services. It continues through; there is 1.2 indexed into the outyears—

**Mr Corbell:** It is now funded on an ongoing basis.

**MR HANSON:** That clarifies what I think I needed to know. The amount that is overdue—the matter that is in dispute with the contractor—how are we going with that? Are we heading towards resolution? When is that going to be arbitrated on? What is the process? It is \$3.2 million or something like that, isn't it?

**THE CHAIR:** As to the final amount paid for the building, the prison, there were moneys in dispute that related to wet days and the like. Has that been resolved and, if so, for how much and, if not, why not? Is that roughly the question, Mr Hanson?

**MR HANSON:** Yes, it is. There are a number of areas in dispute.

**Mr Corbell:** Yes. There are a number of matters in dispute. It is quite complex.

**MR HANSON:** Defect 3.2, I think—whatever it was.

**THE CHAIR:** 2.6.

**MR HANSON:** 2.6; that is right. It comes back to me.

**THE CHAIR:** Yes. It comes back like a bad memory—a showstopper.

**Mr Corbell:** I will ask Ms Mitcherson if she can give a summary.

**Ms Mitcherson:** As the minister has indicated, there are a number of issues in dispute. All of the minor defects have been completed. There were some completed last month and some the month before. They are yet for final sign off. There are a couple of areas that the committee that I am chairing now is still looking at; I am not sure it is appropriate to discuss at what level. I hope that it will all be finalised this financial year. What I would like to say is that I want to make sure that we have dotted the i's and crossed the t's. It is a big building. Building a jail is like building a town. I want to make sure—and with absolute due diligence—that everything is proper before we sign off completely.

**MR HANSON:** Sure. I just want to get an amount that is in dispute and get an understanding of what that total is. Is it 3.2 or is it more than 3.2? It was 3.2, wasn't it, for defect 2.6? I am unaware of any other areas in dispute. Maybe if you do not have it there—

**Mr Corbell:** The contract the territory has provides for a cap on the total amount of liquidated damages that can be paid to the territory, which is—

**Ms Mitcherson:** three per cent.

**Mr Corbell:** three per cent of the total project cost.

**Ms Mitcherson:** That is not in dispute. We will be getting the maximum in relation to the defect.

**Mr Corbell:** The territory does still expect to receive the total amount of liquidated damages available.

**MR HANSON:** Okay. If the maximum amount is three per cent of whatever the quoted cost was—

**THE CHAIR:** It was roughly 3.2, from what—

**MR HANSON:** which was about 3.2, what is the additional that we are having to remediate ourselves? It would be a bit coincidental, wouldn't it, if the exact amount that we were concerned about in terms of cost recovery was three per cent? I assume, by virtue of the fact that we have maxed out on that three per cent, there is another amount that is stuff that we are having to remediate which is now being borne by the taxpayers.

**Ms Mitcherson:** No, there are some defects that we held back payments on which have now been repaired and paid for by the company and we are yet to sign off—to make sure we are happy with the work. There are still a couple of other areas that we are not totally happy with yet. We will not be releasing money until we are happy that the work has been ratified to our satisfaction.

**THE CHAIR:** Could you clarify how much was held back, how much has been paid and how much is still outstanding, which is separate from the liquidated damages? There were things that we were not happy with, which presumably included defect 6.2, or whatever it was.

**Mr Corbell:** This figure is already publicly available. I will endeavour to get it for you. It is actually in the budget papers. You will see that there is an allocation for completion of this project which is being rolled over. That is, the amount appropriated by the territory for the AMC which has not yet been expended and is being rolled over.

**MR HANSON:** I just trying to make sure that I have got a view of all the amount that is being litigated so that we know how much it is and also where we are at in that process.

**THE CHAIR:** If we could have on notice a reconciliation of those amounts that have been rolled over and what they are for and things like that?

**Mr Corbell:** Sure; we can do that.

**THE CHAIR:** Are you done, Mr Hanson?

**MR HANSON:** I am done.

**THE CHAIR:** Mr Hargreaves?

**MR HARGREAVES:** I have got a very tiny one. I just want confirmation regarding page 157, the FTE and head count. I am pretty sure that the first table, 58, has got the male and female numbers around the wrong way. I was about to leap into massive congratulations on the number of female workers, only to make a complete fool of myself—so I did not. The following two tables, 59 and 60, have got it right. There are 728 females in the system. You have got it around the other way in table 58. That is just to show you that Mr Smyth is not the only one that microscopically looks at these things.

**MR HANSON:** Well done, John.

**MR HARGREAVES:** Thank you, sir.

**Mr Corbell:** That may be an error. I will check that, Mr Hargreaves.

**MR HARGREAVES:** Thank you very much, minister.

**Mr Corbell:** I am advised, Mr Hargreaves, that we do have a higher percentage of female officers than other jurisdictions.

**THE CHAIR:** Can I go back to an issue? I note that the estimates committee made a recommendation about biennial—that is, once every two years—human rights reviews and that recommendation was not accepted by the government. How, minister, will we be able to monitor ongoing human rights compliance in the jail if we do not have the human rights commissioner doing human rights audits on a regular basis?

**Mr Corbell:** Whether or not the Human Rights Commission choose to undertake an audit is a matter for them. The Human Rights Commission do receive complaints from prisoners and take a view as to how they should manage those matters. There is,

I think, nevertheless—setting that question aside—the need for a more formalised mechanism of independent review of corrections operations. That is over and above the functions of both the Human Rights Commission and, to a greater extent, the Ombudsman. It is within the Ombudsman’s ambit to look at these matters and the Ombudsman does so.

The government is exploring options to utilise a prison inspectorate service. There is a prison inspectorate in Western Australia, an inspector-general of prisons, who is an independent statutory officer, the only one of its type in Australia. The government has been in discussions with our Western Australian counterparts about the possibility of engaging on a fee-for-service basis their inspector-general of prisons to inspect the operation of our prison in an independent manner. That is something which has become somewhat protracted, mostly because Western Australia would need to undertake legislative change to permit their inspector-general to provide services on a fee-for- service basis.

The discussions my officers and I have had with relevant ministers in Western Australia have been productive. The Western Australian inspector-general is quite keen to operate here in the ACT. There has been no opposition to it from the Western Australian government, but it is a matter of securing the necessary legislative priority to get amendments through the Western Australian parliament to allow their inspector-general to perform that function. We remain keen to pursue that.

Certainly, this is a matter that my colleague Mr Hargreaves was pursuing when he was the relevant minister and it remains my desire to do this as well. It is a very cost-effective solution. The Western Australian inspector-general is a person and an office that has significant expertise in undertaking independent inspection of the operations of correctional facilities. We would like to utilise that expertise without having to establish that sort of standing expertise here which, just in terms of economies of scale, would be quite expensive. That remains my objective—to try and secure the services of the Western Australian inspector-general.

**THE CHAIR:** In relation to that, how frequently would you consider there would be inspections?

**Mr Corbell:** Once a year.

**THE CHAIR:** Would those inspections cover the periodic detention services as well?

**Mr Corbell:** It would cover all correctional facilities—I am sorry, all adult correctional facilities. Whether or not it extended to Bimberi is another matter.

**MS HUNTER:** I have a question about the Aboriginal liaison officer. We know we have continuing over-representation of Indigenous people in custody. I am wondering how that position works as far as how the Aboriginal liaison officer is notified when concerning events occur within the prison and how the communication goes with the prisoner and also with the prisoner’s family.

**Mrs Mitcherson:** That is quite complex. To give you a broad understanding, we have an Indigenous liaison officer. There is an Aboriginal liaison officer employed by

Health, so he does not report to us. The Indigenous liaison officer plays an important role in relation to meeting men and women when they come into custody, particularly for the first time, and in liaising with their families should they want that to happen and also with the broader community in relation to other organisations. We have just created a position for an Indigenous case manager. I signed off that appointment and hopefully he will be starting in a couple of weeks. That is a first as well.

Although the representation is high nationally, it is low for us and getting lower. But to continue on from our discussion earlier in relation to through care and numbers, today there are 33 Aboriginal and Torres Strait Islander men in custody. With those small numbers, we should be able to make a big difference in relation to how they are going. I would say probably a third of those would be on remand and the others would be generally serving sentences that would be short periods of time.

We are also working with the AJC and we have an Aboriginal and Torres Strait Islander policy officer, so we are working on other areas that we can look at, too, that will reduce offending and recidivism in terms of program development. Next year we will be reporting on a yarning program for Indigenous men. We are doing that in partnership with Relationships Australia. They have been through a training program with Aboriginal men and women, training them in a diploma of counselling. We are contracting two of those Aboriginal men who have just received the diploma of counselling into a yarning program, which is a way of providing a counselling service suitable for Aboriginal and Torres Strait Islander young men.

At the same time we are hoping to run a similar group with their wives and partners in the community, because often some of the things that bring people into custody involve their relationships and patterns that develop, particularly around violence and alcohol and drug use. We are quite excited about that as well.

**MS HUNTER:** You have protocols in place around how people should be contacted and communicated with around events and so forth? Is that in the policy procedure or a protocol?

**Mrs Mitcherson:** I think you are referring to a situation where if someone goes into hospital?

**MS HUNTER:** Yes, that sort of event.

**Mrs Mitcherson:** Yes. There was a policy gap there that I was not aware of, and when I became aware of that gap I immediately issued an instruction in relation to when someone goes into hospital overnight—I do not mean during the day for a day thing—the next of kin nominated on the induction form is notified. That is for Aboriginal and Torres Strait Islander people but also for non-Aboriginal and Torres Strait Islander people. Also, on induction they will be asked if they want the Indigenous liaison officer to be advised as well as a matter of protocol and privacy. They may not want that to happen or they may want that to happen. I have checked that policy with the health commissioner as to whether she is comfortable with the approach we are taking in relation to that, and she has indicated that she is.

**MS HUNTER:** Thank you.

**THE CHAIR:** We will have to leave it there. We are now scheduled to start with the ESA. We will have a five-minute tea break.

**Short adjournment.**

**THE CHAIR:** Before we start on the emergency services appropriation, the minister has asked to make a clarification.

**Mr Corbell:** Yes, I will ask Ms Leigh to clarify an answer she gave earlier.

**Ms Leigh:** At the previous hearing of this committee when we were discussing the case management review that has been conducted by Justice Penfold and me working closely with the profession, I was asked whether there had been any submissions to that review and I said there had been none. There have not been any submissions from the profession, but we do have one submission from the Human Rights Commission.

**THE CHAIR:** Thank you. I thought we would begin with emergency services by asking questions about the ESA facilities at both Fairbairn and Hume. In relation to the new headquarters, is it complete, are the post-inundation repairs complete and is it fully occupied or reoccupied?

**Mr Corbell:** Yes, to all of those questions.

**THE CHAIR:** What was the cost of the repairs and who bears those costs?

**Mr Corbell:** Expenditure for the restoration of Fairbairn following the December 2010 flooding incident was \$721,948. This is subject to a claim to the territory's insurers, which is yet to be resolved. I can provide a break up of those figures should the committee wish it.

**THE CHAIR:** Perhaps you could do that on notice. So the comms is back in Fairbairn?

**Mr Corbell:** Yes, it is.

**THE CHAIR:** Okay, and the Hume facility, is that complex completed yet?

**Mr Corbell:** There are two separate facilities at Hume. One is the Rural Fire Services helicopter base and the other is the ESA's training facility. The helicopter base and also the upgrades to the Snowy Hydro helicopter base were handed over in March this year and the facilities are fully operational. The majority of the training facility is complete apart from the training tower and gas fired props for the ACT Fire Brigade. The training tower is expected to be completed in November this year.

The delays were due to the method of construction for the training tower, which involves a number of structural steel elements interlinking with the concrete slab, walls and floors. It has not been possible to complete this project because of the complexity of that project before that point of time, and it was also hindered by weather conditions in the earlier part of this year.

**THE CHAIR:** So what will be the final cost?

**Mr Corbell:** I am advised that it is \$5.7 million.

**THE CHAIR:** What was the anticipated cost? Has there been a—

**Mr Corbell:** Sorry, the figure I quoted is the appropriated amount.

**THE CHAIR:** Is it likely to come in within that amount given that you said that there have been delays caused by wet weather?

**Mr Corbell:** I understand the project is still working within budget.

**THE CHAIR:** We have got a training tower now, which presumably will be decommissioned. What are the differences between that training tower and the one that is being built that would lead to the complexity of the build?

**Mr Corbell:** The current training tower at the former fire brigade training facility on Rae Street in Belconnen is quite an old structure; it is over 20 years old. I am advised that it no longer meets all of the training needs of the ACT fire brigade. Perhaps the chief officer, fire brigade can provide you with more information.

**MR SMYTH:** Surely Chief Officer, Fire and Rescue.

**Mr Corbell:** Yes, it will take us a while to get used to that.

**Mr Swain:** We are still using the tower at Belconnen. We have got a recruit college at the moment, so the tower is still in use but it is past its use-by date, as are all the facilities out at Belconnen. This will provide us with a new tower that can be used not only for us but for the Rural Fire Service, the SES and any other agency that needs to use a tower for vertical rescue as well as fire-fighting drills.

**THE CHAIR:** But my question was: what is substantially different between the old one, which everyone says is past its use-by date, and the new one? What is different that have led to the complexities in the build?

**Mr Swain:** It is made out of different products. It is a concrete slab construction, whereas the old one was predominantly brick. It is the most modern material for our needs, whereas the other one was built for our needs 20-odd years ago.

**THE CHAIR:** So it is pre-cast slabs.

**MR SMYTH:** Minister, I asked you a question in the Assembly about whether you or cabinet were briefed on the possibility of the new headquarters being on a flood plain, and you took that question on notice. Have you any of the information with you?

**Mr Corbell:** I am advised that ESA Fairbairn was assessed and constructed consistent with ACT planning requirements to locate structures above the one-in-100-year flood level. Both ESA Fairbairn and the training facility at Hume are above the one-in-100-

year flood level.

**MR HARGREAVES:** I would like to get a bit more detailed information on the station upgrade and relocation strategy. Fire brigade and ambulance co-location and that sort of thing has been a subject that has occupied my mind for many years. I wonder if you could give us some information on what is happening, how long is it going to take and anything else?

**Mr Corbell:** As some members may be aware, the government has announced the first stage of the station relocation and upgraded project. This is consistent with the announcements in the most recent budget, which provided funding of \$4.7 million for phase 1 of the upgrade and relocation implementation project. The purpose of this is to relocate a number of ACT fire and ambulance stations to better place them in the context of the growth of the city and to ensure we can provide the best levels of coverage and fire and ambulance response to areas of the city as the city continues to grow.

The first stage involves the development of a new fire station in the Calwell-Conder area to provide improved fire cover to the Lanyon Valley in particular and other parts of south Tuggeranong. That entails the relocation of the existing fire station and fire crew based at Greenway to Calwell-Conder. It is subsequently proposed that the Greenway fire station will be utilised for an ambulance station, and that is subject to work in phase 2.

The other sites in phase 1 include a new co-located ambulance and fire station at Aranda on Bindubi Street adjacent to Canberra high school to improve fire cover in the central area of Belconnen and over into north Canberra and the development of a new fire station and, for the first time, an ambulance station co-located in Charnwood adjacent to the Charnwood group centre to replace the existing Charnwood fire station, which will be decommissioned at the end of that process.

This is about providing improved fire and ambulance cover, particularly to the outer areas of the city—the Lanyon Valley and west Belconnen—and the subsequent reorganisation of those other stations to provide and maintain levels of coverage.

The purpose of this work is to, first of all, undertake due diligence, forward design and feasibility to make sure the government has fully scoped and assessed the costs of moving to construction for these projects and also to engage in community consultation about the proposed sites and to respond to community questions and comments about the proposals.

**MR HARGREAVES:** How is that community process going to happen, and what length of time will it involve?

**Mr Corbell:** That will occur over the remainder of this year, and that is being done in a range of ways. For example, community information sessions are being held for each of the proposed relocations. Residents in the immediate vicinity of the proposed sites were letterboxed last week, inviting them to register for updates, to come along to a community information session and to ask questions of both operational staff and planning staff on the proposals. Information will also be provided to the relevant

community councils in each of the locations, and that is backed up by a website presence to provide people with information and opportunities for feedback.

**MR HARGREAVES:** My last question on this particular issue is: with the relocation of the fire stations and the creation of new ones, will that change the relationship between fire stations and community fire units and how will that happen if it does?

**Mr Corbell:** No, it does not change that. Community fire units are supported by the relevant platoons from the relevant stations, and that relationship will be ongoing.

**MR HARGREAVES:** Are there any more community fire units in the pipeline?

**Mr Corbell:** No, not at this time. The government has fully implemented its election commitment to increase the number of community fire units by 12. That commitment has been met.

**THE CHAIR:** A quick question in relation to this—I understand Mr Smyth has questions in this area—the major work is going to happen in my electorate in Ginninderra. Are the sites finalised? I do not have a clear view of where the site in Charnwood will be. You are not upgrading the fire station there; you are replacing it and decommissioning it?

**Mr Corbell:** That is correct.

**THE CHAIR:** So where is the proposed site in relation to the existing site?

**Mr Corbell:** It is on Lhotsky Street within the Charnwood group centre.

**THE CHAIR:** In the group centre?

**Mr Corbell:** There is a vacant site between Ginninderra Drive and the rest of the group centre, and that site—

**THE CHAIR:** I thought that was set aside for aged persons accommodation.

**Mr Corbell:** That site is proposed for the new station. The exact site's details are available online. We can certainly provide the committee with a map if that would assist. But that is where the site is set.

**THE CHAIR:** So you are proposing to bring it to the corner of Lhotsky, Tillyard, Ginninderra?

**Mr Corbell:** Yes, we will decommission the existing west Belconnen fire station. The proposal is to build a new fire and co-located ambulance station in Lhotsky Street.

**Mr Doerty:** Yes, the site at Charnwood is on Lhotsky and Tillyard abutting Ginninderra Drive, so there are three vacant blocks of land there that are zoned appropriate for development for community use.

**THE CHAIR:** Is it proposed that they will be two adjoining buildings, or are they

going to be a joint building?

**Mr Corbell:** The exact design is subject to funding provided in the current budget. The government is proposing to develop a standard template for these new stations. We are proposing to do that work in this financial year so that phase 1 and subsequent phases can draw on the same design template for stations regardless of their location, obviously with the flexibility to adjust to site-specific constraints. But a general template will be established. It is proposed to be co-located but not necessarily shared facilities.

**MR SMYTH:** Some quick questions, minister: if the community committee objected to the site chosen, would you consider changing the site, or are these sites fixed?

**Mr Corbell:** I have to be upfront and say the government has a strong preference for the sites proposed because they are based on the science of the modelling for response times. We will be endeavouring to communicate to the community that the relocation of one station to another site will have implications for where other stations go. This is a jigsaw that has to fit together to make sure that there are adequate response times across the city as a whole. One station does not operate in isolation from its other stations. It must fit within a jigsaw that provides overlapping response areas and ability to maintain response times overall for the city as a whole.

So a lot of detailed assessment that goes into this, which is the ORH work the government has commissioned in particular. We will be endeavouring to communicate that to the community and explain the complexity of that. It will not be easy to change, but, obviously, we will have to take onboard whatever the community says and try and work through and address those issues as best we can.

**MR SMYTH:** The *Canberra Times* reports that the first report done by SGS Economics and Planning was shelved. Was that report shelved? The 2010 document on the website actually says that it is “a consolidated summary of ORH and SGS analysis”.

**Mr Corbell:** The analysis undertaken by SGS in relation to the fire brigade was of concern to operational staff, their union and to the fire brigade overall. A number of the assumptions made by SGS were found to be invalid and that work had to be done again. SGS undertook work for both ambulance and fire. The analysis for ambulance stands and has largely been verified by the further work by ORH, but the work undertaken by SGS in relation to fire brigade has been further refined because of some inadequacies in some assumptions.

**MR SMYTH:** The article reports that you do not have a firm cost for the project. Page 23 of the combined report has quite detailed costings. Why does not the government know how much this strategy will cost? If you do not know, why have you committed to a strategy that you do not know the cost of?

**Mr Corbell:** The government has an approximate expectation around what this project will totally cost. It is in the order of \$80 million to \$100 million. However, that is dependent on the detailed feasibility and sensitive analysis that we now need to undertake. As you would appreciate, we now need to go out and do detailed

assessments on each individual site.

That is what the government is now funding in the amount that has been appropriated in the most recent budget. That will allow us to do our due diligence, forward design and feasibility work to properly quantify the risks, properly quantify the constraints and factor those into a detailed business case that the government will then consider in terms of a construction budget. It is important to stress too that the government at this stage has only committed to phase 1 of the project, which is those stations that I have outlined. Subsequent phases are subject to further government consideration.

**MR SMYTH:** So only committed to phase 1 at this stage?

**Mr Corbell:** That is correct, but it is the government's expectation that all—that is in terms of funding. I mean, the only funding that we have provided is for phase 1. This is a long-term strategy that will be developed over the next five to 10 years. It is about doing it in a staged and detailed way starting with those areas of highest priority and then moving forward to other areas of a slightly lesser priority. It is normal in any construction project to use your detailed feasibility and forward design to finalise the cost expectations for the project.

**MR SMYTH:** So of the five options on page 23, which option is the government going with?

**Mr Corbell:** Which document are you referring to?

**MR SMYTH:** The document off the website.

**Mr Crossweller:** Mr Smyth, the options that are presented by SGS consultants on page 23 were considered in the context of the analysis by ORH and compared and contrasted. If I were to refer to page 19 of the report, for example, it lists out everything that SGS economics have recommended be undertaken in terms of that study. As members would know, on page 19 the vast majority of the SGS economics recommendations have in fact been undertaken. ORH challenged some of those and the report then brought forward the amended station upgrade relocation strategy as a result of the ORH analysis of the SGS report.

**MR SMYTH:** Just to finish, how much has been spent since the 2008 report to date—you might want to take this on notice—on any station relocations or upgrades? If I can offer a comment, minister, Mr Doverty comes out of this exercise with a lot of praise from those that I have spoken to who like the way that he has run the project. So I would just like to compliment Mr Doverty on the good job that he has done.

**Mr Corbell:** We are certainly very happy to take the compliment. Can I also—

**MR SMYTH:** It was for Mr Doverty.

**Mr Corbell:** On his behalf. Can I just indicate, Mr Smyth, that there seems to have been some confusion, particularly from yourself, about RFS and SES facilities. I should clarify that a large number of the RFS and SES facilities that were identified in previous SGS reports have already been implemented. So I would like to—

**MR SMYTH:** On the sites that were recommended?

**Mr Corbell:** Not necessarily on the sites that have been implemented but—

**MR SMYTH:** To the quality that was recommended?

**Mr Corbell:** alternative sites have been identified and are providing a very high level of amenity for SES and RFS personnel. For example, SGS recommended new facilities for the Pialligo SES, the Majura SES and a Uriarra RFS facility. I am pleased to say that the Pialligo SES now have a new facility and it is at the Fairbairn headquarters, which is appropriate given their function as a headquarters support function.

**MR SMYTH:** But you told the Assembly last sitting that there were no operational units at Pialligo.

**THE CHAIR:** Mr Smyth.

**MR SMYTH:** So would you like to clarify that?

**THE CHAIR:** Mr Smyth, we have had five or six questions from you and three or four from the rest of us on this and we have to move on.

**Mr Corbell:** I think the problem for Mr Smyth, Madam Chair, is that he—

**MS BRESNAN:** I have not had one yet. I am on the committee.

**Mr Corbell:** issued a media statement last week saying that the RFS and SES were missing out, And they have not—

**THE CHAIR:** Sorry, I am not going to have a discussion about Mr Smyth's media release.

**Mr Corbell:** I just want to clarify that they have not missed out. Pialligo has a new facility—

**THE CHAIR:** There is not a question about the SES facilities at the moment. We are going to move on.

**Mr Corbell:** Majura has a new facility.

**THE CHAIR:** Ms Hunter.

**Mr Corbell:** Uriarra has a new facility, amongst others.

**THE CHAIR:** Mr Corbell, we are moving on. Ms Hunter.

**MR SMYTH:** We might take it up in the Assembly that you may have misled, minister.

**THE CHAIR:** Mr Smyth, could you be orderly, please? Ms Hunter.

**MS HUNTER:** Thank you, Madam Chair. On page 84 of the annual report there is talk about the sorts of service delivery that the fire brigade does and the sorts of specialist competencies that they achieve in operation responses, including hazmat, breathing devices and so forth. In that regard, I wanted to go to the Mitchell fire. There were a couple of issues that arose out of the explosion. There were statements made at the time by emergency services officials that the ACT was able to respond well and to pool resources also from interstate, but that if we had had a second fire or an emergency at the same time we would have been stretched. Does this indicate a gap in resourcing? What would have happened if there had been another quite major incident, say, down the south of Canberra at that time?

**Mr Corbell:** No, it does not indicate a weakness. The advice the government has received on this, and Mr Croweller and Mr Swain can probably elaborate further, in the instance of a fire, is that we fight the fire that we have rather than hold resources back because there might be another fire. Instead, what we do is make sure that we have got some capability to potentially respond in the circumstances where there is potentially another fire.

What occurred in relation to Mitchell was that the normal assistance arrangements were put in place, which are utilised on both sides of the border with relevant capabilities in New South Wales, particularly in Queanbeyan, to ensure that we were able to maintain appropriate levels of cover for day-to-day incidents that might have occurred during that time. That is a normal contingency that is utilised by emergency services. There is nothing unusual or extraordinary about that. It happens for fire; it happens for ambulance; it happens, to a lesser degree, with other services.

The arrangements that were put in place, I think, were entirely appropriate. This was obviously a very large fire. It was an unusual incident in Australian terms, let alone ACT terms, in terms of the scale and size of the incident. It is unusual to have a chemical fire of this scale in any jurisdiction. But obviously when a fire of this size occurs you send the resources you need to deal with the incident you have got, and that is exactly what the ACT Fire Brigade did.

So I do not believe it highlights any weakness in overall capability. In fact, I think it highlights that we have the planning and contingencies in place to deal with these circumstances should they arise. But I will ask Mr Croweller or Mr Swain if they would like to add anything.

**Mr Croweller:** Just in broad terms, there is a number of arrangements in place with New South Wales for assistance in those circumstances. The emergency plan under the Emergencies Act 2004 also allows for escalation of major incidents up to the status of emergency controller. That would come into effect if, for example, that fire and another fire of a similar intensity occurred at the same time. It does allow a more complex set of planning arrangements and response arrangements to kick in. Those cross-border arrangements are well established and well understood. But I might just quickly refer to the chief officer.

**MS HUNTER:** I have probably got a separate question. I think you have answered that one, but it is good that Mr Swain has come to the table. Once the explosion occurred, ESA was on the phone pretty quickly to specialists to find out how certain chemicals would react in the fire. I am interested to ask what the requirements are for either the facility operators or for ESA to do this work and condense it into an emergency plan. I guess what I am getting at is: why wasn't there a plan already in place so that when an event such as this occurred it was all ready to go? My understanding was that that was not all laid down and that is why specialists were being called in as far as different chemicals reacting with other chemicals.

**Mr Corbell:** It is probably worth explaining what the regulatory regime is.

**MS HUNTER:** That would be great, yes.

**Mr Corbell:** This is more a question for portfolios other than emergency services, but, for the sake of clarity, the relevant regulatory arrangements are the Dangerous Goods Act and the Environment Protection Act. To store certain chemicals in any quantity or in certain quantities, and to operate a facility of this nature, you must have an authorisation under the Environment Protection Act.

That requires the Environment Protection Authority to assess the site and to grant the necessary approvals. You are also required under the Dangerous Goods Act, if you hold certain quantities of certain chemicals, to notify the work safety authority that you have those.

So that is not an approval to operate. That is an obligation to notify. You are required to have certain information available on-site and to the relevant work safety authority. So what is often known as a manifest must be available. I am told that it is the Dangerous Substances Act, not the Dangerous Goods Act. You are required to have a manifest on-site that outlines what is held at the facility, which should be easily available in the event of an emergency for the Fire Brigade to locate and assess what is at the site. I might ask Mr Swain if he wants to elaborate on that.

**Mr Swain:** Thanks. We had a number of fire safety inspections and reports on the premises. We had a number of our operational crews go through, as they do with any building in Canberra and frequent inspections to make sure that they are familiarised with what is stored on-site and with the personnel. The owner of the premises was out there in the early hours of Friday morning. Besides that, we have a standard operation procedure, which means that we take a number of steps, depending on what we are faced with, to activate a number of other standard operational procedures including search capacity and those sort of things, to bring adequate crews back to combat that fire.

With the Mitchell fire, it was a worst-case scenario that all the chemicals that were stored on-site were involved in the fire. When you have a number of chemicals involved in a fire situation, the products of combustion are generally unknown. You can predict what they are and that is why we tested for so many different chemicals as per a monitoring regime that we put in place.

However, in saying that, the building itself stood up to the fire. The bunds were

maintained, except for in the initial stages when there was some fire water runoff. But besides that, the bunding held, the building held and the fire was contained to the building of origin, which is all the planning that is put in place for a facility of that type.

**MS HUNTER:** You talked about the manifest and the manifest being on-site and easily accessible. In a situation like this, did you get the manifest from off-site, considering what was going on on-site, or is there a requirement to have a backup manifest somewhere else in the case of a situation like this?

**THE CHAIR:** If you cannot get on the site.

**Mr Swain:** Yes. I am not familiar with the dangerous goods legislation about a backup manifest, but certainly there is a requirement for it to be located on-site. It was located on-site and we accessed that manifest in the early hours of Friday morning. Also, the owner, or the occupiers of the premises, provided us with expert advice on the chemicals and what reaction they would have. We also had the services of the scientific officer from Fire and Rescue New South Wales at our headquarters at Fairbairn who was providing us with expert advice as well.

**Mr Corbell:** The Dangerous Substances Act requires placarding and manifests; so that is signage and manifests to be physically present, at the facility. This is a matter that is subject to further investigation by WorkCover, who are responsible for this act. As Mr Swain says, the manifest was located on-site. There were some questions about whether placarding was sufficient at the site in terms of signage, which would include things like contact details of owners and so on—who to contact for further information in an emergency. All of those matters are still subject to investigation by WorkCover.

**MR RATTENBURY:** I want to ask about the air-testing devices that the Fire Brigade used during the fire. I understand they were used to test the air in terms of safety for firefighters. Can you clarify what the devices are and what they actually test for?

**Mr Swain:** There are a number of devices that we have. We were using three separate devices for atmospheric monitoring. One is just about explosive limits, whether it is safe for our people to be there. Another one tests organic compounds, a whole range of things. Another one tests things like carbon monoxide levels, oxygen levels, upper and lower explosive limits. All of them are designed to tell us that it is safe for us to be there and we extrapolate that out to say, “If it is safe for our firefighters to be there it should be safe for the community,” because we are not going to put our own firefighters at risk of contamination from the atmosphere.

It is quite different to the way that EPA do their testing. Their testing is for longer term implications, whereas ours is about what we are faced with and where it is safe for us to operate.

**MR RATTENBURY:** I gather they do not record any data, they are sort of a yes or no device really. Is that how they work?

**Mr Swain:** Yes. Some of them have a reading where it is safe or not safe and others

have an ampoule system where the colour will change to indicate what chemicals are there. And then you can do some more follow-up testing afterwards.

**Mr Corbell:** The government has ascertained that some of the devices do have a digital record of what they have measured, which we have placed on the website, associated with the other testing results. But frankly, those records are quite meaningless because they are just a series of numbers and you cannot really determine one way or the other what they mean without understanding what the purpose of the measurement was and how the measurement occurs. As Mr Swain says, a number of the others are ampoule based or a yes/no type reading.

**THE CHAIR:** Mr Smyth, you had a follow-up as well.

**MR SMYTH:** Mr Swain, you mentioned that officers of Fire and Rescue have done walk-throughs of the facility. Had they raised any concerns prior to the incident and were those concerns acted upon?

**Mr Swain:** There was nothing for the new premises. There were a number of concerns that were raised about the old premises where they were and they had been acted on. So our investigation is of fire reports and there is certainly no written report from any of our operational staff about concerns. An investigation has not been able to indicate that there have been any concerns raised about the premises at Mitchell.

**MR SMYTH:** You said “written”. Were there any unwritten concerns raised?

**Mr Swain:** Not to my knowledge.

**MR SMYTH:** Minister, in terms of the response, were any officers put at risk when they responded by not having appropriate PPE, personal protective equipment?

**Mr Corbell:** I have not been advised.

**MR SMYTH:** Any ESA officers?

**Mr Corbell:** I have not been advised of any circumstances.

**MR SMYTH:** So no-one has raised concerns with you about any ESA officers being exposed?

**Mr Corbell:** No.

**MR SMYTH:** The Ambulance Service responder units, did they have appropriate PPE to be in a situation where there were unknown chemicals in the air?

**Mr Corbell:** I would have to take it on notice. I just do not know.

**MR SMYTH:** So that has not been raised with you?

**Mr Corbell:** It has not been raised with me.

**THE CHAIR:** One last question on the Mitchell fire because we are going to have to move on.

**MS HUNTER:** Mr Smyth has just talked about whether there were any concerns raised with those walk-throughs that were done and you said no, about the premises. Were there any sorts of concerns raised about the location of such a facility, considering that residential development was going full steam ahead nearby?

**Mr Corbell:** The development is in accordance with the zoning in the territory plan. General industrial zone permits these uses, subject to the necessary approvals being granted by the regulatory authorities, notably the Environment Protection Authority. The facility that we had at Mitchell was a state-of-the-art facility in terms of its construction. It was a fully contained, indoor facility. It replaced a facility which was open to the air and operated outdoors. This new facility which replaced the old facility operated entirely within a building, a contained, sealed building.

As Mr Swain has said in relation to the outcome of the fire, as dramatic as it was, nevertheless if you see the actual footprint of the building, it is contained effectively to the building itself. There is some damage to adjacent buildings but there is no complete destruction of adjacent buildings whatsoever. So it was contained to the existing building.

As to the issue of whether or not this is a suitable site for this type of facility, I would make two observations. The first is that you have to remember the smoke plume that was generated from this fire was 15 kilometres long. In what circumstances would it be feasible to separate a facility like this to an extent that you would eliminate all risk associated with a 15-kilometre long smoke plume? That is the first observation to make.

The second is that the government, nevertheless, is looking at the issue of whether or not our standards around zoning and uses that are permitted in these zonings are best practice. I have already announced that the government will be commissioning a review on that matter, looking at zoning practices in other jurisdictions, nationally and to an extent internationally, to understand where we sit.

I would make the observation, though, that compared to other jurisdictions our separations are actually pretty good. If you go to Sydney, Melbourne, Brisbane, Perth, a lot of these facilities, particularly in the older cities, Sydney or Melbourne, are in very close proximity to residential areas, much less than the proximity that existed here.

**THE CHAIR:** I am very mindful of the time and I know that Mr Rattenbury has not asked a question and Mr Smyth has only asked follow-up questions. Mr Rattenbury, you are right. Mr Smyth, a final question.

**MR SMYTH:** Minister, on page 83 there is a chart, table 49, showing ACT Ambulance Service response times. The header on the chart says "Number" and it lists then two columns of numbers. What are those two columns of numbers? One can conclude that the column that adds up to 35,868 might be the 2010-11 responses, given the paragraph halfway through the document. Are we to assume that the former

list is the 2009-10 figure?

**THE CHAIR:** You will never get out of this alive, Mr Foot. There is always a question.

**Mr Foot:** Those numbers relate to the 2009-10 and 2010-11 reporting periods.

**MR SMYTH:** A priority 1 response is meant to be responded to in what time frame?

**Mr Foot:** Eight minutes we work on for the 50 percentile.

**MR SMYTH:** And what percentage of those 13,657 calls were responded to in time?

**Mr Foot:** I believe in the 50 percentile it was 9.8 minutes, with the benchmark being eight.

**MR SMYTH:** Sorry, say that again?

**Mr Foot:** It is 9.8 minutes for the reporting period.

**MR SMYTH:** And the benchmark being eight?

**Mr Foot:** Eight minutes.

**MR SMYTH:** What was it for 2009-10? The chart is just a series of numbers, without being able to—

**Mr Foot:** I am just going to grab my notes. The response time in the 50 percentile for the previous reporting period, for 2009-10, was 10 minutes. For 2010-11, it was 9.8. In the 90 percentile, it was 15.8 for 2009-10 and 15.6 in 2010-11. So we have actually managed to improve response times for the last three years in a row.

**MR SMYTH:** What percentage of the calls were responded to in less than eight minutes?

**Mr Foot:** I think the way we measure it is that we look at the total calls that were taken over the period. P1 and P2, priority 1 and priority 2, for the period was 29,505. And we managed to attend in 9.8 minimum response time in 50 per cent of those calls. In the 90 per cent or 90 percentile of total calls, it was 15.6, with the benchmark being 15.

**MR SMYTH:** So 50 per cent of the calls were under 9.8 minutes?

**Mr Foot:** It was 9.8 in the 50 percentile and in the 90 percentile it was 15.6 minutes.

**MR SMYTH:** How many of the calls were under the eight minutes?

**Mr Foot:** I will have to take that on notice.

**MR SMYTH:** It would be nice to have that information. Perhaps, minister, as a

recommendation from the committee, that data could be presented in a chart. Rather than use up the committee's time, could we have a breakdown of the four priorities, what percentage of calls in each of the priority levels were actually met within the limit and then whatever additional information of the 50 and the 90 percentiles, if you could provide those?

**Mr Foot:** We can give you priority 1, 2, 3 and 4 but in the annual report we actually report against priority 1 and priority 2 for the 50 and the 90, which is the agreed ROGS report parameter for every state and territory ambulance service of Australia.

**MR SMYTH:** That is fine but you would know how many were done within the eight minutes?

**Mr Foot:** As I said, we were quite clear in the annual report. We attended a total of 29,505 priority 1 and priority 2 incidents in the reported period and we achieved a response time of 9.8 minutes in 50 per cent of those calls or 50 percentile calls and 15.6 minutes in the 90 percentile.

**MR SMYTH:** So you will take that breakdown and give it on notice?

**Mr Foot:** So I think the clear point here is that we have seen an improvement in response times to the ACT community over the last three-year reporting periods.

**THE CHAIR:** Before we go on, Ms Larkins and colleagues from the Ombudsman's office are here. On the basis that we do have representatives of the Ombudsman's office here and we have got, basically, only another 20 minutes, could we put any more questions for ESA on notice, especially techie ones with numbers in them. Thank you very much to the minister and officials this afternoon.

I ask Ms Larkins and her colleagues to come forward. Welcome, Ms Larkins and co. We will proceed to questions in relation to the Ombudsman. In relation to your achievements which you outline on page 6, you talk about the office negotiating with the ACT government for an increase in funding to adequately cover increases in complaint handling, own motion complaints and increased inspection responsibilities. Could you elaborate a bit about, in each of those categories, what the increase is—the increase in complaint handling, your own-motion inquiries and what they have been or what they might be if you had the resources, and increased inspection responsibilities?

**Ms Larkins:** Much of the agenda of the Ombudsman is set by the Ombudsman's office themselves, and funding for this function was a particular priority of the previous Ombudsman, particularly in relation to an agenda that he had with the 10-point plan. We have had some conversations with the ACT government post the Ombudsman's resignation—so last week—and we have agreed to meet with them to discuss renegotiating our service agreement and looking at overall funding. We think there might be an argument for some increase in relation to new functions, but, at this stage, we are unable to set out, as outlined in our annual report, a claim for additional funding from the government.

**THE CHAIR:** Can you elaborate on the 10-point plan? Are you saying that was the

priority of the outgoing Ombudsman and not the priority of the Ombudsman's office?

**Ms Larkin:** I should be clear. The underpinning principles in the 10-point plan are supported by the office; in particular, the focus on improving complaint handling in ACT government agencies remains a key priority. We think that is probably the prime priority outlined in the 10-point plan. But it is usual for ombudsmen to come with their own agendas and form their own views of where they want to put their attention. This was very much a priority driven by the previous Ombudsman. We are not resiling from the 10-point plan, but we are saying it is likely the new Ombudsman will want to set their own agenda.

**MS HUNTER:** How was the plan received across the community and across other agencies from government?

**Ms Larkins:** I am not sure I am in a good position to answer that question. I do not know if my colleagues have anything they might want to add.

**Mrs Fleming:** We certainly did not receive any adverse reactions to the plan. As Ms Larkins has indicated, complaint handling is the very essence of what the Ombudsman's office undertakes. I think the community would be quite concerned if we were to give that a lesser priority. To some extent, in dealing with that, many of the other points that are in that 10-point plan that are individually set out are really subsets of how we go about complaint handling. In addressing some of the complaints, they do vary in nature but often it is because, for instance, agencies have not been articulate in how they have outlined decisions or given reasons. Therefore, plain language, which was another concern of the previous Ombudsman, certainly can be addressed through our focus on complaint handling.

**MS HUNTER:** Page 6 of the annual report talks about promoting the plan. What are your ideas there? How are you going to get out there to promote it?

**Ms Larkins:** We will not be promoting the plan now, because we are in that intervening period. We will not want to set an agenda for the incoming Ombudsman. There are a range of things that are represented in the plan that we think are very sensible things to be working on with the government, and we will continue to work with the government on improving complaint handling and other areas in the plan, but we will not be branding that as the 10-point plan, and it will be up to the new Ombudsman where they want their particular attention when they are appointed.

**MR HARGREAVES:** One of my questions may be difficult for you to answer. If it is, just tell me. In the forward, the former Ombudsman said in the very first paragraph:

I commenced my appointment on August 30, 2010 and quickly formed the view that residents of the Australian Capital Territory were not receiving the level and quality of services to which they are entitled.

How can somebody determine that? What is "quickly", and how does one determine that quickly?

**Ms Larkins:** I am sorry; I am not party to the previous Ombudsman's thinking in

relation to that statement, so I cannot tell you how he formed that view or the process that went into him forming that view.

**MR HARGREAVES:** I was interested to know whether there was a method but—

**Ms Larkins:** Not that we are aware of.

**MR HARGREAVES:** I refer you to page 6, again—it seems to be the go today—in particular, table 1, summary of achievements against performance indicators and also page 41, which has a massive chart, table A1. Table 1 talks about the number of approaches and complaints received—600 for government agencies and 142 for the police—but I cannot find a table in here which tells me which complaints were sustained, which were found to be unsubstantiated or vexatious or repetitious and vexatious.

Having worked in the ACT bureaucracy for 30 years before coming here, it seems to me that a lot of complaints are made because people are annoyed. They are just annoyed, or they may go straight to what they perceive to be the top having not bothered to go the other way. I also know, and can probably name them for you, 30 vexatious complainants, and they are your regular clients. I do not see anywhere in this annual report where I can get a handle on how many of the complaints are serious, trivial or mechanical. Do you know what I mean?

**Ms Larkins:** I will get Ms Merryfull to take you through in more detail how we categorise complaints. I just make the point that the number we investigate is not a bad proxy of the complaints that we think have substance and are useful for us to investigate in more depth.

**MR HARGREAVES:** Thank you for that. I am also aware of the definitions of the categories on page 40, which is where my mindset is travelling. I think, Ms Larkins, this is what you are saying. Of those ones in table A1, category 1 is essentially sent off to the department to sort it out. You people are saying, “Well, this isn’t worth investigating,” all that sort of stuff. But the imagery that one gets when you look at table 1 and the commentary in the foreword is that the number of complaints is going up and we should be really concerned as citizens about that. I draw your attention, therefore, to the numbers in category 1. If you look at the total, out of 742 complaints received, 369 of them were not proceeded with by your office at all. So is not the wrong impression being put out there?

**Ms Larkins:** I think you are raising a very important point; approaches and complaints are a very crude measure of community concern. They are a measure, but they usually require some further analysis before we can make definitive statements. We are always concerned if we see an increase in complaint numbers, but we are also aware that there are classes of people who do not complain, and there are classes of people who are more likely to complain. I guess I am agreeing that, on the face of it, it is not enough information to draw significant conclusions from.

**MR HARGREAVES:** Could I ask, therefore, that when you do that sort of foreword and put the commentary out there, perhaps a qualification might be in order and that you say, “Of this 700 that were received, we need to understand that half of them

were not proceeded with for a whole stack of reasons”?

**Ms Larkins:** I would not want to give the impression that the ones that we do not proceed with we think are all vexatious or frivolous or not important, but we are making a judgment of where are we likely to make the best impact.

**THE CHAIR:** There are some things that you are statutorily not able to do.

**Ms Larkins:** Absolutely. That is a good example.

**THE CHAIR:** Which I only discovered the other day.

**MR HARGREAVES:** I know that information is collected. I know Housing do this. Information is collected on which are vexatious complaints, which are real ones and which are ones that really worry them about their systemic issues. I would have thought that the people reading this annual report will get a picture out of it, like they do out of any report, and, without that information, the picture is going to be totally wrong because it gives you the wrong impression of the quality of administration in the city.

**THE CHAIR:** You were suggesting, Ms Larkins, that Ms Merryfull could help.

**Ms Larkins:** Yes.

**THE CHAIR:** Perhaps you might touch on frequent flyers and things like that as well.

**Ms Merryfull:** Of course, we do not categorise our complainants as vexatious or not vexatious or troublesome or frequent flyers or whatever. Obviously, we take complaints as they come. So every person who complains to us, we evaluate the complaint and then decide the best way to deal with it. Most of the time, the best way to deal with a complaint is to send it to the department, because the department, or the agency, is the only one who can actually give the person a remedy—we cannot give them a remedy—and the department or the agency is best placed to evaluate the complaint and help the person.

Whenever we send somebody to an agency we say, “If you are not happy, then you can come back to us.” Certainly it is the case that the vast majority of complaints that we investigate are actually from people who come back to us after being dissatisfied with the agency. But most people who go to the agency are in fact dealt with by the agency, and that is a good thing because that means they can get what they want and the agency can get the valuable information they can get from the complainant. We do not categorise our complainants as vexatious or frequent flyers. We take them as they come and we deal with them as they come without prejudice or without prejudging them.

**MR HARGREAVES:** I accept that.

**Ms Merryfull:** We do not have substantiated or not substantiated. That is not a way that we characterise our complaints.

**Ms Larkins:** But I take your point to be that we need to have a reasonable evidence base to make claims, and that you would like us to—

**MR HARGREAVES:** The very first paragraph says that the former Ombudsman quickly formed the view that the residents of the ACT are not receiving the level and quality services to which they are entitled, yet 50 per cent of them are sent back to the department and 50 per cent of them do not come back. If you look at categories 2, 3, 4 et cetera, presumably some people come back to you saying, “Tried that; didn’t work; can you now help me out a bit more?” and that is quite a reasonable thing. It just seems to me that the imagery is wrong if we are trying to instil some confidence in both the community and the departments to lift their game.

**THE CHAIR:** What you are saying, Ms Merryfull, is that, of the 742 complaints that you received about the ACT government, you sent all of them—

**Ms Merryfull:** Almost all of them we would send back to the agency—not “send back”, we would say—

**Ms Merryfull:** If they were in jurisdiction, we would say: “Please go to the agency and deal with them. Have the agency help you out.”

**THE CHAIR:** What you are actually saying is that, of those 369 that were dealt with there, the remainder came back to you in some form or you kept them in the first instance?

**Ms Merryfull:** In some cases, if we think it is an important issue—

**Mrs Fleming:** I was just going to say that not in all cases would we send them back to the agency. For instance, they may have been through a tribunal hearing at ACAT and had a decision and they want us to overturn that decision. We cannot overturn that decision, and there is no point sending them back to ACAT. On the other hand, if an agency was involved, we might still suggest that the reapproach—

**MR HARGREAVES:** Can I clarify with you categories 1 and 2? Category 2 is the approaches that cannot be resolved from category 1 and require further attention. You look to your chart and you find that 369 were sent off to the departments without investigation, then 239 fall into that category where they cannot be resolved. Are we counting the same ones twice in adding up to 774? Do we talk about these just as approaches, or are these the number of incidences that we are talking about?

**Ms Merryfull:** They are approaches to us, so they are not double.

**MR HARGREAVES:** When I read that chart first up, I thought, “Hello, there’ve been 774 individual problems addressed,” and that is not true, is it?

**Ms Merryfull:** No, they are approaches to us.

**Mrs Fleming:** They are approaches.

**MR HARGREAVES:** There might be two or three from the same or even more?

**Ms Merryfull:** Well, they might be sequentially or over the years, but—

**THE CHAIR:** But what you are saying—

**Ms Larkin:** No, they are not double counted. That is our list of people who have approached us. That is the question you are asking.

**MR HARGREAVES:** But your category 2 says it is people who were category 1 and were not resolved.

**THE CHAIR:** And have not been resolved, yes.

**MR HARGREAVES:** So they have got to be included, the people—

**THE CHAIR:** Category 1 go off and are resolved.

**Ms Larkins:** Sorry, they are closed at that category.

**MR HARGREAVES:** Okay. So half of them are resolved without you guys having to do it. The last question is in the same vein and then I do not have any more questions for the day.

**THE CHAIR:** Okay.

**MR HARGREAVES:** I will try and be as quick as I can. This one has something to do with your case study on page 13. In that case study, it talks about somebody who had a difficulty with suspension of licence. You talk about this lady receiving an apology and all that sort of stuff. How does your office resolve it? Do you contact the departments themselves, the agencies?

**Ms Larkins:** Michael, are you familiar with this case study?

**Mr Hardy:** Yes. I can probably speak to that. For cases of that nature, our normal procedure is that we investigate by requesting the relevant records and relevant information from the department. We reach our own view as to what has actually occurred. We try to find out, as factually as we can, what occurred in the circumstances. If we reach a view that when there was some flaw, some fault or some gap in the way in which the matter was handled in the department, that is when we conclude our investigation: we have reached a view as to what we think has happened versus what we think should have happened. Then we will write to the agency expressing the view and indicating, recommending, that in this instance an apology would be appropriate.

**MR HARGREAVES:** Thank you very much for that. That sort of explains it. The thing about this particular case study which intrigued me a bit, having been a former minister for potholes, is this. I was not aware that Roads ACT had any jurisdiction over this case at all; in fact it is Road User Services, which are not connected with Roads ACT except that they are in the same department. I was intrigued to read in your case study three references to Roads ACT and only one reference to Road User

Services, in the third last line. How is it that Roads ACT were able to issue an apology to somebody that Road User Services would have had the problem with? Maybe you want to take that one and have a look at it.

**Ms Larkins:** We might take that one on notice.

**MR HARGREAVES:** I would be interested to know whether or not you just got the wrong agency. The reason why I make this point is that (1) Roads ACT build roads and (2) if the community are reading this critique, they will have a misinterpretation of what Roads ACT are up to. If that needs correcting, could you let us have one, please?

**Ms Larkins:** Yes.

**MR HARGREAVES:** Thank you very much.

**THE CHAIR:** Ms Hunter?

**MS HUNTER:** I will pass to Mr Rattenbury.

**MR RATTENBURY:** Another area of concern flagged in the report this year was the manner in which the decision to roll out tasers to more police was taken in the ACT. Specifically, the report notes at page vii the concern about the training regime to accompany the rollout and that, in the view of the Ombudsman, this issue was still outstanding at the time the implementation was announced. Can you tell us a bit about what the issues were about the training?

**Ms Larkins:** No; unfortunately I cannot. I would like to be in a position to, but none of the officers that are currently in the office attended those meetings with the Ombudsman or discussed with the Ombudsman his particular concerns about the training.

**MR RATTENBURY:** You cannot answer any questions on this at all?

**Ms Larkins:** I just cannot presume to—

**MR RATTENBURY:** That is fine; I am just clarifying.

**Ms Larkins:** assume what was in the former Ombudsman's head about this. I understand that in the meeting with the head of ACT Policing, a broader discussion was held about training for use of force, but again I am not sure about the particulars of that conversation.

**MR RATTENBURY:** Do you know if, in light of those concerns, any steps have been taken on the part of the police to rectify those concerns?

**Ms Larkins:** No. And again, because I am not clear what the concerns are—

**Ms Merryfull:** ACT Policing have supplied us with some documentation around use of force training. They have also made available to some of the officers an

opportunity to observe some use of force training. But we have an overall interest in use of force anyway. We have been seeking information about use of force training since before this, because of other work that we have done. We generally maintain an interest in use of force, use of force training and use of force procedures, policies and practices.

**MR RATTENBURY:** I would like to ask about that in a second but I have one last question on tasers that you may or may not be able to answer. The Ombudsman's officers encouraged police to use taser cams. Why have you asked for that to take place or what do you perceive the benefits of taser cam being?

**Ms Larkins:** I will get Ms Merryfull to comment, because we have done a bit of work on the benefits of taser cam; but again, as to what information the previous Ombudsman used to base that recommendation on, I was not privy to those conversations.

**Ms Merryfull:** Generally the advantages of taser cam are about, obviously, transparency and accountability and being able to see what actually happened in the circumstances. Different taser cams deploy at different times—when they are unholstered, when they are turned on or when they are fired. The advantage of taser cam is that you have another record of the particular incident. When there is an application of use of force, the police complete a use of force form, but if you have a taser cam you have another record of that apart from the officer's recollection when he completes the use of force form. That is the advantage of having it.

**MR RATTENBURY:** It has been suggested to us that it does not give the full context because it only records once the weapon is drawn and prepared for use. Do you have any response to that suggestion?

**Ms Merryfull:** That is, of course, a consideration—about how long it is recording. As I said, some would record at different times. But typically you would think that if it is turned on as soon as it is unholstered or shortly after it is unholstered, there would be some period of time when you would see what was happening. If you look at some of the reports, there is typically some period of time after it is unholstered before it is actually deployed or before it is put away again. If it is turned on reasonably quickly or if it turns on when it is unholstered, you get a bit of an idea about the interaction between the officers and the person who might be the subject of the taser. Of course, not every time it is unholstered is it deployed, in the same way that not every time a firearm is unholstered is it deployed.

**MR RATTENBURY:** On page 19 of the report, you indicate that you investigated 16 complaints against police.

**Ms Merryfull:** Yes.

**MR RATTENBURY:** One of the main issues raised was the use of force. Of those 16, you were critical of police in only two cases after the investigation. What was it about the use of force cases that made you investigate and what kinds of findings did you rely on to see that the use of force was justified?

**Ms Merryfull:** In the case of the ones that we investigated, we only investigated one case of use of force. We look at the police use of force form and the AFP professional standards investigation, because they investigate these things. Often our role is to check the way that the AFP has investigated that. Generally, when we investigate, our main sources are the police records, including the way that the professional standards area of the AFP has investigated. In coming to decisions about particular cases—all cases, whether it is use of force or other cases that we investigate—we are looking at the reasonableness of what occurred. We are not necessarily setting out to substitute our judgement for what went on, but we are looking at whether, from what we have seen, it looked reasonable in the circumstances or not unreasonable in all the circumstances.

**THE CHAIR:** I have a question which may be redundant. On page 17, under “Looking ahead”, it talks about the Ombudsman’s 10-point plan. I was particularly interested in the third dot point:

Move away from a culture of denial and defensiveness to one that welcomes complaints ...

I was wondering if you could elaborate on what you see as the culture of denial that needs to be moved away from. To what extent is it entrenched and how difficult is it to change that culture?

**Ms Larkins:** Again this is an assessment made by the previous Ombudsman, but I will make some comments. Over time, relationships with agencies can be more open and there can be a lesser or greater sense of cooperation with agencies. In the past, if I use the example in ACT Housing, we have at times felt as though we could have a more responsive approach from ACT Housing to our inquiries, our investigations of complaints, but that is an example where we are very pleased to say that we think the culture has turned around and there is now a much better, more cooperative approach to working with us to finalise complaints and to use our expertise to improve complaint handling, which we think is of benefit to the agency.

So yes, sometimes our relationships with agencies are less cooperative than we would like them to be. ACT Housing is an example of an agency that was in that category, but more recently has been working with us very well.

**MS HUNTER:** What is your relationship with the AFP like? That is the other large category of complaints.

**Ms Larkins:** I will comment, and Ms Merryfull might want to add some comments. In general, again I think we have a very cooperative relationship with the AFP, which is very open and transparent, willing to work with us and to discuss issues. As to the level of consultation—I will make a point around taser cam—there is no requirement on agencies to consult with us about operational procedures, but in that case we were informed and kept abreast of decision making by the AFP.

**Ms Merryfull:** The law enforcement team in our agency deals with AFP national and ACT Policing. Our interactions are mainly done through professional standards, which is like internal affairs in the AFP, but we also keep a separate relationship

going with ACT Policing on things that we are particularly interested in. For example, on tasers we have had the benefit of briefing from senior people there who are involved in the review of the uses of tasers, and we receive reports of each deployment of tasers in the ACT this year. They are quite comfortable about giving us that information.

**MS HUNTER:** On page 19 of your annual report it talks about 16 complaints that were investigated. These were around use of force, but I note that only two of those cases proceeded and found some issues. Could you talk about what it was about the use of force cases that made you investigate and what kind of findings you relied on to see whether that use of force was justified.

**Ms Merryfull:** Mr Rattenbury just asked me that.

**THE CHAIR:** I think we just had a deja vu experience.

**MS HUNTER:** Sorry; I did not hear that. That is all right; I must have been onto something else.

**THE CHAIR:** I thought I was on continuous loop.

**MS HUNTER:** Sorry.

**Ms Merryfull:** Have I answered it adequately?

**MR RATTENBURY:** Yes.

**THE CHAIR:** I thank members and officials for their attendance today. There will be a transcript. If there are any extra questions on notice, we ask members to get them to us in five working days; after that, you will have three working weeks to get them back. Thank you very much for your time.

**The committee adjourned at 5.01 pm.**