



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

FRIDAY, 11 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 9.04 am.

Appearances:

Justice and Community Safety Directorate

Potas, Mr Ivan Leslie, Official Visitor

Taylor, Mr Andrew John, Public Trustee, Public Trustee for the ACT

Delaney, Mr Grahame, Chairman, Sentence Administration Board

Hinchey, Mr John Bernard, Victims of Crime Commissioner, Victim Support
ACT

McCabe, Mr Mark Andrew, Senior Director, WorkSafe ACT

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

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

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

THE CHAIR: Good morning and welcome to the third in a series of hearings of the Standing Committee on Justice and Community Safety into the annual reports of the Justice and Community Safety portfolio. We begin this morning with the Official Visitor. This is your first time here, Mr Potas?

Mr Potas: This is my first time, yes.

THE CHAIR: So welcome.

Mr Potas: Thank you.

THE CHAIR: There is a privilege statement on a blue sheet there. Have you had that drawn to your attention and are you familiar with the contents?

Mr Potas: Yes. I have a copy of it, of the email, and I have read it.

THE CHAIR: Okay. You have read it and you understand it?

Mr Potas: I do.

THE CHAIR: Wonderful, thank you. Do you have an opening statement to make as the Official Visitor?

Mr Potas: I have to preface this inquiry with the understanding that I have just been appointed; I have had only a little over two months in the job. I was away for two weeks. It means I have had little experience in doing this job and I am still finding out about it. So I hesitate to make any broad statement about the jail other than to say that I can see that there is an attempt to treat it as a human rights type of jail; looking after the welfare of prisoners and attempting to rehabilitate them seems to be the aim of the Alexander Maconochie Centre, and I am rather impressed.

My background and experience is in criminology. I used to teach criminology and I

used to visit jails with students. My background is in criminology research, and I have also worked at the Judicial Commission in New South Wales. I have had a great interest in sentencing law, but this is the first time I have actually had a job of looking into or fielding complaints from prisoners, so I am learning the ropes at the moment. My colleague who is not here yet, Tracy Whetnall, is the Indigenous Official Visitor and she is responsible for or takes care of the Indigenous offenders, although as I go around the jails I also often field complaints from Indigenous offenders.

In terms of making a general statement, I think the position is a very useful one because it seems to allow some kind of relationship to develop between the Official Visitor, the officers and the prisoners. It is quite handy to hear complaints from prisoners and then take them to the officers, who then either do something about the complaint or say why they cannot do something about the complaint. So from my short experience I think it is a very important role.

THE CHAIR: Could you perhaps outline for the committee what your sort of routine would be on a visit to the prison and how frequently you are at the AMC?

Mr Potas: Yes. I am required to be at the AMC at least once every two weeks, so I do this job part time. At the moment I probably am visiting the AMC about once a week. I generally stay for between a half and a full day and I move around the prison, introduce myself as the Official Visitor and basically ask people if they have any issues they want me to raise. That is my primary method of dealing with my job.

THE CHAIR: So are you escorted?

Mr Potas: Initially I was escorted. Sometimes I am escorted if I am near what I will call dangerous offenders—I will have someone with me then—but at other times I am permitted to wander around the prison and just talk to people.

THE CHAIR: I suppose it is a fine line between ensuring your security and getting your way.

Mr Potas: Yes. Under the legislation as I understand it I am permitted to enter any prison at any time and officers are obliged to allow me to look at documents or to speak to whoever I like. They cannot say, “No, you can’t speak to them.” The only time that might occur is if the person is distressed, violent or difficult to control. Often prisoners are locked down, which means that if I insist on seeing someone they will open the door and allow me to speak to them.

THE CHAIR: So even during a lockdown?

Mr Potas: Yes. I do not do this as a matter of course, but if it is urgent or if I think I cannot speak to the detainee at a later date I will just defer the visit. That is basically my method of operation. I also can get to the notice of offenders by them filling in forms—“blueys” they call them—where they just ask to see me. I am also entitled to a private conversation with detainees that is not sort of recorded.

THE CHAIR: Okay. Do you also visit the periodic detention centre?

Mr Potas: Yes, I do and I have done so, and also the courts, the transport system. I had not been there before and I found that to be a little bit depressing. I do not know whether you have ever had the opportunity to see it but it is a little bit Dickensian and given our—

THE CHAIR: Underneath the Supreme Court?

Mr Potas: The Supreme Court and under the Magistrates Court. It is a pity that it is not a little nicer, but the saving grace of that is that the detainees are not held there very long. They might be brought from the AMC, because they have got a hearing, to the court cells, then called up to court and then taken back again after their hearing is over. There are some issues that I have complained about there. I do not know if you want me to talk about that.

THE CHAIR: Yes. Could you elaborate on that?

Mr Potas: One thing I noticed was that inmates had to remove their shoes when they go into the cell. I think there were two reasons for this. One was concern about shoelaces and people harming themselves or attempting suicide. The other one was that they were defacing the cell by marking with their shoes the paintwork, and that costs money to repaint or fix up after the incidents.

MR HARGREAVES: It is also regarded as a weapon—

Mr Potas: Shoes can be regarded as a weapon.

MR HARGREAVES: in an uncontrolled situation.

Mr Potas: Yes. I was unhappy with that policy because one prisoner complained that he had to walk in urine, spit and what have you. I felt that it was a health issue so I raised it with the officers and I think they are implementing throwaway boots. There were problems with providing shoes because of infection issues, so at this stage I think they are going to change the policy. They are also changing the policy with respect to prisoners having their own shoes, so we will see how that goes. These what appear to be small issues can be quite harmful: you can spread disease if you are walking in who knows what on the floor, and it is one thing we are concerned about.

MR HARGREAVES: Okay. Mr Potas, I am interested in going down that track a little bit further because as I understand it there is a psychological issue about people being taken down, and actually being down and being taken up into the courtroom, which I would not imagine is particularly conducive to restorative justice. However, it seems to be a leftover from days gone by when the architecture of a court for security purposes was all about putting people who appear before court underneath it—because you could not get broken out by somebody else.

Mr Potas: Yes.

MR HARGREAVES: Would you think it would be reasonable for this committee to recommend that if we do build a new Supreme Court and Magistrates Court system the holding arrangements for people appearing for court should be on the same level

as the court rather than—

Mr Potas: I think that is a very good idea, a very good suggestion. I would fully support that. Another problem with being underneath is that if there is noise it can actually filter up the stairs, so I certainly do not see any valid reason for keeping people there. Also I must say that the Corrective Services officers have to work in the same environment where there is very little natural light. I cannot see the value of that in today's society and with our values that we have now. I certainly would support a much nicer setting to detain people in prior to their court appearances.

MR HARGREAVES: We may very well take you up on that support. Thank you. One of the things that has occupied a bit of my mind around the restoration of people into the community and the Official Visitor's role has been an idea of what the relationship is with the people who are detained, people who are sentenced prisoners and people on remand. I would be interested in your views on whether or not your appearance is news to people; whether they actually know who you are or what you are supposed to do, what your responsibilities are, how much freedom you have got—how widespread that understanding is within the prison system in both the sentenced prisoners' environment and the remand. And is there a difference between the approaches to you as an Official Visitor, and drawing on your experience in the past, from a sentenced prisoner and a remand prisoner?

Mr Potas: I have not perceived any difference. I think the first offenders, which are different from ordinary remandees, may not know what an Official Visitor is. But I think word gets around very quickly in a jail and I think they soon know who to complain to, if I can use that expression. They know about the Ombudsman, for example. Individuals may not, and I do not know how better to advertise my availability and role, but I do go around and speak to people freely and say, "If you have any complaints, I am the Official Visitor." So I am seeing the same people. New people come and go. The people that I saw last week will be in jail next time I visit. So it is only new people who have probably never heard of an Official Visitor who may need to be advised in some capacity. But they know about lawyers and the Ombudsman and human rights. They can complain to the Human Rights Commission.

I am just another one person. The only difference is that I actually go around and say, "Do you have any problems?" Sometimes they are very trivial problems. From my perspective they may seem trivial, but to the prisoner they are very real. For example, one prisoner wanted an extra pillow. They said, "I have put in a request and it has not come through." So I just go and say: "What is going on with this prisoner? Why hasn't he got a pillow?" Usually the response is, "We'll fix that up straightaway." Sometimes request forms appear to go missing and people are waiting and they do not realise that the form has disappeared; they often have to put in another one. Delay is a big issue in jails; they have got to wait often until—

MR HARGREAVES: The other thing I want to explore with you is the notion of trust. Uniquely—possibly not uniquely, because I think the chaplains and you share that particular, unique aspect of being necessarily an advocate against the system for the people who are incarcerated or just a liaison between them—that is founded completely on the element and the presence of trust between those incarcerated and your good self?

Mr Potas: Yes.

MR HARGREAVES: Do you find that it takes time for that trust to be built up or is it fairly instantaneous? And if it takes time, how do you go about it?

Mr Potas: I think it depends on individuals. With some people, I often have to go back and say, "I am sorry, I can do nothing about your problem, because it is an operational matter." Detainees might not like the answer and may feel that I am pretty useless. Sometimes I do feel that way myself. I cannot change the rules. But at other times there are issues that I can deal with, which the officers agree with, and things can be fixed up pretty quickly.

I will give you an example. I spoke to a chap who was in a cell on his own in the crisis unit. I think he moved there because he feared that he was going to be assaulted. He was a remandee. He said: "I have been in this one shirt for more than a week. What do I do? I have only got one shirt." When I spoke to the officer, whom he could speak to as easily as I could, he said: "You are entitled to three shirts. What you do is you wash your own shirt. The washing machines are over there." But he had been in the one shirt for more than a week. It was just because I started talking to him.

If I can assist the prisoners in small things often, I think I build up a level of trust. It is only when they want things that the department or the officers are not prepared to do that I have difficulty. I need to develop trust on both sides, because I speak to the officers as well and I gain information from them. So when I get a complaint, often they have already had that complaint and there is some process for fixing it up or not. But often it is a matter of communication.

MS HUNTER: On page 272, it is mentioned there that the majority of complaints were effectively resolved. It then goes on to talk about a lot of issues and concerns relating to matters that are subject to resource and other constraints and these complaints are ongoing. We have heard about some of the constraints. It may be an operational matter, but I am interested in those resource issues.

Mr Potas: A lot of things come down to resource issues. In the periodic detention centre, for example, they complained they were not getting bacon and eggs any more.

MR HARGREAVES: I complain about that quite frequently.

Mr Potas: Yes. I thought, "Why is this?" I made inquiries. It turns out that bacon and eggs costs the budget about \$25,000 a year. That to me is a resource issue.

MS HUNTER: Were there others where you felt that really the resource issue should be addressed?

Mr Potas: I do not think you were here when I pointed out that I had only been doing the job for about two months.

MS HUNTER: Yes, I do understand that.

Mr Potas: So I do not have much background here. But one thing that is quite clear is that there is not enough space or rooms to separate categories of individuals. So there are restrictions on movement. Those in strict protection and in protection do not have much room and cannot attend programs. It is stuff like this. So there definitely need to be more facilities so that management can be improved. There is a definite problem with buildings.

Another issue might be training for occupations. There does not seem to be any of that. It would be good to see some trade skills developed which can assist with finding jobs outside.

THE CHAIR: Could I go back to the point you made that it becomes difficult for people who have restricted access to have a reasonable amount of space because of the constraints. Could you elaborate on that a bit more?

Mr Potas: All right. With the crisis unit, I was told only three people ought to be there, but in fact there were many more people there, mainly for their own protection, rather than the fact that they need psychiatric help. But by law, they must have one hour of exercise. So they are allowed out of their cell, but guess what? They go into a corridor and then they walk up and down there. That is called—

THE CHAIR: There is no outside area?

Mr Potas: No. There is a very small area, but it is kind of meshed and is enclosed. It is not conducive to a kind of free space. I suppose it is like caged chooks. It really is limiting and again it is a resource issue. If there was more room, I am sure that these people would have more room to exercise.

THE CHAIR: But surely this would have been designed when the AMC was built?

Mr Potas: My understanding is—and I do not have the history down pat—there was a larger budget and it was cut down. The AMC was a bit of a compromise. They had to cut what they originally hoped to do.

MR HARGREAVES: Except the crisis unit was not part of the cut down part of it.

THE CHAIR: Mr Hargreaves has been a corrections minister.

Mr Potas: You would know the whole—

MR HARGREAVES: The crisis unit was not. The bit that I am picking up from you now is that the understandings of the likelihood of numbers in that sort of protection unit were based on assumptions and because it was the first time we had a prison in the ACT, those assumptions were going to be based on New South Wales experiences and/or our remand experiences. Now, a year or two down the track, we are finding that it is a different perspective there altogether. I do not know whether or not people were actually able to quantify—you would know, you are a criminologist—the likelihood of prisoners wanting to go into protection, seeking it for their own protection, as opposed to being placed in there for their own protection or placed in there to protect others. That first category I talked about, I do not know how one can

quantify that but you are the expert.

Mr Potas: I have not tried to quantify it, getting down to that level. I do not do research anymore, other than to try to solve problems. But with the crisis unit, it was explained to me that that was designed to detain people while they were having a crisis and that usually means a few days. It is turning out that some spend many months in the unit, which it was not designed for. And there is a lot of that kind of thing occurring.

Sometimes sentenced prisoners are mixed with remandees. That should never happen in a larger jail. The ACT has a problem in that it only has one jail. If there were more than one jail, you could then separate categories of prisoners. So the classification issue is a big one for the jail, and the numbers of course. Obviously with the population, we are going to see more and more people being sentenced to jail. So the problem can only be exacerbated.

THE CHAIR: I am conscious of the time. On the subject of classifications and mixing of prisoner types and classifications, could you comment on the accommodation for women prisoners in that context?

Mr Potas: Women prisoner numbers are very small. In fact last week there were three or four.

MR HARGREAVES: Three.

Mr Potas: Three now. It was four last time I inquired. So you are ahead of me. There were only three prisoners. They have a remand section and a sentenced section on one side, one edge of the jail. So they are in a separate part of the complex. I am not aware of whether they have had an overcrowding problem, but it is possible, because I—

MR HARGREAVES: No, they have not.

Mr Potas: Not yet.

MR HARGREAVES: It took a maximum of 15 and I think it has maxed out so far at around 12.

THE CHAIR: But it was not so much about the overcrowding, I was actually seeking your views on the issues of mixed classification and remandees and sentenced prisoners being in contact. Then there are the issues of prisoners with babies and those issues as well.

Mr Potas: I have not had enough experience with that problem. I do know that there is a remand section and there is a sentenced section next to each other.

THE CHAIR: But there is a risk that, with low numbers of women, they may end up in solitary confinement as a result of there being, say, one remandee?

Mr Potas: I agree with that, yes. And I do not know what the answer is.

MR HARGREAVES: Have you noticed whether or not when they do activities outside those sections they do commingle?

Mr Potas: I have not seen that.

MR HARGREAVES: I have. I was interested to know whether you had.

Mr Potas: I have not. I have not seen that. I have not noticed that. So I cannot comment. It would be so easy to occur. I am not saying it is a bad thing either. It just depends on whom you are mixing with and how it is supervised.

MS HUNTER: Another issue that has been raised is that because of the small numbers, there has been a lack of access to programs and activities. So it will be interesting to come back and have that conversation with you in a year's time. My understanding is that they are now taking those activities and running them down where the women are, rather than walking them into parts of the main prison area. That will be one that we can follow up with you next year.

Mr Potas: Okay.

THE CHAIR: On that note, given the time and people that we have, we will have to thank you for your attendance this morning.

MR HARGREAVES: We could talk to you all day.

THE CHAIR: We could.

Mr Potas: Yes. I am learning from you as well. Thank you.

THE CHAIR: We might continue this conversation at a regular meeting at some stage, rather than wait for annual reports next year. A copy of the transcript of today's hearing will be sent to you for comment and review. Members may have extra questions that will be provided on notice and you will have a three-week turnaround from when you receive them to answer those questions. Thank you very much, Mr Potas.

Mr Potas: Thank you.

THE CHAIR: Good morning, Mr Taylor. Welcome to our annual reports hearing. I take it you are familiar with the information on the blue card.

Mr Taylor: I am.

THE CHAIR: Do you have an opening statement to make in relation to the annual report of the Public Trustee?

Mr Taylor: In summary, I think the annual report for the last year represents the best performance the Public Trustee has had pretty well across the board since 1985, when we were established. It also represents the best outcome from an audit perspective as well.

THE CHAIR: Congratulations. When you say this, are you starting from a low base?

Mr Taylor: It was surprising the return that we had from two years of GFC; absolutely surprising. We budgeted for a \$250,000 surplus, but in fact that went up to \$1.17 million quite unexpectedly.

THE CHAIR: So can you account for that?

Mr Taylor: Yes, I think probably the significant increase in business was through the increase in the award of court appointed disability trusts. I think there was approaching \$40 million where the court appointed the Public Trustee in probably half a dozen separate disability trusts. We asked ourselves over the years why were we not able to bid successfully for court appointed trusts. As you know, it is a contestable business for the Public Trustee. We are obviously bound by competitive neutrality principles in doing so. But having said that, that is one area where we are very much behind the eight ball in terms of the industry.

When we bid for and are asked to quote for administration of disability trusts, we do it in a very open manner, advertising or indicating what our fees are for the long term. We have been aware that non-government trustee companies do not do that. We were aware, I think, over the years that trustee companies had very much an edge on us in that regard. I think the court, as much as I could read their transcripts, had said that we were bound in red tape, which is not the case at all. We are there for the whole life of a person, rather than for the profitable life of a person.

So \$40 million I think represented a 95 per cent increase in trusts. There has also been a significant return of the markets in a patchy kind of way. We get a lot of our income from commissions on management and investment. So they largely make up the difference. The estate business went up as well.

THE CHAIR: Based on your performance and the strategies that the Public Trustee has in place, when do you envisage that the Public Trustee will become fully self-funded?

Mr Taylor: I had expected that that might actually happen at the end of the last financial year. We are \$161,000 short of that at the end of last financial year. Our first quarter for the current financial year again continued the trend; so our revenue has gone up again compared to the same period for last year—for the September quarter.

If that continues, I would expect that we would definitely achieve that this financial year. I would hope to. Having said that, though, expenses are an inhibitor in that regard. At the time I wrote the annual report, we had three cases of maternity leave out of 35 staff. We had a revaluation of our property with the depreciation expenses. Obviously, revenue has got to keep increasing, but what will eat into that is expenses.

We also decided to reinvest into the business by appointing a project officer this year and funding that position over and above the normal budget to address a number of issues that arose from the JACS whole-of-directorate staff survey.

THE CHAIR: What were those issues?

Mr Taylor: The issues were around our perceived implementation of change, which was seen by staff to be too slow. I guess the difficulty for us is that a lot of the change that we need to implement is IT related. It is expensive. It is difficult for a small agency like us. We do not have an imbedded IT development officer. So we have dragged the chain and we do sort of ride on the coat-tails of other bigger public trustees in being able to achieve what we do. Things like the Chameleon software product that allows us to write wills electronically has taken a lot longer to implement than we thought, but we are now doing 95 per cent of wills using that. Our aim was to get people who come in to make a will, to do it in one visit rather than two visits. We have achieved that pretty well, but it has taken a long time to get that. That is an example.

MR HARGREAVES: Thanks very much for this annual report. It is great. There is only one thing I am having trouble finding, and it is not any detriment to the Public Trustee board or yourself at all.

Mr Taylor: Sorry?

MR HARGREAVES: I would just be interested to know—I am looking at an annual report from the board. Do you actually invest funds on behalf of individuals so that their affairs are managed and all that sort of stuff?

Mr Taylor: Only an individual that is a client of the Public Trustee in terms of what our services, permitted services, are, and the government as well.

MR HARGREAVES: Yes, I understand that and thank goodness you do. Could you tell me this: do you have investment policies like ethical investment?

Mr Taylor: Yes.

MR HARGREAVES: And how does that play itself out?

Mr Taylor: Because we are a prudent person investor, we are probably unlike Treasury in the sense that I understand that there was a review of ethical investment across Treasury. Our board noted that, but probably the biggest response to that would have been that no government moneys that we invest are invested in equities, either international or Australian. So no situation arises where there is any government money invested through an unethical investor. Obviously, then, if I invest money, say for John Hargreaves, it is of no concern to—it is a private matter between you and me. If you want me to invest in a form of investment, then it is a matter between ourselves. It is not for a government direction in that sense.

MR HARGREAVES: Thank you.

MS HUNTER: Yes, I wanted to go to Greater Good. Obviously, this is about assisting people to establish their own charitable foundations. I was pleased to have been at the launch of one of those recently. Could you talk through how many foundations Greater Good has assisted to set up?

Mr Taylor: I think to date there are 60 funds, ranging from private to semi-government bodies. They benefit a significantly higher number of charities, or have benefited a significantly higher number of charities—mostly deductible gift recipient bodies who have got tax deductible status. Most of that money, 95 per cent of that money, has come from people who are will clients of the Public Trustee. More recently, we have a significant number of those—an increasingly high number of those clients are coming from wills made by members of the Law Society—so non-Public Trustee clients. Through membership of the board, I think Larry King—

MS HUNTER: Is this something other public trustees around the country do?

Mr Taylor: I think two other public trustees are doing that. The Greater Good was probably started effectively by Doug Gillespie, who is my deputy public trustee, who had come from a private trustee background of many, many years in Queensland where they do have quite a significant charitable philanthropic trust set up. He had a strong belief that this could work well before the bushfires. What had happened with the bushfires, they had allowed us to establish the infrastructure, the deeds necessary—the rest of it was already part of our infrastructure—to get Greater Good going.

After the bushfires, because we were the trustee for the receipt and payment of those moneys, they had felt that it was very doable. The beauty of the whole scheme is that it is a very simple model. It relies absolutely on infrastructure that is already in place at the Public Trustee. We can do what we do without having to charge significant fees to do it. There is merely an income commission on investment fee. It is an added service to our clients, of course.

MS HUNTER: I congratulate you on the work done in that area. I note that I think it was in June 2010 that the Public Trustee attended a philanthropic roundtable held by the government.

Mr Taylor: Yes.

MS HUNTER: Has there been any follow on from that roundtable?

Mr Taylor: Only the Hands Across Canberra Foundation which Sandra Lambert, I understand, was the instigator of. She and a number of other people established this roundtable and the Hands Across Canberra fund came out of that. It gets its tax deductible status through its being a fund under Greater Good. It does not live on its own in terms of having tax authorisation.

MS HUNTER: Is that is a relatively new fund?

Mr Taylor: Yes, I think that probably you may have read in the news earlier this week that there was a cheque for \$50,000 paid to the Canberra Hospital by a donation from the CFMEU. So that was pretty well money in, money out. That does not really fit the model of Greater Good. The model of Greater Good is capital retention and a rolling snowball and we keep on keeping on paying distributions every year. So we are hoping that they will move eventually to that model because the whole thing relies

upon the simplicity of that model for it to work.

MS HUNTER: Thank you.

THE CHAIR: On pages 12 and 13 there is a discussion about liquidity. The liquidity ratios are favourable, but they are projected to go down over the years. I was wondering whether you could discuss why you think that is happening. Are there indications—

Mr Taylor: I was hoping you would not ask me that. It was suggested by the Auditor-General that I not put that table in there anymore. My loose understanding of how that works is that the expression of a current ratio in a financial statement for an organisation like ours probably borrows from the private enterprise accounting model. We do not fit the private enterprise accounting model. The Auditor-General, in her last report, recommended that that be removed because it has a tendency to give an incorrect view of our position. The Public Trustee's liquidity is extremely high in terms of assets over liabilities but it should not be read in terms of general accounting principles, according to the Auditor-General. If you would like me to elaborate on that, I can certainly do so on notice.

THE CHAIR: Thank you. I would, yes. There being no further questions, thank you very much, Mr Taylor. I have a few other things, but they are things that can be easily put on notice. We are a bit behind time. Thank you for your attendance this morning.

Short adjournment.

THE ACTING CHAIR (Mr Hargreaves): Mr Delaney, welcome to the Sentence Administration Board segment of this inquiry into annual reports. Are you aware of the content of the blue statement?

Mr Delaney: I did get a copy of that and have read it.

THE ACTING CHAIR: You have read it and you understand it okay?

Mr Delaney: Yes.

THE ACTING CHAIR: Thank you very much for that. I do not think we need to press any further; we may just move straight in. Have you got an opening statement you would like to talk about—about what the year was like?

Mr Delaney: If it is suitable to the committee, I thought I might just outline how the board has been operating. I have been the chair for about 14 or 15 months. Since I have been there, it has been operating in two divisions, in accordance with the act. We operate out of the Magistrates Court building. It was suggested that we could operate from the AMC, but the difficulty there was that about 60 per cent of people who come before the board do so in relation to periodic detention. That would mean that all those people would have to go out to the jail, and that was considered unsatisfactory. So we have continued in the Magistrates Court.

We sit one division each week on a Tuesday. As I mentioned, periodic detention is

about 60 per cent of our work. Parole is about 40 per cent. We are subject to the Human Rights Act, so when we make a decision adverse to the offender we always give them a face-to-face hearing. If we are granting parole on the papers, we do not do that, because it is not an adverse decision.

We are conscious that we are part of the executive; we are not part of the judicial branch. So we are careful to stick to our role of administering sentences imposed by the judiciary in accordance with the act.

We are moving to a paperless approach with IT assistance. At the moment, all the files are delivered to each member in a suitcase, which we bring into the court. Our female members, particularly, have found that it is a little uncomfortable trying to get them up onto the security platform and those sorts of things. So we are anxious to proceed with the IT innovation.

We are expecting three new members in the new year. At the moment we have got two judicial members and three other members. Having regard to the fact that the board sits in two divisions, one member has had to sit each week rather than each fortnight.

In terms of our general approach to parole, we regard it as an earned entitlement, so the detainee has to demonstrate that they have earned parole: that they have behaved themselves in prison and that they are getting something positive from the courses—those sorts of things.

In terms of periodic detention, we try our best to get people to see the whole term through, although in some cases that is not possible, where they just continually breach and do not turn up.

That is the general approach.

THE ACTING CHAIR: I was interested to hear you clearly articulate the separation of powers issue. If my memory serves me correctly, a couple of years ago there was that issue about perception about where the Sentence Administration Board sat in relation to the judiciary. I must record that I am pleased to see that in your articulation. That can be very helpful. Can you talk about the three new members joining in the new year?

Mr Delaney: Yes; I understand that is the case.

THE ACTING CHAIR: What is the total number of members allowed under the act?

Mr Delaney: Eight.

THE ACTING CHAIR: Currently you are functioning with five? Is that right?

Mr Delaney: Yes, that is right.

THE ACTING CHAIR: What is the process of selecting members and what are the qualifications required for members to be part of that board?

Mr Delaney: Judicial members need to be a lawyer qualified to be appointed as a Supreme Court judge.

THE ACTING CHAIR: What are those qualifications? I am not a lawyer, so I do not know.

Mr Delaney: At least five years practice as a lawyer, and otherwise, I suppose, to be of good reputation.

THE ACTING CHAIR: Five years, though, is the big issue.

Mr Delaney: Yes; five years is the essential objective measure. The other members do not need particular qualifications. I would imagine that when the minister appoints ordinary members it is to be representative of the community and that there are factors that are taken into account in relation to such a member.

THE ACTING CHAIR: So it is four and four, is it?

Mr Delaney: No; it is two and three.

THE ACTING CHAIR: Of the five?

Mr Delaney: Of the five present ones, yes.

THE ACTING CHAIR: Does the act say that there should be four judicial members and four community members?

Mr Delaney: No, it does not. There have to be at least two judicial members. There can be one additional judicial member, and the rest are ordinary members.

THE ACTING CHAIR: So one could assume that in a perfect world you will have three judicial members?

Mr Delaney: It has never been that way, I suspect because we operate in the two divisions.

THE ACTING CHAIR: I understand. I am trying to get a bit of a handle on an ideal relationship. Your position as the chair—is that a specific position appointed by the minister? How does that work?

Mr Delaney: Yes; that is an appointment by the minister. They are all appointments by the minister.

THE ACTING CHAIR: Is there a particular qualification required for your position?

Mr Delaney: Only the one I mentioned, that—

THE ACTING CHAIR: For example, does it have to be a judicial member?

Mr Delaney: Yes, it does. The head of each division has to be a judicial member. Whilst we have two divisions, we have just got the two judicial members.

MS HUNTER: I did not have any particular issues to raise with you this morning, but it seems that the number of cases coming before the board is relatively steady?

Mr Delaney: Yes. It has increased a bit in the last 12 months. There has been an increase. It is not huge, and I think it is fair to say that we are probably doing more hearings now than in the past, for the reason I mentioned—that if we are going to make an adverse decision, we really want to have the person there to answer the allegation. If they are not, if they have left the territory, we have a warrant issued; hopefully, if they return to the territory, they are then brought before the board.

THE ACTING CHAIR: One of the things about having our own jail is that we should be able to have a completely different approach to restoration. We have been struggling to come up with performance measures on that principle. It seems to me that one of the performance measures we can use in the short term is the degree or the extent to which your board is feeling comfortable about granting parole, because of the efficacy of the environment and the programs.

Mr Delaney: Yes.

THE ACTING CHAIR: What are you seeing in terms of the applications coming forward? Are you seeing an increase in the applications, an increase in your preparedness to let people have early release—or not?

Mr Delaney: As I say, I have just been there for the 12 months or so.

THE ACTING CHAIR: Yes.

Mr Delaney: We will usually grant parole if the offender can demonstrate that they are trying to improve themselves through cognitive skills courses in the jail, alcohol and drug courses and education courses, and that they are going to do something about employment when they leave the prison. We encourage all those things. If we see it as a genuine attempt, we will grant parole. It is interesting that you mention measures. I think our next step should be to see just what sort of recidivism rate we get out of the parolees that we are granting parole to.

THE ACTING CHAIR: That is where I was heading. I am also interested to know this, not having ever been a member of the board. I think you said something about looking at the whole person approach. You have got information on what programs people have been through, you have got information on their behavioural patterns, and you have got information on the people that they have associated with in the institution.

Mr Delaney: Yes.

THE ACTING CHAIR: All of that is put together and you will then say, “The likelihood of this person being a success is going to be X.” Do you take into account the support services that the person is going to and the avoidance of previous

environments?

Mr Delaney: Yes, we do. A combination is looked at. And association with people who before have tended to offend together. That is quite hard to control, of course. Yes, we do take those factors into account. Also, some of these courses that people commence in jail can be continued in the community, and that is encouraged as well.

THE ACTING CHAIR: Thank you very much for giving us your time and thanks very much for your report. I do not know if people have got other questions they might put on notice to you, but there is a three-week period in which that can all happen. And when Hansard has done the transcript, we will send you a copy of it so that you can see what we have said, what you have said and whether it is an accurate reflection of what you understand to have been said.

Meeting adjourned from 10.03 to 10.23 am.

THE CHAIR: Welcome back to part 2 of the third hearing of the Standing Committee on Justice and Community Safety's inquiry into the annual reports of the justice and community safety portfolio. I welcome Mr John Hinchey, the Victims of Crime Commissioner. You are aware of the privileges card and you understand that?

Mr Hinchey: Yes.

THE CHAIR: Mr Hinchey, do you want to make an opening comment about the annual report?

Mr Hinchey: No, thank you.

THE CHAIR: The victims of crime area has gone through some changes in the last couple of years. Could you outline for the committee how that is bedding down, how the amalgamation of tasks and functions has fitted in and how it relates to the community and to community organisations?

Mr Hinchey: The commissioner's position was established on 28 February 2011. That replaced the Victims of Crime Coordinator position. That was the result of a number of reforms to the Victims of Crime Act. The reforms articulated the commissioner's role to be an advocate for victims of crime, amongst other things. It established a victims advisory board as well. But it would probably be best to just focus on what effect it had on the position of Victims of Crime Commissioner. It also made it clear, with consequential amendments to the victims of crime regulation, that the commissioner had direct responsibility for the administration of the victim services scheme.

The victim services scheme has a range of activities associated with it, and they are set out in the regulation. Part of those functions is to administer the therapeutic part of the victim services scheme, to provide a range of services, to deliver a volunteer program and to deliver a community awareness program. Previously, those functions were ascribed to the chief executive and now Director-General of the Justice and Community Safety Directorate.

The primary function of the commissioner, I think, has not changed substantially. The coordinator had very similar functions which the coordinator inherited more or less from the amalgamation of the victim services scheme, which had been previously contracted by Justice and Community Safety with ACT Health. And the coordinator was a separate statutory officeholder. Those two organisations, you could call them, amalgamated in 2007-08. The victim services scheme, which was the business unit name under ACT Health, moved under the administration of the coordinator, and that organisation became known as Victim Support ACT.

So the changes to the commissioner have not greatly affected the ongoing function of Victim Support ACT. Now that it is clear what the advocacy functions of the commissioner are, that, I suppose, will bring a statutory function to the workers, the staff, of Victim Support ACT, and that is the challenge that has been ongoing.

As far as how it relates to the community is concerned, the chief executive and director-general had previously, through his contract with Health and then after it took direct responsibility for the management of the victim services scheme, always contracted a couple of services under the victim services scheme to a community agency to deliver. Those functions are now the commissioner's responsibility to determine how those services are to be delivered, and currently there is a tender process underway to deliver two of those functions under the victim services scheme.

MS HUNTER: It says in your annual report that that tender process will be completed by the end of 2011. Can you give us an update on where the process is?

Mr Hinchey: I believe the report will be ready for signing or will be finalised either today or next week. Then I would expect letters to go out to the participants and negotiations to continue from there. So this work has been underway for some time and there have been a number of elements that have affected the timing of this. But it is something that I have been paying close attention to and it will be completed before the end of 2011, as forecast.

MS HUNTER: And how many organisations lodged tenders?

Mr Hinchey: I am a little at arm's length from the process, being the delegate. Until that report comes to me, I am not privy to the full details of that process.

THE CHAIR: What exactly has been contracted out to community organisations? How has that drop of work changed over the years? There has been community involvement in victim support for a long time.

Mr Hinchey: Yes.

THE CHAIR: From your statutory point of view, what has changed and what has been necessary to change? What is it that we are actually contracting out at the moment?

Mr Hinchey: In 2000, when the victim services scheme was established, the services that were contracted out by Health were the volunteer program. It is in the regulation. ACT Health, for through one reason or another, had decided that it was best to

contract that particular function to the community. That was the function that was first contracted. That program, the volunteer program, was designed to provide practical assistance to the victims of crime.

Over the years, while that arrangement has changed through different contracts and types of things, the services that were offered have somewhat expanded, depending upon the organisation that was receiving the funds to deliver the service. Now that the service is a direct responsibility of the commissioner—and there are, from memory, under section 22 of the regulation, approximately 12 functions of the commissioner—it is my decision to make on what services I would deliver. Would they be all of those directly or would I continue to contract into the community?

I have gone back to look at those provisions, the tender. What I am looking to contract is the volunteer program and the community awareness program or a program to deliver information to the community. But primarily it is the volunteer program. The terms of that tender are around the delivery of the volunteer program and I want the volunteer program to work very closely with Victim Support ACT case workers so that we are maximising our effort to deliver services to victims and we are coordinating that effort.

MS HUNTER: I notice on page 11 of your annual report, in the outlook for 2011-2012, you talk about, despite gains in efficiencies, case loads remaining unacceptably high, with part-time workers carrying 80 cases and full-time case workers managing case loads of 100 or more, which seems quite extraordinary. Further down you do say that the resolution of the unacceptably high workloads will be a primary objective for the Victims of Crime Commissioner in the coming year. What sorts of strategies are you putting in place to deal with this situation?

Mr Hinchey: The first strategy is to have a look at the front end of the system, when clients come into the system, into our service, referrals. We have changed the way we do our business in that regard. We are taking fewer steps to induct or to assess those cases. We are using more experienced officers to assess those cases at first take and we are case-managing a certain number of those cases at the assessment stage until we make further detailed assessments. So we are trying to manage a few of those cases at the front end. That is resulting in fewer cases going through for more detailed case management.

We are also now looking at reviewing every file that we have, every case, to determine that the individual efforts that we are making as case workers are uniform. So we are trying to get a uniform approach to the delivery of our service.

The service is a mixture of a brokerage model and a direct revision of therapeutic services. We employ health professionals. It is quite unique in that regard. So there is a capacity to look at what we are doing. Are we maximising our resources? Are we doing the best we can? The numbers still remain high, even with that effort. In the last couple of years they seem to have stabilised, although early indications are that we are looking at another five per cent increase.

We will keep taking steps to make sure that every client gets a service. We have just got to be very aware that our resources are limited and we do the best we can. But the

victim services scheme is a scheme that people have a right to access. So it is a bind that I am acutely aware of.

THE CHAIR: On the subject of professionals, which you touched on, in the last paragraph on page 11, you talk about the barriers to attracting approved providers, which would seem to relate to remuneration. How do the fees paid by victim support services to health professionals compare to, say, fees that would be paid in therapy services or something like that? What is the quantum of what we are talking about?

Mr Hinchey: For our clinical psychologists, we are about \$23 an hour behind the market rate. But for other services that we deliver—social work and therapy services, massage, that type of thing—we are a little above the market rate. So we are looking at the number of approved providers. That is concerning me. We are making ongoing efforts to keep those numbers up.

We lost quite a few through a procurement process. Previously there were no contractual arrangements with providers. It was just a service that we sort of referred out. So it is the higher-end qualifications that we seem to have a shortfall on. The Vietnam Veterans Association, I think, pays \$143 an hour to clinical psychologists. We pay \$120. The medical benefit scheme also pays clinical psychologists at a higher rate than we can. So it comes down to the mix of providers. It comes down to the mix of our clients and their needs.

We have in the past kept providers. I think we need to be aware of the market moves and the demands in the open market and keep abreast of those. We increased fees by 20 per cent two years ago, and that has helped, but we need to make further efforts.

THE CHAIR: You said you had a procurement process. Do you have a panel of approved providers in various classifications that you go to?

Mr Hinchey: Yes.

THE CHAIR: And are they guaranteed any particular rate of reference or referral?

Mr Hinchey: They are not guaranteed a rate of reference. They are guaranteed that they are on our books and we send people there who we determine need that type of service.

MS HUNTER: I have a final question about financial assistance for victims and the financial assistance scheme. It is quite strongly put in the annual report that it is very bureaucratic, it is difficult to access and it seems to be very adversarial. You have real concerns that for many it is sort of re-victimising the victim to go through that process and many people do not pursue their entitlement because of the difficulties that the process throws up. You said that you will be advocating for reforms. How do you intend to try to push these reforms?

Mr Hinchey: I would like to see consideration given to moving the scheme out of a court system, a court-based system, into a government assessor model type system where victims do not have to participate in court processes to access the scheme.

These models have been introduced in other jurisdictions. They are administered by victims services themselves, which might beg the question of conflict of interest. But they seem to be working quite well. If you prescribe them properly I think it is a better way of assessing people for access not so much to compensation but repayment of money that they have outlaid as a result of the crime and special payments for very serious matters. When all is said and done, I do not think we should be asking victims to participate in an application process that requires them to deal with lawyers or courts in looking at their application.

THE CHAIR: Could you elaborate more? You have said in your report that Queensland and the Northern Territory have better systems. Could you just elaborate a little more on how you see those systems as being better and how they address the issues of probity? I mean, this is sort of taxpayers' money. How would a different approach ensure transparency, that taxpayers can be satisfied that money is going in the right places?

Mr Hinchey: You would have to prescribe it so that the decisions that are made are very clear as to what the guidelines are. It is a process that should be beneficial for victims. It should be efficient, it should not be relying on prosecutions to make decisions, but it has got to be transparent. I do not want it to cost any more than what the territory is already funding the scheme for.

I am not looking to open a pathway for more victims to get more money, because victims do not want that. They just want a fair result. I think that if we take away the legal process and make it more administrative, victims would have a better opportunity to participate and I think that people administering the scheme would not be bound by the legalities of the court system.

THE CHAIR: I have one other issue in relation to the victims services scheme. We see a large preponderance of police officers in the number of awards by occupation. How does the 16 this year compare with previous years?

Mr Hinchey: While that section of the report is contained within my report, and I must say I am not sure of the history as to why that is the case, I do not prepare that section of the report. Because the scheme is administered by the ACT court system, the courts provide that information to me and I attach it as a third part of the report. The actual recording of information is within the Government's Solicitor's office and the Magistrates Court. With respect, I do not have the information to answer that question.

THE CHAIR: Okay. That sort of goes to your wider narrative about the scheme being a court-based scheme. In a sense, you are reporting on things that you do not have any control over or any real direct supervision of, whereas if there was a reform in the system, then it would come more under the purview of the commissioner—more directly under the purview of the commissioner.

Mr Hinchey: It would. I would expect that to be the case.

THE CHAIR: Anything else, Ms Hunter?

MS HUNTER: No.

THE CHAIR: Thank you very much for attending this morning, Mr Hinchey. Mr McCabe, thank you for your attendance this morning. Are you familiar with the information on the blue card? You were here the other day.

Mr McCabe: Yes.

THE CHAIR: You get two bites of the cherry. You are lucky. Would you like to make any opening comments about your report as the Work Safety Commissioner?

Mr McCabe: Yes, I would. The Work Safety Commissioner report this year is integrated with the WorkSafe ACT report.

THE CHAIR: Which is why I could not find it.

Mr McCabe: Yes, apologies for that. That is because there is a blurred line between the role of the commissioner, in terms of education and advice, and the role of the regulator, WorkSafe ACT. There is a continuum from education right through to strong enforcement and somewhere in the middle there is a blurring. So it is very hard, other than artificially, to distinguish the two activities. That is why we took the decision to integrate the two reports into one.

The other thing I would like to say as an opening statement is that this integration between the two roles has been in place now since May 2010 and I think it is working very well. The feedback I am getting from stakeholders is that they greatly prefer having one person with both hats. It enables the activities of both education and regulation to be properly integrated and to feed off each other. Effective education hopefully reduces the need for enforcement but equally strong enforcement sometimes encourages the desire to be educated, so to speak. So they feed off—

THE CHAIR: The hearts and minds thing.

Mr McCabe: Yes, so they feed off each other. I think that is working very well.

THE CHAIR: There has been a lot of work in the construction area. You note in your report that more than 20 per cent of site visits in the construction industry resulted in the issuing of improvement, prohibition and infringement notices. How does that look in trend terms? Is that an upward trend? Is that a high proportion of notices?

Mr McCabe: The campaign in housing construction commenced in December 2010 and it is ongoing, although it is reducing slightly in volume now. The level of non-compliance that WorkSafe was observing at the beginning of the campaign was much higher than it is now. So the numbers have reduced over time in terms of non-compliance.

But at the same time, we have been getting better at targeting the non-compliant companies. So there are companies or builders that we need to go back to time and time again. The only thing that really works with some builders is going out to their sites and seeing what is happening. Even though there is enforcement action taken,

you can go a month later and there is a high chance something will be happening again. That is a very small number—I guess I would call them rogue builders—but they only respond to a high visibility by WorkSafe in the environment.

That is definitely happening there. I think you can see from the stats that there were somewhere around 800 site visits in the last financial year, which was virtually in a half year. I think there are only about 1,500 new building sites in Canberra per annum. That is quite a high proportion.

There is definitely now a belief in that sector that there is a chance WorkSafe might turn up on a given day. Therefore, I think that compliance is definitely improving. That is the feedback that we are getting. The feedback we are also getting is a request from the industry for us to continue that high presence. That goes back to the factor I was saying. As soon as we take our eye off the ball, there are some rogue builders that will try and bend the rules; so we have to keep in their face.

THE CHAIR: When you are talking about those site visits, are we talking about large-scale commercial construction, are we talking cottage-residential or are we talking across the board?

Mr McCabe: Cottage-residential. This campaign particularly focuses on cottage-residential. There is also a fair degree of activity in commercial construction, but there has been a very big emphasis in the last six months on residential construction. There had not been an emphasis there for some time. I think that is probably why some of the non-compliance has crept up.

THE CHAIR: I would think that there is a higher level of requirement for risk management on large sites.

Mr McCabe: Absolutely. The larger sites, of course, are where some of the bigger accidents can happen. So it is a balance between—both parts of the sector feed off the other because workers will migrate from one to the other. The commercial construction sector gets a lot of its workforce out of residential construction when there is work on and when there is not work on in commercial construction, they drift back into residential. So they play off each other.

MS HUNTER: I have a question arising from that.

THE CHAIR: Yes.

MS HUNTER: There have been some issues raised, and they have been raised publicly I guess by the CFMEU, around the Cotter Dam site. I am wondering if you could give us a bit of a run-down about how many incidents may have occurred and the involvement that you have had, and what the response has been from the consortium who is building it and also from Actew, who are obviously part of that.

Mr McCabe: I do not have the exact statistics with me but certainly WorkSafe has been out to the Cotter Dam many times in the last couple of months. By “many”, I would say over a dozen easily. It has issued a fairly significant number of prohibition notices and improvement notices. So it has been a bit of a problem area for us for

some time.

The response from management to that has been extremely good. They are really trying to shift what appeared to have been a culture that had developed there of—I do not know how I would describe the culture, but non-compliance that crept into that site, anyway. Management have taken a lot of steps to try and change that but you do not turn a culture like that around overnight. So we have maintained a presence out there.

The range of issues that have arisen have varied from issues with cranes through to more minor issues with scaffolding et cetera; so quite a range of different issues. It is, of course, a complex site and it is a very dynamic site. While it might be asked why we are going back so many times, every couple of days something different and new is happening on that site as it progresses. That is the nature of those sites. So the thing that we might be looking at this week would be totally different to what we were looking at a couple of weeks ago simply because the construction phase has moved on into a different phase.

MS HUNTER: Are you just attending the site on a regular basis or are you waiting for an incident or issues to be raised with you?

Mr McCabe: It is a bit of both. Often with sites like this we would wait until we heard there was an issue, but because of the nature of issues that have been arising we tend to make regular visits out there now. Management are supportive of that. We have no push back from management at all in regard to that. As I said, they have been working with us to try and get some of the changes going. But, yes, we are making sure that we are very visible on that site. We will turn up unexpectedly on a fairly regular, or should I say irregular, basis. You do not like to become too predictable.

THE CHAIR: Frequently, but irregular.

Mr McCabe: That is right. That is perfectly right.

THE CHAIR: I suppose what you are saying is that the configuration of the site changes fairly regularly?

Mr McCabe: That is right, and it is the nature of construction that, even in residential construction, they are dynamic environments. They will be doing one thing one week, the next week they will be putting up a roof. There are totally different skills and workers involved as time progresses. So if you go back to a site a month later, something totally different will be happening there. The culture may not have moved a lot—and it is the culture that you are hoping to shift—but the activities will certainly be different.

THE CHAIR: Was the Construction Industry Advisory Group in existence at the time of the collapse of the Barton Highway bridge?

Mr McCabe: That is a good question. It was set up in late 2010, so I do not believe it was. I believe it was after that.

THE CHAIR: So have they had any involvement in looking back at that?

Mr McCabe: No. What we tend to do with the Construction Industry Advisory Group is talk to them about our current work—the things we are finding on sites. We get feedback from that group on things we might look for on sites and ways we might approach issues that we have identified. For example, just recently we were talking to the group about asbestos, because asbestos has been a very topical issue. One of the things that came out from the group was that there were a lot of workers in construction who do not really know what asbestos looks like and would not know if they saw it on the site. We have responded to that very quickly. We have arranged for some seminars for the construction industry where we will talk to them about what it looks like, what its effects are, what the laws say.

It tends to give us that kind of feedback which can then supplement the activities we are doing. It also sometimes helps us redirect or refocus our activities. We might say we are going to have a look at a particular issue. The group might suggest there might be a tighter focus on one particular aspect of that issue that they are aware of. So places like HIA and NBA, for example, are often giving us feedback because their members are disadvantaged by the road builders who will go out there and undercut them by not meeting safety standards. They are only too willing sometimes to tell us about some of the issues that we might expect to find out in the industry.

MS HUNTER: I want to pick up on the asbestos issue. Mrs Dunne referred to the asbestos register in a hearing a number of days ago. I am interested in the development of the asbestos register. I understand it documents all cases of exposure in the ACT. Is that the case? Could you give us a little more background on it?

Mr McCabe: My understanding is there is an asbestos register for government, so government has a register of all sites that have asbestos in them, but there is no register of exposure to asbestos. It is not legislated in the ACT. You could pick it up by going back through all of our site visits where we have become aware of exposure, but it is not a legal requirement to report that kind of exposure and have it added to a register, as it is in some states.

MS HUNTER: Is that something we should be doing here in the ACT?

Mr McCabe: It is really a policy question for government. My limited understanding of what happens in other jurisdictions is that some do it and some do not.

THE CHAIR: There was discussion on this in the Chief Minister's annual reports hearings, and there seems to be some information that is held privately in medical records and things like that. The legislation requires—you can correct me if I am wrong, Mr McCabe—that exposure to asbestos requires that medical records be kept for a very long time, I think something like 40 years. The government requires that they be kept but does not do anything about the maintenance of those records, which strikes me as problematic.

Mr McCabe: Yes, there is no requirement for it to be reported to government, so there is no central register of that information.

THE CHAIR: From an administrative point of view and from your experiences or your knowledge of what happens elsewhere, would it be desirable to have a central point for these things?

Mr McCabe: Hard question to answer. I think the primary reason that such registers are kept is really for workers compensation and liability purposes. So in that sense there might be some value in it, but that value is not going to be shown for 25 or so years after the event. It is questionable as to whether the resource involvement in collecting that information adds to the situation when the disease that might flow from that results in 25 years time. That is why you are keeping the records—so there can be some evidence. Generally, if you are working in an industry where there has clearly been exposure to asbestos and you end up getting mesothelioma, there is a pretty high chance that the courts would accept that that was related to work anyway. It is those kinds of issues that go into whether it is justified or not.

If there was going to be such a register, my belief is that you would get much more value out of it if it was a national register. There is a national review of asbestos being conducted at the moment. It will make some recommendations, presumably, in this area. I am not saying it will recommend that there be one, but it would obviously consider an issue like that. Something may flow from that.

(It being 11 o'clock on 11 November, the committee observed a minute's silence.)

THE CHAIR: They shall grow not old, as we that are left grow old. Age shall not weary them, nor the years condemn. At the going down of the sun and in the morning, we will remember them. Lest we forget.

MS HUNTER: I want to move to a question around the Mitchell fire. Have you determined whether the workers at the Mitchell fire site—the environmental workers—were operating under proper safety standards, especially with the handling of PCB chemicals.

Mr McCabe: Our investigation into that matter is not yet concluded so I am really not in a position to answer that question yet. It is certainly an issue that we will consider in the investigation. It is a complex investigation, as you may imagine, and it is hampered to some extent by the nature of the fire itself and the damage it did to the buildings. But it is really too early days for me to answer that question.

MS HUNTER: How many times did WorkSafe inspect the Mitchell site before the fire?

Mr McCabe: I do not have that information with me. I would be happy to take it on notice. I believe it is in the vicinity of five or so, with the most recent visit being in 2009. Before that I believe it was 2005 and 2006. But they were at the former site, not the current site. There have been no visits to the current site.

MS HUNTER: Are our PCB handling standards best practice, or do you think there is some need for improvement?

Mr McCabe: My understanding is that they are consistent with the national standards.

In that sense, they are as good as any around the country. So best practice in that sense, I would say.

THE CHAIR: I want to touch briefly on the new legislation, the name of which has fallen out of my head—

MS HUNTER: Work health and safety regulations.

THE CHAIR: Work health and safety regulations. I was feeling like a Texas governor there for a moment. Are any revisions of advisory material and existing guidelines necessary as a result of these changes and how geared up are you for the changes?

Mr McCabe: A revision will be necessary. It will largely flow from the regulations that sit below the legislation which have not yet been enacted. Because the new Work Health and Safety Bill is harmonised across the country, all jurisdictions are working together to have a common set of advisory material. We are in some national groups that are working feverishly to try to produce that material in time for 1 January. Rather than develop our own material, we will piggyback off that work, and we are contributing to that work.

MS HUNTER: Because it is harmonised across the country, sometimes there is a concern that the lowest common denominator wins out. Are you concerned that what we have in place in the ACT now will be watered down?

Mr McCabe: No, my personal view is that there will not be any watering down. The language of the new legislation is perhaps more complex than the work safety edict. When you have legislation that has grown out of a process involving eight or more jurisdictions that is probably to be expected. But I do not see it watering down any of our current legislation; I see it strengthening it. It will also strengthen it in the sense that what undermines the current legislation is the differences across borders, particularly in a jurisdiction like ours where we are surrounded by another jurisdiction. That will make our life a lot easier. Instead of having to explain something to someone who is working across borders and who has the New South Wales legislation more dominantly in their head, we will not face that dilemma. So I do not believe there will be any lessening.

THE CHAIR: One final question: table 11 on page 45 has the work safety statistics for site visits. I know we do not have a fishing industry to speak of, but we still have some forestry work and considerable agriculture work. How is it there were no visits in that category?

Mr McCabe: I would have to take that question on notice. They are there; they are at the top.

THE CHAIR: They are at the top, but there are no site visits. Could you, on notice, cast back and see when you last visited the forest? There are still forestry operations here and a range of agricultural operations.

Mr McCabe: Yes, I am happy to take that on notice.

THE CHAIR: Thank you for your time, Mr McCabe.

THE CHAIR: I welcome officers from the Human Rights Commission this morning. Do you understand the contents of the blue privileges card? I will start by referring to something that I perhaps should have noticed before but have not. On page 1 there is reference to the Health Services Commissioner, the Human Rights Commissioner and the Discrimination Commissioner and what they are required to do. But then it says that the Children and Young People Commissioner is encouraged to do a variety of things. I was wondering about the change in terminology. Is that deliberate? Does it actually reflect the provisions in the act or is it just a stylistic thing?

Mr Roy: It reflects the provisions in the act.

THE CHAIR: So that you are—

Mr Roy: I am encouraged—I am not quite sure of the exact word, whether it actually says “to encourage” or “may”, but for the other functions of the Health Services Commissioner and the Human Rights Commissioner, they are required to undertake them.

THE CHAIR: They are a must?

Mr Roy: They are a must.

THE CHAIR: They are a must; okay. It is something I have never picked up before.

Mr Roy: It is a “must undertake”, yes.

THE CHAIR: Yes, thank you. So why is there this difference?

Mr Roy: I honestly do not know. I think I would have to go back and look at the drafting instructions for the act, but those specific sections refer to the Children and Young People Commissioner’s functions with respect to consulting with children and young people. Why it is a “may” rather than a “must” I honestly do not know. It may have something to do with the fact that it is not as easy as it may sound. It would require significant resources to actually undertake that function effectively.

THE CHAIR: That is a perfect segue to resources. I suppose I want to reflect on something that came up in the estimates report that I raised with the Attorney-General recently in one of these hearings. The estimates report had a recommendation that the Human Rights Commission receive appropriate resources to do regular reviews at the AMC. Without having the estimates report, I think that was not agreed by the government or it was noted.

The attorney was discussing the other day that he thought there were other ways of doing it. He referred to perhaps subcontracting a review of the prison system on a regular basis to an outside body. He referred to the West Australian inspectorate of prisons. I was wondering about the views of the commission in relation to the role that the commission believes it has in relation to the prison and the extent to which its

work at the AMC is constrained by resources.

Dr Watchirs: We did recommend in the 2007 audit of the Belconnen remand facility and other adult corrections that the WA inspectorate was the best practice model because of their independence and their review of operations through national and international standards. However, that did not mean that we did not think we should do a comprehensive human rights audit of the AMC. We are given approximately \$50,000 a year. That enables the Health Services Commissioner to take health complaints. I cannot take human rights complaints. I can only take inquiries. We do take discrimination complaints and there have been several. We had 92 inquiries in this financial year. We have—

THE CHAIR: Out at the AMC?

Ms Watchirs: We have oversight agency meetings there but sometimes it is monthly, sometimes two-monthly. When serious issues occur, I have an inspection power to meet with detainees and talk with them about serious incidents that have occurred.

THE CHAIR: So the \$50,000 that you have in your budget covers health complaints. Sorry, and then you said—

Ms Durkin: We get supplementation each year but it is not certain we will get it every year. In relation to the AMC, it is \$50,000. Helen and I basically share that funding. I do have a role to take complaints in relation to health matters at the AMC and we also go out and visit quite regularly. Complaints from the AMC were, 28 written complaints last year and 63 inquiries. That represents 12 per cent of the complaints that now come to me as Health Services Commissioner. So it is gradually building up, yes.

THE CHAIR: For the benefit of the committee, could you actually outline the distinction between a complaint and an inquiry, both for health services and in your bailiwick as well.

Ms Durkin: An inquiry is usually when someone rings up and says that they have a complaint matter. We will then send them out a written form to complete. If they do not come back with a written form, we do not actually pursue the matter. Sometimes we will take oral complaints and we will call them a complaint. So generally we will get people to put something in writing because it helps clarify the issues and identify what sort of outcome people are after.

We do take oral complaints and most particularly from the jail, because if someone rings up and says, “I did not get my methadone this morning,” they are not going to thank us if they get a letter in six weeks’ time saying, “This is why you did not get your methadone this morning.” So if it is in circumstances where something needs to be done straight away, we will pursue it following a phone call.

THE CHAIR: Okay. And Dr Watchirs, you made the distinction between the complaint and a human rights—

Dr Watchirs: Inquiries.

THE CHAIR: inquiry and a discrimination complaint; so could you just elaborate on that?

Dr Watchirs: In relation to complaints, it is fairly clear under the Human Rights Commission Act. It is a written matter that we can take from staff and detainees. Usually they are in the areas of disability and race. We will treat them like any other complaint. We had a recent conciliation, actually, at the AMC. In the past we had done them with staff in the city at our offices.

In relation to inquiries, we do not have a power to take human rights complaints. We do have a power of intervention. We did no interventions in this financial year. There were not sufficient resources, but we do hear from detainees about use of restraints and some allegations of violence. We meet regularly with the Official Visitor and less often with the Ombudsman in relation to those kinds of matters. So they would be systemic matters. If we keep getting repeated complaints, then we will—well, we refer all of them to Corrections for investigation or to the Ombudsman or to the Official Visitor. If we are not satisfied, then we write to them instead.

THE CHAIR: I suppose getting back full circle, while you are supportive of the possible role of the WA inspectorate of prisons coming in on a regular basis, you do not believe that that sort of obviates the need for participation in the human rights commission.

Dr Watchirs: No, I do not believe so.

THE CHAIR: And do you—

Dr Watchirs: In WA they do inspections of every centre every three years; so I imagine that that would be the cycle here. I do not think they have the human rights expertise to be able to say confidently whether the AMC is human rights compliant or not.

THE CHAIR: Okay, thank you.

Dr Watchirs: As we learnt from the Bimberi review, it is practices, not just legislation and buildings.

MS HUNTER: Absolutely. You just mentioned that there are restraints at the AMC. Are you aware of the report that a detainee from the AMC was treated at the PSU and was handcuffed to a bed? Does that raise some concerns?

Ms Durkin: It has not been raised with me, no.

MS HUNTER: That sort of issue would raise some concerns or have you—obviously, you would look into a matter such as that?

Ms Durkin: It is probably best if you talk about that one from a human rights perspective.

Dr Watchirs: Yes, sure. Sorry.

Ms Durkin: I would look into it as a complaint, but Helen has done an analysis around restraint in the previous inquiry.

Dr Watchirs: Yes, certainly we were told about the use of restraints at the Canberra Hospital when we did the BRC audit. In our view it is hard to imagine circumstances where someone would have to be handcuffed to a bed that would not breach the right not to be treated in a degrading manner.

MS HUNTER: Thank you. I wanted to go to the issue of bullying and I was wondering about the number of complaints you might receive in the area of bullying.

Dr Watchirs: We do some training, particularly in respect of the equity and diversity framework. Formally, we did it in conjunction with the commissioner who you just heard from. We hear about employment complaints, although this year numbers have gone down in relation to employment and gone up in the area of goods and services and facilities.

I think it is not squarely within our jurisdiction unless it is under the ground of a protected attribute under the discrimination act such as race, sex, disability, sexuality. So I do not have a clear picture of the incidents but certainly discrimination complaints, bullying, does arise in some of them. It is the 20th anniversary of the Discrimination Act next month and we have drafted a discussion paper for a reform advisory committee. Harassment might be a good part of discrimination to cover offensive behaviour, and particularly in relation to vilification, which is a very high test.

Like New South Wales, it is virtually impossible to get a case through. The federal test is a much lower threshold and more successful. You may be aware of an advice I did on Smithy's mystery. There was a petition lodged with the Legislative Assembly about Chris Smith's giving prizes to people who could guess the number of deaths of asylum seekers on a boat going to Christmas Island. That was played on 2UE in Sydney and 2CC here. In my view, our act is too strict to have covered that.

MS HUNTER: Yes, it is a disgusting incident.

Ms Durkin: Bullying can be a feature of service complaints and generally if the complaint is just about bullying we will refer it off to appropriate authorities. Sometimes we will look into matters if it is raised that bullying is having an impact on a workplace such as affecting the service to clients. But it will just depend on the particular matter as to whether we will look into it or not. I could not give you any data on the number of complaints that have bullying as an element. I would probably say that it has come up in half a dozen of the matters that I have dealt with in the last year in the older people and disability jurisdictions.

MS HUNTER: Because I understand that the Western Australian Equal Opportunity Commission has proposed that it have jurisdiction over bullying complaints and therefore complainants would have access to remedies and so forth. I was just wondering if that was something the Human Rights Commission here was interested

in.

Dr Watchirs: We have discussed it and it is probably, we think, more an occupational health and safety issue. I think the protections would be stronger in terms of inspections and compliance notices. I have some sympathy for the WA proposal but in terms of how small our jurisdiction and resources are, I think it probably would make more sense to go to work safety.

MS HUNTER: Thank you.

THE CHAIR: I turn to the Bimberi review, a matter close to my heart. First of all, there was a month's delay or thereabouts between the passage of the resolution in the Legislative Assembly and the attorney writing to the commission in relation to that and directing the commission to undertake that review. Do you have any understanding of what was involved in that month that may have caused that delay? Knowing that there was a resolution, had you actually started work before you were formally directed to do so?

Mr Roy: In terms of why the delay, no, I do not have any insight into that. But certainly you are quite correct. If I remember, it was 8 December that the Legislative Assembly passed the resolution and it was in early January that we received the letter from the Attorney-General. Certainly within that time we were aware that we had to report by 30 June; so we certainly got right into it. We did not actively recruit people into positions until early January, partly because it was the Christmas period, but also because there was uncertainty when the advice would be received. From the moment we knew about it, we began.

THE CHAIR: Were there discussions in that time between your officers and JACS or the Community Services Directorate about resourcing and things like that?

Mr Roy: I certainly had discussions with—we certainly had discussions with the directorate. Whether it was in that time, I would have to go back and check my diary but I could not answer that now.

THE CHAIR: So when did you—I suppose there was a date when you—

Mr Roy: There must have been, yes.

THE CHAIR: When both Dr Watchirs and Mr Roy went out to Bimberi and sort of kicked this off formally. That was later but when did you sort of have people on the ground, people in seats and—

Mr Roy: Again, I would have to check the exact date. I think it was the first week of January. Probably even prior to receiving the advice, we had some of the people in the building. So it must have been prior to that but I had discussions with the directorate because I do recall having a discussion with the directorate advising them of the structure of the team we were putting together.

THE CHAIR: Can you refresh my memory; you had a team of how many people?

Mr Roy: Five people.

THE CHAIR: Five full-time people?

Mr Roy: No, only one was full time. I am just trying to make sure I get this right. There were five. All were at the same level; all were at SOG B level. Three came internally; so there was one person who worked three days, one person who worked three days and then four days initially. One person worked five days. One worked three or two. I can get back to you with the exact details.

THE CHAIR: So they were all at the SOG B level.

Mr Roy: Yes.

THE CHAIR: So you did not have any clerical support—

Mr Roy: No.

THE CHAIR: Because there was a lot of paper involved.

Mr Roy: There was a stack load of paper involved in it. No, we did not have clerical support, no.

THE CHAIR: Okay. Do you think that the month's delay between the Assembly resolution and the direction from the minister impacted on the reporting, because you did have to delay your reporting?

Mr Roy: Yes and no. It certainly assisted in having certainty in terms of what we had been required to do and time certainly was ticking. We were aware that we had a very short time frame for quite a significant task. In some ways if we had been given certainty earlier, it might have assisted but it was the Christmas period as well. So in terms of actually getting people into positions, it probably would have been quite difficult. I think we actually did quite well getting the team together by early January, given how long it normally takes to recruit people into those sorts of positions.

THE CHAIR: And how did you select people for that? Presumably you did not go out and advertise.

Mr Roy: Three came from inside the commission already, so there were three people already employed within the commission who were moved to the team. Then those positions were backfilled. And two came externally; in essence, they were headhunted.

THE CHAIR: Moving on from the setting up, I have seen correspondence from you, Mr Roy, in response to the government's response to the Bimberi review, where you have essentially questioned the extent to which the government is agreeing with your recommendations. I have seen that correspondence, but I was wondering whether it might be useful to give you an opportunity to put on the record your concerns about the government response.

MS HUNTER: From that correspondence, which I have received as well, it appears

that what you are intending to do is critique the government's response to the report. I am quite interested in that and when that will be available.

Mr Roy: I will address the first part of the question first. Yes, we do have some concerns about the government's response. We feel in part that recommendations have been misunderstood, possibly misrepresented, not implemented or, in terms of what the government say they are going to do in terms of implementing, not quite what we had in mind when we made a particular recommendation. As Ms Hunter said, we are going through all the recommendations one by one, all 224 of them, and in essence we will be providing a response to each individual recommendation. We will be writing back to government, and also to you and Ms Hunter, recommendation by recommendation, saying that we recommended X, the government has said Y and that is good, or that we recommended X, the government said Y and they missed the point or that is not what we meant.

THE CHAIR: In doing a critique like that, it is quite possible that you will say, "You really missed the point, and that is bad" or "In responding to that recommendation in this way, you have brought other expertise, thinking or something to it that may be an adornment to the recommendation."

Mr Roy: Absolutely.

THE CHAIR: So you are not being unremittingly critical.

Mr Roy: No, not at all. The government recommended a figure of I think about 136 that they have accepted in principle. Certainly there are some recommendations where we are quite happy with how the government have responded and it looks as though they have implemented the full intent of the recommendation. I suppose one aspect we are concerned about is that the report is quite large, as you know, and it is very detailed. We made a lot of effort to ensure that the recommendations were based on evidence; it is an evidence-based report.

We make recommendations for good reason, and some of the recommendations we think have shifted focus. We want to talk a bit more about why there has been a shift in focus—whether the shift in focus is based on evidence we were not aware of at the time. But you are quite right: there were many recommendations where they said they would do something that was different from what we recommended but that will achieve the same purpose. That is fine. But if it does not achieve the same purpose, and they have misrepresented or misunderstood what we wanted to achieve by the recommendation, I would have some concerns about that.

THE CHAIR: I want to go to one of the things about the government response. I do not particularly want to verbal anyone, because I do not have it in front of me, but there was a general tenor that there is a substantial job of work to reform youth justice. No-one doubts this. There was a turn of phrase that, on reflection, I found a little uncomfortable where it seemed that the government was essentially saying, "This is a job of work that is going to take us 10 years." I am a little concerned about that. I am just wondering what your view is about being so explicit about how long they think it is going to take. I suppose my concern is this. That is a very long time frame; therefore there is a risk of saying not to worry about it too much if we are not making

much progress here, because the time frame is so long. Do you have a concern about that long time frame?

Mr Roy: Yes; 10 years is a very long time. There are a lot of recommendations, some of which will take longer than others to implement. But I must admit that 10 years did strike me as a bit long.

Dr Watchirs: In relation to some recommendations, such as justice reinvestment, that is not surprising; it would take 10 years. In terms of human rights recommendations, that would be unacceptable. But most of them have been priority action, so some have been completed.

THE CHAIR: You would have to start on a lot of these things to achieve something in 10 years time, which is almost a generation change. You cannot put it off.

MS HUNTER: You cannot put it off for 10 years.

Dr Watchirs: I think a big issue about the 84 agreed in principle and noted 29 recommendations is that they are very grey. With some of them there are disputes about the facts. For example, the Royal Commission into Aboriginal Deaths in Custody recommended adjoining rooms for Indigenous young people; we found it had never been used. The government has said that it is always available, but it does not show the true picture of it never having been used.

Mr Roy: There are some recommendations where the response has come back and said, “This is what happens”, when in some of those circumstances we have written evidence that it is not the case. We want to talk a bit more about whether we missed something, but I do not think we did because we were very comprehensive. Certainly the situation may have changed since we did the recommendation—

THE CHAIR: Which could be good or bad—

Mr Roy: which could be good or bad. Certainly if it has changed for the better that is great, but again some of the recommendations are about embedding that behaviour into the centre so that it does not slide back into those sorts of behaviours again. So again it may not be good enough to say, “We do not do that anymore.” You need policies and procedures around asking government, “Why did you do it in the first place?”

MS HUNTER: When the government came out with its response, the headline was that, of all of these recommendations, there were only six that were not agreed. What you seem to be indicating is that, once you have completed this piece of work, that may not necessarily be a view you would agree with.

Mr Roy: We have to finalise the work before we can provide our figures, but largely what we are doing at the moment is breaking down the preliminary results that are in front of me here in terms of those recommendations where we think the government’s response contradicts our findings, those which we think have been refused without adequate reason, recommendations which have been misinterpreted, and recommendations which received a confusing or inadequate response.

Coming back to your question, Mrs Dunne, there are also a lot of recommendations which are awaiting decision on action. As you would be aware, the government's response talks about the blueprint for youth justice. There is also the information management process within Bimberi. There are a lot of recommendations which are being tied into the outcome of that process. Again the proof will be in the pudding in terms of whether the recommendation is implemented as a result of that process.

MS HUNTER: What is your understanding about the change management process and how that is being undertaken? Do you have any understanding?

Mr Roy: I do not have any huge understanding of it. I am aware of who is involved in it and I am aware of what they are looking at and what the government's response is. I am aware of it, certainly. We have had some discussions with them about what they are trying to achieve, but in terms of its detail I am not sure at the moment.

MS HUNTER: Who is involved in it?

Mr Roy: I understand that Danny O'Neill was one of the leaders of that review.

THE CHAIR: In a way it is quite unusual. When someone conducts a review they present the review and say, "Here is my review." I have not encountered an experience where the reviewers come back and critique the response. It is novel; it is challenging. I do not think it is a necessarily bad thing, but how do you see it? The commissioner has not taken the approach of saying, "We have written it, we have done it and it is now somebody else's job." How do you see your ongoing involvement, attachment or oversight? It is a very interesting approach and it creates a very dynamic—

MS HUNTER: I welcome the approach. It was a significant inquiry; there are significant reforms to be made and so forth. And I think there is a lot of goodwill in all of this process. But to ensure that we are not back here in seven or eight years time, or an even shorter or even longer time, because it did not all get done, and did not get the proper resourcing, support and so forth—we do not want to be in that position.

Mr Roy: We remain involved for a range of reasons. The report went to the Legislative Assembly rather than to a department, so it is, I guess, more of a bipartisan view, hopefully, of what is happening. The recommendations, and hopefully the outcomes of the recommendations, relate specifically to our functions in terms of providing, in a sense, oversight and improving service delivery for young people within Bimberi and the broader youth justice system not only in terms of service delivery but also from a human rights perspective.

In the report we use the term "embedding". We talk about embedding the solution in the community. By "community" we mean the broader stakeholder. We are a stakeholder. In chapters 3 and 4, and certainly throughout some of the other chapters, we talk about engaging the stakeholders in a meaningful dialogue so that all players who are relevant to young people in the youth justice system in Bimberi and in fact even earlier—all players who are involved with children and young people and vulnerable families—are involved in designing the solution.

Agencies are a part of the problem to some extent and agencies want to be part of the solution. We are one of those agencies, so we wanted to be part of the solution. We are holding a forum on 23 November, which both of you have been invited to, for that exact purpose—that we will see members of the Assembly and/or their advisers being stakeholders in this. We want to get as many people around the table as possible. This is a complex issue: how do we solve this? And it is not as simple as saying: “There you go. Off you go and fix it.”

MS HUNTER: How will that lead into the formal processes that are being set up? There is a task force. I guess my concern with the task force is that most directorates are represented and it has three or four community members. My concern is that there needs to be more expertise in that particular task force if that is the arrangement going forward. Of course another model is linking it with expertise and ensuring it gets into the process or linking with, as you say, the critical stakeholders. How is your work going to be linking in with it?

Mr Roy: As someone said, the answer to that is dependent on what the task force and the government want to do in terms of consulting with the stakeholders. We are only one player and we are a reasonably small player given the resources we have got. There is absolutely no capacity, without additional resources, for us to monitor the implementation of this in any meaningful way.

One of the purposes of the task force is to get stakeholders together to say: “If you do want to be involved in the task force, here’s the task force, here are the stakeholders. Let’s start talking and get the dialogue going.” Certainly the task force has a range of people on it. Many of those are expert in their own areas, but there are many stakeholders who have informed views. We think that the task force should be speaking to those people.

Dr Watchirs: Can I just add in relation to monitoring the implementation that we did the 2005 audit of the Quamby facility. Although we did monitor it in some way, we are not resourced to keep monitoring it to that extent. There was a change in relation to strip searching. There was less strip searching in Bimberi compared to Quamby facilities and much improved and more programs, but in my view there has been more use of force and restraints, which is a concern. We found out about that basically by talking to stakeholders.

MS HUNTER: That was a concerning issue that came up in the report. Are you satisfied with the government response to that?

Mr Roy: To that particular recommendation?

MS HUNTER: Yes.

Dr Watchirs: We are going through the process of analysing it, but in my view when they say “agree in principle” that is saying they are only half implementing it. So, yes, there are remaining concerns.

Mr Roy: It is also worth saying that the government response looks good if you read

it independently. If you pick it up and read it, you would think, “Oh, this looks good; we’re doing things.” That is certainly the case in many areas. If you read it in conjunction with the detail or the intent of the report—and I am not quite sure many people have actually read the report in such detail—it may not be as good as it looks.

THE CHAIR: That in itself is a job of work. I can vouch for that.

Mr Roy: Absolutely, yes, it is a 1.3-kilogram report. That is another reason why we want to be involved in the implementation, because we know the report in great detail. We know the youth justice system and Bimberi very well now. We did before but we know it even better now. We want to have that knowledge and steer and guide what the task force, with all good intention, are doing. But the task force, again, are not experts in youth justice. They are certainly experts in their own area. We want to get as many people who are expert or informed in youth justice to feed into this process as possible to keep it going.

Dr Watchirs: That was part of the reason why the commission was keen to do the work. If you compare the Gallop report, the judge does it as a one-off and then it is up to the public service to implement it. In this we had done work previously. We needed more resources to actually do a full inquiry and then we needed resources to monitor it effectively.

THE CHAIR: Have you quantified that—the resources to monitor on an ongoing basis?

Mr Roy: We have written seeking additional resources. We have asked for two more positions, but not all of that will be put towards monitoring it. Part of that would be doing other human rights training et cetera.

MS HUNTER: I note also in your report that you talk about an increasing number of complaints coming in as well and a limited capacity to properly respond to those complaints. Have you also sought resources to be able to respond to that?

Mr Roy: I am answering this as the corporate commission rather than the Children and Young People Commissioner taking the floor, but we put in a couple of budget enhancement proposals through JACS, one of which seeks significant additional resources to bring us back to baseline funding.

THE CHAIR: What is the time line—I do not know whether I asked you this before, and forgive me if I have—for your critique?

Mr Roy: The person who is working on the critique is a part-time officer of mine who works Monday to Wednesday. She will be back on to it come Monday. I would hope that we would get it late next week or early the week after. It is a significant piece of work.

MS HUNTER: So it might be—

THE CHAIR: A birthday present for the—

MS HUNTER: I was thinking more of it being available at the forum. Is that something that you would make available at the forum to discuss?

Mr Roy: We are hoping to.

MS HUNTER: That is what I assumed. We do look forward to seeing that.

THE CHAIR: As there is nothing further, thank you very much for your attendance this morning. There will be a transcript, as usual. If there are questions on notice that arise out of this, members have five days to get them to the secretary and you will have three working weeks to respond after that. Thank you very much.

The committee adjourned at 11.43 am.