



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2017-2018](#))

Members:

**MRS G JONES (Chair)
MS B CODY (Deputy Chair)
MR M PETTERSSON**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 7 NOVEMBER 2018

**Secretary to the committee:
Mr A Snedden (Ph: 620 50199)**

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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Privilege statement

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

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Amended 20 May 2013

The committee met at 2.00 pm.

Appearances:

Ramsay, Mr Gordon, Attorney-General, Minister for the Arts and Cultural Events, Minister for Building Quality Improvement, Minister for Business and Regulatory Services and Minister for Seniors and Veterans

Justice and Community Safety Directorate

Playford, Ms Alison, Director-General

Glenn, Mr Richard, Deputy Director-General, Justice

Pryce, Mr David, Deputy Director-General, Community Safety

Greenland, Ms Karen, Deputy Executive Director, Legislation Policy and Programs

Ng, Mr Daniel, Acting Deputy Executive Director, Legislation, Policy and Programs

Leece, Ms Kristin, Acting Chief Solicitor, ACT Government Solicitor

Kellow, Mr Philip, Principal Registrar, ACT Courts and Tribunal

Gambling and Racing Commission

Snowden, Mr David, Chief Executive Officer

Chief Minister, Treasury and Economic Development Directorate

Essau, Mr Lloyd, Director Major Projects, Infrastructure Finance

THE CHAIR: Good afternoon, everyone, and welcome. I declare open this session of the first day of public hearings of the Standing Committee on Justice and Community Safety on the 2017-18 annual reports. On behalf of the committee, I thank the Minister for Business and Regulatory Services, Mr Ramsay MLA, and accompanying officials from the directorate and from the ACT Gambling and Racing Commission for attending today.

I remind witnesses that the proceedings are recorded by Hansard for transcription purposes and are being webstreamed and broadcast live. Before starting questions I have a number of overall administrative matters to highlight. Firstly, answers to questions taken on notice should be provided to the committee office within 10 business days after receipt of the uncorrected proof *Hansard*, day one being the first business day after the *Hansard* is sent to the ministers by the committee office.

All non-executive members may lodge questions on notice, which should be received by the committee office within five business days after the uncorrected proof *Hansard* is circulated, day one being the first business day after the *Hansard* is sent to ministers by the committee office. Responses to questions on notice should be provided to the committee office within 10 business days of receipt of the question, day one being the first business day after the question is sent to ministers and equivalents by the committee office.

It is noted that the time frames for responses to questions taken on notice and questions on notice have been determined by the JACS committee for this inquiry into

referred annual reports.

I also remind witnesses of the protections and obligations entailed by parliamentary privilege. I draw your attention to the privileges statement on the table in front of you. These are important. Can you confirm that you understand the privileges and implications of the statement?

Mr Ramsay: Yes.

THE CHAIR: We will now go to questions.

MR PARTON: I would like to start by talking about the Neville Stevens report. Can you talk me through the process involved? How was Neville Stevens appointed? Did he go looking for us? Did we go looking for him?

Ms Playford: My recollection is that the government asked us and we talked with them about people who might have a good understanding of the ACT clubs sector and be suitable people, in terms of their background, to undertake a report. There were a number of people on the list. I recall that we approached a number of people about potential availability because we were wanting to do the report within a particular time frame. Mr Stevens was on that list. We went progressively through that list and Mr Stevens was available. We subsequently talked to him about the requirements and knowledge and he was then procured through a contract arrangement.

MR PARTON: Ms Playford, are you able to explain how he came to be on that list? Was there a brainstorming session?

Ms Playford: My recollection is that there was a brainstorming session and a list was produced of people who fell into the category of former public servants who may be around and who may know something about our local community. There was a list of people and there were approaches. Some of those people were otherwise employed with commonwealth or ACT agencies or not available. I recall that it was in the middle of the year and at least one or two were on European vacations. So that is sort of the process.

MR PARTON: Did Mr Stevens come with any recommendations from industry, from the clubs sector, and, if so, who?

Ms Playford: I would have to check. The minister's adviser, I think, provided the directorate with a number of suggestions. They may have discussed those suggestions at a meeting, but I am not sure.

MR PARTON: I do not know if it is possible to throw to the minister. The suggestion is that there was a list of names. Was there a brainstorming session or did the list of names come from the minister?

Ms Playford: There was brainstorming which included the minister's office, and some names came as part of that brainstorming. Some names came from the directorate; some came from the minister's office.

MR PARTON: I guess some names were ruled out for various reasons. I saw some document somewhere about this process. Was having a prior relationship with directors from some clubs considered a conflict of interest in this selection process?

Ms Playford: Certainly as part of our brainstorming we were conscious of the fact that we had to make sure there were no conflicts of interest. That was a question that was asked of people—whether they thought there were any conflicts of interest.

MR PARTON: And you were satisfied, obviously, in this process that there was no conflict of interest.

Ms Playford: Yes. That is my recollection.

MR PARTON: What involvement did the directorate or the commission have with the formulation of what is known the Neville Stevens report? What I am trying to get a sense of is how much input did Mr Stevens get from the directorate or the commission?

Ms Playford: The directorate provided Neville Stevens with secretariat support, essentially—attended meetings, wrote notes, assisted him through that process.

MR PARTON: But this is the Neville Stevens report.

Ms Playford: Yes.

MR PARTON: It is not the commission or the directorate's report?

Ms Playford: No.

MR PARTON: It is the Stevens report?

Ms Playford: Yes, and it definitely was not the commission. It was the directorate who provided secretariat support to him in the work that he did.

MR PARTON: Can I get an understanding of why Mr Stevens has been re-engaged by the commission? My understanding in the first instance was that it was just going to be to provide a report. Did I misunderstand that?

Mr Ramsay: The original work was the production of the report. One of the key things was to ensure that the government received the advice. One of the core ways of operating for Mr Stevens was individual meetings with the clubs to listen very closely across the clubs sector.

What became clear as part of that was the knowledge, standing and reputation Mr Stevens developed with the clubs, with a strong sense of trust. Going through the process of what will be six significant transition times, but also helping the clubs work through what might be their best ways of moving into that transition time, the government formed the view that it would be helpful to have someone with that strong level of trust to continue to work with the clubs to help with their applications to government about the movement from 5,000 to 4,000 gaming machine

authorisations.

MR PARTON: Minister, with respect, you and I must be speaking to different people—and it is actually well documented that we are speaking to different people—because that is not the feedback I am getting. The feedback I am getting is that, in the re-engagement, most of the questions being asked of Mr Stevens are being taken on notice. There is not a deep understanding and certainly that trust is not there. So I am surprised to have you sit here and say that.

Mr Ramsay: I think you and I probably differ on a number of areas in this area of both policy and ongoing reform. But within that I think you can still imagine that, for someone who is working with clubs through a complex piece of reform, it may well not be that any person would have the knowledge off the top of their head. I do not think taking a question on notice and doing some further investigation in what is a substantive and complex area demonstrates anything other than good faith.

MR PARTON: I can think of a club which has enormous trust in Mr Stevens, but I am not going to mention them here. I think you will know which one I am talking about.

Mr Ramsay: I think you will find there are a substantial number of clubs across the club industry, and that is certainly the feedback we have received.

MS CODY: I have a follow-up from Mr Parton's questions. How is the government going to ensure that small community organisations are not going to be disadvantaged by the community contribution scheme, seeing as we are going down that path?

Mr Ng: There are several tranches to the government's approach to the gaming reforms that are currently on foot. One of them is the incentive package that is currently available for clubs to access in terms of their surrender of gaming machine authorisations. I can take the committee through those. Small and medium clubs will be eligible for \$12,000 of cash, and large clubs will have available to them offsets for land-related fees and charges at a rate of \$15,000 per authorisation. Small and medium clubs will have the ability to take up a higher rate of incentive. They will be able to access \$25,000 per authorisation in the offsets space.

MS CODY: How will we make sure that small organisations are not disadvantaged? There was a bit of talk in the lead-up to the reforms being announced, and Mr Parton was mentioning some of the reforms in the Neville Stevens report. Does the government have a way of ensuring that small community organisations are not going to be disadvantaged?

Mr Ng: I think your question relates to the community contribution scheme. In that scheme I think what the government is committed to is to not reduce the eight per cent of contributions that clubs currently have available to them to distribute within the categories prescribed under the legislation, so that amount is not reducing. On top of that, the government has proposed to increase the contribution rate. Particularly in relation to small organisations, there will be in place an additional 0.4 per cent that is allocated to the Chief Minister's travel fund. That fund is aimed at providing access to funding for the types of small community organisations that I think you are talking

about.

Mr Ramsay: And one of the other things is that the small and medium clubs are exempted from the restrictions on the in-kind donations because of the close relationship that exists between the clubs and community groups. So there are a range of things, both in terms of the legislation that I introduced last week and in the previous reforms, that are seeking to ensure support for small and medium clubs, which are in many ways small organisations by definition. There have already been tax rebates focused on small and medium clubs. Community grants have been made available to the small and medium clubs. Those \$10,000 grants have a number of policy drivers behind them. One is to help the clubs themselves in the ongoing sustainability and diversification of their work. The way that some of those grants have already been used is for upgrading the equipment or the facilities of the clubs, which are then, in turn, used by the community organisations themselves. So it is a—

THE CHAIR: Thank you, Mr Ramsay. We have got to be aware that we have only 15 minutes left and three more members to get through. I think Ms Cody had an actual substantive question. I do not mean any offence at all.

MS CODY: With the community contribution scheme, for every dollar that goes into a poker machine, a percentage of that goes back to the community. For every dollar you spend at the casino, where does that money go?

Mr Snowden: The difference between the casino and the clubs is that the clubs model is based on community clubs; the casino is a private business model. The casino, of its own volition, makes a contribution to the community contribution scheme of \$50,000 per annum.

MS CODY: So you do not necessarily keep track of how much profit they make on their card games, their spinning wheels and—

Mr Snowden: It is reported. They are a public company, so that information is absolutely reported annually in their annual reports.

MS CODY: What about for every dollar you spend, say, on betting on a horse? We had the Melbourne Cup yesterday.

Mr Snowden: Tabcorp contributes to the community contribution scheme the same amount: \$50,000 per annum.

MS CODY: Of the total community contributions, do we have a breakdown of how much money goes towards men's sporting activities and women's sporting activities?

Mr Snowden: Yes, we do. The vast majority of it goes towards men's sporting activity. I do not think I have got the exact number here in relation to women.

THE CHAIR: Would you like to take that on notice?

Mr Snowden: I am happy to take that number on notice and provide that detail to you.

MS CODY: That would be great, thank you.

MR PETTERSSON: What has compliance with the greyhound racing ban been like?

Mr Snowden: Access Canberra, on behalf of the Gambling and Racing Commission, undertook a number of inspections post the implementation of the ban. They were done in coordination with the transport and city services directorate, as a lot of the regulatory impact fell within their domain. We undertook in the order of 25 inspections over a two-week period. We found that the Canberra Greyhound Racing Club was fully compliant on each of those inspections in relation to the requirements that the Gambling and Racing Commission administered.

MR PETTERSSON: Is there a regular scheduling of inspections, or is it based on reports?

Mr Snowden: No. We undertook those inspections on a proactive basis. They were quite targeted and were coordinated with the Canberra Greyhound Racing Club. There were no surprises during that period of time. We had a very cooperative relationship with them around their obligations in complying with the law.

MS LE COUTEUR: Thank you. Can you give us an overview of the topics that have been discussed at the recent harm reduction round tables?

Mr Ng: A range of reforms were discussed at the recent harm minimisation round table. They involved, and most primarily related to, proposed amendments to the code of practice with which gaming machine licensees are required to comply. A lot of those things were the kinds of harm minimisation proposals that are under consideration by government. One of the significant things under consideration—and I can talk the committee through the process from here after this—is a consideration of whether a gambling behaviour checklist is legislated in the code of practice.

Those reforms are about identifying objectively quantifiable instances where people are going through gambling harm, and giving consideration to whether we can legislate for a required response from the licensee when they observe behaviours in a certain space. There is some academic literature that sits behind some of these things. A range of behaviours are considered by academics and relevant people in the field to be indicators that someone is suffering from gambling harm. There is a proposed model whereby a licensee could identify those. When you put a few of them together it might indicate that someone is suffering severe gambling harm.

THE CHAIR: Are you able to take on notice providing the committee with some information about the indicators that you are looking at?

Mr Ng: Yes, absolutely. We are happy to do that.

MR PARTON: I have them here. They are things like “Tries obsessively to win on one machine or rushes from one machine to another”, “Stays on to gamble when friends leave venue”, “Gets cash out on two or more occasions through an ATM or EFTPOS”, “Avoids contact or conversation with others”, “Poor hygiene or decline in personal grooming”, “Dirty or unchanged clothes”, “Messy or greasy hair”, “Does not

answer mobile phone”. These are the things we are talking about in terms of the signs of gambling harm?

Mr Ng: That is right, yes. One might consider that some of those might be hard to objectively quantify, but some of the feedback and the writings on this indicate that people who frequent clubs to access gaming machines often have a relationship with the staff, so while those things might not be readily apparent to people who see them for the first time, when staff have ongoing relationships with members at their clubs those things are more readily accessible.

Mr Ramsay: That is building on a lot of work that the commission has been doing over a number of years.

Mr Snowden: The signs of gambling harm that have been put together here—and I think it is a list from the in-venue support kits that we provided to all clubs last year, following Gambling Harm Awareness Week—are built on the research of Professor Paul Delfabbro from the University of Adelaide. He conducted quite a bit of research around this over a period of time and identified 50 to 52 key observable signs in relation to what might constitute low-level to very strong signs of gambling harm in a particular venue. We have put this in this form to help club staff identify where some of their patrons may be exhibiting some of these signs, so that they can record them in an incident register. They have a proactive obligation under their licence to do this.

MR PARTON: My understanding is that there is one club group in particular which has been attempting to follow these to the letter and that, as a consequence, the level of gambling incident reports has multiplied by 50; it has gone through the roof. Would that line up with your information?

Mr Snowden: I cannot speak on behalf of the club that you have got the information from, Mr Parton, but I can provide the committee with some details in relation to what we are seeing on incident reporting and—

THE CHAIR: On the incident reporting, can we finish Ms Le Couteur’s main question and then come back to it? That will give you a few minutes anyway to collate what you want to say.

Mr Ramsay: I was actually going to draw out a connection there. At the round table looking at issues of harm minimisation, one of the key substantive pieces of work that we were doing was about the level of training for staff and for board members. That was—

THE CHAIR: I would really like to get to the second half of Ms Le Couteur’s question.

Mr Ramsay: a substantive piece of work. As staff are thinking through what they have as their obligations, the discussion across industry, across all the members at the round table was about what sort of training may be helpful for the staff, the governance bodies and the boards themselves.

MS LE COUTEUR: I was interested in some other things discussed—specifically

bet limits, mandatory precommitment, the maximum amount of money you could load on a machine at one time, the maximum amount you could win as a jackpot, the maximum amount of time you can spend playing on a machine, and losses disguised as wins. I am putting those all together in one question because I am not confident I am going to get another question. Were any or all of those discussed at the round table?

Mr Ramsay: At the round table we were looking through a range of other areas. All of those were not discussed in detail at the round table; they were matters we said we would look at in further areas. The key areas of the round table were around the training of staff, the training of the board, issues of self-exclusion, how we may be able to have a more coordinated approach across the clubs for people when they self-exclude from a venue or whether there is the potential for them to self-exclude from a part of a venue rather than the whole of the venue. We thought that was an important part as well so that people can still maintain those social connections that happen with clubs without having to completely exclude themselves but can put in some self-protective mechanisms for reducing the impact of gambling harm.

MR PARTON: In regard to the signs of gambling harm and what I gather will be new requirements for gambling incident reports, I think we can all agree that the gambling incident reports will increase dramatically under this system, yes?

Mr Snowden: Mr Parton, they are not new requirements; they are continuing obligations of licensees. We have identified that not all clubs were fully conversant with the signs of gambling harm. So as a part of our ongoing research and engagement, as a part of our public health approach to raising awareness around gambling harm, and given the important role that clubs play in protecting their patrons from gambling harm, this list has been put together to assist them in knowing the signs, when to record particular signs and when to actively respond to that by having a gambling contact officer talk to a patron.

The list is to provide them with some assistance in relation to contacting a gambling support service if they so require or just checking on them to make sure they are okay, but reporting that incident so that the commission can actually see there is an ongoing level of engagement. That is a requirement under the code of practice for all licensees.

MR PARTON: Two separate club staff—one quite senior and one not—from different clubs suggested to me that under these signs of gambling harm guidelines on a Friday night you could do a gambling incident report for every single patron in the club because you could find two items from this—

MS CODY: I am not sure that is 100 per cent correct—every single patron in the club?

MR PARTON: “Avoids contact or conversation with others.” “Does not answer mobile phone.” There are two—bang.

MS CODY: Every single person in the club? That is a big call.

MR PARTON: Well, that is the feedback I was getting from people in club land. My

biggest concern was that this would create such a regulatory burden that people would be running around spending all of their time filling out a thousand gambling incident reports in a month and not actually doing what they should be doing in terms of looking out for people in the way that they have up until now.

Mr Snowden: As you can see from the way the signs are set out, there is an escalated pathway. It is not that they should be recording every sign, but they need to know their patrons. Of course, as it moves through the descriptors around the behaviour of the patrons then more of an obligation is placed upon them to actually record them.

MR PARTON: Is it a breach of people's privacy to record them in that way? I understand that the clubs that are doing it now are doing so on the basis of the card being swiped through the gaming machine. So they are taking note of who the person is—they get \$20 out to have a punt and then they get \$30 out to have dinner and that is a gambling incident report. It is like FBI-style surveillance; those people are not aware of the fact that a report is being sent to the minister's office about them.

Mr Ramsay: Can you clarify what you said at the end there? A report being sent to where?

MR PARTON: Well, the information can end up in your office, can't it? Because it goes to the website—

Mr Snowden: It goes into a secure online site that is administered by the Gambling and Racing Commission. It is an online database and it does come to us. That is exactly right, and there are protections around how it is administered.

MR PARTON: Is it an invasion of privacy?

Mr Snowden: It is a requirement under the code of practice that they record signs of gambling harm.

MS CODY: Talking about the kits, have you had any results come back on clubs and staff that have been finding them useful?

Mr Snowden: Thanks for the question, Ms Cody.

THE CHAIR: Not that we would want to suggest that you answer in any way.

Mr Snowden: In general, yes. The kits have been very informative; they have been very helpful. I get around to a lot of the clubs, of course, and it is pleasing to see that a lot of the material we have provided to the clubs is on display in very prominent positions.

THE CHAIR: The information that is collected in this online database, what is done with it at present?

Mr Snowden: We are having a look to see what the level of reporting is across the industry.

THE CHAIR: So you are looking at which clubs are doing it better than others?

Mr Snowden: We are looking at the level of reporting at this particular point in time. And it accords with the public health approach. The greater the level of awareness—

THE CHAIR: No, I am fine with the collection of it; I am just wondering what exactly happens with the data. Is the person's name associated with the data at the collection point maintained throughout the system?

Mr Snowden: It is maintained within the system, but can I just say that it is not the norm that a name is actually recorded in the incident register. There are normal descriptions—

THE CHAIR: Is it like a patron number or something?

Mr Snowden: Different clubs record incidents in a different way, and this is one of the ongoing pieces of work we need to do with the clubs in terms of getting a level of consistency.

THE CHAIR: What is your preferred outcome—that the name is there or that the ID number of the patron is there?

Mr Snowden: So long as the regulator has sufficient information to be able to identify that the club has carried out their obligations under the code of practice, we would be satisfied with that.

THE CHAIR: We will draw this section to a close and move on. Let us get started on the general approaches of the department.

MR HANSON: On the national redress scheme, page 35 of the report talks about estimates of applications of 830 cases and says that 226 of those would relate to ACT government institutions. Can you confirm those figures? With the 226 against ACT government institutions, obviously cognisant of any sensitivities, what institutions are we talking about?

Mr Glenn: In the establishment of the redress scheme the commonwealth and state and territory governments did a body of work around trying to get an assessment of the likely numbers of applicants under the scheme. Some modelling was done as to the numbers that would be coming through for each jurisdiction, and 226 was the number for ACT institutions. To my recollection, the types of institutions we are talking about could be related to education institutions or other places of interaction with children between government bodies. Ms Greenland probably has a deeper knowledge.

Ms Greenland: The types of institutions could be educational, as Mr Glenn said, and also other institutions which would have caring responsibilities for children, including government agencies that might be responsible for the placement of children in care. Actuarial work was done to come up with that estimate. I am not aware of whether there is a more granular estimate of how that might be distributed across those sorts of entities.

THE CHAIR: Is that 226 separate institutions or 226 expected claims?

Ms Greenland: Claims; that is right.

MR HANSON: When you looked at those figures I assume that you identified those agencies where this might have occurred. You are confident, therefore, that you have all the policies in place to make sure that that is not going to happen again? Are you doing anything proactive to try to make sure that people who may be able to avail themselves of the redress scheme are aware of its existence?

Ms Greenland: Yes. We have a website which provides information about the operation of the redress scheme and how people in the ACT can access the scheme. That provides a direct link to the website of the scheme operator, which is the commonwealth Department of Social Services.

We are providing information to agencies which have responsibilities for providing children's services that will assist them to put in place the sorts of measures that would prevent this type of thing happening in the future. Quite a significant piece of work is being done through other directorates, such as community services, and in conjunction with the Chief Minister's directorate in engaging with a range of government and non-government organisations to put in place child safe standards. Those things will all feed into supporting the prevention of this type of thing in the future.

THE CHAIR: I wonder if on notice you could detail the actions that have been taken, to give confidence to those who are engaged in the redress program that these things will not happen again.

Ms Greenland: Yes, certainly.

Mr Ramsay: Obviously part of that, too, is the legislative reform work, the reportable conduct scheme. There have been a number of pieces of legislation around court processes as well.

THE CHAIR: I do not mind if those are included in the summary of what has been done.

Mr Ramsay: They are across the spectrum.

MR HANSON: In the narrative for discussions to date there has not been much about ACT government institutions. Mostly they have been about schools which are not government schools and about church-based organisations. I must say I was quite taken by the fact that we are anticipating that number of people from ACT government institutions.

Mr Ramsay: That is one of the reasons I was so pleased that the ACT government took the position to be one of the very early jurisdictions to opt in to the national redress scheme. Obviously opting in is part of the accepting of responsibility for things that may have happened under the oversight of the ACT government or that

were the moral and legal responsibility of the ACT government in the past. So the very fact that we opted in is part of the acknowledgement of that work, as well as other institutions opting in.

MS CODY: Minister, what is being done to make justice more accessible to complainants and victims from lower socio-economic backgrounds and from culturally and linguistically diverse backgrounds?

Ms Greenland: In terms of the redress scheme?

MS CODY: No, just in terms of our justice and complainants system.

Mr Glenn: A range of measures have been taken around vulnerable people generally and their capacity to access the justice system. They span arrangements within Legal Aid for access to support and the community legal sector. Work is going on across directorates and courts in relation to the provision of translation and interpreting services so that people are able to have their matters dealt with with the assistance of translators.

A range of justice system reforms in a legislative capacity are about making the courts more accessible and streamlined in the way people deal with them. That would apply to everybody, but it has a greater effect on people with particular vulnerabilities. A range of measures are there, and I think each one of those drills into a larger complex of reforms.

Ms Playford: I will add to that. We rely very heavily on our community legal sector. The government provides support to the community legal sector, which often has much more direct access to those particular groups. The government has supported Legal Aid with a range of initiatives they have rolled out, particularly for people from a diverse range of cultural backgrounds.

MS CODY: I will be asking Legal Aid as well, but I just wanted to know from a government perspective.

Ms Playford: The government has done things like provide additional funding for positions in those sorts of areas. In particular, the ongoing funding of Street Law in the community legal sector has been an initiative for homeless people.

Mr Ramsay: Another area is the funding, through Legal Aid, of the Seniors Rights Service. That has been a key one, noting the growing trend across Australia of elder abuse. That support has been really key in this particular budget to ensure that our vulnerable seniors in Canberra are able to access the legal support they need. But the key thing about that particular project is that it is not limited to legal support.

The OPALS project is able to connect people to support services other than legal services. One of the things with elder abuse is that, whereas a lawyer may be able to see that it has legal issues, for many people it is often not necessarily seen as something that has legal issues. It comes out in other ways—it is a relational dynamic. That has also been the case with the partnership now occurring with Anglicare's work with Street Law.

THE CHAIR: Holistic responses.

Mr Ramsay: Yes. Again, the evidence was that young people, especially young vulnerable females, are more likely to talk about their issues with their GP than with a lawyer. So being able to provide that partnership to get the legal support in alongside the healthcare services is a really key one that we have to follow through as well.

Ms Playford: I should also mention, of course, that our new court facilities provide much greater capacity for non-government sector agencies to have a presence at the court. From talking to people from Prisoners Aid I know that they are certainly very happy with the new space they have and the greater level of engagement it allows them to have with potential clients.

THE CHAIR: I am sure we will come back to the new courts precinct after the break.

MR PETTERSSON: On that topic, what work is being done to progress an alcohol and drug court?

Ms Playford: There has been ongoing work. Since we last met at the budget estimates hearing, where I think we talked about this topic in a bit of detail, there has been some—

MR HANSON: I think a lack of detail is the problem.

Mr Ramsay: I think that is harsh. There is plenty of detail—

THE CHAIR: We are not here to pat each other on the back, Mr Ramsay.

Mr Ramsay: Nor are we here to take pot shots for the sake of it.

MR HANSON: I don't know; the transcript is here in front of me.

THE CHAIR: I don't know, Mr Ramsay. Sometimes they are not just for the sake of it. Sometimes they are for the sake of getting something up and running.

Ms Playford: There have been some additional workshops, particularly with the drug and alcohol sector, that have helped to shape how the service might be provided. Options are considered, as all policy proposals are, through the government's normal budget processes.

THE CHAIR: Ms Playford, is there a time line yet on when this new system will be up and running: the drug and alcohol court open for business, operating and dealing with people directly?

Mr Ramsay: The government is committed to having it operational within this term.

THE CHAIR: So we will certainly be seeing the ribbon cutting before the next election. That is what you are saying, Mr Ramsay?

Mr Ramsay: We are working through the next stage of the development on the policy and practical side of things, as well as through the budget processes.

THE CHAIR: So that is the time line.

MR HANSON: Restorative justice is discussed on page 39—

Mr Ramsay: Restorative justice sits in the portfolio responsibilities of Minister Rattenbury.

MR HANSON: You do not deal with it at all?

Mr Ramsay: I work with restorative cities and have the lead in work on the development of Canberra's restorative city—

MR HANSON: Then I will leave it at that. Let us talk about the victims charter of rights.

Mr Ramsay: Same minister.

MR HANSON: You are going to give that to him as well, are you?

Ms Playford: The minister for justice has responsibility.

MR HANSON: Okay. Can we go to the courts?

MS CODY: I have a question.

THE CHAIR: Hang on a minute. I want to ask—this is similar, in a way, to Ms Cody's question—about the disability justice strategy, which goes to people with intellectual or social disability. It states on page 37 of the report:

... work was progressed on developing a Disability Justice Strategy for the ACT
... When finalised, the Strategy will seek to ensure that people with disabilities have equal access to the law and equal treatment before the law.

I am the mother of somebody with a developmental difficulty and I can imagine that there would be plenty of people in the community who would have great concerns that, when people who have social or other developmental issues have to deal with the law, they could be misunderstood or end up in a place where they do not need to be. I wonder if you could give us some more detail on the progress of the strategy.

Mr Glenn: The strategy is continuing to be developed. We are working with the Community Services Directorate to flesh out that strategy and provide advice to government on it. It is being developed so as to complement the victims charter work and work with the Victims of Crime Commissioner but also to look at the front-line services that are available to enable people with disability to better interact with the justice system if they need to do so.

THE CHAIR: At this early stage, what difficulties are you working on resolving?

What have been identified as difficulties?

Mr Glenn: There is the classic range of difficulties that people with disability have in interacting with any form of government, depending on the nature of their disability. For people with cognitive disabilities the type of information that is presented to them and the manner in which it is presented can cause difficulties. There are people who need additional supports to better articulate their needs, be that because of a cognitive disability or because of some other challenge in their manner of expression and interaction with people.

THE CHAIR: Which stakeholders are being engaged in this process at the moment, or have we not got up to that stage yet?

Mr Glenn: There is a reference group comprising key stakeholders from across justice agencies and disability groups. There are synergies with work such as the youth blueprint for justice. I do not have—

THE CHAIR: Would you like to take that on notice?

Mr Glenn: Yes, I can take that on notice.

Mr Ramsay: Chair, the lead work in the development of the disability justice strategy sits under Minister Stephen-Smith, as Minister for Disability, supported by JACS.

THE CHAIR: All of these combinations are no doubt very helpful, but they are not helpful for us when we sit here.

Ms Playford: In the budget there was funding provided for an officer in our directorate and an officer in the Community Services Directorate. So we are doing it as a joint initiative. But Minister Stephen-Smith—

THE CHAIR: Take that on notice. I am sure you will be able to come back to me with something reasonable about who is being engaged.

Mr Glenn: If I may, I will just add that there was also funding provided in the 2018-19 budget for the continuation of Canberra Community Law's associated legal practice, which deals with particular—

THE CHAIR: I understand there was some work from the Law Week event, as well, involved in this process.

Mr Glenn: Building on Ms Cody's question, that is a practical front-line example of the type of work that can emerge from the strategy.

THE CHAIR: When do you expect a draft strategy to be available? What is the time frame you are working in?

Ms Playford: I understand that it is intended that advice be provided to government towards the end of this year. Then it will be a matter for government. There may be some initiatives in a package like that that one would expect to go through normal

budget processes.

THE CHAIR: So we can hope to see something delivered, again, before the next election?

Mr Ramsay: Yes.

THE CHAIR: More ribbon cutting for Minister Ramsay and Ms Stephen-Smith. There we go.

MS CODY: Minister, I have a question that sits on page 59 of the annual report, which I found very interesting and very arbitrary. Table 4, performance indicators, shows revenue saved of approximately \$22 million, \$20 million and then \$2 million. That is a big drop. Can someone explain why that drop is so large?

Ms Playford: We have someone here from the Government Solicitor. Peter Garrison is on leave at the moment and Kristin Leece is currently the acting Chief Solicitor.

Ms Leece: As I understood the question, it concerns the difference in revenue saved. Is that correct?

MS CODY: That is correct, because it is substantial. I was not sure if there was a typo.

Ms Leece: I am not aware that there was a typo. These results are all audited. They are not just generated by the office; they are checked by the Auditor-General's office. We look at what can be the maximum claimed that might result from a claim or something like that and then we look at the actual result. That means they tend to be very cyclical. It depends literally on the nature of the matters that are on. They are not necessarily a continual thing, as you can imagine.

MS CODY: So it can vastly differ?

Ms Leece: Correct. I have often looked back at previous years, and they will go up and down. You could just have one very large claim, where we had a good outcome and it is a significant saving in that year, whereas in another year you might not have any claims of that nature. Does that answer the question?

MS CODY: Yes. That is fabulous.

THE CHAIR: So it is a saving on prediction basically?

Ms Leece: It is not just predictions; there will generally be an actual claim. You look at what is being claimed; if you like, what might be the contingent liability to the territory. It will not necessarily be what they are claiming if we think it is quite an ambit claim. I could give you some more detail on that if you would like.

MS CODY: Yes, that would be great.

Ms Leece: It is basically looking at what we think will be the outcome—that is, what we, the territory, are concerned about—and here is the actual outcome.

Ms Playford: And there is diversity each year, depending on the time frames of court matters et cetera—when they settle and when we get the revenue in. It is lumpy is the answer.

Ms Leece: It is very lumpy.

THE CHAIR: I can see that. Lumpy in the millions.

Ms Leece: Yes. It is that difference between the claim and what we actually pay. We have an internal process, so there is some checking of that internally. Then, as I said, all our performance indicators are something the Auditor-General looks at.

MR PETTERSSON: What changes have been made to address the issues the Ellis defence raises for victims seeking compensation?

Mr Ramsay: The Ellis defence was highlighted in the royal commission, with the complexities around not-for-profit organisations and specifically, in the case of the Ellis defence, the Catholic Church. The structures of that not-for-profit organisation do not necessarily lend a great avenue to legal claims. In the particular case with the Ellis defence, because of the passage of time and a change of archbishops and archdiocese, there were a number of reasons why there was no-one to sue, even though there was a substantiated claim.

We are working closely with other jurisdictions in this area and we have been able to introduce what is called proper defendant legislation. Proper defendant legislation means that a not-for-profit organisation such as the Catholic Church or any other church can nominate a particular body that can be sued as the proper defendant. A number of church organisations and other organisations are reordering their affairs to make it easier for them to be sued. That is one of the key things to hear as part of that—that is, that there is, across not-for-profit and faith-based organisations, some real organisation that is taking place which is accepting the responsibility that has come. We certainly welcome that, and the first part of the proper defendant legislation enables that to occur.

The second part of the proper defendant legislation is that if that does not occur through the willingness of the organisation, the court is able to nominate a defendant that can be sued and can follow through. That means if there is a substantiated claim it can now be followed through by that claimant. Not-for-profit organisations are often asset rich but not income rich, and claiming against assets is one of the ways to make sure claimants have that sense of financial compensation.

That obviously does not rebuild someone's life completely by any means. But what we have noticed across Australia, and which was highlighted by the royal commission, is the importance of being able to accept responsibility and at least drop the legal barriers. Part of the work in responding to the royal commission and with the redress scheme and other things is making the legal barriers that have been there as low as possible so that people are able to access the finances.

THE CHAIR: And have we implemented—

MR PETTERSSON: I have one more supplementary, sorry.

THE CHAIR: No, just a minute, Mr Pettersson. I run this committee, and I have a supplementary too.

MR PETTERSSON: Yes, but you have jumped in on every question I have asked, straightaway.

THE CHAIR: Mr Pettersson.

MR PETTERSSON: Every time I have asked a question, you have jumped straight in.

THE CHAIR: Thank you, Mr Pettersson. On that question—

MR PETTERSSON: How does that redress scheme—

THE CHAIR: No, Mr Pettersson. My ruling as the chair is that you will wait a moment because I have a supplementary to your question which is quite important. And you will wait. You will wait.

MR PETTERSSON: Okay.

THE CHAIR: Mr Ramsay, has that legislation been implemented here yet?

Mr Ramsay: Yes.

THE CHAIR: Thank you. Mr Pettersson.

MR PETTERSSON: All right, thank you. How does our redress scheme compare to other states, particularly in relation to inmates in jail?

Mr Ramsay: The redress scheme is a national scheme. We have opted in to the national redress scheme, which sets up overall rules for all of the jurisdictions. We were one of the first jurisdictions to opt in, and we are now very pleased that all state and territory jurisdictions have opted in, as well as a number of other institutions. In some places there have been questions about people who are either currently in jail or people who have committed particular levels of criminal activity themselves, and the scheme enables people to be excluded from the scheme.

One of the things I am pleased to note that the Council of Attorneys-General agreed to was providing the local Attorney-General the right to be able to feed into the scheme administrator so that people who would otherwise be excluded from the scheme would not necessarily be excluded from the scheme. I have made clear the position of the ACT government that all victims are victims; all survivors are survivors. You do not get two tiers of survivor—a survivor who has had a good life and a survivor who has had a not so good life. So when I am asked to provide an opinion to the scheme administrator as to whether anyone should be excluded from the scheme because of their own criminal behaviour or because they are in jail, my advice to the scheme

administrator will be that they should not be excluded from the scheme.

Hearing suspended from 2.58 to 3.16 pm.

THE CHAIR: We will continue consideration of the JACS portfolio area of justice services, dealing with courts and tribunals. The additional magistrate is dealt with on page 19. The priorities of the directorate include “supporting the efficient operation of the justice system by appointing an additional magistrate”. The Chief Magistrate stated immediately and bluntly that one magistrate is not enough to meet demand. We are dealing also, on the other side of the JACS portfolio, with a prison that is increasingly full and a number of remandees waiting for justice, and so on. I am sure you understand the importance of it. Why do we only appoint one magistrate? What was the reason for that decision?

Mr Ramsay: The key reason was that the modelling that was presented to government was that the addition of one magistrate would make a significant impact. I understand the Chief Magistrate has advocated for further resources, and I continue to work with the Chief Magistrate on that as well. In fact, I met with her just over a week ago to look at the overall resourcing of the court. That is part of the aim behind not only the change in retirement age, which we worked on together across the Assembly, but also part-time magistrates, increasing flexibility as to the workload on the bench, and the work styles on the bench. There have been a number of other areas—

THE CHAIR: That would impact on the case load capacity.

Mr Ramsay: There are a range of things. It is a matter of looking at it all together. In terms of the funding for the ninth magistrate, one of the things we did with the eighth magistrate was to look at the funding for legal aid for the DPP as well. It is always a matter of looking at the whole of the justice system and not just the courts themselves. And we will continue to look at not only the financial resourcing of the courts but also the structure—

THE CHAIR: So you are not against—

Mr Ramsay: With a growing city, we will always be looking at the justice system that we have. As part of that, there is a responsibility for government to ensure that the resources we do invest in justice are used in the most efficient and effective way. I am continuing to work with the Chief Magistrate, the Chief Justice and the courts on that.

THE CHAIR: Mr Ramsay, at the beginning of your statement you said that there was modelling that you based your decision upon. Can that modelling be provided on notice to the committee? It does not need to be published.

Ms Playford: Yes. We will have to take it on notice, because it was done for the judiciary.

Mr Kellow: The modelling was done in conjunction with each head of jurisdiction, so I think we need to discuss it with them.

THE CHAIR: But you will see what you can do.

Mr Kellow: Yes.

THE CHAIR: Thank you very much.

MS CODY: Minister, I want to talk about the Bevington workflow review and where that is up to.

Mr Kellow: The Bevington workflow review was a review looking at the workflow processes in two areas of the court registry. One was the protection unit and one was the bail office. They are very time critical and very busy, and the consequences of doing things right are very important. I think it would be fair to say that the main outcome of the review for both offices was to make better use of the technology that will be provided by the case management system. It is already in operation in the protection unit. It will be rolled out shortly for the criminal jurisdiction, which will impact on the bail office. That will include the e-bench functionality, which will allow magistrates to record more things in court, so in real time.

We have found, somewhat counterintuitively, that in the protection unit trying to streamline some of those processes by using technology just became more labour intensive for the registry. So we are having to work through ways of formatting court documents in an electronic form. It sounds a bit trite, but the stumbling block has been coming up with a quick and easy way to stamp and sign court documents in an electronic environment. We have, just in the last couple of weeks, developed a little application that will help the registry do that. We are hoping that that will then streamline those processes.

It is a very iterative process where we are just working through the recommendations of the review. It is also looking at the overall policies and procedures in registry. Some have been maintained very well, others less so. We have just commenced what I think will be a fairly long-term project where we will revisit all those documented procedures across all aspects of the work.

We are just going through a prioritisation project now. I want to do it within our internal resources. I do not want it defined by a project where we are under pressure to do it in two months, three months or whatever. We will really make it business as usual. We will instigate that and then target some small areas and see how we go. Then we will feed that into the case management system as well, to the extent that we can, to try to automate and reduce risks and workload in that way. It will be a long process. As I have said to many people, trying to get the physical space right in terms of the new court's facility, and the technology right, is in a way the starting line to really start trying to make the most of the opportunities that these new facilities provide and to come up with new ways of doing our business.

MR PETTERSSON: What new services are available in the updated court facilities?

Mr Kellow: There are a number of elements in the new building. One is just the direct amenities: the size and space and the use of natural light. We have a cafe again. We

have more interview rooms and spaces for the practitioners to use. We have an expansion in the number and amenity of the remote witness suites. We are now up to seven remote witness rooms in the building, with space for families and other support people to accompany the vulnerable witnesses. We have courtrooms, hearing rooms and some meeting spaces fully equipped with AV technology. We have secured some software from another jurisdiction as to how we can start looking at running trials electronically. The associate judge has carriage of that. We are looking at identifying some cases to start that with early next year. We have been engaging with the profession, and with the DPP and Legal Aid, around moving into that space. As I mentioned before, getting the facility is enabling us to work out some innovative ways of bringing real benefits to the community and the justice system.

MR PETTERSSON: I am in no way an expert in the capacity of these facilities, but seven remote witness spaces—how many did you have before?

Mr Kellow: Three, so we have more than doubled the capacity.

Ms Playford: The other significant change is that we now have five jury courtrooms. Before we had three. That enables, particularly in the case management style of intensive listening, a larger number of matters to be heard simultaneously. And the facilities for juries are much upgraded and provide much better amenity for those people. And the comfort level, the kitchen and toilet facilities—

THE CHAIR: I think the committee will be most interested to come and see the new facilities.

Ms Playford: I am sure we could arrange for the committee to have a formal tour, if the committee would like that.

MS CODY: You mentioned electronic trials. What sorts of matters would you be looking to do via video link or audio link?

Mr Kellow: We are trying to move from often copious binders of hard copy material into a digital environment that we can now manage and display in the courtrooms. The ACT has not had much experience with that. The Eastman trial has been run electronically, using fairly high-end product through a commercial provider. What we are looking at is something simpler that we can support within our own resources.

The jurisdictions that have really used it in a big way are the federal courts and the commercial courts in big centres like Melbourne and Sydney. We are looking at how Queensland, in particular, have developed some technology tools to do that. We have been piloting in a number of criminal trials the use of electronic photo books. It is really an extension of that. We are trying to develop some platforms and business processes around that so that we can ensure that it is fair to all the parties, so that it does not depend on how well resourced you are as to whether you can access it. So we want fairly simple, off-the-shelf products.

MR HANSON: Is that ICMS, or is that something different?

Mr Kellow: No, ICMS is really a case management system. The Western Australian

courts have started to build modules based on ICMS, and one of those is an electronic court file. That is something we will look at, but we are three or four years away from that. In the meantime we are looking at what some of the other courts have done with pretty much the same software that is supported in the ACT government. The one we are looking at in particular at the moment uses the SharePoint application—

MR HANSON: But is ICMS rolled out?

Mr Kellow: No, it is still in the process. So—

MR HANSON: What is the delay? Previously the annual report said that the final stage was due for release in a staged uptake from 2018.

Mr Kellow: It has been delayed now. It has been pushed into early next year. That has really been the complexity of getting the system—the third stage has all the interfaces with the justice agencies and ACT Policing, and the bank for payment of fees. We ran into a whole lot of technical issues about how that interface works in the ACT environment. One of the critical ones was the interface with ACT Policing, which is outside the act.gov network.

MR HANSON: What is the full delay on this now? Because when—

MS CODY: Mr Hanson, I am not sure that Mr Kellow had finished answering my question before you jumped in about ICMS.

MR HANSON: My apologies.

Mr Kellow: We were talking about electronic trials. The aim is to pilot it and to do that in criminal and civil matters. We will identify suitable cases to pilot it. We have negotiated access to some software from Queensland. We will learn from that. It may be ideal or it may be less than ideal for us, but we need to make a start and we have got the commitment of the judiciary to give it a go.

MS CODY: Excellent.

MR HANSON: So ICMS was promised some years ago now and we are still delayed. What impact has that had on the courts? I assume people were expecting that this would have rolled out a number of years ago?

Mr Kellow: I think it has had no direct impact other than the frustration of not having the system when we would have liked it. We still have the existing case management system, which does its job, but it is not—

MR HANSON: Let me give you an example of impact, potentially. For about seven years now we have been talking in this committee about the failure of, or the inability for, JACS to track what offences occur on bail. The promise has been, “Well, don’t worry because when ICMS comes in then we’ll be able to do that.” So we are still in a position where we cannot track in the ACT offences committed on bail to gather any useful statistics about the performance of bail within the ACT.

Mr Kellow: That is true. The delay in ICMS has delayed our capacity to respond to that request.

MR HANSON: So there are some impacts beyond frustration, then?

Mr Kellow: Yes.

MR HANSON: A critical component of our understanding of the justice system is understanding what offences are committed on bail. We have been assured in this committee repeatedly: “Don’t worry about it. We’re not going to do it manually because we’ve got ICMS coming.” So you have not bothered to do anything manually for over a decade because ICMS has been the solution. And now we hear ICMS is delayed again. When opposition members and others want to understand what is happening with bail and the way it is implemented in the ACT for yet another year we just simply do not know the answer to that. Frustrating is the word.

Mr Kellow: Well, yes, I—

MR HANSON: Well, it does have an impact.

Mr Kellow: Yes, I accept that.

THE CHAIR: I wonder if the minister would take on notice when we will have this system up and running. Since I was elected we have been asking this same question, and that is getting up to quite a few years.

Mr Ramsay: My advice is that we are looking to have it up and running in early 2019.

MR HANSON: It is the same answer every committee.

THE CHAIR: We certainly hope and pray that we get there because it will be very good.

MR HANSON: Page 164 of the report relates to strategic objective 2, safe community, and strategic indicator 2, crime-related community safety. The indicator for offences against the person was up 31 per cent in 2015-16, and in 2016-17 by 19 per cent. They are very significant increases. Can you expand on that?

Ms Playford: Our understanding is that bulk of those relate to the increased reporting we are seeing of family violence matters. Through the initiatives that have been rolled out by the government in relation to family violence we are seeing many more of those matters going through the court system. So that is the bulk of that. There may be some things at the margins, but that is the bulk of the reason.

MR HANSON: On notice can you break down that increase of 31 per cent and 19 per cent and how much is attributed to family and domestic violence and what is “other” so that I can get a bit of an understanding of that?

Ms Playford: Yes.

MR HANSON: It had been trending down and then it has gone up. If that is the reason—an increase in reporting—that is fine, but I want to see what it means when you take that out of it.

Ms Playford: We will attempt do that. As far as I am aware, that would be possible.

MR HANSON: I hope it does not rely on ICMS to do that.

Ms Playford: I do not want to make any promises I cannot keep with data.

MR HANSON: That would be very prudent.

Ms Playford: But I will attempt to provide that information.

Mr Glenn: Mr Hanson, can I clarify the years you are looking at across those figures? Was it 2015-16 and 2016-17?

MR HANSON: In table 41 you can see that it is minus 6.7 in 2013-14, minus 6.5 in 2014-15 and then there is a massive increase of plus 31.

Mr Glenn: And a subsequent decrease in 2017-18. So just to focus the effort on—

MR HANSON: That is right—those two years and then we have a drop again. It is an odd bubble, is it not? When statistics bounce around like that it makes me wonder why. If it was an increase in domestic and family violence reporting, has that stopped and, if so, why? Is it that everybody that was reporting has reported?

THE CHAIR: There have certainly been discussions in this committee about what we hope will happen with those numbers as individual issues are dealt with.

Ms Playford: Certainly the advice I have had from the Coordinator-General for Family Safety is that at least on some of the indicators we are starting to see a plateauing of the numbers. Certainly a range of different data sources showed a spike in those two years which related to increased reporting. And the non-government sector also reported those spikes.

Mr Ramsay: That is not dissimilar to matters we have heard in and around the royal commission as well—there are often spikes that happen.

THE CHAIR: As there is a conversation in the community.

Mr Ramsay: Yes, that is right. We certainly encourage the reporting as those conversations happen to be able to work with—

THE CHAIR: Yes, I guess only time will tell whether the reporting means we clear up a whole bunch of matters in the community and then go to a lower level or whether it is ongoing. We will certainly find that out, I am sure.

Mr Ramsay, would you like to give us some more information about the latest deadlines for completion of the new court facilities and perhaps some of the reasons

for the delay? I think the legal profession and the community would love to see the final ribbon cutting.

Mr Essau: Obviously you are aware that stage 1 of the project was completed. We moved into that on 15 October and commenced operations in the new building. Six of the new courts and the jury facilities and new chambers are all up and operational, along with the main entry.

That was some 10½ months late, compared to the original projected date in the contract, and the reasons for that are multiple. Laing O'Rourke lost a lot of time in the early stage of the contract in the excavation work and the structure and were not able to recover that time. Those difficulties that Laing O'Rourke have been unable to overcome have been complicated by market conditions. But, generally speaking, we are comfortable now that we have broken the back of that stage of the project and are—

THE CHAIR: Is that related to the adjacent buildings?

Mr Essau: The adjacency was a complication. The adjacency of the Magistrates Court and the Supreme Court were—

THE CHAIR: We certainly do not want them falling down while we are busy building—

Mr Essau: There was never a risk of that. There were some noise transmission issues we had to deal with and a lot of work had to be scheduled out of hours during that period. Those have been complications but, thankfully, we have had a lot of cooperation from both the Chief Magistrate and the Chief Justice and—

THE CHAIR: Yes, I am sure everybody wants to get it done. When are the facade panels expected to be installed? We do not have a flammability issue, do we?

Mr Essau: No, we do not. The very attractive thermal insulation you can see at the moment will not be there for too much longer. There are obviously some difficulties there because those hoods, as we call them, are directly outside each of the courtrooms and we can only work on those out of hours. This week the contractor has managed to negotiate with ACT roads and with their subcontractors to commence night work on those areas, and they have assured us that they will have those complete at the end of November.

THE CHAIR: Are penalties paid for this late end point? Is that part of the contract?

Mr Essau: No, not those particular aspects. There were obviously substantial penalties not levied by the government. We simply do not start paying for the facility until we can use it. But we took the decision at the end of September-early October that the absence of those panels did not prevent us from occupying and using the facility and it was in our best interest to go forward and do that.

THE CHAIR: Indeed. That has been proven at the women's and children's hospital.

MS CODY: I have a question about ACAT and the Magistrates Court. Obviously ACAT was originally conceived as a way of trying to keep some matters out of the Magistrates Court to unblock the system. From the latest figures we seem to be getting slower at getting things out of ACAT than out of the Magistrates Court.

Ms Playford: What page are you on?

MS CODY: I am on page 163.

Mr Kellow: The main issue ACAT has had is that a number of cases were waiting for a test case on appeal to be finalised. It did take some time. I had written down the number and I do not have it at my fingertips, but it was a substantive number. In fairly small jurisdictions that can interfere with the figures. That was the primary reason. That case has now gone through and the backlog of cases related to those issues in dispute has been resolved in light of that.

MS CODY: So we would expect to see a decrease in the median days of sitting in ACAT?

Mr Kellow: Yes. We are replacing this indicator from this year on; we are moving to a timeliness standard set in an international framework, one of the global measures. The target will be to finalise a certain percentage of cases within a 12-month period. So in future annual reports we will be measuring against that.

The median can fluctuate, as do averages, particularly in small jurisdictions where outliers can distort the figures a fair bit. That is what has happened in this case. We had a significant bundle of old cases and so it moves the median up, but, in fact, most cases are still going through at a reasonable pace.

The other challenge for ACAT is that it has fairly busy areas of jurisdictions which never have a final resolution. Its mental health and guardianship jurisdictions can have a number of hearings and orders made in the course of helping to manage the circumstances of individuals. That is quite appropriate, but it is a hard one to try to measure in a clear-cut way. There is no end point with those sorts of cases; some of them will go on for the life of the people involved.

MR PETERSSON: What is the recruitment process for a director of public prosecutions?

Ms Playford: I have the precise details of the process. Actually, I was involved in the recruitment process. We engaged the services of an executive recruitment firm to ensure that we received a wide range of applications. Advertisements seeking expressions of interest for the position were published in the press. And the Attorney, I recall, wrote to a number of organisations—law societies and bar associations, primarily—and his colleagues, the other attorneys in other states and territories, to make them aware that the position would be available. There was a panel convened by me, the Victorian DPP and a deputy secretary from the commonwealth Attorney-General's Department, which, with the assistance of the recruitment firm, has recruited and is in the process of finalising advice to government.

MR PETTERSSON: Any hint of time lines?

Ms Playford: Weeks.

Mr Ramsay: Soon. The appointment does need to go through cabinet.

Ms Playford: It is a decision of cabinet, of the executive.

Mr Ramsay: Yes, it is a decision of the executive itself.

THE CHAIR: That old bottleneck.

Mr Ramsay: It is not a ministerial appointment; it is an executive appointment. The advice will come to me and at that stage I will take advice to cabinet. We will be able to announce it shortly after that.

MR PETTERSSON: And how long can you extend the term of a DPP?

THE CHAIR: What is the current term?

Ms Playford: Up to seven years is the current term. The legislation, as I understand it, provides for one extension after that, up to another seven years.

Mr Ramsay: The current director has served a seven-year term and a three-year term, then earlier this year I extended his position by a number of months to get us through to the end of the year while we were working through the rest of the processes.

MR PETTERSSON: Is that two extensions?

Ms Playford: The legislation has been changed in the period that the current DPP has been in tenure.

MR PETTERSSON: It is hard to keep up. Okay.

MR HANSON: Was the position of chief operating officer that was introduced a new position and recruited externally with new funding? How did that occur? Was it done from savings?

Ms Playford: No, that was really a rearrangement of the corporate parts of my directorate. We did a bit of a governance review. Many of the other directorates arrange their corporate functions under, effectively, a chief operating officer model. I had a corporate executive under my existing structures that was at a slightly higher level than the other corporate executives. We rearranged structures, and that person became the chief operating officer. Often with the corporate-type issues that a directorate deals with, where we are providing support to various business units, there can be matters that stray. For example, issues related to capital works infrastructure, ICT and strategic finance sort of cross over. So the idea of a chief operating officer is to ensure from a governance point of view that we are holistic in the way that we best support—it was intended to streamline the way that we best organise the corporate part of our directorate to deliver on the government's priorities.

MR HANSON: Who is the chief operating officer?

Ms Playford: Moira Crowhurst, who was formerly our chief finance officer.

MR HANSON: Are you still undergoing the savings measures that were introduced in the budget a few years ago? Are they finished with yet?

Ms Playford: I think we have got at least another year, but we have no additional savings in the current year.

MR HANSON: It was for four years?

Ms Playford: Yes. There were a number of whole-of-government savings, so all directorates needed to find efficiencies. This year is the final step-up of those savings.

MR HANSON: And where have you found them during the annual report period? Where have you found those efficiencies?

Ms Playford: I think we have previously reported on those. They are from right across the directorate.

MR HANSON: So there is no change from—

Ms Playford: There were no changes from what we were expecting. I can take it on notice and provide you details, but each business unit made a contribution, effectively, across those—

MR HANSON: Just to try to break it down, to understand in more detail where that came from and—

Ms Playford: Yes. It was things like efficiencies through some of our new ICT systems, the digitisation of records, and the way we dealt with vacancy management. There have been a range of different strategies.

MR HANSON: You probably saved some money on rolling out ICMS.

THE CHAIR: I hope there has been lots of money spent on rolling out ICMS.

Ms Playford: There have been a range of strategies. The government expects all directorates to manage efficiently, and there have been a raft of measures we have implemented to ensure that we meet our budgets.

MS CODY: While you are taking on notice the savings initiatives that Mr Hanson was talking about, can you also provide to the committee a breakdown of staff across the JACS directorate: women from culturally and linguistically diverse backgrounds, from Aboriginal and Torres Strait Islander backgrounds—

Ms Playford: I think that is actually reported on in our annual report.

MS CODY: I see. You are very good.

Ms Playford: I am not sure about whether we reported CALD.

MS CODY: I am not certain. I do not think I could see CALD.

Ms Playford: We certainly have the gender stats, and we can provide—

Mr Pryce: Pages 204, 205, 206 and 207 have our breakdowns of staffing. It does not have the CALD breakdown, although—

MS CODY: Or the Aboriginal and Torres Strait Islander breakdown, I think, either.

Mr Pryce: No.

Ms Playford: Certainly we can provide you the Aboriginal and Torres Strait Islander breakdown. I am not 100 per cent sure about our—

Mr Pryce: It does have Aboriginals and Torres Strait Islanders, sorry, on page 206. It is in table 65, at the top of page 206.

MS CODY: And it does have CALD as well, and people with a disability. Look at you go. Gold star to the JACS directorate!

Mr Ramsay: Indeed.

Ms Playford: We are certainly committed to improving diversity.

MR HANSON: But is there reporting on it achieving outcomes?

MS CODY: Following on from Mr Pettersson's line of questioning with regard to recruitment of a new DPP, have you thought about gender and cultural diversity in that appointment as well?

Mr Ramsay: Yes.

Ms Playford: Yes.

MR HANSON: Minister, on the issue of outlaw motorcycle gangs and a legislative response, have you had any conversations with interstate or federal colleagues about the ACT's absence of consorting laws?

Mr Ramsay: The matter of the most appropriate way of responding to organised criminal gangs is certainly something that has been discussed at the Council of Attorneys-General.

MR HANSON: Have they specifically raised the issue of consorting laws? I am not pretending there is one single solution. I am talking about consorting laws and asking if they have raised that issue.

Mr Ramsay: At the Council of Attorneys-General my colleagues from other jurisdictions have not specifically been raising the area of anti-consorting laws. We have talked about the appropriate response, both legislative and policing, across the different jurisdictions, but no-one has specifically put to me anything about the ACT's position.

Ms Playford: Queensland is leading a working group that the ACT participates in which is developing for the Council of Attorneys-General a set of principles around laws for serious and organised crimes. There is an upcoming meeting of the Council of Attorneys-General where those principles will be considered. The police and emergency management ministers, separately, have endorsed work on a strategy around transnational and serious organised crime, and the ACT participates in that work as well. That is not limited to legislative issues.

MR HANSON: Are those principles provided somewhere in draft form or as a working paper or—

THE CHAIR: Or will they be once they have been dealt with by—

MR HANSON: will they be held close until—

Ms Playford: They are still being developed, but the intention is that they would become a product of that council.

MR HANSON: So what is the time line on that?

Ms Playford: I am not sure whether it is coming for endorsement to the next committee.

THE CHAIR: Would you like to take that on notice?

Ms Playford: Yes, I am happy to take it on notice. There is a meeting of the council coming up at the end of November.

Mr Ramsay: On 23 November.

Ms Playford: It really depends on where Queensland feel they are up to. We have not seen the final papers for the meeting yet.

MR HANSON: So is part of that process looking at the various comparative laws in each jurisdiction and at who has got what and how each jurisdiction is responding?

Ms Playford: It is more looking at developing a set of principles, rather than looking at developing national legislation.

MR HANSON: So is there any intention to develop national legislation?

Ms Playford: Not at this stage.

MS CODY: I have had another re-read of your employment statistics; I am very

impressed. I want to go to board appointments that either the minister has made directly or the directorate has made over the last two years. Can you provide on notice a breakdown of how many women and how many attended university?

Ms Playford: We would need to take that on notice.

MS CODY: Absolutely. So how many are women, how many are attending the ANU or have attended another of the group of eight universities, how many were educated at a private secondary school, how many have a trade qualification or how many come from a culturally and linguistically diverse background.

Ms Playford: I am not sure how much information we will have around all of our board appointments, particularly in terms of educational qualifications. We will definitely have gender and we will probably have linguistic diversity, but I am not sure about that educational qualification.

MS CODY: That is okay. Whatever you can provide me I would be very grateful for.

Mr Pryce: There is a whole-of-ACT-government guideline on the selection for boards and committees which very strongly promotes diversity and building skills and capabilities across the whole sector.

MS CODY: Absolutely there is.

Ms Playford: We did a review some time ago now of our boards and have been providing advice as to what appointments come up to ministers based on that review and the findings at that time.

MS CODY: I have another question on staffing. On page 206 you have a high proportion of staff aged 45 to 54 and over 55, which is fabulous to see. Will that cause issues, though, particularly in the 55 and over category, with people looking to retire over the coming years, or are you building the capacity in younger staff to help backfill those sorts of positions?

Ms Playford: The answer is yes, but obviously we are a very diverse directorate and so for particular parts of our workforce the challenges of an ageing workforce are a bit more pronounced in terms of the type of work they do and the physical attributes that go with that work.

MS CODY: For example, ambulance and fire officers

Ms Playford: Fire is probably a really good example. At the start of July 2017 we launched our workforce strategy. One of the big programs in that is enhancing our ability to get mobility across both our own diverse directorate but also the wider ACT public service in terms of ensuring that there are appropriate career options for various parts of our workforce.

We are certainly looking to invest in and very much appreciate the sort of talent that comes in through things like our graduate recruitment programs et cetera, which provide us with an intake flow. We have various programs that we participate in.

Again, different parts of our workforce have different strategies in terms of new recruits. Certainly they very much benefit from the wisdom and experience of people who have been there for some time.

MS CODY: From the sounds of that, you offer career diversity for those who are ageing and particularly, as you mentioned, in the firefighting area?

Ms Playford: Look, it is challenging. For some of the people there is a real sense of identity et cetera tied up with those career types. It is partly a changing society expectation of when people retire—a decade ago most people retired at 54. People are now staying longer. We have been pretty successful in the last couple of years in providing different ways of trying to do that. But it is certainly still a challenge we face and we need to do more work in that area. There are many capabilities people have to offer, and the ACT public sector has a vast array of opportunities for people.

MR HANSON: In the jail, as you would be aware, the number of prisoners has increased significantly. One of the concerns we had when the jail came to the ACT about a decade ago was that that would affect sentencing because judges and magistrates would then be more inclined to give custodial sentences. Now we do seem to have almost doubled our prisoner population, which used to be in New South Wales and is now in the ACT. Have you looked at the issue of whether the courts are changing their sentencing pattern to increase custodial sentencing? Is that happening? If so, do you believe there is a link with the fact that we have a jail in the ACT?

Ms Playford: I think it is very difficult to put the causation together. In terms of whether we have looked directly at sentencing, that is something we have been limited in our ability to analyse, but we certainly have had some recent work that Lorana Bartels from the University of Canberra has been assisting with. I will have to take it on notice in terms of better understanding the trends in our detainee population: offence types, length of sentence and those sorts of things. I would have to take on notice exactly what information I could provide, particularly around the sentencing part of your question.

MR HANSON: Sure. Looking at patterns of sentencing, you said you are limited in your ability to analyse. Why are you limited in your ability to analyse what is going on with sentencing in the ACT?

Ms Playford: I think we discussed earlier that once we have the ICMS system we will be far superior in our capacity in terms of case management. At the moment we have very manual processes that we need to use in order to get that data and prepare that data.

MR HANSON: I understand that, and that has been related to bail.

Ms Playford: That is what it is.

MR HANSON: But I would have thought that you would have the ability to gather statistics about sentences and to look at patterns over a period of time to determine whether sentences for similar offences have been increasing and whether they are more likely to be custodial sentences. I am flabbergasted that you are saying you

cannot analyse that without this new system that we have been waiting for for a decade.

Mr Kellow: I think ICMS will make a contribution. But the ACT has set up a sentencing database. It has been running for three or four years now. It is gradually building up the body of data. It comprises fairly objective empirical data which is extracted from the case management system, and that will continue. The existing system provides that; ICMS will also provide that.

There are also a range of factors which are more subjective. They have to be manually drawn out from the judge's sentencing remarks. We have also collected that in the sentencing database. I think there are 16 key characteristics that are collected, a mix of the objective and the subjective. When the database was originally set up, it had about 32, which was proving too many to be able to collect meaningful data. You ended up with a lot of things which were statistically irrelevant. So that information is being gathered.

Lorana Bartels did some sentencing snapshots a couple of years ago to try to start analysing that data in relation to—I cannot remember exactly what she did. I think she took three or four main offence types. I hope that there will be more work done as the database increases. But we are a small jurisdiction in terms of volumes, so the sort of granularity and the volume of cases that the bigger states have—it will take us a while to do that.

MR HANSON: I am delighted to hear you are doing that, because we have been calling for that for years: to gather those statistics so that you can do some analysis.

Mr Kellow: The sentencing database is accessed through the Supreme Court website.

MR HANSON: Does it analyse both the magistrates and the Supreme Court, or is it just the Supreme Court?

Mr Kellow: It has got Magistrates Court data, though not to the same degree of granularity, because the magistrates do not publish public sentencing remarks from which you can capture those factors. It is a bit thinner in that sense. But in broad terms it has the sentence and the offence types and key indicia that may have been taken into account. ICMS will give us greater accuracy around whether someone is Aboriginal or Torres Strait Islander and some of those demographic factors.

MR HANSON: I accept that it will make it easier, but this excuse of: “We’re not going to gather data because it’s too hard to do manually; we’ve got to wait for an electronic system,” I have refuted for many years. I am glad that you have been gathering it over the last couple of years. Has the sentencing database you have got now given you any ability to do any sort of comparative analysis with sentencing prior to having the ACT jail, or not?

Mr Kellow: I could take that on notice, but I do not know if I would be able to help you. I think from a court's perspective it is really to help provide some consistency and guidance to the profession and to the judiciary around what the reasonable sentencing parameters are for particular offences and particular characteristics. I think

the research is more in the realms of University of Canberra and other academics who—

Ms Playford: We have certainly been looking at data in relation to understanding the trends in the growth in detainee population. I am not sure that we have done a snapshot of the pre period. We have been focusing very much on the trend data.

MR HANSON: People did say, “If we have our own jail, the judiciary will be more inclined to give custodial sentences.” That was refuted. Whichever side of the argument you are on there, it does not matter. Some people might say that is a good thing. I am not trying to say it is good or bad. But certainly we then got a jail and that jail became full very quickly. One of the explanations for that could be population growth. It could be that we have become a much more violent society. But it could be also that there is the inclination to do so. That may be a good thing; I do not know.

Mr Ramsay: It is difficult, when you are moving over a period of time and there are a number of changes in society that happen simultaneously, to pick on any particular one and indicate that there is causality around that particular one.

MR HANSON: I agree. But that is why you have to get that analysis to see what the trends were. If a break and enter first offence, or whatever, for a long period did not attract a custodial sentence and now it does—

Mr Ramsay: Except sentencing standards change for a number of reasons. One of the things we have been doing with the work around the royal commission is legislation about what sentencing should be happening at this stage if the offence happened some decades ago. That is a recognition that sentencing standards and sentencing approaches have changed over a number of decades for a number of reasons. So for us to be saying, “Therefore it is attached to whether there is a physical jail—”

THE CHAIR: Indeed, the question that I think is being asked, to some extent, is not simply whether one matter has caused it but what actual causalities we can locate.

MR HANSON: Absolutely.

THE CHAIR: And there could be a number of them. I know there is a national trend to put more people in prison, for example.

Ms Playford: Yes, and we are consistent with the national trend.

MR HANSON: There is a new University of Canberra review, did you say? An academic—

Ms Playford: Lorana Bartels has been doing some work for us so that we can better understand our prison population and the trends.

MR HANSON: What are the terms of reference for her review?

Ms Playford: I would have to take that on notice.

MR HANSON: It is about prisoner population and trends, as opposed to sentencing?

Ms Playford: Yes. It does touch on that, as I understand it. Again, I would have to look at the detail.

MR HANSON: You have no specific—

Ms Playford: There is some information that does go to sentencing. But I would have to take it on notice to get the details.

MR HANSON: But you have not got any body of work that has looked at sentencing in the ACT to see any changing trends over time and comparative analysis, perhaps, with other jurisdictions to see where we sit? If I were to ask, “Where do we sit in terms of sentencing in comparison to New South Wales or Victoria,” would you be able to tell me that or not?

Ms Playford: I could probably tell you some things. I am happy to take it on notice and tell you what I can. In the ROGS statistics there is some information that points to some of those things. We can extract the things that are relevant from that. For example, it shows imprisonment rates per population. I do know that we traditionally had the lowest imprisonment rate per population and that our statistics in the last ROGS report were closer to the national imprisonment rates, whereas previously we were below. So there are some statistics out there.

MR HANSON: It is interesting to me that there is a bunch of these statistics and each of them perhaps tells a bit of a story but a body of work that ties it together to try to draw a picture of why that is, to understand that better, does not seem to be apparent. Maybe that is an observation rather than a question.

THE CHAIR: This is my second term on the JACS committee. A question on the minds of members of all stripes here is: why? I know it is hard to say why but, if there is academic research being done, could it also be done to at least have a go at answering that question? Otherwise we are just having a stab in the dark at trying to reduce prisoner numbers.

Ms Playford: We very much look to the research that is out there. There are a range of things. There has been significant change in that period. I think our Supreme Court has almost entirely turned over, in terms of the judges we have, in the same time period. There are a range of different factors.

THE CHAIR: Given that we are trending up and the country is trending up, I can understand why people would love to have a better grasp of why.

MR HANSON: There are probably seven or eight different reasons, but is there a dominant one? As a final supp on that, if you are going to engage somebody to do this body of work, it probably would be best done externally by a consultant. Do you have a bucket of money for that or would you have to go through a budget process to get that sort of work done?

Ms Playford: We do not have a bucket of money.

MR HANSON: No, but a standing amount of money for consultants?

Ms Playford: At times we look at how we prioritise and what we use and where we see efficiencies. Like I said, we have engaged Lorana Bartels to do some work for us in trying to better understand our current population and what the trends have been et cetera. It depends on the scope of the work and the amount as to whether we need to go through a budget process to get some supplementation for that.

THE CHAIR: We will go to a break now. Thank you.

Short suspension.

Appearances:

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

THE CHAIR: The committee welcomes the Director of Public Prosecutions and will now consider the annual report for the 2017-18 year for the Office of the Director of Public Prosecutions. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement on the table, as it is important. Can you confirm for the record that you understand the privilege implications of the statement?

Mr White: Yes, thank you.

THE CHAIR: Thank you, Mr White. Before we proceed to questions from the committee, do you have a brief statement you would like to make?

Mr White: As members will know, I am coming to the end of my appointment as Director of Public Prosecutions. I want to place on record what a great privilege it has been serving the community of Canberra in that very important role. I particularly commend the efforts of my staff, who work every day to promote the rule of law and justice in the ACT.

I also take this opportunity to thank members of this committee and previous committees before whom I have appeared over the years. I have always found a very respectful interaction in these committees and I have really appreciated that. We have always tried in our annual report to give a very fulsome account of the sorts of things that we have been doing during the year, and I think we have achieved that in our annual report for this current period as well. Thank you.

MR HANSON: I have been on this committee for longer than I would like to think. Thanks for everything you have done as well. You have been a fearless advocate for the DPP; you have been honest, probably to your own personal detriment on occasion. That has been useful for me, to be frank, but that is an aside. You have been a very forceful advocate for the DPP and for justice generally in the ACT, so congratulations.

On page 12 of your report you talk about some of the challenges for the future, including fiscal independence, permitting paralegals and prosecutor associates to appear, and fully electronic briefs of evidence. Do you want to extrapolate on those and any other issues you think are the strategic objectives looking forward for the DPP?

Mr White: Yes. In putting this section of the report together I thought about what I would like to brief the incoming director on, and the matters I have highlighted are particularly important.

We have been having an ongoing conversation with government about getting fiscal independence for the DPP. The DPP sits, frankly, very uneasily under the rubric of the justice and community safety portfolio. There is no synergy between the Office of the DPP and that directorate simply because the DPP is independent of the executive

government and we are not in existence to serve the interests of the government, as the directorate is. That has been an issue for us.

But more important than that is that we are not able to participate directly in conversations concerning funding. As I have outlined in the report this year, we have been successful in obtaining more funding, and we are very happy that the future is bright for the DPP. That was as a result of the strategic review, the results of which were accepted by the government. But we have been battling with the bureaucrats for a number of years to achieve those sorts of outcomes.

We always feel we are not able to have a direct voice to government, a direct voice to treasury, in relation to funding decisions. We are left out of those conversations which are so important. That is a continuing issue for the DPP, and my successor will have to deal with that issue.

MR HANSON: Do you have a proposed model? Some statutory office holders are part of the Office of the Legislative Assembly in terms of finance. Do you see that as a model or do you see a different way of doing it?

Mr White: No, I do not see that as a model. That model has worked very well, for example, for the Electoral Commission. It establishes complete independence and it also gives fiscal independence, which brings with it fiscal responsibility.

The model I would propose is simply that the DPP, as is the case at the moment, is directly reportable to the Attorney-General. That is all regulated under the DPP Act; all that needs to be done is for fiscal responsibility to be shifted to the Office of the Director of Public Prosecutions, along with the responsibility for staff, which already resides in the office.

I want to briefly mention the other challenges. It may not seem like a terribly big thing to suggest that law clerks within the office could have a right of appearance in the Magistrates Court, but members will appreciate that a large amount of the work of the office is taken up in dealing with matters which are very straightforward summary matters. They are important matters but they are really matters that can be dealt with at quite a junior level. I am talking about the ordinary pleas and mentions business of the Magistrates Court.

At the moment those matters are run by fully fledged prosecutors. It is simply not necessary for that work to be done at that level. It would be far more efficient for that work to be done by paralegals, under the supervision of the office. We have a model that is working very well at the moment. I have referred in my annual report to prosecutor associates, young law students or recently graduated lawyers who instruct in trial matters, and that is very good work for them. It certainly develops their careers, but it also frees up more experienced prosecutors to do other work. I have in mind a similar model working in the summary jurisdiction, and that would have a big practical effect on the efficiency of the DPP and would free up resources for more serious work.

MR HANSON: Do other jurisdictions do that?

Mr White: The ACT DPP is the only DPP that deals with all the summary matters, and that is for historical reasons. Police prosecutors were abolished in the ACT at the time the DPP was formed. Every other jurisdiction has retained police prosecutors, but there are moves in some other jurisdictions for the DPP to take over summary prosecutions. I think it is inevitable that that will happen.

I say this without any disrespect to police prosecutors but, at the end of the day, police prosecutors are not independent, whereas the DPP is independent and is able to exercise independent judgment in relation to summary matters. That model works very well in the ACT. There are a lot of traffic matters, drink-driving matters, minor assaults and so on which never go to hearing. There are thousands of such cases, and those could all be dealt with by properly credentialed clerks and it would be a much more efficient way of proceeding.

MS CODY: Thank you for all the time you have given to the committee over the last little while since I have been on it. How many prosecutions are currently underway relating to bosses stealing from workers or vice versa?

Mr White: I do not know that off the top of my head. I know there has been talk recently of what is called wage theft—that is, effectively, the underpayment of workers, often workers in a very disadvantaged situation.

MS CODY: And vulnerable, yes.

Mr White: And vulnerable. They have effectively had their wages stolen from them.

MS CODY: Including superannuation in some cases.

Mr White: Indeed. There is no crime on the statute book which fits that description of activity. There are obligations to pay superannuation, and those are really tax offences which my office does not prosecute in any event. But apart from those sorts of regulatory matters there is no recognised crime of wages theft. I apprehend that that is really the burden of your question.

Of course, we prosecute employees who steal from their employers quite frequently, and they usually get the book thrown at them for the obvious reason that that sort of offending involves a breach of trust and can affect many other people in a business, for example. I can say that there is no statutory crime of wage theft. I cannot give you any figures around the other matters, but they are not infrequent in terms of employees stealing from their bosses.

MR PETTERSSON: Mr White, what is required to achieve the right of appearance for paralegals in plea and mention lists in summary courts?

Mr White: It would require a statutory amendment. I say that because the only other way to achieve it is to get the leave of the court. The court can give leave to unqualified persons to appear before it. But the court has indicated—I am talking about the Magistrates Court—that it would not be prepared to give that leave in this situation. Therefore, it will require a statutory amendment, ideally to the DPP Act, which would simply give a right of appearance for certain persons employed under

the supervision of the director to appear in such matters.

MR PETTERSSON: Why did the court say that; what is their reasoning? And why is this of benefit to the DPP?

Mr White: I imagine the court feels it is more honoured by having fully qualified lawyers appear before it. And, of course, that is important. But I am not suggesting that this should be in other than the most rudimentary, simple, straightforward cases of what we call plea and mention—that is, not matters which involve hearing and determination of disputed facts—

THE CHAIR: No; it is procedural matters.

Mr White: More procedural matters, of which, as you are aware, the courts have hundreds every day. So I think that is the answer. That is what the court would no doubt think. But if the court had no option, I am sure they would readily accept the fact that fully qualified clerks would appear. Those people would quickly gain expertise in areas. They would get across traffic laws and things like that and they would be able to assist the court possibly better than some experienced lawyers who do not practice every day in that area could do. So that is that part of the question. In terms of the benefit that that has to the DPP, it frees up prosecutors who are fully qualified to do higher end work—either prepare and run hearings in the Magistrates Court or prepare and run matters in the Supreme Court such as appeals, sentences and trials.

MR HANSON: The recruitment of staff is something we have talked about before in this committee. You received funding and your plan is to recruit three senior prosecutors. Has that process started or been finalised? Where are you at with it?

Mr White: We have not started the process because the funding does not kick in until the middle of next year. It is a four-year funding model. We have had some additional resources in the current financial year and we have recruited and those people are up and running. The big challenge for us will be recruiting at the crown prosecutor level—that is, a very senior level of prosecutor. That will be the challenge on 1 July facing the new director, whoever that is.

MR HANSON: Do you get all three positions at once or do they come on one at a time?

Mr White: We get them all at one time; they are all available from 1 July next year. Extra funding is going out in an outyear further than that as well.

MS CODY: You said you have recruited some new staff. Do you take into account gender and cultural and linguistically diverse backgrounds and Aboriginal and Torres Strait Islander backgrounds to ensure the DPP office is as diverse as possible?

Mr White: Yes, and we are very proud of the diversity that we represent. It is only one aspect of diversity, but we have a great record of recruiting women into senior positions. That is such an important aspect when we are prosecuting so many of our matters as family violence matters and matters involving sexual offending. Why is it

so important? Because, quite simply, women have a different lived experience of those sorts of matters and so prosecutors and judges who are women bring different angles and different experience to the task of prosecuting and judging those matters. So that is one example where we are very strong on diversity.

MS CODY: Women from culturally and linguistically diverse backgrounds in particular would also be able to provide that level of cultural understanding.

Mr White: Absolutely. That is true. I think all lawyers have a challenge in recruiting in that space because the study of law is very exacting and such people are probably excluded simply by how difficult it is to make your way through the law course.

THE CHAIR: It is almost something you have to start at the student level, is it not?

Mr White: Yes.

MR HANSON: When does that recruitment process start?

Mr White: It will start early in the new year, because it takes many months to recruit senior personnel. Frankly, it is very difficult for us to recruit senior personnel, even with the increased funding and even being able to offer senior positions, because we are still competing with other directors of public prosecutions, other public sector bodies and particularly the private profession and private bar that pay better than us.

THE CHAIR: How much better?

Mr White: We would be looking at paying a senior crown prosecutor about \$250,000 a year. A crown prosecutor in New South Wales will earn \$100,000 on top of that. There are great advantages in working in the ACT—there is the advantage of living in Canberra, which we all appreciate, but there are all professional advantages. There is more scope to deal at a higher level with possibly more complex cases than you might get in other jurisdictions at a particular level. So there are some points of attractiveness for the ACT DPP, but we have found it very difficult to recruit at higher levels. We have effectively had to grow our own prosecutors over the years, which we have done very successfully.

THE CHAIR: Then, once they become amazing and proficient, they go on to another area?

Mr White: They leave, and they frequently leave to either public sector organisations like other DPPs in other states or they go to the bar. That is by no means unhealthy, particularly people who go through to the bar, because they have experiences and so on and they are able to have fulfilling careers. We are only too happy to have played a role in bringing their careers on, but it is frustrating to build people up and see them leave on a consistent basis.

THE CHAIR: Frustrating and rewarding.

Mr White: It is.

THE CHAIR: Mr White, regarding the move to fully electronic briefs of evidence, including receiving briefs from the police electronically, served in electronic form on the defence and tendered in electronic form in the courts, can you give us your thoughts on this change?

Mr White: This is a purely technological change, but it has immense ramifications in terms of the efficient operation of justice. At the moment we are getting a lot of briefs from police in electronic form, particularly bigger briefs, but with smaller briefs there tends to be a police officer standing at some photocopier photocopying a brief, which is frankly ridiculous.

THE CHAIR: That is like something out of the 1950s.

Mr White: Particularly since they are converting, effectively, material in electronic format into paper form, probably to have it back at some stage to electronic form. It is absolutely ridiculous.

When we have served this material on defence counsel we have found no pushback. In fact, everyone recognises that it is much more efficient. It is just easier to access material in electronic form. And, if I might say this, younger generations are much more able to deal with that and, in fact, expect the material to be in that form. So that is going to be a huge revolution for the courts when it happens.

MS CODY: I want to talk briefly about the witness assistance service. You note in the report that the office eagerly awaits the completion of the new ACT law courts. Can you expand on why that is such a good thing for the service?

Mr White: The new courts will be great for every person who has to access justice, but there are particularly good facilities for witnesses and vulnerable witnesses giving evidence. The remote witness rooms are set up in such a way that those giving evidence remotely and their supporters do not have to interact with possibly supporters of an accused person and so on, so there is a much more respectful, seamless operation.

The technology works and the evidence of the witness is beamed into the courtroom. It all works very, very well. It is really interesting to see the number of witnesses nowadays who give evidence remotely for one reason or another. Those new facilities of the court are absolutely state of the art, cutting edge. We are very lucky in the ACT to have those facilities.

MS CODY: You mentioned giving evidence remotely. How many cases has the DPP been involved in where that has been—

Mr White: Countless number; it happens every day. It is surprising how it has been accepted as common practice. Whereas a few years ago it would have been exceptional, nowadays it is not viewed as exceptional.

MS CODY: Has it made it easier for witnesses giving evidence, their emotional wellbeing?

Mr White: Yes.

MS CODY: Which means, obviously, their evidence can be more intact, for want of a better word.

Mr White: That is right. The essential reason behind it is that some witnesses find it very confronting to have to be in the same courtroom as someone who is alleged to be the person who has committed offences against them. That is all removed by their giving remote evidence. We have also had at least one instance where an assistance dog was available to a witness in a remote witness room. Assistance dogs are becoming a trend in many sections of society but particularly to support vulnerable witnesses. In this particular case we had to make an application to the judge, over the objection of the accused, for the person to be allowed to use the assistance dog. The judge granted that application. The witness was able to give evidence with the dog present in the remote room, and it greatly assisted that person.

MR PETTERSSON: You established a discrete confiscations of criminal assets unit in the office. Was that pre-existing or is that a newly created unit?

Mr White: It is a newly created unit which resulted from additional resources specifically for the confiscation of criminal assets matters. We previously did COCA work, as we call it, but we were not able to stand up a discrete unit, so people had to do that mixed in with their other duties. We recruited this unit specifically with people with skills in civil litigation rather than criminal litigation, because a lot of the skills are civil skills and a lot of the skills require financial savvy and so on. So we specifically recruited those people with that in mind and we set up a very successful unit. I think it is clear from the results we have published in the report that the amount of property that is under restraint and ultimately the amount of property that will flow through to the consolidated revenue of the territory will be greatly increased by this initiative.

MR HANSON: My question is in relation to sentencing. I asked the JACS officials whether there has been a change in sentencing patterns since we got the new jail. As you would be aware, there is a much bigger population in the jail now. Is that because you are bringing forward more successful prosecutions or is it because judges and magistrates seem more inclined to give custodial sentences? Is it a bit of both? Or are you not really in a position to comment?

Mr White: I think it is three things. It is the two things you mentioned, together with an increase in population. We have certainly prosecuted matters that probably used to go unprosecuted or were not prosecuted to the same extent. One example of that is sexual offences. The number of persons in prison for sexual offences has increased from about seven per cent in 2009 to 12 per cent in 2017. In other words, the proportion of prisoners in jail who are there because of sexual offending has increased from seven per cent to 12 per cent. We have also prosecuted vigorously family violence matters. While not every perpetrator by any means goes to jail, the number of people going to jail for those offences has increased.

So partly it is to do with the way we have been prosecuting matters and the sorts of matters we have been giving priority to. I have to say that judges and magistrates in

the territory are not heavy sentencers. I can say from personal experience that there is not one judicial official in the territory who does not angst over sending someone to jail. None of our judges or magistrates send people to jail for other than very good reasons. The sentencing laws require them to regard imprisonment as a last resort, and they do. Nevertheless, we have taken a number of Crown appeals, in particular, over the years which really emphasise that, particularly in areas like personal violence offences, sexual offences and those sorts of matters, increased sentences are appropriate. And we have been successful in a number of those appeals.

So basically the two matters that you put forward both contribute. But also the fact is that we have increased our population in the territory. We cannot pretend that we are not going to increase the number of people in prison as we increase our population. And as Canberra becomes a more and more cosmopolitan city it also takes on some undesirable characteristics, such as the presence of organised crime, which is present to a greater extent than it has been in the past. And that also puts a real pressure on the prison population.

THE CHAIR: Indeed. Before you finish, Mr White, do you have anything else you would like to raise, given that it is your last appearance before the JACS committee?

Mr White: It is very kind of you to give me the opportunity. I think I have covered everything. I will simply content myself with thanking the committee for not just the appearance today but also the opportunity over the years to interact with you.

THE CHAIR: It has been a pleasure to have you here. We will conclude. As noted at the beginning of the hearing, questions taken on notice will have to be returned within a certain period of time. On behalf of the committee, I thank you for attending today. When available, a proof transcript will be forwarded to witnesses to provide any response or to check the transcript and suggest any corrections.

The committee adjourned at 4.48 pm.