



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2018-2019](#))

**Members:**

**MRS G JONES (Chair)  
MS B CODY (Deputy Chair)  
MR D GUPTA**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 6 NOVEMBER 2019**

**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**

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*Amended 20 May 2013*

## **The committee met at 8.59 am.**

### Appearances:

Ramsay, Mr Gordon, Attorney-General, Minister for the Arts, Creative Industries 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

Glenn, Mr Richard, Director-General

Doran, Ms Karen, Deputy Director-General, Community Safety

Beattie, Ms Liz, Acting Chief Human Resources Officer, People and Workplace Strategy, Corporate Services

Ng, Mr Daniel, Executive Branch Manager, Legislation, Policy and Programs

Hutchinson, Ms Zoe, Director, Civil Law, Legislation, Policy and Programs

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

Garrison, Mr Peter, Solicitor-General for the ACT

Drumgold, Mr Shane, Director of Public Prosecutions

Taylor, Mr Andrew, Public Trustee and Guardian,

Hughes, Mr Callum, Principal Finance Officer, Finance Unit, Public Trustee and Guardian

Boersig, Dr John, Chief Executive Officer, Legal Aid Commission (ACT)

Monger, Mr Brett, Chief Finance Officer, Legal Aid Commission (ACT)

Watchirs, Dr Helen, President of the Commission and Human Rights Commissioner, ACT Human Rights Commission

Griffiths-Cook, Ms Jodie, Public Advocate and Children and Young People Commissioner, ACT Human Rights Commission

Toohy, Ms Karen, Discrimination, Health, Disability and Community Services Commissioner, ACT Human Rights Commission

Yates, Ms Heidi, Victims of Crime Commissioner, ACT Human Rights Commission

Minty, Ms Rebecca, Deputy Inspector of Correctional Services, ACT Human Rights Commission

### Chief Minister, Treasury and Economic Development Directorate

Chan, Ms Yu-Lan, Executive Branch Manager, Projects Governance and Support, Access Canberra

Potter, Ms Chantel, Executive Branch Manager, Fair Trading and Compliance, Access Canberra

Esau, Mr Lloyd, Executive Branch Manager, Major Projects

Roland, Ms Skye, Project Manager, ACT Courts PPP, Major Projects

**THE CHAIR:** I declare open today's session of public hearings for the Standing Committee on Justice and Community Safety inquiry into the 2018-19 annual reports. On behalf of the committee, I thank Ministers Ramsay, Rattenbury and Gentleman for attending today's hearings. Ministers will appear with officials at nominated sessions today, as set out in the program, which is online and on a table at the entrance.

The initial discussion today will be with the JACS Directorate and its various areas, to be followed by statutory office holders and, after lunch, police, emergency services, consumer affairs and road safety, finishing with corrections and justice health. I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live.

Answers to questions taken on notice should be provided to the committee office within five business days after the receipt of the uncorrected proof *Hansard*, day one being the first business day after the uncorrected *Hansard* is sent to 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 uncorrected proof *Hansard* is sent to the ministers by the committee office. Responses to questions on notice should be provided to the committee office within five business days of receipt of the question, day one being the first business day after the questions are sent to ministers and equivalents by the committee office.

I call on the ACT Gaming and Racing Commission, the first agency today. Before we begin questions, I remind witnesses of the protections and obligations entailed by parliamentary privilege and draw your attention to the pink privilege statements on the table. These are important. Could you please each confirm for the record that you understand the privilege implications of the statement.

**Mr Ramsay:** Yes.

**Mr Ng:** Yes.

**Ms Chan:** Yes.

**Ms Potter:** Yes.

**THE CHAIR:** Thank you. We can now proceed to questions from the committee.

**MR PARTON:** I might start with Gambling Harm Awareness Week. On page 11 of the report, you outline that Gambling Harm Awareness Week was held from 8 to 14 October last year, which included a half-day conference. Just to preface the question, I am focused on outcome. My first question is, specifically: what is considered to be the purpose of the conference?

**Ms Chan:** Gambling Harm Awareness Week, as you are probably aware, is held every year. A big purpose of it is to raise awareness across the community, as well as the industry, of gambling harm: what it looks like, the harms it can cause. People often think that it is just about financial impacts and they often think that it is only the gambling person who is affected. With the public health approach, we are seeking to help people understand that it affects the entire community and that there are a number of harms that can be experienced by people and can affect their work and studies.

So Gambling Harm Awareness Week had an awareness raising component. The conference was a big part of that. We had speakers from three jurisdictions; we had

over 100 attendees from the industry and community sectors. The theme for this year was “Together we can help prevent gambling harm”. The conference was particularly to help the gambling industry and community sectors learn about how they could work better together, along with government, to learn from each other’s perspectives. We also had researchers and academics presenting research they had done in the area so that we could hear what the latest findings were, to inform future policy.

But really it was about getting to know each other a bit better, learning how both sectors could work better together along with government.

**MR PARTON:** You indicated that there were over 100 attendees.

**Ms Chan:** Yes.

**MR PARTON:** Is there a more specific number than that?

**Ms Chan:** I believe it is 101, but I can check that for you.

**MR PARTON:** Okay; that is over 100. You have touched on it briefly, but I want a clearer answer as to those who were in attendance. Were they from industry or were they public servants? Who was there? Were they anti-gambling lobbyists who made up the bulk of those attendees?

**Ms Chan:** We had a good mix for the gambling sector. We had a range of board members and general managers on the floor. We had a good range of gambling contact officers this year, which was a bit different from previous years, when it had been mostly management who had attended. From the gambling sector, we had a range of representation. We had a couple of community sector agencies. There was Relationships Australia, Care financial and a range of community sector providers. We had people there from ANU. People from New South Wales universities attended as well. We had people from the commonwealth government, from ACMA and from the Department of Social Services, I think. We had a good range. And that was as well as people from the ACT office of mental health and wellbeing.

**MR PARTON:** What was the cost of hosting the conference?

**Ms Chan:** I will need to provide that for you.

**THE CHAIR:** Is that a question taken on notice?

**Ms Chan:** Yes, I will take it on notice.

**MR PARTON:** Yes.

**THE CHAIR:** The cost of the conference is taken on notice. Thank you.

**MR PARTON:** If you were summarising the outcomes from that conference, how would you summarise them?

**Ms Chan:** Evaluation said that people appreciated the chance to come together and

hear different perspectives on how we can prevent gambling harm. Everybody has their view that it is important, but hearing other perspectives about how the issue can be tackled, what data is available and what other people are already doing in other sectors was the key learning that a lot of people said they appreciated and valued.

**MR PARTON:** Finally on that line of questions, and I am assuming that you will have to take it on notice, I am wondering if you could tell me the total cost of delivering Gambling Harm Awareness Week, including the advertising costs.

**Ms Chan:** I will take that on notice.

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

**MS CODY:** I want to talk about the community contributions scheme. Could you outline the consultation process? Were there face-to-face discussions with clubs?

**Mr Ng:** Yes, there were face-to-face consultations. I can talk the committee through the consultation process generally. Last year the directorate released a discussion paper which set out a range of discussion points on which we sought feedback. There was a very strong response in terms of the consultation and the submissions that we received from that. We also took the opportunity, following those written submissions, to have several meetings with the clubs. Yes, we did meet with the clubs directly. We had a good contribution from them in terms of the practical implications of the proposed changes. We were able to take on board some feedback that we received in that process.

**THE CHAIR:** Which clubs were met with in that process?

**Mr Ng:** I will take that on notice, but I think I will be able to come back to the committee before the end of the half-hour.

**THE CHAIR:** Thank you.

**MS CODY:** As part of those consultations, you discussed what the community contributions scheme would look like. Did you talk about some of the proposed rules, guidelines and those sorts of things? Were they the sorts of things discussed?

**Mr Ng:** Yes, Ms Cody. The thing that we know about clubs is that they are a very diverse sector with different interests and different ways of operating. The different clubs that we talked to have different interests and different things particular to the reforms that they wanted to discuss. We did have the opportunity to respond to some of those queries that were brought up.

I might pass over to my colleague Ms Potter in relation to the engagement work that Access Canberra has been doing since the scheme has been made into law. There was a consultation process that we went through in terms of the development of the policy and the finalisation of the relevant legislative instruments. There is also the engagement work that Access Canberra has been going through to support clubs to understand their obligations under the new scheme.

**MS CODY:** Were Access Canberra consulted in their new role around the clubs?

**Mr Ng:** Yes, that is right. We worked very collaboratively with Access Canberra, who obviously have a regulatory role on behalf of the Gambling and Racing Commission. They were consulted as part of the development of the policy. We have been tick-tacking and working quite collaboratively on the implementation and delivery of the reforms as well.

**Ms Potter:** I have read the privilege statement and understand my obligations in relation to that here today. I am the Executive Branch Manager for Fair Trading and Compliance within Access Canberra; with that comes the responsibility in relation to, as Daniel was saying, compliance checking, in terms of compliance with the scheme. These laws commenced on 1 July and we have had an approach in terms of the engagement for compliance that has multiple aspects to it. We are in the process of finalising edits on free videos which we will have available in an online format to assist clubs, both big clubs and smaller clubs, in terms of understanding some of the changes that have been brought in, in terms of the new scheme.

**THE CHAIR:** You have some videos to inform clubs about things that have already occurred in the change to the legislation and that have become effective?

**Ms Potter:** That is right.

**THE CHAIR:** But those videos are not yet up?

**Ms Potter:** That is right. We have met face to face with clubs, in addition to preparing that material. JACS assisted us in producing a brochure detailing the requirements of the new scheme. In addition to that there are five separate fact sheets working through some of the more complex and nuanced aspects of the scheme, and quite a comprehensive set of guidelines as well. The videos complement—I probably should clarify—those documents.

We have met with nine clubs to date. It is a mix of large clubs and smaller clubs. Over the next few weeks we will be meeting with all clubs to talk them through, in an initial engagement, some of the differences between the old reporting requirements and the new reporting requirements. On 21 November we will be providing a session for auditors in particular. That relates to the requirements now that the reporting sits within the annual report for the club, in terms of addressing compliance and reporting obligations.

**MS CODY:** My understanding is that clubs now have to report on their community contributions. For example, if a club decides to give a room to a not-for-profit organisation, they need to work out how much that room would have cost them to hire out and how much money they have made while the community group is in their club, and actually report on all of that. Is that correct?

**Ms Potter:** What you are talking about there is in-kind contributions in relation to potential room hire. There are a few different rules that relate to in-kind contributions of the nature that you are speaking about. There are some requirements. For example, just to make it more tangible, if a venue hire is given with a catering package where

drinks are being sold, there is a requirement that the benefit that is taken for the club in terms of the sale of that liquor throughout the course of that event being run would be deducted from the in-kind contribution of the room hire. That is probably the simplest example that I can give.

Yes, that is a requirement under the scheme. There is also additional longer term in-kind capacity for clubs to report a contribution where the space is solely used by, for example, an NGO or a charitable organisation, in relation to claiming that. There are a few aspects in terms of the in-kind contribution and the changes there.

**MS CODY:** That gets reported on, so I am assuming that Access Canberra would then order those records, for want of a better word?

**Ms Potter:** Yes. In terms of the reporting periods that are now staged for the clubs, it used to be on the financial year, in terms of providing those reports. We are working with clubs in the order in which their reports will fall due through the course of the next 12 months.

**MS CODY:** And working with clubs to help them understand their additional reporting requirements?

**Ms Potter:** That is right.

**MS CODY:** It seems like a relatively onerous task, particularly for small clubs that do not often have a lot of staff.

**Ms Potter:** That is right. That comes back to the face-to-face engagement we have done. With the purpose of those meetings, as Daniel was describing, the arrangements that the clubs have are quite diverse in terms of the contribution portfolios that they have agreed to commit to historically. They are working through their plan in terms of forward forecasting as well.

In terms of the time that we are spending with them, while we can canvass some of the particular concerns, we have an inbox set up offering to provide written assistance and we are tag-teaming a bit with JACS making sure that we have accurately applied the scheme as needed, depending on the factual situation. As I am sure you would appreciate, some of them are quite nuanced and contain different aspects in terms of how a particular contribution initiative might be proposed. In terms of articulating how that is acquitted, we are absolutely working with the clubs so that there are no surprises at the end of the reporting period when we are undertaking the compliance check.

**MS CODY:** Was the Gambling and Racing Commissioner involved in those consultations as well?

**Ms Potter:** The consultation that we are doing with the clubs as part of the compliance is led through me and through my team. It is our function on behalf of the board; we exercise those checks.

**MR PARTON:** It is interesting what you say about there being some differences in

the way that clubs at varying levels operate. Your words were that we want to go through this process really carefully to try to make sure that there are not surprises at the end of it. But I think that in saying that you must concede that there is a chance that there will be some surprises at the end of it. Because of the new systems, despite how well it has been portrayed by government to industry, it is possible that we will get to the end of this first year and, for whatever reason, perhaps there will be some surprises and mistakes that have been made. I just want a view of how Access Canberra, how the government, will deal with these surprises, because the penalties for noncompliance here are quite significant, are they not?

**Ms Potter:** In relation to the question as to whether there would be surprises, in terms of thinking through our approach and having had some conversations about, for example, the structure of lawn bowls tournaments, hypotheticals about dirt replacement at the BMX track, and water and petrol required to irrigate golf courses, it has certainly been front of mind for the chief operating officers and finance officers within the clubs in terms of what this scheme means for their business in terms of how they are discharging their community contribution obligation.

We were fortunate that when we sat down with them out at their clubs they were able to quite quickly come to the points in relation to the fact sheets and the new scheme that they thought would be of particular concern or relevance to them. A great number of them are working closely with the auditing firms that they have historically engaged through their annual report process. With this now being folded into the annual report, there is the added assurance check for the clubs to know that they have not just worked with us but also worked in a context of professional auditors or chartered accountants to work through the application of the law.

Having said that, in terms of our role as a regulator, the advice that we can provide is contingent on the level of detail provided to us to make those assessments. It depends on the face of what material we receive how targeted our advice can be. That has been the engagement that we have had. It has been to ask them to provide us with sufficient detail to provide them with the best advice.

**MR PARTON:** I understand, Mr Ng, that you can now tell us the clubs that were—

**Mr Ng:** Indeed I can, Mr Parton. I was going to ask Madam Chair if it was a convenient time. I am happy to follow up with you now.

**MR PARTON:** While you are getting that information up, my understanding is that there was a lot of discussion with the Eastlake Football Club in regard to the Canberra Demons and in regard also to the wider question of the definition of professional sport when it comes to applying all of these guidelines. My understanding is that there is a sort of grace period scenario that has been set up specifically for the Eastlake club regarding the Canberra Demons. How long does that period run for and what is the expectation of what occurs at the end of that?

**Mr Ng:** You are correct, Mr Parton. There is a limited exemption for contributions that would otherwise be categorised as professional sport that are made to the Canberra Demons. That measure was developed in consultation with the Eastlake club. I believe it runs for two years. It is obviously a matter for the minister. It is open for

the minister under the regulatory framework to make decisions about length of time. At the current state of play, it is a two-year exemption.

**MR PARTON:** It is probably pertinent to ask the minister specifically. I am just trying to get a handle on what happens at the end of that two years. If there is an expectation that maybe they become a non-professional team after that—or was it just that that we did not really want to have this fight in the lead-up to an election, Mr Ramsay?

**Mr Ramsay:** The regulations have been drafted so that in particular circumstances, and they are on the public record with the regulations themselves, a club can make an application for an exemption under the regulations. There is no limit as to the number of times that a club can make that application, as long as they meet the requirements under the regulation. If they meet the requirements under the regulation at that time, then it is open for an exemption to be granted at that stage as well. That obviously depends on the particular circumstances of the club, or any club. It is not just an exemption in the regulations for a particular club; any club can make an application in accordance with those regulations. They can always be considered at the time.

**MR PARTON:** Excellent. That is good to hear. Mr Ramsay, you would concede that it does create an ongoing uncertainty for Eastlake and the Canberra Demons, does it not? It is a case of, “Well, we know we’re in the NEAFL for the next two years. If we’re successful in seeking an exemption on this regarding the definition of professional sport, we can continue; but if we can’t, we won’t be.”

**Mr Ramsay:** I think what it does is create a stronger sense of confidence for Eastlake, the club that has been negotiating with government in good faith and in good positive relations on this, to know that the regulation is there for them to be able to—

**THE CHAIR:** Sorry, Minister. At the end of the two-year period is there a set process now for that to be renewed? Is there a straightforward process for renewal?

**Mr Ramsay:** The process at the end of the two years is the same as the process at the beginning of the two years.

**THE CHAIR:** So you just start again?

**Mr Ramsay:** The regulation makes clear the circumstances—

**THE CHAIR:** And how early can that application go in? Is there a beginning limit?

**Mr Ramsay:** The regulation does not define a time frame by which they need to apply. Given the nature of the regulations at the moment, it would be, I think, difficult for an application to be made at this stage for two years in advance. But there is no particular time frame for them to make that application as long as they are keeping within the regulations.

**MS CODY:** Those that are complying and do not ask about these exemptions, or whatever we are calling them, just do not know about them?

**Mr Ramsay:** The regulation is public. We have talked about in the chamber. It is certainly something that is open and has been drawn to the attention of different clubs as part of the ongoing consultation as well—

**THE CHAIR:** Perhaps you could just take on notice communication with clubs—

**Ms Potter:** It is in the fact sheet as well: the process for that in terms of what the minister needs to be satisfied—

**THE CHAIR:** Which all the clubs have been given, the fact sheet?

**Ms Potter:** Yes, that is right.

**MR GUPTA:** My question is on gaming policy. How have the licensees responded to both voluntary and compulsory surrender of gaming machine authorisations?

**Mr Ng:** Thanks for that question. In relation to the voluntary surrender process and every club to which the government would have a compulsory surrender obligation if they did engage in the voluntary surrender process, I will go back to the consultation, and I will come back to answer that question as well. During the process, after the government announced the pathway to 4,000 policy, the directorate, the officials and I had the opportunity to meet with every club that was in line to have a surrender obligation, to help them understand the voluntary surrender process and to talk them through what that meant for them. Mr Neville Stevens, who is the author of the pathway to 4,000 process, was able to come to clubs and also discuss with them what the implications of engaging the voluntary surrender process would be.

**THE CHAIR:** Sorry, could you just give us a summary of how many have been voluntarily surrendered? And how many have been—what was the other one?

**MS CODY:** Compulsory.

**THE CHAIR:** Compulsorily acquired?

**Ms Potter:** I can speak to both the voluntary and compulsory surrender stages. Eighteen clubs forfeited physical machines under the voluntary surrender stage. That was 307 machines handed in.

**THE CHAIR:** Over what period?

**Ms Potter:** That was completed on 14 February. Then a compulsory stage—

**THE CHAIR:** Completed by 14 February, but from when?

**MS CODY:** When did it start?

**Ms Potter:** The surrender phase was completed by 14 February of this year—

**THE CHAIR:** I understand that bit, but when did it begin?

**Ms Potter:** It would have started at the beginning of the legislation—

**Mr Ng:** In terms of the period to which voluntary surrenders were accepted, it was after the policy was announced in August 2018.

**THE CHAIR:** From August-September 2018 to February 2019?

**Ms Potter:** It was 307 machines that were handed in during that period. Five clubs then forfeited a machine each as part of the compulsory surrender stage.

**MS CODY:** One machine each?

**Ms Potter:** That is right. And they were disposed of by 1 April this year.

**THE CHAIR:** Disposed of, as in?

**Ms Potter:** The process for that is the return to licensees who are then able to dispose of them in terms of the licensing aspect.

**MR GUPTA:** What kind of financial and non-financial incentives were put in place to facilitate and provide incentive for licensees to surrender their gaming machine authorisations?

**Mr Ng:** In relation to small to medium clubs, they were entitled to access either cash incentives or offset incentives. They were able to offset land-related fees and charges that they might incur in the planning system. Small to medium clubs accessed the cash incentives, to the tune of \$648,000. They were available for a short period, after which the agreements for which the voluntary surrenders were executed were completed. There was \$13,742,500 in offset incentives for land-related fees and charges. To date, \$772,500 of those offsets have actually been accessed already by clubs. Those clubs that have accessed them obviously had some type of liability for land-related fees and charges through the planning system. They were able to use the credits as such.

**THE CHAIR:** Is that figure entirely for the small to medium clubs?

**Mr Ng:** They are included. Yes, small to medium clubs had the opportunity to access offsets at a higher rate than large clubs.

**THE CHAIR:** The question I asked you was: was that figure that you just quoted of \$772½ thousand for small to medium clubs or was that for the whole range of clubs?

**Mr Ng:** That is the whole range of clubs that have accessed so far. Yes, that is correct. From memory, that is a mix of small, medium and large clubs that have already accessed it. But the remaining credits can be used before April 2026, and that is going to provide an opportunity for clubs to figure out what they want to do in the best location and the like.

**MR GUPTA:** Do you have a breakdown of those figures for medium to large clubs?

**Mr Ng:** I do not have a breakdown on me. If I can take that on notice—

**THE CHAIR:** But you could take it on notice.

**Mr Ng:** Yes, I am happy to.

**THE CHAIR:** We would like which clubs and how much they have accessed each.

**Mr Ramsay:** In terms of the overall numbers of the surrender of authorisations, because we were talking about the surrender of actual machines, 911 authorisations have been surrendered. In the territory we were aiming to move from 5,000 to 4,000. That is our target at the moment. We are sitting at 4,001. We are very close to the target that we have set to have by the end of this term of government. There has been, I think, a very positive and engaging time across the clubs.

**THE CHAIR:** When you say “authorisations” do you mean an authorisation to have a machine?

**Mr Ramsay:** That is right, an electronic gaming machine authorisation.

**THE CHAIR:** There is an authorisation per machine?

**Mr Ramsay:** Yes, that is right. Not all authorisations have a machine, but you cannot have a machine without an authorisation.

**THE CHAIR:** When you say 911 authorisations have been forfeited, that does not necessarily mean 911 machines?

**Mr Ramsay:** That is right. The pathway to 4,000 has always been the 4,000 authorisations in the territory.

**THE CHAIR:** Not 4,000 machines? It would be fewer than 4,000 machines?

**Mr Ramsay:** That is right. It sets an absolute cap on the number of machines that can be there. What it also does is: because the trading scheme continues to operate and because there would be forfeiture of authorisations, as authorisations are traded from one club, or one organisation, to another, that 4,000 would potentially go down under the—

**THE CHAIR:** We can go back.

**Mr Ramsay:** Can I give a couple of pieces of information that we have taken on notice: for Gambling Harm Awareness Week last year the budget was \$60,000. For this year the budget is \$100,000. Just to clarify, for the record, the comments that were made before about who was there and how many, that was this current one, not the previous one.

**MR PARTON:** You suggested that—I think your words were—the target for now is 4,000. You have reached the 4,000 target.

**Mr Ramsay:** No. That is a helpful clarification. What I was saying was that the target is that during this term of government we will reach 4,000. It is not an ongoing reduction target beyond that.

I recently hosted a forum of club presidents and had 32 or 33 club presidents or their representatives there. It was important, I thought, to be able to pass on to them the information that the heavy lifting has finished and what we are doing at this stage, having had a very strong and positive response across the club sector as to how it is that we can reduce the impact of gambling harm. We are working very positively now on how it is that we can continue to sustain a viable, strong, healthy club sector with a decreased impact.

**THE CHAIR:** Members and minister, I am going to have to move on, I am sorry, because we are going to cut into our very short time for the next section.

**MR HANSON:** I note that the courts project has been delayed yet again. Why is there a delay and what is the plan to deal with that delay in terms of courtrooms and so on in the interim?

**Mr Esau:** Obviously stage 2 was delayed as a result of the delays with stage 1. The two stages had to run in sequence. Stage 2 has presented the contractor with some difficulties around unknown or unforeseen structural issues in the heritage building. Refurbishment projects can be challenging in that regard, and they underestimated their program for the stage 2 sequence.

I think last time that we reported on the expected completion of stage 2 we were talking about the third quarter of this year. Currently the contractor is reporting to us that the two parts of stage 2—stage 2A is the heritage building and stage 2B is the refurbishment of the old custody area under the Magistrates Court—will be completed by the end of this year. I think it will be a photo finish. It is not without risk, but they are progressing well with the commissioning and the final completion of those two stages at the moment.

**MR HANSON:** When this project was first announced, what was the completion date that was advised then? There has been slippage after slippage. What was the original date and what is the total slippage?

**Mr Esau:** The original date for completion of stage 2 was August 2018. The total slippage we are expecting on the project is between 15 and 18 months.

**MR HANSON:** There is an excuse each time, but has someone done a review to work out what has gone wrong?

**Mr Esau:** We have commissioned a lessons learned exercise for early next year. Once we have wrapped up stage 2 we will go through the entire project as part of our post-implementation review and analyse a number of factors. The two bids we received on the courts project were not dissimilar in program duration. Laing O'Rourke have suffered some setbacks, but there is a combination of the fact that they underestimated the complexity of the project and overestimated the speed at which they would progress through the various stages of the build. They have encountered

difficulties and have struggled to maintain the progress of the project.

**MR HANSON:** Is anyone going to look at the impact on the courts, as this development has been ongoing? What impact has this had on the management of the courts?

**Mr Kellow:** I acknowledge the privilege statement. Since the handover of stage 1, which is the new courts building, we have been able to operate within the facilities. There are still some temporary arrangements for some of the offices for Legal Aid and conferencing which we are waiting for in the final building, but it has not had any impact to the extent that we have had to look off site, as we did during the construction of stage 1. You might recall we had to use Queanbeyan and the military court. While it has been inconvenient, it has not had an adverse impact.

**MR HANSON:** So there has been no delay, no deferral, no amending of court schedules?

**Mr Kellow:** No. We have had to adjust some of the start times, so registrars start a little bit earlier. We have had to share facilities. It has not been a big issue; it is just the logistics of working with the two courts around accessing conferencing and mediation facilities until we get the full suites on line.

There have been great advantages in the capacity for us to support remote witnesses as a result of stage 1. That is a state-of-the-art facility. In some ways we have been able to deliver better services already with the new building. Certainly improvements to the general amenity for those in the Supreme Court, jurors in particular, have already been delivered.

**MR HANSON:** The consortium providing this court is covering a lot of the costs, but does that include establishing a court in Queanbeyan or using the military court? I assume there is a cost to that. Who pays for all of that?

**Mr Kellow:** Those costs were taken out of the overall project budget. The base budget of the courts was not impacted by that.

**Mr Esau:** Obviously the government had budgeted both in terms of its financial evaluation of the bids at the tender stage and also in terms of forward budgeting on the basis of the original completion dates or the contracted completion dates. Savings have been achieved through the delays to completion—the monthly service payments we would have been due to make to the consortium have not been made. Some of those savings have been realised and some of those savings have been utilised to cover the extra costs we have had. They have not been substantially associated with offsite courts and are mostly associated with our project management costs for continuing to supervise and run the project over the extended period.

**MS CODY:** Has the delay caused the delay in wage theft cases being heard in the Magistrates Court?

**Mr Kellow:** No, there has not been any impact on the Magistrates Court. Its basic suite of courtrooms and hearing facilities has not been impacted. One hearing room

was lost but we have been able to accommodate that in the new build that came on line. It will be further compensated when we get the complete facility, hopefully before the end of the year.

**MS CODY:** So what has been the delay in hearing wage theft claims in the Magistrates Court? It is my understanding that legislation was passed but it will not be enacted for over 12 months. Is that correct?

**Mr Kellow:** When changes are brought about through legislation, it can take a bit of lead time for the court to develop the processes and procedures to support them. I think the biggest element has been the time it takes us to program the ICMS, the courts management system. We finished stage 4 a few weeks ago. We have a tranche of work to do to support the new motor accident injuries jurisdiction that has been conferred on the tribunal and then we will be working through the fair work changes. There are other things in line that we are working through. The new laws around parole time credits will also take some programming into the system.

**THE CHAIR:** So you are saying that these hearings are not able to occur until the IT systems catch up with the new law; is that correct?

**Mr Kellow:** It is nice to have everything lined up when things commence, but if government commences legislation ahead then we will always have workarounds to deliver that. We were certainly ready to support the new residential tenancy laws that commenced on 1 November. That was a slightly close-run thing due to some issues with the rollout of the ICT systems.

**THE CHAIR:** I think the question was specifically about wage matters. Is that not able to be commenced? Do you know?

**Mr Ramsay:** It is not uncommon for there to be a gap in time between the passing of legislation in the Assembly and the commencement of legislation.

**MS CODY:** But it can happen earlier, because we did it with the Residential Tenancies Act.

**Mr Ramsay:** The Residential Tenancies Act, when it was passed originally, had a 12-month delay between passing and commencement. We worked closely with the courts and with other bodies. We were able to bring that forward so that it commenced on 1 November, which was effectively—

**THE CHAIR:** Will that be occurring with this?

**Mr Ramsay:** a six-month delay between the passing and the commencement of the legislation.

**MS CODY:** So there could be a possibility—I am happy to take this offline—of moving the start date forward for the wage theft cases to be heard in the Magistrates Court?

**Mr Ramsay:** With any of the legislation that is passed through the Assembly, one of

the things that we do is work very closely with the courts. Where the courts are able to have those matters—

**THE CHAIR:** Get it done early.

**Mr Ramsay:** be heard, we can commence that legislation.

**MR HANSON:** Can you give me an update on where we are at with the drug and alcohol court?

**Mr Ramsay:** Certainly. I can commence and then I will hand over again to Mr Kellow. I am very pleased to have had a conversation with the Chief Justice just last week on that matter. The legislation that officially establishes the court is due to commence on 3 December. What we anticipate is that during that week there will likely be the first sitting of the drug and alcohol sitting list. This is a matter of referring people who are considered eligible to be part of the drug and alcohol court.

There is a gap between people being determined to be eligible for involvement in the drug and alcohol court and then actually appearing, in the way that the drug and alcohol court operates. The standard thing is about six weeks; so we anticipate that there would be that referral sitting in respect of the drug and alcohol sitting list in December. Then the more normal operations of the drug and alcohol court would be commencing in early 2020.

**MR HANSON:** With the whole shemozzle around the delay in the courts, where is it exactly going to be physically located? Is this going to be out in Queanbeyan, in the military court or—

**Mr Kellow:** No. I guess the three key facilities that the drug and alcohol sentencing list requires are a courtroom, and we can provide that within the existing facility. It needs a space for the support team to work, and we can provide interim accommodation for them, pending the heritage building works. And it needs the urinalysis suite, which will be delivered as part of stage 2.

In the event that the building is not ready by then—we will not be needing that until people have actually entered the program, which would be towards the end of January—we have an arrangement with corrections to use their urinalysis facilities in Constitution Avenue. We have lined up those contingencies. We are hoping we do not have to use them, but we are not expecting any interruption with the actual operation of the new list.

**MR HANSON:** Is it right that the plan at the end of the day is for there to be a discrete facility for the drug and alcohol court with those facilities that it requires as part of that suite?

**Mr Kellow:** We have worked with the Chief Justice, Acting Justice Walker, who has taken carriage of this, and various experts, particularly around the urinalysis suite. So we have worked closely with ACT Health and others on the design and particularly the need to ensure the chain of custody with samples and those sorts of factors. They have all informed the design and build. The courtroom has been informed by the

spaces used in other jurisdictions with their drug and alcohol sentencing—

**THE CHAIR:** Is that in the heritage building?

**Mr Kellow:** Yes, the permanent one will be there, but we will—

**THE CHAIR:** As soon as that is finished, they will be in there?

**Mr Kellow:** It will certainly be more comfortable. As I say, there is a degree of customisation. We have other courtrooms that will be made available in the event that that one is not ready. As I say, we have got a contingency for the testing.

**THE CHAIR:** With the contingencies, what is the cost estimated for those if you do have to go to a different building as well?

**Mr Kellow:** We are not going to a different building; it will simply be—

**THE CHAIR:** No, you just said that if the—

**Mr Kellow:** Yes, so we have six courtrooms in the new stage. The Chief Justice will simply make one of those courtrooms available for the drug and alcohol sentencing list.

**Mr Ramsay:** I think it is important to make this clear on the record, because I know that there was a public report, a media report, suggesting that the drug and alcohol court may end up in Queanbeyan or somewhere. That was an inaccurate report.

**THE CHAIR:** Yes, but it may be in Constitution Avenue.

**Mr Ramsay:** That is certainly not going to happen, no.

**Mr Kellow:** In respect of the urinalysis suite, there is one in Constitution Avenue used by corrections. So if we cannot have participants taking their tests in the courts building, we will be able to use that facility until our—

**THE CHAIR:** But the actual hearings will still take place in the courts facility. Got you.

**Mr Kellow:** Hearings will still be in the law courts building in Knowles Place, as will the meetings with the drug and alcohol sentencing list team, which provides representatives from the various agencies involved in the process.

**Mr Ramsay:** I was pleased to be able to have a tour of what will be the drug and alcohol court sitting room. Within the limitations of not wanting to impact on the ongoing work there, I am happy to offer a tour for you as well, if you would like.

**MR HANSON:** Yes; why not. In relation to Acting Justice Walker, the court resides within the Supreme Court and you have an acting justice. I assume that the drug and alcohol court is going to be ongoing. Does this require an expansion to the Supreme Court or do you envisage that this appointment will be held by an acting justice? Why

not actually formally increase the scope and the size of the Supreme Court? What is the plan?

**Mr Ramsay:** That decision was made in close conversation with the Chief Justice of the court as the most appropriate way of helping to establish the court both in terms of the time frames around the appointment process and also to have someone who can be there who has the experience and the passion for therapeutic jurisprudence that Acting Justice Walker has. But it is also helping in the consideration of what the need is, what the ongoing demand is, what the best ongoing form of operation is. It is an ongoing discussion about whether it is an acting justice or an ongoing expansion—

**MR HANSON:** So the question is, I suppose: is it going to be a full list?

**Mr Ramsay:** The other thing, obviously, with the operations of the drug and alcohol court and its funding work is that it builds up over the first couple of years. So it starts with relatively few numbers of people and then it builds up to its full list. It is during that time that I will continue to have conversations—

**MR HANSON:** Okay, so it may be that it becomes—

**MS CODY:** Minister Ramsay, with the new courts, we have got the CTU underneath. That sits in this area for questions?

**Mr Ramsay:** Yes.

**MS CODY:** What consultation occurred with either corrections staff or specific CTU staff in regard to the design, the construction or the build of the CTU cells?

**Mr Kellow:** The design of the facility started once the contract was signed in December 2015. I think there were some initial scoping requirements put in by corrections, but really throughout the design phase there were consultations with corrections about what they required in the custodial areas. It was very much left to corrections, in their internal consultations, and there was engagement throughout. And then, as we moved towards the completion of the first stage, which they took occupation of earlier this year, there was further consultation.

I think there have been many areas over time where—and sometimes quite quickly there are new considerations that have to be taken into account—often it is not until you see the actual physical space that you have a real idea about what it is that you have got to work through. There were some consultations beforehand, though. There were some adjustments there. There is a program of further adjustments which has been put together.

At this stage I know there are weekly meetings between the senior managers at corrections and the CTU staff to further refine it. It is a mix of things around the building structure. It is a mix around business processes that they are using. It is a mix around training and awareness.

**THE CHAIR:** Just to clarify, Mr Kellow, if I am not mistaken there were not lunchroom facilities and there were not appropriate exits. Is that correct?

**Mr Kellow:** No, that is not correct.

**THE CHAIR:** Just in plain language, if you do not mind.

**Mr Glenn:** There was, I suppose, an interim lunchroom facility provided when staff moved in. To put it into context, the CTU space abuts a further area that is still being worked on in stage 2 of the courtroom development.

**THE CHAIR:** Which will include the lunchroom?

**Mr Kellow:** Correct.

**Mr Glenn:** Which ultimately will allow that final form of the lunchroom to be installed. There is a temporary version there at the moment which we acknowledge is not the same as the final facility that is available for staff to use. On the question of exits, we did have an incident where WorkSafe issued a prohibition notice on Laing O'Rourke, the contractor, in relation to a number of work health and safety issues. One of those was that one of the temporary emergency exits had been blocked. Once that was identified, it was immediately restored.

**MS CODY:** What about the other WorkSafe shutdown of the CTU?

**Mr Kellow:** That is the one Richard is talking about.

**Mr Glenn:** That is the one. There is only one.

**MS CODY:** Were there any other issues raised during that shutdown? That was the one on 18 October?

**Mr Kellow:** I believe that is the date, yes.

**Mr Glenn:** It was in October, yes. The issue that actually gave rise to the notice from WorkSafe was the intrusion of dust and other building debris into the CTU workspace. In addition to that, issues were raised around the exit and the emergency procedures that were associated with the space.

**MS CODY:** Who raised the issue of dust?

**Mr Glenn:** That was identified, as I understand it, by WorkSafe in an inspection of the facility that was occurring for a different purpose.

**THE CHAIR:** Was the WorkSafe inspection a regular inspection or was it called on by somebody?

**Mr Glenn:** I understand that it was in relation to a completely different issue. They just happened to be in the CTU.

**THE CHAIR:** And what was that completely different issue?

**Mr Glenn:** I actually do not know.

**Mr Kellow:** I am not sure why they were there. I understand that WorkSafe had come to look at the facility as part of its review of the Bimberi facility for youth detention. It was looking at lessons learnt and how the custodial area had been designed under the courts.

**THE CHAIR:** With youth detention in mind or—

**Mr Kellow:** I am not sure whether they were just looking at examples of—

**THE CHAIR:** No doubt we can ask them.

**Mr Kellow:** But that is what brought them onsite. They were not there to specifically do a formal inspection of the—

**THE CHAIR:** Luckily they were there because there was—

**MS CODY:** My understanding was that it was not just dust; it was silica.

**Mr Glenn:** It was building dust, which is concrete dust, which—

**Mr Esau:** It was a variety of dust. We had Robson Environmental controls come in and do a sample and a check in. It was a very extensive and detailed cleaning not just of the specific areas where drilling had occurred but also across the entire facility. That happened over the course of a weekend and the facility was cleared on Sunday afternoon after the incident was found. I cannot specifically recall the content of the environmental report, but silica was not a concern from a work health and safety point of view. The presence of dust in the area was not, as a result of the environmental assessment, flagged as a work health and safety issue but it was the correct action to take—an abundance of caution to avoid the risk of any dust being around the environment.

**Mr Glenn:** On the precautionary principle.

**MS CODY:** The environmental testing has come back that there was no silica? Is that what you are saying?

**Mr Esau:** I could not say that. I would have to take that on notice, but there was—

**THE CHAIR:** In fact, could you perhaps take on notice what that reporting was, what was found and what levels, and what levels are considered safe for the different dusts that were found?

**MS CODY:** And also what you have done to deal with the exposure, if it is silica, particularly for members of the public, staff, young people, detainees, other visitors to the CTU?

**Mr Glenn:** The advice from the environmental hygienists is that the potential exposure, given the material that was there, does not pose a risk to safety. That

information has been communicated to staff, I think as recently as yesterday. We have had conversations, obviously, with unions about whether there should be a response to the presence of that material in the space. The best professional advice we have at the moment is that there is no risk to health as a result of that type of exposure. And there is an ongoing engagement process.

**MS CODY:** We as a committee also went to the CTU to visit. I would be interested in seeing the report. I would be interested to have a look.

**Mr Glenn:** We can send it over.

**MR GUPTA:** Was any briefing given to the staff or the employees about the presence of hazardous material?

**THE CHAIR:** Was the report given to the staff about what was found and to what extent it was present?

**Mr Glenn:** Yes, I understand the report has been provided. There was communication to staff, I think yesterday, including the content of the report, and that has also been provided to the union.

**THE CHAIR:** Could you perhaps take on notice to let us know exactly what communication was with staff?

**Mr Glenn:** Certainly.

**MS CODY:** Who was notified of the shutdown for that particular weekend? Was the minister notified?

**Mr Glenn:** Certainly the attorney was notified. Minister Rattenbury was notified, as minister for corrections. I understand Minister Orr was also notified, as the minister responsible for WorkSafe.

**MR GUPTA:** Are there any plans for future or further support to the culturally and linguistically diverse community, CALD community, in family violence court matters—for example, providing a translator or expanding the number of languages into which fact sheets are translated?

**Mr Kellow:** In terms of information sheets and videos, the courts have now prepared updated kits. We had a workshop with representatives of the CALD community in July last year and developed an action plan from that which included better information, available in a range of languages. We now have brochures available at the registry, through various agencies and on our website which have been translated into the 11 most frequently needed languages. We have produced two videos which show the process for conferencing and what happens in court in family violence matters, and the scripts for those have been translated and will be available on the website as well.

It is a work in progress. We have done that first tranche of work in terms of written material and the audiovisual material, and we are working with the courts to identify

other areas where they think that would be an advantage. Family violence is the priority, but we have also been talking a bit with ACAT about residential tenancies and those sorts of areas which might also benefit from—

**THE CHAIR:** What are the 11 languages identified?

**Mr Kellow:** I would need to take that on notice.

**THE CHAIR:** Okay, take that on notice. Other than written material, what is the interpretation and translation available to victims of family violence?

**Mr Kellow:** As I mentioned, there are videos, but there is also access to interpreter services.

**THE CHAIR:** How is that facilitated?

**Mr Kellow:** It is possible for the court to arrange interpreters where necessary. What we find is that quite often complainants or respondents have already been in contact with other agencies that can arrange interpreter assistance.

**THE CHAIR:** What languages are available for interpreting? Is it just the 11 languages?

**Mr Kellow:** No, it is generally used through TIS. There are obviously some languages which are very hard to find accredited interpreters for. We recently had a matter in the Magistrates Court for which we had to fly an interpreter down from Coffs Harbour to assist the party. That was a family violence matter. We do that through TIS, which is the—

**THE CHAIR:** What is TIS?

**Mr Glenn:** It is the Translating and Interpreting Service. It is the service that is engaged to be able to provide those sorts of translations.

**THE CHAIR:** It is a private body, is it?

**Mr Glenn:** Yes.

**MR GUPTA:** How qualified are these interpreters and what is their availability? If somebody says, “Okay, we need it now,” are you able to provide them and are they qualified? What is the qualification of these interpreters?

**Mr Kellow:** I know the levels have changed, but I think NAATI level 3 was the level mandated by the courts. We are developing some guidelines around interpreters for use in the courts and the tribunal, based on the work done by the Judicial Council on Cultural Diversity. In terms of availability, we are very much in the hands of the provider. As I said, there are some language groups where there are very, very few accredited interpreters yet. We need to do the best we can in those circumstances.

**THE CHAIR:** Perhaps on notice, Mr Kellow, could you come back to us with how

many incidents over the reporting period there were of non-availability of a particular language under that arrangement, how often someone had to be brought from interstate and for which languages?

**Mr Kellow:** Yes.

**MR HANSON:** My recollection is that a number of positions in this area are or previously were funded by the domestic violence support levy and that they have been cut. Is that right?

**Mr Glenn:** The funding for translation services that comes from the safer families levy has continued, so that is still in place. That provides both access to funds for the courts and a range of legal assistance and specialist family violence and domestic violence services to be able to access translation services.

**MR HANSON:** Which positions, then, are being cut in this area from the safer families levy? There are some in this area, in support in the courts for domestic and family violence matters.

**Mr Kellow:** Within the courts there was a registrar role, a registry officer role and a short-term project role.

**MR HANSON:** My recollection is that there are also some—

**Mr Ramsay:** It is my absolute pleasure to assure you, Mr Hanson, that the government has made the formal decision, and has communicated it both to Legal Aid and to the courts, that the funding that was transitioning out of the safer families levy is receiving ongoing funding.

**MR HANSON:** You backflipped?

**Mr Ramsay:** We are maintaining—

**MR HANSON:** You are announcing the backflip today. Well, that is good.

**Mr Ramsay:** We said what we would do. We said that we are going to be transitioning out of the safer families levy into another source of funding.

**MR HANSON:** So you have moved it from bucket A to bucket B, but the funding is going to continue, is it?

**Mr Ramsay:** I am delighted to assure you, as I have said in the Assembly a number of times—

**MR HANSON:** No, you have not.

**Mr Ramsay:** that we will continue the funding. We will continue the support and—

**MR HANSON:** That is not true. You have not said that, mate. Show me. Find the transcript—because you have not said that before.

**Mr Ramsay:** What I have said—

**MR HANSON:** No, you have not.

**Mr Ramsay:** is that we would find the way, we would find the appropriate funding.

**MR HANSON:** You never said that these positions would be maintained by any funding bucket. That is not true.

**Mr Ramsay:** We have said that the funding would be moving out of the safer families levy—

**MR HANSON:** You said it was moving out.

**Mr Ramsay:** and that we would find the appropriate source of funding.

**MR HANSON:** No, you did not.

**Mr Ramsay:** We have now written both to the courts and to Legal Aid to assure them—

**MR HANSON:** I welcome that, but do not try to rewrite history.

**Mr Ramsay:** I am glad that you welcome—

**MR HANSON:** Do not try to rewrite history.

**Mr Ramsay:** It would be good for you to have a look at what I have said publicly, because I have made it very clear—

**THE CHAIR:** Mr Ramsay, would you like to take on notice to present us with those—

**Mr Ramsay:** The matter is already public, on the record.

**THE CHAIR:** Mr Ramsay, I am the chair of the committee. I am speaking at present and I would really like it if you would stop speaking and listen to me. I am asking whether you would provide for the committee the statements you have made on this topic.

**Mr Ramsay:** I can, and I can also refer you to *Hansard*.

**THE CHAIR:** Of what?

**Mr Ramsay:** The statements I have made in the chamber.

**MR HANSON:** So this is just—

**THE CHAIR:** No, wait Mr Hanson. I am asking Mr Ramsay a question.

**Mr Ramsay:** On 20 August 2019 I advised the Assembly that the Deputy Chief Minister and I had both met with the CEO of Legal Aid and that we would continue to support the frontline services they offer with funding.

**THE CHAIR:** So that is relating to Legal Aid, is it?

**Mr Ramsay:** That was the conversation that we had at that stage.

**MR HANSON:** But we are talking about these positions, are we not?

**Mr Ramsay:** On 21 August 2019, in response to a question on notice, Minister Stephen-Smith advised the Assembly that I had assured members of the Assembly that the funding that will be moved as a part of the redesign of the family safety levy will be replaced from another bucket of money from 1 July 2020. So I refer you to *Hansard* of 20 August and 21 August to reinforce the fact that—

**MR HANSON:** Why did you take that money out of the budget and then leave these organisations in limbo without that funding for a number of months? Why did you do that?

**Mr Ramsay:** They have not been without funding for a number of months. As I mentioned in the Assembly, I met with the CEO of Legal Aid. I reassured him, as did the Deputy Chief Minister, that the funding would be found from another bucket of money.

**MR HANSON:** Why were you not able to say that at estimates? Why did you not have these responses at estimates? The money had been cut and there was no assurance that that money would be restored. It took you a number of months, with these organisations in limbo, not knowing whether people were going to be sacked, before you readjusted and found some money elsewhere. Why did you do it that way?

**Mr Ramsay:** You are saying the staff thought they may be sacked. That is not accurate. That was one of the key things that I was very pleased to be able to provide the information—

**MR HANSON:** If you cut the funding you cannot fund the positions, can you?

**Mr Ramsay:** That was one of the things I was very pleased to provide information on to the CEO of Legal Aid. He was very confident and very well assured by the conversations he had with government. I invite you to speak with him when he is before the committee a bit later on.

**MS CODY:** I believe he is on at 11 o'clock today.

**Mr Ramsay:** Yes.

**THE CHAIR:** We will get to it; do not worry. Thank you very much, Mr Ramsay.

**MS LE COUTEUR:** How many community legal centres are funded by JACS and

how do you do the funding?

**Mr Glenn:** Nine services are funded. Three of those are services within Canberra Community Law, the head body. The funding arrangements differ, depending on whether the source of the funds is direct from budget or via other means and the extent to which commonwealth funding is also made available to those agencies. It is a bit of a mixture as to how that works.

**MS LE COUTEUR:** The Tenants Union is one of these. I understand a select tender process is going out for them right now. Why is that?

**Mr Glenn:** The tenants advice service which is provided by the Tenants Union is a critical service for tenants in the ACT. It has been funded from the ACAT trust account, which is a corpus of funds derived from a range of different sources, including interest on rental bonds.

**MS LE COUTEUR:** If we have time, I will talk to you more about that one.

**Mr Glenn:** The reason for going to market for that service was that it had been a considerable period since there had been an examination of whether that service could be provided more effectively. That was not seeking to criticise the Tenants Union but simply wanting to answer the question of whether the Tenants Union remained the correct service provider to deliver the best type of service for the tenants of the ACT.

The decision about specific funding for that body rests with the director-general, as the trustee of the ACAT trust. That sits within the framework of government's priorities as to what should be funded and from what source those bodies should be funded. On examination I formed the view that I could not reasonably say that this was going to be the best value for money for the expenditure of this amount—it is about \$450,000 a year—simply because we had not asked the question of whether there was anyone who could provide a different service or a better service or could innovate in the space. I wanted to pose the question, and the tender process is the response to that.

**MS LE COUTEUR:** Has the directorate or the minister or anyone ever provided feedback to the Tenants Union raising any concerns about the service they are providing, and have they been meeting the obligations for that funding?

**Mr Glenn:** We have regular discussions with the Tenants Union and talk about service levels, the nature of the service and those things. The Tenants Union have been meeting the obligations under their funding agreement; there is no question about that. But there is still an open question, in my mind at least, before I authorise the expenditure of that amount of public money, as to whether a different arrangement might provide a higher level of service or a different style of service that could deliver a better result for tenants of the ACT. I certainly do not have a closed mind in relation to whether the Tenants Union might ultimately be the successful party; I simply needed to test it before committing the money.

**MS LE COUTEUR:** I understand the Tenants Union provided input into a review of their services, including highlighting a number of factual errors, as they saw it. Was

this feedback passed on to you, the minister's office or the consulting firm that conducted the review?

**Mr Glenn:** Certainly to me. Both the Tenants Union and the directorate were not deeply satisfied by the results of that review. We think it could have been done in a deeper way and actually provided us collectively with more to work with. However, that was the result we got from the review. I will have to check to see if we have passed our dissatisfaction to the review company, but I would not be proposing to seek their services, necessarily, again. Clearly, there were some issues arising out of that process. There is some useful information in it, but it is not necessarily providing answers to what the future of the tenants advice service should look like.

**MS LE COUTEUR:** Were the factual errors corrected in the final report? Is there a final report and, if so, is it publicly available? At the very least, has the Tenants Union seen it?

**Mr Glenn:** The Tenants Union certainly have seen it. It is not publicly available at this stage. I would need to check the extent to which the various bits of feedback in relation to the report are included in the final version or are simply kept with that version, so that we understand that this is what was provided to us by the reviewer and this is the response different stakeholders have made in relation it, including the accuracies or inaccuracies they perceive in it.

**MS LE COUTEUR:** Has the Tenants Union ever asked for more resources to do its work?

**Mr Glenn:** Yes.

**MS LE COUTEUR:** As I guess you would expect everyone to do.

**Mr Glenn:** Almost everyone, yes.

**MS CODY:** What are the employment conditions in the centres? Are they all procured? Is there ethical procurement that occurs?

**Mr Ramsay:** Across the various community legal centres?

**MS CODY:** Yes.

**Mr Glenn:** There is a range. Some are done under grant funding arrangements. Others are standing bodies. For example, Legal Aid, if you include that in the mix, is a standing body that is funded about half and half by the commonwealth and by the ACT through different mechanisms. The distinction in relation to the tenants advice service is that it is funded specifically from a trust account which sits within the responsibility of the director-general.

**MS CODY:** When we give the grant funding, for example, or when we provide the procurement funding, depending on which way we do it, do we keep an eye on how they then manage their staff? Do we look at the ethical nature of their employment practices?

**Mr Glenn:** We certainly keep an eye on performance in relation to the services that we are asked to provide. We typically, in our processes, seek assurances about the adequacy of service providers, HR and employment practices. I do not know specifically if we interrogate—

**MS CODY:** You do not ensure that they hire under correct EBAs, for example, that they pay staff at the right levels, that they all receive their breaks and their meal allowances if that is included in their awards?

**Mr Glenn:** We certainly seek assurance that people are being employed under the correct EBAs. We certainly would not go to direct workplace issues like whether people are receiving the correct breaks. We would not have visibility at that level.

**MS CODY:** But you do look at correct EBAs?

**Mr Glenn:** I will have to check that to confirm. But our standard contracting or funding posture is that people are complying with the whole range of regulatory obligations, including those relating to employment.

**MS CODY:** If you would like to take that on notice, that would be great.

**THE CHAIR:** Do you want to just clarify the question he is going to take on notice?

**MS CODY:** I asked if, when grant funding is provided to these community legal centres, we look at, particularly, whether they are meeting their EBA conditions or that they have EBAs in place.

**MS LE COUTEUR:** I think you wanted it for all of them, not just grant funding, or—

**MS CODY:** For all of the legal centres, yes. There are 11 or nine or—

**Mr Ramsay:** Both the visibility and the oversight?

**MS CODY:** Yes, please.

**MS LE COUTEUR:** You mentioned that the money for this comes from a trust account. Is that the interest from the rental bonds, or is it from somewhere else?

**Mr Glenn:** The ACAT trust account itself has a range of different income streams into it, one of which is the interest from rental bonds.

**MS LE COUTEUR:** The money that goes into this trust account—my note says there are six possible purposes for it. How do you work out where it goes to: how much goes to ACAT, how much goes to legal services and how much to the Tenants Union?

**Mr Glenn:** There are a range of possible purposes for which the money can then be disbursed. That is established within the legislative framework for the trust itself, which is in part in the ACAT and then in part in the other acts that govern the money

going in.

**THE CHAIR:** But, simply put, is it first in, first served with the money?

**Mr Glenn:** No.

**THE CHAIR:** Is it a proportion of the fund that has to be spent on X, Y or Z?

**Mr Glenn:** There are directions within the legislation as to which parts of the fund can be spent on what nature of service, so there are a range of possible—

**THE CHAIR:** Is there a summary document that you could come back to us with about how that is managed?

**Mr Glenn:** I am sure we could.

**MS LE COUTEUR:** That would be great. That would say the purposes and how much money?

**Mr Glenn:** Yes.

**MS LE COUTEUR:** This will probably have to be on notice. Has the ratio of funding for the different purposes changed over the last 10 years or so?

**Mr Glenn:** I would have to take that on notice. Certainly in relation to rental bonds money, some of which goes to the Tenants Union and some of which goes to support the office of rental bonds, in a funding sense the proportion there, in the last couple of years, to my knowledge, has not moved materially.

**MS LE COUTEUR:** Over the last couple of years, particularly over the last year, interest rates have decreased dramatically. I understand that this money is interest on the \$78 million of rental bonds that the office holds. What impact is this having on the funding for the services we are talking about? Clearly, reducing interest rates has not reduced their costs in any way that I could see.

**Mr Glenn:** No, it has not had a direct impact on funding for any of the bodies that are dealt with from that part of the corpus of the fund. The inflows have been reasonably stable, about the \$2 million mark per annum over the last five years. It has probably dropped within a margin of \$150,000 to \$250,000, depending on the year. That is partly to do with returns on the fund and partly to do with activity in the rental space and the number of bonds that are in the corpus. That has not been, thus far, impacting on our ability to fund the bodies that are seeking—

**MS LE COUTEUR:** Do you think it will, going forward, given that interest rates used to be a lot higher? The Reserve Bank is 0.75.

**Mr Glenn:** To an extent, this goes to the whole corpus of the ACAT trust fund and its sustainability over time, but it is a much larger body of money which is able to be sustained at the moment. There is always an ongoing monitoring job for the directorate to make sure that the trust fund itself is sustained. It is generating its own

income as well, because money is flowing into it. So there are lots of ins and outs on the investment strategy.

**MS LE COUTEUR:** But certainly all the rental bond money is used for tenants' matters, from what you are saying. It is used for the Tenants Union and for running the rental bonds office?

**Mr Glenn:** That is right. And amongst those we will provide those permitted purposes.

**MS LE COUTEUR:** Thank you.

**MR HANSON:** Mr Glenn, it strikes me that this is your first appearance as the director-general. Is that right?

**Mr Glenn:** It is indeed.

**MR HANSON:** Congratulations, on the public record. Your appointment has been welcomed across the board.

**Mr Glenn:** I appreciate that. Thank you very much.

**MR HANSON:** Can we turn to cannabis and the cannabis legislation. Just out of curiosity, was the directorate looking at this issue before the private member's bill was presented? Was this an area of policy reform that was being looked at within JACS at all or did the private member's bill come and then the directorate responded?

**Mr Glenn:** Specifically on the issues that were raised by the private member's bill, not directly. But the state of the criminal law in the ACT, and drug law in particular, is always a topic of discussion within the directorate and in relation to the various cross-government and national bodies that are looking at drug reform.

**Mr Ramsay:** More broadly, as you are aware, Mr Hanson, the matter was raised in the lead-up to the 2016 election. The Chief Minister made clear at that stage—at, I believe it was, the ACTCOSS forum that we were at—that he and the government were open to considering matters of drug reform, including potentially looking at the decriminalisation of personal use of cannabis, recreational use of cannabis. That was something that was flagged.

I remember the question that was posed to you and to the Chief Minister and to the leader of the Greens at the time, and that was then clearly on the record. This government has made clear, as part of its ongoing work, that drug law reform is a matter that, as a primary disposition, we believe is a health matter that is supported through the justice system, rather than the alternative view. That has been part of the ongoing, broader consideration.

**MR HANSON:** Regardless of the underlying debate, in the substantive debate about the legalisation of cannabis, we have reached a position where the federal Attorney-General has provided advice to you—and I think provided advice prior to the legislation being passed, but you might want to clarify—that, in his words, this bill

does not do what you think it does. We have canvassed these issues to some extent before. But the amendments to Mr Pettersson's bill came, I assume, from within the directorate, based on advice perhaps from the Solicitor-General as a bit of a workaround with the federal law. Can you give me some explanation of how that workaround originated and what confidence you have got that that would survive a testament form?

**Mr Ramsay:** Certainly. We have made clear before that, effectively with any piece of legislation, the role of our system is that the legislative body passes the legislation. It is always a matter, with any piece of legislation, that the determination or the interpretation of that is done by the courts. That is the case with every single thing that goes through the Assembly. In that sense, under our democratic system that is the way that this particular piece of legislation works as well.

**MR HANSON:** Certainly, but it is a bit unusual in this circumstance in that you have got the federal Attorney-General writing to you, saying that they have got advice from the commonwealth Solicitor-General, or whomever he has got advice from, that this is not going to be legislation that is going to do what you think it does. That is unique. I am interested in how you respond to that.

**Mr Ramsay:** As you are also well aware, the legislation was introduced here. It was considered by a committee. There were a number of recommendations that were made by the committee. As is appropriate in any circumstance when there are recommendations by the committee, there are then considerations made by government in relation to those recommendations, in the way that any private member's bill—whether it is brought on by a member of the opposition, a backbench member of the Labor Party or a member of the Greens—is then considered through government processes, and how it is that that legislation could be considered by government. That is done through consideration by the relevant directorates. In this case that was by the JACS Directorate and the Health Directorate. It is not an uncommon step by any means for legislation that is being considered to be considered by the GSO as well and for us to receive consideration advice.

**MR HANSON:** Where did the idea come from of the workaround whereby the offence would stay on the books but say that the law does not apply?

**Mr Ramsay:** That came from those deliberations within government. I cannot say to you who it was, though, within which particular area of government, who first considered that particular framework, but certainly it was out of the deliberations that happened within JACS, within GSO, within those conversations.

**MR HANSON:** Were other frameworks—

**Mr Ramsay:** We were obviously very well aware that the commonwealth legislation was there, as it had been previously, and there had not been any change to that. There has not been any change. It is always important with any piece of legislation to consider how it is that it sits within the bounds of the self-government act and therefore the consistency with commonwealth legislation.

**MR HANSON:** Did you consider other frameworks? Were there other frameworks

put forward or was this the only one? Were there a number of options in terms of the way to deal with these legal issues or was this the only one that was put forward to ministers?

**Mr Glenn:** As you would imagine, in all policy development processes there are a range of different policy and legal options that are examined and advice provided to government on that basis. Obviously I cannot go further into the content of policy advice.

**MR HANSON:** Do we just let it go forward and see if this ends up in the courts or is the government considering, based on the advice from the federal Attorney-General, a subsequent amendment to address the issues that have been raised around proactive defences and so on? Is the government just going to plough through and see what happens in the courts?

**Mr Ramsay:** We have considered the advice that we have within government. We have considered the advice on the status of the bill as it has passed. In the very sure confidence that we have that the legislation that we have passed is in keeping with the will of the people of Canberra, we will be leaving the legislation as it is.

**MR HANSON:** You might argue that, from a political point of view: “It is in keeping with the will of the people.” That is, I guess, a political debate. But here we are, having a legal consideration that, just because something may or may not be in the will of the people, it still has to be something that stands a test in the court. My question is specifically: you are just going to let this roll through into the courts? You are not considering a further amendment to address the issues that have been raised?

**Mr Ramsay:** We have considered the advice. We are aware of the particular view that has been expressed by the commonwealth Attorney-General. We are also aware of—

**MR HANSON:** You think he is wrong, then? Clearly the fact that you are going to proceed means you believe that the federal Attorney-General and the advice he has got are wrong.

**Mr Ramsay:** We are aware of the advice of the commonwealth Attorney-General. We are also aware of the considerations and the advice within government. As I have said publicly before, the questions around the particular case that is cited by the commonwealth Attorney-General, which is a taxation case and does not have anything to do in relation to drug law at all—

**MR HANSON:** You think he is wrong?

**Mr Ramsay:** We believe that the legislation that we have passed here in the Assembly is not only strongly in keeping with the will of the people of Canberra but also legislation that is appropriately passed.

**MR HANSON:** The UN have got involved as well. They have written a letter asking questions about whether this legislation is then in accordance with treaties that have been signed by the commonwealth of Australia. You said on the radio—I was listening in—that you have considered this matter because you said you had

considered all matters, when you were specifically asked about this. What deliberations and considerations did government have about meeting UN obligations?

**Mr Garrison:** In relation to the question of the international treaties, as I spoke about at the committee, the issue is that there is a treaty obligation that supports drug laws in broad. What the treaties do not do is detract from the sovereignty of states to make the laws that they see fit, that they should make. Some treaties apply as a law if they are actually picked up by particular legislation and applied.

Otherwise, particularly in this age, treaties are now an accepted tool to look at interpreting laws that are passed, particularly when they are premised on those international conventions or treaties. For example, the Human Rights Act 2004 is premised on the International Covenant on Civil and Political Rights. Indeed, it is mandated in the legislation. You can look at the covenant, you can look at the commentaries on the covenant and you can look at international commentary in relation to that in construing the terms of the Human Rights Act. That is a very clear example where the legislature has engaged to, if you will, pick up the international obligation.

**MR HANSON:** But have you looked at this specific treaty and given consideration to whether the legislation that has been passed in the ACT meets the obligations that have been signed up to by the commonwealth or not?

**Mr Garrison:** Without going into legal advice that I have provided, as I have said to the committee, the international treaty, first of all, does not bind the ACT. It is not a signatory party. But even for those countries, like Australia, that are signatories to that treaty, it could be used to assist in interpreting commonwealth laws which are premised on the obligations that are undertaken in that treaty. For example, there are a number of areas of commonwealth legislation for which their constitutional power arises from their external affairs power because the commonwealth has entered into a treaty obligation. It then is able to pass legislation that is relevant to that international obligation.

In this instance my recollection is that the treaty sits there. The commonwealth has not expressly relied on the external affairs power when making its drug laws. The legislative framework in relation to drugs is broadly consistent with the treaty obligations. For example, legislation in relation to the medicinal use of cannabis is an accepted function under that international treaty.

**THE CHAIR:** Mr Garrison, if I may, I believe that the UN statement that came from the International Narcotics Control Board is not talking about medical use. It is talking about other uses.

**Mr Garrison:** Yes, Ms Jones. I was—

**THE CHAIR:** Mrs Jones, if that is all right.

**Mr Garrison:** Mrs Jones.

**THE CHAIR:** We were talking about this change, which clearly is not about medical

usage. That is my understanding.

**Mr Garrison:** That is correct. I was responding to Mr Hanson's inquiry about how the treaty fits in with the legislative framework. I was giving an example of how this particular treaty is broadly consistent with the legislative scheme that has been adopted across most jurisdictions in Australia because—

**THE CHAIR:** Yes, but this really is not what the question was asking. It was about our obligations. Tell me if I am wrong, but it sounds like the advice—not advice; the statements that you are making—is that, despite international obligations, the ACT can do whatever it likes because that international obligation does not bind the ACT government, but acting like that may or may not make the ACT government less than the best citizen in the Commonwealth of Australia. Secondly, what you were saying makes the point that we can sort of get away with it unless the federal government decides to strike it out or make a law against what we have done.

**Mr Garrison:** Mrs Jones, I object very strenuously to the characterisation of my response.

**THE CHAIR:** Would you like to clarify whether you think that we can do whatever we like in this space because we are not directly bound by the UN—as in the ACT Legislative Assembly is not, which is I believe what you have made the case of—

**Mr Garrison:** Mrs Jones, if I may—

**THE CHAIR:** Please.

**Mr Garrison:** I explained the legal framework within which treaties operate. In relation to the interaction between those treaties and domestic legislatures, domestic legislatures can depart from it. Indeed, around the world, in relation to this particular topic, a number of domestic legislatures have, in fact, departed from those principles.

**THE CHAIR:** In Australia?

**Mr Garrison:** And in Australia the ACT has departed in relation to an aspect of that treaty obligation—

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

**Mr Garrison:** and there is an argument not that the ACT is bound by that international treaty but that the ACT law is inconsistent with the commonwealth law, which itself is broadly consistent with that treaty.

**THE CHAIR:** Got you; so we may not be going against our international obligations at a commonwealth level, but the ACT making this change which is inconsistent with that international obligation, in your view, is something which has happened before elsewhere?

**Mr Garrison:** It has happened in California. It has happened in a range of other

states in the United States that have dealt with cannabis in a range of different ways. That highlights the fact that, absent a statutory obligation to comply with an international instrument, the nature of a sovereign legislature is to make laws—in the case of the ACT for the peace, order and good governance of the territory.

**THE CHAIR:** I am asking you if it is your understanding that the only solution in respect of states which are outside of our international obligations is for the commonwealth to act if it considers it to be a problem that we, not as a whole commonwealth, do not act in line with our international obligations.

**Mr Garrison:** It is not for me to say how the commonwealth is going to respond to the ACT—

**THE CHAIR:** Sorry, I missed those words; I could not hear.

**Mr Garrison:** It is not for me to say how the commonwealth is going to respond to the ACT law.

**THE CHAIR:** No, I did not ask you to determine how the commonwealth will. But that may be the only course of action if they consider it to be against our international obligations.

**Mr Garrison:** Not on the basis of the international obligations but on the basis of an alleged inconsistency with the commonwealth law.

**MR HANSON:** They think that it has not done what you think it has done. I guess that their view at this stage, as I interpret it, is that they are going to test it in the courts, as opposed to an act to potentially overturn it. Have you heard from the feds about this UN letter? I assume that the UN letter went to the commonwealth Attorney-General or to the federal government somewhere. Has someone from the federal government contacted the ACT government to ask for any clarification at this stage?

**Mr Ramsay:** I have received no correspondence from the commonwealth Attorney-General other than the correspondence—

**THE CHAIR:** Public letter.

**Mr Ramsay:** that was made public, and I believe copied to you as well, in relation to the legislation. There has been nothing that I have received in relation to the United Nations matters. I think that is likely to be an acknowledgement of the very point Mr Garrison has been making, which is that the ACT territory legislature makes laws for the good government and, in our opinion, for the wellbeing of the people of Canberra, which we have done through this legislation, and we are very happy to support it.

**MR HANSON:** In terms of then moving—

**THE CHAIR:** The good government or the poor government, but it is law nonetheless.

**MR HANSON:** to the commencement of this act, I think that the Minister for Health has the final say on the package that has to be provided prior to it commencing. Can you let me know what role your directorate is going to be playing in developing that suite? I imagine that the health minister is going to be looking at the health implications of the use of cannabis. But in terms of the legal complexities, are you going to be providing any information so that people are at least aware of the risk that they may be charged under a commonwealth offence and what that means?

**Mr Ramsay:** Let me again reaffirm in principle what I said earlier today and I have said on a number of occasions throughout my time here. We believe that, primarily, drug law reform is a health matter that is supported by justice areas rather than the other way around. We do understand that there are more conservative forms of considering drug law reform that treat it primarily as a criminal justice matter with some health implications. We believe, and we believe that the Canberran people uphold this, that it is a health matter that is supported by the justice area. We will continue to work with that.

**MR HANSON:** If you want to—

**Mr Ramsay:** No, that is why the support that is happening is happening from the justice area to health and, yes—

**MR HANSON:** Our position reflects what your position was up until six weeks ago. It is not such a radical departure, is it?

**Mr Ramsay:** I am not sure that—

**THE CHAIR:** Thank you, Mr Ramsay and Mr Hanson. I think we will go to Ms Cody, who has the last question before we wrap up.

**MR HANSON:** No, he has not answered my question. Is the JACS directorate contributing to that body of work that is required to be done based on the Greens amendment to the bill—

**THE CHAIR:** Before the bill is enacted.

**MR HANSON:** prior to the bill commencing?

**Mr Ramsay:** Yes.

**MR HANSON:** Wow, a yes-no answer from you lot. That is—

**Mr Ramsay:** Sometimes I do it.

**THE CHAIR:** That was a much easier answer, Mr Ramsay. Can I encourage more such answers.

**MS CODY:** I want to clarify something. Earlier today, we were talking about the wage theft cases being held in the Magistrates Court. I asked a question about whether

the court building was holding that up, and I was given some answers. I want to clarify this: if there was a requirement and if there was an ability, is there a way that that time frame could be pushed along a bit so that it is not 12 months out or more?

**Mr Kellow:** The court has that jurisdiction already. The amendments were to clarify how those matters would be dealt with. Yes, we could get a matter lodged today and it would go into our system and be listed and dealt with. The legislation passed by the Assembly provides a more structured approach—in particular, greater use of mediation and trying to use that to resolve matters early. We tend to refer most civil matters to mediation in any event, but the legislation provides a more explicit structure for how those matters could be handled. The short answer is yes. If someone wanted to commence a proceeding under the Fair Work Act in relation to wage theft or anything else within the jurisdiction of the Magistrates Court, we would deal with it.

**Mr Ramsay:** Chair, I am happy to table for the committee's information the copy of *Hansard* from 20 August and 21 August that I referred to earlier today.

**THE CHAIR:** Thank you, Mr Ramsay.

**MS CODY:** I am wondering how the support dogs in the court are going?

**Mr Kellow:** Very well. We have extended the program. We initiated a pilot for a few months to the middle of the year. We have extended it to the middle of next year. It has been very well received, particularly in the remote witness suite, where there are obviously people under a great deal of stress and vulnerability.

**MS CODY:** Excellent.

**Mr Kellow:** The provided guide dogs have been extremely supportive. We have access to a couple of dogs now.

**Mr Ramsay:** It is a great initiative.

**THE CHAIR:** Our scheduled time is coming to a close for this session. We will return at 11 am with JACS statutory office holders.

**Mr Glenn:** Chair, I have one point of clarification. Earlier in the morning when we were discussing the exemption that has been provided to Eastlake in relation to the Eastlake Demons and the community contribution scheme, we were talking about that being for a period of two years. It is 2½ years, so it is this season and the subsequent two.

**THE CHAIR:** When does it conclude?

**Mr Glenn:** On 31 December 2021.

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

**Hearing suspended from 10.46 to 10.59 am.**

**THE CHAIR:** I declare open this morning's second session of public hearings of the Standing Committee on Justice and Community Safety on 2018-19 annual reports. On behalf of the committee, I welcome witnesses. I remind witnesses of the protections and obligations entailed by parliamentary privilege and draw your attention to the pink privilege statements which are set out on the table. These are important. Can I confirm with each of you that you understand the privilege implications of the statement?

**Ms Toohey:** Yes.

**Dr Watchirs:** Yes.

**THE CHAIR:** Thank you. We will now go to questions.

**MS CODY:** I am not entirely sure who will answer this, but I would like an answer from anyone. I was wondering if you could expand on the supporting gender transition in the workplace initiative that was in the annual report: where that is up to and what sorts of things it involves.

**Ms Toohey:** That was a joint initiative we undertook with A Gender Agenda. It had been identified out of some workshops that employment and employers needed more support in supporting staff to transition in the workplace. There are two documents. One is for employees and one is for employers. We ran a workshop on that at a recent symposium for Canberra Together, and we are in the process of working out what a marketing strategy or rollout strategy looks like for that material. Within the ACT it has been distributed fairly widely, both through A Gender Agenda and through our own channels. We are getting positive feedback on it.

**MS CODY:** That is across public and private sector workplaces?

**Ms Toohey:** Yes.

**MS CODY:** Feedback from employees and employers?

**Ms Toohey:** The documents were developed out of a series of consultations, small workshops that we ran, with employers and with transgender people, and also with people transitioning who were not employed and were struggling to find employment for those reasons. It was very much a hands-on process, so to speak, ably led, I have to say, by my colleagues at AGA. While it built on some work that both AGA and I had previously done in Victoria, it is very ACT specific. We look forward to that being essentially a document that we can use and rely on for quite some time.

**MS CODY:** Thank you.

**THE CHAIR:** My first question is to Dr Watchirs. Can you outline to us some of the types of complaints received through the year and the general direction of advice as a snapshot of that over the reporting year?

**Dr Watchirs:** I will refer the complaints issue to my colleague Karen Toohey, but in terms of general advice during the year, we provided over 50 formal statements in

relation to submissions: the royal commission into sex abuse, the implementation in relation to the confessional seal; looking at draft human rights standards for corrections; making a submission to the healthy prisons review by the inspector; tasers for police; and mental health involuntary detention. More recent submissions have been on the religious freedoms review, but that is not in this annual reporting period.

**THE CHAIR:** Is the religious freedom that you mentioned outside the reporting period to the ACT government or to the federal government?

**Dr Watchirs:** No, to the federal government. We provided that on 2 October.

**THE CHAIR:** Ms Toohey?

**Ms Toohey:** As we have said in the annual report, the complaints have been generally going up over the last couple of years—10 per cent this year on last year, and about 36 per cent over the last three years—which we think is a sign of community confidence in the organisation. Discrimination complaints particularly have gone up from three years ago, from about 75, to the last couple of years when we have had about 165.

**THE CHAIR:** Discrimination on what basis?

**Ms Toohey:** The main area is around disability. Race and sex are probably the next ones. Employment and goods and services are generally the highest areas of complaint. Also, as was highlighted this morning in an interview I did, we have had a number of matters around irrelevant criminal records; that is an area where people are starting to utilise the legislation. It is a broad mix, as I said, across goods and services, which includes housing and those sorts of things, as well as education, accommodation—

**THE CHAIR:** Were any complaints received through the prison during that period that you know of?

**Ms Toohey:** We get discrimination complaints, health complaints in particular. We get a significant number from the prison. We also get complaints around things like access to CYPS services, in particular, with things like visiting with children and those sorts of things.

**THE CHAIR:** Perhaps on notice—I am sure you do not have it in front of you, but could you perhaps get back to us—you could tell us how many complaints were received for the prison, obviously not with anything that will identify—

**Ms Toohey:** Across the jurisdictions?

**THE CHAIR:** The topics, if you know what I mean.

**Ms Toohey:** Yes, sure.

**THE CHAIR:** However you can report that to us without compromising anyone.

**Ms Toohey:** I am happy to take that on notice.

**THE CHAIR:** We would like to know what complaints and what topics.

**MS CODY:** You mentioned that disability is one of the higher areas that you receive complaints on. I think I might have read the report a bit skew-whiff. You seem to have had a decrease in complaints about disability?

**Ms Toohey:** We have had a decrease in complaints in the disability and community services space, which is around disability providers. Bear in mind that the NDIS Quality and Safeguards Commission kicked in from 1 July in the ACT, so some of those matters will be going to that commission. But, equally, there are matters that we will be taking as a disability discrimination claim, not as a community services claim. Because that area was primarily around providers, some of those matters will now fall under the discrimination provisions rather than being dealt with under the disability-specific provisions. We are still working through the relationship with the NDIS Quality and Safeguards Commission.

**MS CODY:** How does the new Integrity Commissioner impact on those sorts of things across the board for all of your work?

**Ms Toohey:** From a complaint perspective I am not sure it will have a significant impact. We do not deal with complaints, for example, to do with police. They will not be covered by the Integrity Commissioner. But I think complaints that we get in the discrimination space have a different character to them from corruption.

**MS CODY:** Some people will often—

**THE CHAIR:** Shop around.

**MS CODY:** No, but they also—

**Ms Toohey:** Try and find the right avenue is the way we would put it.

**MS CODY:** Yes, that is right. They are not sure where to go with their issue. Will you be able to cross-refer and be able to support people who are not 100 per cent sure where to go or what their complaint involves?

**Ms Toohey:** Yes. We do a lot of that now. A lot of that comes to my team in terms of the complaint space. All the complaints within the commission at the moment, apart from victims of crime concerns, sit with me. We have very strong referral relationships across all the agencies within the ACT and federally. We have not specifically talked about matters coming from the corruption commission, or going to them, at the moment, but as with any other referral that we make, we will establish those relationships as that body gets established.

**Dr Watchirs:** We have had correspondence from the CEO to set up a meeting later this month.

**MR GUPTA:** My question is on the Legal Aid Commission. How do the new amendments to the Legal Aid Act 1977 allow Legal Aid to operate more efficiently and effectively?

**Dr Boersig:** I acknowledge the privilege statement. There were a number of amendments made to the act. We were particularly concerned about our family dispute resolution processes. We wanted to open it up so that, for example, the Women's Legal Centre could access our services, which they now can. There were barriers around means and merit tests that we faced there, so this allows us to open it to those services and also to other people from low socio-economic backgrounds. You will be familiar with the term "missing middle". These are people in the justice gap. These are people who are usually ineligible for Legal Aid but do not have enough money to pay for private practitioners. So we are trying to offer more services for middle Australia, effectively. The means tests are very tight, so this allows us to do that.

The other changes are related to the administration of our review panels. This has allowed us to streamline those panels so that we can have regular panels with qualified members of the community and the legal profession making a determination. We have recently increased those numbers in each category from nine to 14. It has given us more flexibility. Bear in mind that all the people who do our review panels do it on a voluntary basis.

The final changes related to the allocation of Legal Aid work. In that context, we wanted to ensure that when we allocate Legal Aid work, we allocate the grants of legal assistance to the people most able to provide the best services. So that last criterion was the other amendment.

**MR GUPTA:** So if you are missing the middle ones, what are the numbers you have for people who are coming in and taking these services?

**Dr Boersig:** The number of people who are now eligible or coming in—it is only just kicking off, so we are talking about a handful of people at the moment. But over the course of many years we will see a whole range of people having greater access to those types of family dispute resolution services. Another example is where we are now doing small property disputes in family law. That will also open it up to people who otherwise would not have got our services.

**MR HANSON:** Dr Boersig, when we last met at estimates, the budget had cut your funding from the safer families levy, with reductions of \$313,000 in 2021, \$321,000 in 2021-22 and \$329,000 in 2022-23. The Attorney-General said in the previous session this morning that he has met with you and has committed now to maintain those positions from another bucket of funding. Have you been advised of that?

**Dr Boersig:** Yes, we were advised by a letter received yesterday.

**MR HANSON:** So the budget was released on 4 June, and then you get that magic letter appearing the day before you are due to appear at annual reports hearings.

**Dr Boersig:** Yes, we got that letter yesterday. It is in the context that I met with the

attorney in July and then met separately with the attorney and Minister Berry when we discussed the situation that the commission faced in the out years.

**MR HANSON:** But in terms of a commitment to maintain those positions, the letter you received yesterday was the first formal advice, was it?

**Dr Boersig:** The formal advice ultimately would be a matter for cabinet, I would have thought.

**MR HANSON:** But the advice to you that the Legal Aid Commission—

**Dr Boersig:** The formal letter confirming the views of support that were given to me on both those occasions came a couple of days ago.

**THE CHAIR:** Does that advice say that there is support or that the positions are definitely continuing, or does it still need to go through cabinet, on your understanding?

**Dr Boersig:** I understand that it has been approved. The funding does not actually finish until the end of this financial year. So the commitment we have been given is that there will be a continuation around the funding. It will now be restored to where the budget position was previous to the announcement earlier this year.

**MR HANSON:** Have you had an explanation as to why this process has played out the way it has? I remember that this was pretty stressful for your staff, not knowing whether they were going to have a job, and in terms of the organisation as to whether it was going to be able to maintain the services that it provided to hundreds of women. There are other people, like Winnunga, that were very concerned by it. Has there been any explanation or apology from the government for what would have essentially left hundreds of women potentially in limbo? Why on earth has this been played out like this? Have you had an explanation?

**Dr Boersig:** One of the things that was heartening when I met with the attorney initially, and subsequently with Minister Berry and the attorney, was their genuine support for the work that we did. I think the information we provided really crystallised the nature of the services that we were delivering. The issue about where—

**MR HANSON:** But did they make an explanation as to why they had cut this funding? Were they unaware that it had been cut? Surely they were aware of the work that the Legal Aid Commissioner was doing; they had provided this funding in the first place. Was there any explanation as to why it had been cut?

**Dr Boersig:** The gist of it, on my understanding, is that it is about where money is drawn from. As I understand it, Minister Berry's announcement in relation to the way they now wanted to use the family safety money meant that the money with which we were funded would need to come from another source—that is, the normal types of appropriation. The result of that, of course, is that the processes that would necessarily be involved would be cabinet processes. So the answer ultimately is that the issue about where the money would be found was an issue that had to be determined by

cabinet.

**MR HANSON:** But was there any explanation as to why the government, in a budget process, decided to cut hundreds of thousands of dollars and a number of positions, saying, “Oh, we need to get that from another bucket,” but not in that cabinet process? In that budget process, why did they cut a whole bunch of funding to you and not give any explanation—certainly when they appeared before estimates and you were here before estimates—that it was going to be found from another bucket? That is the retrospective story that has been bolted on, but at the time that was not the narrative. Is there an explanation? Was this just a stuff-up or was it a deliberate attempt to cut your funding.

**Dr Boersig:** I have not seen this as a deliberate attempt to cut our funding. My understanding is that the nature of the direction in which family safety funding was now to be delivered, the kinds of projects they wanted to fund—for example, health justice partnerships—meant that the load or the responsibility would need to shift to the mainstream funding process, which is the normal cabinet process around appropriation. The notice we were given was useful in a sense. When the government took that advice and made a determination that from the end of the last financial year it would not be provided from the family safety bucket any further, it gave us an opportunity to articulate and discuss with them where it would be found. Clearly that has been the determination now, and it is great to know that it is back in the budget.

**MR HANSON:** That is very diplomatic of you. All’s well that ends well.

**Dr Boersig:** All’s well that ends well.

**MS LE COUTEUR:** In the annual report you mention the age of criminal responsibility, which you say you have been advocating raising to at least 12 since 2005. Is that still your position?

**Dr Watchirs:** The UN Committee on the Rights of the Child has recently issued a final general comment stating that the minimum age now is 14. That is the accepted internationally regarded standard.

**MS LE COUTEUR:** Am I correct in thinking it is currently 10 in the ACT?

**Dr Watchirs:** Yes, and it was eight not that long ago.

**MS LE COUTEUR:** What can be done to align the ACT more with the UN on this matter?

**Dr Watchirs:** The commission wrote to the Attorney-General two years ago, in December 2017, drawing attention to the Northern Territory royal commission recommendation that the age of 12 be the minimum and also to our previous reports from 2005 and 2011.

International Human Rights Day is on 10 December, and we are having a forum in the Legislative Assembly reception room with speakers including the President of the Law Council of Australia, Arthur Moses; Shahleena Musk from the Human Rights

Council; Simon Tatz from the AMA; and Justin Barker from the Youth Coalition. Jodie Griffiths-Cook, the Children and Young People Commissioner, will be chairing the panel discussion.

On 21 November we have an invitation-only event: *In My Blood It Runs*. That will also be held in the Legislative Assembly reception room. The date of 21 November was chosen because the council of attorneys-general is meeting on 29 November in Adelaide to discuss this issue. They have been waiting 12 months for a report on raising the age of criminal responsibility on a national basis.

**MS LE COUTEUR:** What do you think would be the practical outcomes if the ACT raised the age?

**Ms Griffiths-Cook:** I have done a fair bit of work on this both locally and at a national level. The Australian and New Zealand children's commissioners and guardians wrote to the commonwealth attorneys-general of Australia and New Zealand asking for the raising of the age.

In the ACT what is needed to sit alongside the raising of the age is an increased focus on the types of supports and services that might be needed to ensure we get the appropriate therapeutic responses for children and young people who might come up against the youth justice system. If we raise the age we need to be looking at how we support them to change patterns of behaviour that might lead them down a path that, if we do not put those supports in place, would ultimately see them come into contact with that system at 14 and eventually be incarcerated at that time.

It is about not just shifting the age but also looking at the service system that exists alongside that and how we strengthen and improve that so children under 14 and also young people over 14 have opportunities to change and shift behaviour and learn different ways of operating.

**MS LE COUTEUR:** Your annual report mentions that access to justice would be enhanced by having a right to complain to the commission about human rights breaches in the same way as you have a right to complain about discrimination. Why do you want to do this and what are the positive benefits?

**Dr Watchirs:** We have advocated for a number of years that the Human Rights Act is limited to a Supreme Court action for a breach of human rights. The Queensland Human Rights Act, which comes into force in January, has a complaint mechanism. We would very much like the ACT to follow that lead. The Law Reform Advisory Council, in its report on Canberra as a restorative city, in October last year made a recommendation about this, but that report is not yet public and the LRAC was dissolved 12 months ago.

**THE CHAIR:** Where are we up to on the consultation process on the charter of rights for victims? We have discussed here on many occasions that some work was done before you arrived, but what is happening now?

**Ms Yates:** Responsibility for the development of a charter sits with my colleagues in JACS, but we have been working with them to promote timely introduction of that

charter. I wrote to over 800 Victim Support ACT clients to invite them to participate in the consultation that was run in August last year. I understand that government received a very high number of community submissions, which is very welcome, and that they have been continuing work through those in terms of priorities not just for the introduction of a new legislative charter of rights but for addressing a number of other areas in the justice system where community members have had significant hardship.

**THE CHAIR:** I am interested in why the department is tasked with that and not you. Who made that decision?

**Ms Yates:** It was before my time, but I understand that the charter sits under Minister Rattenbury. Whilst John Hinchey, the previous Victims of Crime Commissioner, had a significant role in calling for that, the government commitment to deliver that was placed within the JACS directorate.

**THE CHAIR:** Does it concern you that women do not seem to be a part of the engagement group? The JACS website refers to the process, saying that those who are being targeted for this work to create the charter are people who have experienced crime, multicultural people, young people, people with disabilities, parents and carers of child victims, Aboriginal and Torres Strait Islander community victims, victims who are also offenders, and LGBTIQ people. There is not a specific line item for women.

**Ms Yates:** Noting that, I would say that within the cohorts you just mentioned—

**THE CHAIR:** Obviously there are women in them.

**Ms Yates:** In fact, for example, over 74 per cent of our clients identify as female. That is primarily reflective of the fact that women are disproportionately more likely to experience sexual assault and family violence, which makes up the bulk of our work, so over 50 per cent.

**MS CODY:** What is involved in relocating victims and their families?

**Ms Yates:** Under the new financial assistance scheme—I say new; we are now into our fourth year of operation—there was a specific change to the legislation to allow for the making of immediate needs payments where someone has experienced a violent crime and has been injured by that crime and it has been reported to police.

Importantly, that includes being able to relocate someone who has been subjected usually to family violence but sometimes to other types of crime where there is an immediate safety risk. That might be about needing to pick up the family, pay for the storage of their things while they are in emergency accommodation or physically relocate them to another state or territory for their safety.

We are doing things to make sure people are more safe in their homes, around changing locks and increasing security, but where it is not safe for them to stay where they are we are paying for moving vans, furniture storage, sometimes refurnishing of a different property.

**MS CODY:** And emotional support?

**Ms Yates:** Absolutely. Counselling and psychologist support for both parents and any children that are affected.

**MS LE COUTEUR:** You suggested that there has been a considerable increase in demand. How much is this stressing the commission that is doing it?

**Ms Yates:** In relation specifically to the financial assistance scheme?

**MS LE COUTEUR:** Yes. I believe there has been about a 30 per cent increase in demand.

**Ms Yates:** That is right. We have had a considerable increase in financial assistance scheme applications over the last three years, and the challenge in that is ensuring that we get back to people in a timely way. Obviously they have been through significant trauma, and bureaucratic delay in responding to their needs is problematic. We have seen an increase in demand for immediate needs payments. But when you are talking about year 1, we had 108 applications; year 2, 392; this past year, 453; and we are looking at somewhere upwards of 560 applications for the current financial year.

**THE CHAIR:** Conversely, do the funds that you have in this section suffice or not?

**Ms Yates:** We have sufficient funds to make the payments to victims. Last year that was just over \$3.5 million. We have made \$2.56 million in payments in this reporting year. We are heading for around the \$3 million mark, we expect, this year. That is funded. We are finding it challenging to meet applicant expectations in a timely way from an administrative FTE perspective.

**MS LE COUTEUR:** Is the extra demand simply because people know about it? I know there were changes in legislation, but does it seem to be more than that or not?

**Ms Yates:** The new scheme has significant benefits in terms of its accessibility. You no longer have to make an application to the court to access financial assistance. People can contact without a lawyer, and we have a sensitive and client-responsive case management system with those applications.

But we have also been making sure that across our services at the Human Rights Commission we are actually getting out to those communities that were not previously coming forward. For example, we have had an increase over the three years of five to 10 to 15 per cent of applicants being Aboriginal or Torres Strait Islander, also 10 per cent from CALD communities and around six per cent from disability communities. We are proactively raising awareness of the scheme in those communities.

**MR HANSON:** I go to the issue of amalgamation of the Human Rights Commission and the Victims of Crime Commission within that. We have had this conversation previously. My concerns have been that the Victims of Crimes Commissioner just becomes a wing of the Human Rights Commissioner, rather than advocating often a

different position, as your predecessor used to. Consorting laws might be an example of that. It seems that you have changed your view of the Victims of Crime Commissioner from that of your predecessor. I am not talking about internal positions, but can you point to public differences of position on any of these policy fronts that you have from the Human Rights Commission?

**Ms Yates:** It is a really important issue because we need to ensure that, in the amalgamation of the commission, government is getting fierce, honest advice from the people that you appoint to these roles. From my perspective, there is no question about the robust nature of the debates that we have within the commission, and I am sure my colleagues would agree in relation to a broad number of matters. The outcome of those robust debates is that we, in my time here, on all occasions have been able to reach a view which provides emphasis in relation to a number of different rights-based arguments but provides a recommendation to government that we think appropriately balances those rights.

**MR HANSON:** Previously what we had was an independent voice for victims, a strong advocate who was out there putting their position forward as a singular view, to the community and to government. What you are saying is that that now gets subsumed into a broader view that is put to government but that canvasses all views. Are we not missing that independent voice of victims that used to be out there, loud and clear, in our community and to government and that now is put through the internal processes of the Human Rights Commission to come out with a broader view that takes into account all these various factors? Have victims not lost their voice?

**Ms Yates:** In my view, the structure does not prevent me being loud and clear about the issues I believe government and the community need to hear regarding the rights of victims. Anyone who has heard me extensively in the media this year might agree with that proposition. I have been clear about a number of priorities as I have set them, based on community consultation, on issues like intermediaries, which also of course touch on the rights of the accused, and on other matters. In my experience, the structure has not silenced me in any way from fiercely advocating for the rights of victims.

**MR HANSON:** I am not necessarily saying it has, but we would see in the past a position where often there were competing rights—rights of victims, rights of lots of people. Where can you point to a view where you have been advocating for victims that is in conflict with the view of the Human Rights Commission more broadly? Is there one?

**MS CODY:** Does there have to be?

**MR HANSON:** No, not necessarily.

**THE CHAIR:** It is a fair question, though. She can answer it.

**MR HANSON:** My point is that, in the consideration of rights, where there are competing rights or competing views—and it has been my point for a while—previously the independent Victims of Crime Commission would sometimes be at odds with the broader rights framework.

**THE CHAIR:** We will not have a debate across the committee here, but I think Ms Yates is more than capable of answering the question. I will ask her to answer it.

**MR HANSON:** I am explaining the context to the question. Sometimes rights are competing. My concern—and the concern of a number of people—was that what would happen was that the independent voice of the Victims of Crime Commissioner, which sometimes was at odds with other commissioners, would be lost. I am just asking you if you have publicly at any stage put forward an independent view that is at odds with the Human Rights Commission.

**Ms Yates:** I welcome that question. It is an important question around the independence of the role. What I would say is that there have been a considerable number of times where previously we would have been at odds and, due to our robust conversation and my advocacy in that, we have reached a common view that reflects in fact my view. Do not presume that a view put by all of us is one where I have had to give in or have lessened the comments that I have to make in relation to what victims require.

You referenced particularly some laws in relation to how we regulate outlaw motorcycle gangs or other issues. In that situation, you are right; we came to a common view considering a number of matters. I cannot point to a clear public policy position where I am currently, or since my appointment 18 months ago have been, at odds with my colleagues. But that is the result not of being silenced but rather of robust debate and agreement generally on how those rights should be appropriately balanced. That said, I would be clear that in the future, if we were not able to reach that agreement, I would not hesitate to fiercely advocate for my position whilst respectfully acknowledging that my colleagues take another.

**THE CHAIR:** Just a supplementary question to that: do you think that there is benefit to that discussion that occurs being aired more publicly so that people can see that, as you say, all those considerations are taken into account? I think those of us who have been around here for a while realise that there is no single view on human rights or on other rights that is “the right view” and there are often, as Mr Hanson says, competing interests. It would be for the public to have confidence that that discussion is occurring but they cannot see it; it is not necessarily as clear for the community.

**Ms Yates:** I would argue that there have been a significant number of opportunities for the community to see the nature of that debate. For example, I think about a recent panel where we were talking about the future of human rights. I spoke, as did President Watchirs, at that event.

Similarly, on a number of community panels on radio interviews we were talking fiercely about the balancing of those rights and about the particular concerns that I have from a victims advocate perspective. Similarly, in our written work we flag that we do not present a single position. We say, “These are the matters that we have considered and this is the balanced view that we are suggesting government look at.” We are very cautious about ensuring that people do not get a single view without nuance but rather that we are presenting the rights that a particular issue raises and suggesting how those might be appropriately balanced.

**THE CHAIR:** I think we will swap out now. I certainly have some questions for the office of the Inspector of Correctional Services and, I think, the commissioners from the Human Rights Commission. Ms Minty, can you acknowledge the privilege statement?

**Ms Minty:** Yes. I recall this from last time. I acknowledge it.

**THE CHAIR:** Ms Minty, I want to put on the record that it is disappointing that Mr McAllister cannot be here. I think it was also estimates that he was not available for. It is no reflection on you, but we would like to see you both here from time to time. Last year there was a discussion about population pressures at the AMC because we were over design capacity. There is extensive use of double-bunking. Since then your office has published a report into the treatment of remandees. The first finding was that it is contrary to ACT corrections legislation and human rights law that remandees are not separated from convicted detainees in the ACT. In your view, and the view of Mr McAllister, has the situation improved at all since that report?

**Ms Minty:** Thank you for that question and for the opportunity to be here. Do you mean specifically in relation to that finding about separation of remandees from sentenced—

**THE CHAIR:** Yes.

**Ms Minty:** No, the situation has not changed, in that there is no uniform separation of remandees and sentenced detainees at the moment at the AMC. As we note in our remand report, it is a complex structural problem in a jurisdiction like the ACT. I think those factors have been aired—

**THE CHAIR:** Many times.

**Ms Minty:** many times. One positive outcome that I can report on, I am very pleased to say, is that in response to our remand report there has been a new policy promulgated specifically on remandees. That was one thing we noted as part of that review: that there was not even a policy about remandees and it was actually required by the Corrections Management Act that a policy be in place. It is very positive to see that corrective services accepted that finding and have now issued a policy.

I suppose, given it is not a perfect circumstance in a jurisdiction like this that we do not have a separate prison for remandees, a policy is an important step, and the practices that need to flow from that. This is because you need to think about things like their access to lawyers, access to family. So by having that policy direction we are hoping that it will be clear in the minds of management and custodial officers that this detainee does have additional requirements because of their legal status. That was in our finding. It was tabled in February. It is something that we intend to continually follow up on, because I guess that policy is one thing but practice—

**THE CHAIR:** Yes, application is another.

**Ms Minty:** Yes.

**THE CHAIR:** On that same topic, on 15 April this year the minister advised that a random data sample showed that there were 79 occasions of remandees sharing a cell with a convicted detainee. Section 19(2) of the Human Rights Act states that an accused person must be segregated from convicted people except in exceptional circumstances. Would you say that, given it occurred on 79 occasions, the housing of remandees with convicted inmates is a regular and commonplace occurrence at AMC, rather than something which is an exceptional circumstance?

**Ms Minty:** Yes, I think at the moment, in my view, it would not meet that exceptional circumstance due to the overcrowding and the constraints.

**THE CHAIR:** It is fairly common.

**Ms Minty:** But one thing we can say now is that, in respect of one of our critical incident reports on a detainee-on-detainee assault that occurred on 1 January this year, we made a recommendation in relation to the importance of having a risk assessment every time a detainee is placed in a cell. They did previously have practices, but we had some recommendations around the importance of doing that and documenting it—

**THE CHAIR:** Yes!

**Ms Minty:** and that was also accepted by corrective services. They are in the process of developing a new shared cell policy. So whilst you cannot always separate remandees and sentenced prisoners, what is important is that that risk assessment is done and documented. Of course, it is hard for corrective service officers if they have a lot of paperwork requirements, but this is really important. There are other aspects of risk, not just that their status is “unconvicted detainees”. They have to take into account that whole universe of risk factors.

**THE CHAIR:** Certainly there was concern raised about long-term inmates versus short-term inmates and the mental state of different people. I imagine that you certainly want to have a record of what has been decided. Finally on that topic, I am wondering whether you have had any role in, or have been consulted by the government on, the plan to build the low security facility outside the prison fence line.

**Ms Minty:** No, we have not been consulted about the design of the facility at this point. It is something we remain interested in. Our jurisdiction covers the perimeter, sort of the corrective services facilities, including court transport. That facility will be under our jurisdiction when it is built—

**THE CHAIR:** Yes.

**Ms Minty:** I cannot really add much at this point on that.

**THE CHAIR:** That is fine. I want to know whether you are concerned at the spend that does not change the status. I am referring to the women being housed with the men, as in a part of the men’s side of the prison, or the remandees being in with the detainees and the fact that there does not seem to be anything in that additional plan to

resolve either of those two major problems.

**Ms Minty:** I think the issues that you are highlighting in respect of women and the accommodation of women are an ongoing concern to us, particularly that they remain in a high security men's unit. You are right that that is not addressed by this reintegration centre. I think the goals of the reintegration centre are laudable in terms of getting the detained people at the minimum level of security possible. But a lot of work will need to be done to ensure that is full. The TRC at the moment is not currently full. So there needs to be—

**THE CHAIR:** The transitional release centre is not full?

**Ms Minty:** Not at the moment. Yes, so it—

**THE CHAIR:** Who will be available to go into it is another question.

**Ms Minty:** Obviously it has flow-on effects. The more people who go into that reintegration centre, the more it eases pressures elsewhere in the prison and flows on. But for women, they are still in the high security men's unit.

**THE CHAIR:** There is something that has occurred to me that I wonder whether you have a view on. It may not actually relieve pressure because the increase in population, when plotted over the history of the whole centre, has been steadily increasing. By the time this is built, the numbers will require those beds. So I am assuming that it may or may not actually—

**Ms Minty:** Yes, I guess it is part of a broader strategy, as I understand it, for reducing recidivism and for community-based solutions that are going on as part of the broader justice project. But I think there will always be a time lag as well with some of these community projects—

**THE CHAIR:** Yes; that is right.

**Ms Minty:** like bail housing and various other things.

**THE CHAIR:** That is right.

**Ms Minty:** Yes, I think it—

**THE CHAIR:** But it does remain a concern for you that the women are in with the men and that we do not have the separation of remandees.

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

**MR GUPTA:** Do you have an update on the consideration of the first formal review of the management and care of remand detainees in the AMC?

**Ms Minty:** Yes. We presented that review to the Legislative Assembly in February and the government response was tabled on 6 June. We made 39 findings. Nine of those findings were agreed to, 11 were agreed to in principle, 12 were noted and seven

were not agreed to. That has been delivered by the government. We intend to continually follow up on those issues that were not agreed to or noted and even those that were accepted to ensure that they are implemented to our satisfaction.

We are currently very close to finalising the healthy prison review, which is the whole-of-centre review. There will be some cross-cutting issues. We also committed to track in our annual reports from now on the implementation of those findings. We are at a stage where the government has responded, but we need to keep track of that and keep in discussion with Corrective Services because ideally they will carry them forward.

**MS CODY:** How have the high numbers of detainees impacted on staffing? Do you look at that side of things as well?

**Ms Minty:** Yes, we do. Staffing levels were part of the healthy prison review. I will not go into detail on the substance because we are hoping to table that very shortly, but I can say that as part of that review process we talked to the staff extensively. We did a staff survey and staffing numbers came up as a concern, which I am sure is not a surprise. That is an important issue to be tracking. There have been areas where the numbers of staff in particular areas have not matched that, and I will leave it there for the moment.

**MS CODY:** That is okay. When are you hoping to table that?

**Ms Minty:** This year, so the end of November.

**THE CHAIR:** What other reviews are on your agenda?

**Ms Minty:** Our legislation requires that every two years we do the whole-of-centre review and we do at least one thematic review for adult corrections. We are still considering what our thematic review will be, so I will not speculate at this point. I note that from 8 December we will also cover Bimberi and we will have the same schedule in terms of a whole-of-centre review and a thematic review. We have some strict review timetables to meet.

**MS LE COUTEUR:** Is there anything unique with the AMC versus the other jurisdictions, which clearly you have some knowledge of.

**Ms Minty:** Yes. Being a human rights jurisdiction is a real value-add in the ACT—Victoria is and Queensland soon will be—because it is enabling and, from where we sit, it allows quite robust discussion and debate about standards for correctional services.

The introduction of Winnunga health service as the Aboriginal-controlled health service and co-provider of health services is a unique and novel model. As part of the healthy prison review we had a health expert come in. It is very interesting for other jurisdictions to see, and they are two aspects that make the ACT unique.

**MS CODY:** Dr Boersig, I noted in your annual report that you had 51 temporary employees. I am wondering why and what is being done to reduce the number of

temporary employees by offering permanency. Can you expand on that to start with?

**Dr Boersig:** For the past few years we have been in negotiations in relation to the EBA. That, as you know, has taken quite a while to come to fruition. It finally did just a few months ago. In that context we did a restructure. We wanted to put forward a restructure to staff which increased the number of legal positions from three to six and provided wage increases as well. In that context, we were awaiting the new EBA to offer the new positions. As a result, because of the natural ebb and flow of staff, more people than we were comfortable with were put on contracts. That has now been remedied. We went out for administrative staff and the bulk of them are now in ongoing positions. We are in the process of recruiting to all those new legal positions. That should be done within the next week or so, and we will be offering as many permanent positions as we can. So you will not see a figure like that again.

**MS CODY:** I am very pleased to hear it. While we are on staffing, there seem to be a high number of women employed in the baby boomer bracket. What are you doing to support those women and to support the organisation? Once they get around to retirement, that will be a great deal of corporate knowledge, I would imagine, that also goes with them. What is being done to support that?

**Dr Boersig:** The commission has historically had high levels of women; in fact, I think it is around 65 per cent of our staff. We provide the full range of support in terms of flexible work practices and part time where they are required, and we gear our practice so that that can be allowed. The commission is in a positive position where our superannuation is 15 per cent, so there is a bigger contribution in that context that is historically made. The flexibility is as you would find in any public service environment in that sense.

The issue for us is also one which we are trying to address more broadly. We formed a subgroup of women at Legal Aid ACT to look at their conditions. This came from the women's summit that was held a few weeks ago. We thought it appropriate to form a subgroup to say, "Are we providing the appropriate conditions?" The real question, though, is about men: the culture of male activity and male decisions around part time and so forth. The impact of many of the decisions that are made by women affects the operation of their work life. We think that should be equal in terms of the impact that men make and the choices that men make. So we are looking at a subgroup to talk about how we can we encourage equality in that sense: equality in the ability to make choices.

**MS CODY:** That would be enabling men to take paternity leave or decide to reduce their hours to be a stay at home parent?

**Dr Boersig:** They can do that now but no-one really does. The issue for us is: how can we change our culture so that that choice is made on the other side as well? So this subgroup—

**MS CODY:** I am very happy with that. Do you have to comply with the secure local jobs code? I do not know if you do any procurements.

**Mr Monger:** We do. With any procurement we must abide by the ACT government

procurement guidelines.

**MS CODY:** Which includes the secure local jobs code?

**Mr Monger:** Yes.

**MR GUPTA:** How is the Legal Aid Commission ensuring access to legal services for older Canberrans experiencing elder abuse? How do we do that?

**Dr Boersig:** Last year the government funded the establishment of the older persons legal service. Two things happened there. One is that we are able to focus resources on people over 65. The second aspect is that we have picked up what is known as the APRIL line, which is basically the elder abuse hotline, which was until that point being operated within government. That line is also connected to the national elder abuse hotline, so we have received referrals there.

Canberra's demographic is dramatically changing. The growth in people over 65 is significant. The issues around guardianship, financial management, elder abuse and so forth are increasing and the demands on our service are increasing. So we felt that there was a need for a specialist service, particularly around financial issues, and that is what we have been able to establish. We have reported that in our report. For example, we received five times the number of calls on our helpline as in the previous year, when we were not running the APRIL helpline. So we think there has been a lot more published around it; it has been visible. More people are taking the time to see us. Liz Samra, who is heading that up, has an excellent background. She is a wonderful lawyer and a great communicator. She is out in the community and on various agencies. We are very lucky to have people like that on our staff.

**MR GUPTA:** What about people from the CALD community—how are they accessing your services?

**Dr Boersig:** As you know, our community liaison unit recently won the national award which was announced for migration and refugee services just two weeks ago. We had won a local ACT award. The number of people we are assisting with a CALD background has dramatically increased. That is an indication also in our staffing. Five years ago our staff were about three per cent CALD. They are now nearly 15 per cent, so the number of languages spoken and the comfort with which people come to us has increased.

The job of that group is twofold. One is to go out to the community—we have focused there on, in particular, initially the Muslim Arabic speaking community—and bring those people in. But the other part of that job, and we spoke a little earlier about cultural change, is to train our staff to better provide those services so that when people come in they feel that they are getting better service and they can visibly see it. We say “welcome” in 10 languages on the door. We have changed the look of our service. The community liaison officers, particularly our cultural liaison officers, work hand in hand with our lawyers to provide those services.

**MR GUPTA:** Very good.

**Dr Boersig:** It is a marvellous service.

**THE CHAIR:** Thank you, Dr Boersig and Mr Monger. We will move to questions for the public trustee and the Solicitor-General.

**MR HANSON:** We have just heard from the Legal Aid Commission that the changing demographic profile of the ACT is affecting their caseload. Have you found that the ageing of the Canberra population is affecting the amount of work you are getting, either in terms of its profile or in overall numbers?

**Mr Taylor:** Yes, we have. Essentially, people are living longer. A facet of people living longer is that they are not necessarily living with capacity. A result of that would be that things such as appointments for us to act as the guardian of last resort or the financial manager of last resort definitely result in increased workload.

**MR HANSON:** Are you able to quantify that, maybe not now but on notice?

**Mr Taylor:** No, I do not think I would be able to quantify that. This is intel that we are getting across Australia. We report statistics through the Australian Guardianship and Administration Council. The experience that we are having is pretty well consistent right across Australia.

**MR HANSON:** How are you meeting that increased demand?

**Mr Taylor:** The Public Trustee and Guardian is an unusual mix of commercial and community service obligation. We receive nearly \$510,000 for community service obligations and the rest is funded out of fees and charges for services. There is a very tight squeeze on funding for core community service obligations. It has never really been reviewed over the last 10 to 20 years, principally because we have been able to fund the gap through commercial services, but that is no longer the case. We have a budget bid going forward at the moment for an increase in community service obligation funding in the order of about \$400,000 to \$450,000 a year.

**MR HANSON:** We will probably reconvene at estimates to see how you went.

**THE CHAIR:** Mr Garrison, we hear from your office that you occasionally get called on for advice. Would you like to give us an overview of the work of your office over the reporting period? What were the main themes and how is the office going?

**Mr Garrison:** Thank you, Mrs Jones. As is set out in the annual report of the Government Solicitor, the office is a full service legal provider. It provides all of the relevant legal services and advocacy required by government across the broad range of activities that are undertaken by the ACT. Unlike some other Crown law offices in other jurisdictions, two things follow: first, of course, the ACT is also responsible for municipal services. So of course we have an active engagement in those areas of legal advice and service.

Also, there is not the decentralisation of legal services that has occurred in other jurisdictions. Because the ACT is a small jurisdiction, a decision was made by government several years ago to centralise the legal services through the office of the

Government Solicitor. However, there are significant outsourcings of legal services that are managed by my office to most effectively deliver what the government needs.

For example, a number of government agencies need conveyancing services. These can be delivered in a far more cost-effective and efficient matter by the private sector because they are doing it all the time. So that work is outsourced. Some large commercial projects are outsourced, not only because they might need particular expertise—for example, in relation to taxation—but also because, to be blunt, in order to deliver core services for government, I cannot put four or five of my best lawyers on a single project for two years. So we manage it that way.

We do all of the personal injury litigation for the government. We do all of the planning litigation. We do all the commercial and procurement advising. We do all of the childcare work. In some jurisdictions, that has been outsourced, a decision I could not quite understand, actually, because I think it is a core activity. We do the slips and trips, the regulatory actions, the advising in relation to work health and safety obligations to the directorates. We advise on, obviously, constitutional law and administrative law. I am briefed from within the office to appear on a number of those matters and have done over the years.

**THE CHAIR:** Mr Garrison, what is the staffing of your office? What is the FTE equivalent?

**Mr Garrison:** We are sitting at about 120. I think there are 83 lawyers. In terms of gender balance, about 75 per cent are female across the board. It is actually interesting, because we have a higher level of female lawyers than we have female support staff.

**MS CODY:** That is very good to hear.

**Mr Garrison:** Within the support staff, for example, are included a significant group of paralegals, most of whom are studying in one way, shape or form. It has proved to be a really effective way of growing people.

**THE CHAIR:** Fantastic. Have you measured your representation of people from non-English speaking backgrounds, the CALD community?

**Mr Garrison:** I can say that we have a number, but I honestly could not say what the measure is. Having looked at the gathering at the Melbourne Cup function yesterday afternoon, there is a broad range across the office.

**THE CHAIR:** A broad range of people enjoying the cup; sounds good.

**Mr Garrison:** Yes.

**MS CODY:** My question is to Mr Taylor. What do you do with unclaimed money?

**Mr Taylor:** What do we do with unclaimed money? We are effectively the investor and fund manager for the ACT government for the unclaimed money trust. Any moneys that are paid into the unclaimed money trust account are invested by us and interest is payable on that account back to the territory. Unclaimed money can be

claimed by anybody through our claims facility on our website. It can be from a range of different sources. It can be unclaimed money in the hands of agents, liquidators, some bank money held by some banks et cetera.

**MS CODY:** Do you manage and invest that unclaimed money under strict guidelines?

**Mr Taylor:** Yes. We are subject to the Trustee Act and the Financial Management Act. We do not invest moneys that are effectively of a particular kind. We do not expose to equities or to speculative investment. For example, you could imagine if there was a sudden call on all the money and there had been some failure in the market, that would be catastrophic.

**MS CODY:** Absolutely.

**Mr Taylor:** So any money that is generally invested on behalf of government is not exposed to equities or unethical investment.

**MS CODY:** Do low interest rates impact on that?

**Mr Taylor:** Yes, absolutely.

**MR GUPTA:** Mr Taylor, do we have an amount in respect of unclaimed money?

**Mr Taylor:** Yes.

**Mr Hughes:** As at 30 June, we had \$41 million in unclaimed moneys.

**MR GUPTA:** \$41 million?

**MS CODY:** It was very high.

**Mr Taylor:** The reason it accumulates is because we know that the unclaimed money includes unclaimed, unclaimed money, if you like. It keeps accumulating. There is no sunset clause on the funds that are in the unclaimed money trust.

**MS CODY:** Which means that people, when they figure out that you are holding that money—

**THE CHAIR:** Will have it available.

**MS CODY:** can make the claim.

**Mr Taylor:** Yes. It means also that the government does not take the unclaimed money out of the fund after a specific period of time elapses. No sunset clause been established.

**THE CHAIR:** I think that is the end of the questions that we have for both Mr Garrison and Mr Taylor, but there is an additional question for the Human Rights Commission, if Dr Watchirs does not mind coming back to the table.

**MS LE COUTEUR:** This is a follow-on from what I was asking about before. It relates to the Discrimination, Health Services, Disability & Community Services Commissioner. There has been a 35 per cent increase in complaints. How much pressure is this putting the commissioner under to adequately fund and respond to this?

**Dr Watchirs:** Certainly the commissioner, Karen Toohey, has streamlined processes as much as possible and used early conciliation also, where possible, to cope with this 35 per cent increase. This is over a two-year period. In this annual report period, there has been a 10 per cent increase.

**MS LE COUTEUR:** Have you got adequate staffing to deal with this? That is my question.

**Dr Watchirs:** It would affect the amount of time that we take to resolve a complaint, but our satisfaction rate has been good for the timeliness of our complaints handling and the fairness of the process. Although the resources are low, we have made the system as efficient as possible. I think the biggest difference is going to be a resolve database that is being implemented at the moment, because all commissioners have different databases. The resolve database will simplify case management across the commission. That is where we hope to get more efficiency.

**MS LE COUTEUR:** Will that be enough to compensate for the additional workload or is it still getting harder?

**Dr Watchirs:** Hopefully; we try to live within our budget. Of course, any additional resources are always welcome and there are new jurisdictions in the wings that we are expecting for that commissioner, the Public Advocate, the Children and Young People Commissioner and the Victims of Crime Commissioner.

**MS LE COUTEUR:** Talking about the Victims of Crimes Commissioner, when the new charter of rights is finalised, is that also likely to lead to yet another increase in your workload?

**Dr Watchirs:** Yes, but there will be an allocation to both commissioners—for the complaints commissioner for any complaints emerging out of that and for the Victims of Crime Commissioner for the additional administrative workload of publicising the charter and also for clients accessing her services.

**THE CHAIR:** Thank you, Dr Watchirs. We are out of questions for this section. We will suspend for lunch and resume at 1.15 pm, when we will be talking to the Director of Public Prosecutions.

**Hearing suspended from 12.12 to 1.14 pm.**

**THE CHAIR:** We welcome Mr Drumgold, the Director of Public Prosecutions. Mr Drumgold, have you read and understood the privilege statement?

**Mr Drumgold:** I have read it and I understand it.

**THE CHAIR:** My first question is about what is mentioned in your overview in the annual report as a significant change in the focus and culture we seem to be seeing through the changes and policies you are bringing about. Can you outline the changes under the general pillar of victims' rights and how these changes might affect cases going forward?

**Mr Drumgold:** The most significant changes arise out of lessons that we all learned through the royal commission into institutional child sex. The objective is to place the victim more at the centre of the prosecution process. The recommendations of the criminal justice component, recommendations 39 to 45, involved a raft of measures that improved things, including consultation with victims during the decision-making process and a series of automatic—in some circumstances, or at request in other circumstances—reviews of a decision made by a prosecutor, particularly in relation to whether to proceed or not proceed with a prosecution.

**THE CHAIR:** So that is the genesis of the changes?

**Mr Drumgold:** That is correct.

**THE CHAIR:** The report, at page 11, notes that the DPP officers work closely with the Human Rights Commission, including the Victims of Crime Commissioner. How has that engagement informed the policies outlined in the report? Has that involvement affected the work on the victims' charter of rights that is developed in any way that you know of?

**Mr Drumgold:** As to engagement, when we deal with matters that involve victims, a logical point of consultation is the Victims of Crime Commissioner. For example, in formulating our policies that deal with victims' rights of review we do it in a consultative way and we consult extensively with the Victims of Crime Commissioner. When we have formulated what we think are workable review policies, we send that to the Victims of Crime Commissioner and seek her feedback. When that feedback is received we incorporate that into the policy.

**THE CHAIR:** Is any of this discussion becoming a part of the departmental conversation about the charter of rights that is being developed?

**Mr Drumgold:** Our new review guidelines and the policies that underpin them fit within some of the considerations that are being given in the preparation phase of the victims of crime charter. That basically involves articulating the rights a victim has, making it clear that those rights exist and that the rights place the victim more at the centre of a prosecution rather than just as a witness.

**MS CODY:** Mr Drumgold, what do you define as wage theft?

**Mr Drumgold:** It is a colloquial term that is unknown to me.

**MS CODY:** Is there a legal definition?

**Mr Drumgold:** Wage theft I think is making somebody work and not adequately remunerating them for it.

**MS CODY:** What is the current staffing level of the DPP and do you believe it is adequate?

**Mr Drumgold:** I do believe it is adequate. We have 89 staff spread between prosecutors, support staff and administrative staff. The overwhelming majority of our staff are prosecutors, and they range from very junior prosecutors, prosecutor associates who are newly minted lawyers, through to a new band of Crown prosecutor at the SES level.

**MR GUPTA:** How diverse is your staff? You have been talking about the CALD community. The diversity is reflected in your staffing?

**Mr Drumgold:** I was appointed director on 1 January this year and during my directorship I have published an employment diversity statement that includes recording numbers of minority groups that we have. We publish those and those are now, for the first time ever, in our annual report.

**MS CODY:** Can I go back just one step, for a second. There were 89 staff in total and that was a mix of both prosecutorial staff and support staff?

**Mr Drumgold:** Yes. I have the breakdown in the annual report.

**MS CODY:** That would be wonderful.

**Mr Drumgold:** Staff demographics are found at page 63 of the annual report. There are 89 staff. Of those, 46 are prosecutors; 26 are legal staff; two are executive; 10 are administrative; one statutory office-holder; four senior officers.

**MS CODY:** Do you track the hours completed by the prosecutorial staff?

**Mr Drumgold:** We have a listed number of hours that they work, but I am not sure what you mean by “track”. We do not have hours recorded.

**MS CODY:** You track the hours worked on a case rather than the hours worked in a day?

**Mr Drumgold:** We do not have a clock on, clock off; we do not have time sheets, that type of stuff.

**MS CODY:** The CPSU is claiming that prosecutors work significantly more hours than 36.75 and that because of that they are running a risk of falling below the award rate for prosecutors. Does that sound accurate?

**Mr Drumgold:** There is a lot in that. On occasion, frequently prosecutors work over and above their hours. One of the problems we face is: define working. We do not make widgets. We have an erudite function. If I have a significant trial starting on Monday and it is Sunday afternoon, I am probably not lying around on the lounge watching television. I am probably thinking heavily about some of the machinations that might occur during the trial. Defining work is really difficult.

A trial can be a stressful process. And we have mechanisms by which we compensate for that. We give people time off to correspond with that. Also, it might not be hours. A prosecutor might deal with a particularly challenging issue in court. A murder or sex matters are particularly challenging. Even if they do not result in additional hours, the stress of the situation still needs to be dealt with. We often give people time off following a trial.

**MS CODY:** In the current enterprise agreement, which I believe has expired—

**Mr Drumgold:** Yes.

**MS CODY:** I would imagine you are still operating under the expired enterprise agreement.

**Mr Drumgold:** Yes.

**MS CODY:** There are provisions in there for time in lieu. There are provisions in there for—

**Mr Drumgold:** No, there are not. We do it as an ex gratia grant of time off.

**MS CODY:** The prosecutors that work in the DPP are comfortable with and accept that?

**Mr Drumgold:** As you are no doubt aware, we have been negotiating the best way to deal with the challenges that we face. The way that we have determined is the best way to deal with that is to look at the type of matter, look at the subject matter, look at the number of hours that are incorporated and then give prosecutors some time off in recompense for that as time off in lieu. It is something that has operated for a number of years informally, but our proposal in the certified agreement is to formalise that.

**MS CODY:** And that will be negotiated with staff, as well as their representatives, whomever they choose?

**Mr Drumgold:** Yes. We have done our best to work out how best to represent that in the certified agreement.

**MS CODY:** I have worked in various jobs over the years and I know this job in particular is one of those ones that you cannot quantify. We get a salary, and that is the decision we make when becoming elected representatives. But we need to make sure we are looking after those staff that work those really difficult cases and have those really heavy caseloads.

**Mr Drumgold:** Yes. I am aware that there was a push for a particular way in which to represent those hours. My experience in the office tells me that the push from some quarters, for example, was for time recording and then what they call flex leave.

There are two problems with flex leave. Problem one is that it is administratively heavy. That aggravates the issue. I would have supervising lawyers that, rather than

going into court and doing it or in dealing with pastoral care issues, would be counting minutes on a sheet. It is very administratively burdensome. But the most significant issue is that it does not do two things. It does not deal with issues that are non-quantifiable. It does not deal with someone who deals with a subject matter that they find very confronting that might not result in additional hours. A time sheet does not do that.

Secondly, it does not allow us to address the cause of it. The cause of someone's longer hours could be that there were particularly difficult issues in a trial. It could be poor practices. It could be that they are perhaps dealing with anxiety by over-preparing lists. It does not allow us to address the cause of additional hours.

**MS CODY:** I am not suggesting time sheets are the answer in any way, shape or form. I am just trying to ensure that the staff that work at the DPP are protected and understood and given all the opportunities to be able to be looked after and, in the general sense, remunerated for the hours and the work they do.

**Mr Drumgold:** The way forward that we have advanced is that we get a brand-new leave that has never been in there. We have formalised a type of leave that accommodates both hours worked and stress. But in the background there is a whole lot of stuff happening. We have proactively dealt with issues. Since January, since my appointment, we now have mental health first aid officers. They have undergone trauma training. We have run mindfulness training.

My concern with things like flex leave is that you see the end symptom and the only remedy for that end symptom is to say, "You have worked X number of hours, so we are going to give you X number of hours off." It does not address the psychological impacts.

**MS CODY:** I am not necessarily saying that it is time off. It needs to be ensured that staff are remunerated. That is both money and time—absolutely time to be able to spend with their families and recover from cases. Remuneration in financial terms goes a long way to protecting workers as well—workers that are often working 100-hour weeks, which I would assume happens in some legal firms and—

**THE CHAIR:** Can I just clarify: the time off that you talk about is paid time off?

**Mr Drumgold:** Yes, of course. Yes, absolutely.

**THE CHAIR:** To add to that, do you have a method of measurement or checking in with your workforce that is formalised where you can evidence whether people are satisfied or dissatisfied with the arrangements?

**Mr Drumgold:** A vote is the—

**THE CHAIR:** Do you mean the way things are done now, as was voted on, or—

**Mr Drumgold:** Yes. There will be people that will be happy with a particular operation or there will be people that will be unhappy with a particular operation. I have not run a sentiment survey within the office. I have that on my agenda. I have the

sentiment survey, but it is always difficult to get accurate answers on a sentiment survey when you are in the middle of a certified agreement negotiation, for example, or when you are in the middle of a restructure. Since my appointment we have been in a major restructure, from top to bottom, of the office. Now is not the time to run a sentiment survey because it is speculative as to what you think the workplace is going to be like after the certified agreement is introduced.

My plan has always been, since my appointment, to get the restructure done, to negotiate the certified agreement, to imbed the certified agreement and then to run a sentiment survey.

**MS CODY:** I just want to clarify that, surely, stress leave for staff who need it is a different leave entitlement than those that are getting time off in lieu after working long hours? They are two very separate leave entitlements?

**Mr Drumgold:** It is, but it is difficult to disentangle them.

**MS CODY:** I think staff would generally be able to tell which one is which, for their own benefits.

**Mr Drumgold:** Yes. But, for example, if you are working longer hours, you are getting stressed. That stress could be the result of working longer hours; that stress could be the result of this subject matter that you are dealing with.

**THE CHAIR:** Or indeed something completely different?

**Mr Drumgold:** Or indeed something completely different. It is absolutely impossible to quantify these things because they are purely qualitative assessments. Someone might be able to do a grievous bodily harm and have no difficulty whatsoever but it might strike at somebody else really seriously. It is like a jigsaw because—

**MS CODY:** It sounds like a fair bit of negotiating is still to be undertaken to get to an agreed position between staff?

**Mr Drumgold:** Between all staff.

**MS CODY:** To ensure there is an outcome that satisfies the staff working within the office that they are remunerated for the hours they are working?

**Mr Drumgold:** As to our proposal for the type of leave which comes under clause (n) of the new certified agreement, some will like it and some will not.

**MS CODY:** But the new certified agreement has not been agreed to yet? It is still being negotiated?

**Mr Drumgold:** It is subject to negotiation.

**MR HANSON:** Can you advise the number of successful prosecutions for cannabis offences involving less than 50 grams of cannabis where a SCON was not issued and it went to prosecution?

**Mr Drumgold:** No, we do not have that figure.

**MR HANSON:** Can you provide it on notice?

**Mr Drumgold:** The reason is that, as you have alluded to, previously if someone possessed a small amount of cannabis it would go to a simple cannabis offence notice, and if it is paid it does not come through my office. If it is disputed it appears in court as a summons for a substantive offence of the possession of drugs, and it is in the subject matter, the quantity of drugs. We do not break it down in our statistics because it simply appears as a drug prosecution in our statistics.

**MR HANSON:** Where is that broken down then? Where is the statistic available so that you can see how many people were prosecuted for a cannabis offence that was over 50 grams and how many were under 50 grams?

**Mr Drumgold:** I am unable to extract those figures.

**MR HANSON:** Is anybody able to extract that?

**Mr Drumgold:** I do not know. I am not sure.

**MR HANSON:** But the argument the government has used to move from a SCON process to a legalised process is because of the number of people being prosecuted or ending up in the criminal justice system. But you are saying you do not know how many people that is?

**Mr Drumgold:** I am sure someone would have statistics on the number of simple cannabis offence notices issued. They do not come through my office. That is like a traffic infringement.

**MR HANSON:** I am less interested in those; I am interested in the prosecutions. And you are saying that when you do prosecutions you do not then look at what is under 50 grams or over 50 grams?

**Mr Drumgold:** No, because—

**MS CODY:** It is just counted as a prosecution.

**Mr Drumgold:** If we just go back a step, few of them go to prosecution. So X number of simple cannabis offence notices are issued and a small number of those may be disputed, in which case it then goes to a prosecution. There would be statistics as to the number of simple cannabis offences notices issued and there would probably be statistics on how many of those—

**MR HANSON:** So who disputes it?

**Mr Drumgold:** The accused, the defendant.

**MR HANSON:** The accused disputes it and says, “Well, I wasn’t doing it”?

**Mr Drumgold:** Correct.

**MR HANSON:** Are there any prosecutions where you have prosecuted someone for an offence where a SCON would have otherwise been an option?

**Mr Drumgold:** I am unable to extract that data. Having been in the office for 18 years I would say anecdotally that very few would go to first instance.

**MR HANSON:** Can you look at that on notice for me?

**Mr Drumgold:** Yes.

**MR HANSON:** There is the SCON process and there may be disputes within that that are taken to court, but that is arguing against the SCON. How many times was somebody prosecuted in the ACT during the reporting period for a cannabis offence where a SCON would have otherwise been available? Can you provide that?

**Mr Drumgold:** We would not be able to; the datasets are not there. As one would imagine, we have a computer system that can extract data that is useful—

**MR HANSON:** So that number could be zero. You are saying it is very low anecdotally.

**Mr Drumgold:** I am saying anecdotally that I have seen very few occasions where a summons is issued for a small amount of cannabis because the work involved in issuing a summons and dragging someone—

**MR HANSON:** It would have otherwise been a SCON, right?

**Mr Drumgold:** It would ordinarily be a SCON.

**MR HANSON:** I do not understand why you are unable to break that data out. If you are saying there are very few cases, can you just not review that and get back to the committee to let us know what that means? Is it zero? Is it one? Is it two?

**Mr Drumgold:** Because I would jump on our computer system and it would give me a report of the number of charges, for example, under the Drugs of Dependence Act. If that was the charge, if it was possession of a prohibited substance, I could get the number of charges because we report the number of charges. I do not know what the number is, but let us say there are 2,000. The only way to extract that would be to obtain 2,000 statements of fact and to read through 2,000 statements of fact and look at the quantities in each of those circumstances.

**MR HANSON:** Well, can you do that?

**MS CODY:** That is a lot of work.

**THE CHAIR:** It is actually an important question when it comes to the changes that might occur.

**MR HANSON:** It is a very important question because we have changed the legal framework based on the argument that we do not want people being caught up in the criminal justice system. But according to your response today that number is very few low and maybe zero.

**Mr Drumgold:** Anecdotally.

**MR HANSON:** I think it is important to quantify it. Are you saying you cannot do that body of work?

**Mr Drumgold:** I am saying it would be enormously resource intensive to read—

**MR HANSON:** Has the government got that information from another source? If it is not through your office, where would they get that information?

**Mr Drumgold:** We need to be specific about the question you are asking. If the question you are asking is the number of simple cannabis offence notices issued, that would be extractable. As to the number that are disputed, that would possibly be extractable; I do not know because they do not come through my office.

**MR HANSON:** I am less concerned about that than I am about where somebody has been prosecuted through your office for a cannabis offence where the amount in total is less than 50 grams.

**Mr Drumgold:** As I say, it would be enormously labour intensive to pull back thousands of files and read through thousands of—

**MS CODY:** And as we have already heard today, the prosecutors work very long hours.

**Mr Drumgold:** Yes.

**MR HANSON:** The government must be guessing the number if you do not know it.

**Mr Drumgold:** As I say, there would be statistics on simple cannabis offence notices issued, but they do not come into my office.

**MR HANSON:** But they are not caught up in the criminal justice system. They are not prosecuted, are they? That is the whole point.

**THE CHAIR:** If people pay them then they just disappear.

**MR HANSON:** If we are saying that people are just paying a fine and we do not want people being up in front of the courts for small amounts of cannabis—what you are saying is that that is not really happening.

**MS CODY:** Would a person that is being prosecuted for a small amount of—

**MR HANSON:** Is that is right?

**Mr Drumgold:** What I am saying is that I do not know the number. Anecdotally, from my experience—

**MR HANSON:** It is a very small number.

**Mr Drumgold:** it is a small number.

**MR HANSON:** It could be zero?

**Mr Drumgold:** I have certainly seen them. I have seen disputed simple cannabis offence notices.

**MR HANSON:** I am not talking about those disputed cannabis offence notices, because that is essentially the person that has got the SCON objecting. What I am talking about is where the SCON does not even come into it, where someone is being prosecuted outside of that. You cannot remember seeing one?

**Mr Drumgold:** Not to my recollection.

**MS CODY:** If someone was being prosecuted for other offences and less than 50 grams was included in that prosecutorial, then they could technically be prosecuted for less than 50 grams of marijuana as a number of prosecutions—yes?

**Mr Drumgold:** They could be. If someone is found in possession of a number of drugs that include a small amount of cannabis, in that case the police may not go with a simple cannabis offence notice for the cannabis and a summons for the other drugs; they may go for a summons for the whole of the drugs.

**MS CODY:** Does a SCON appear on your criminal record?

**Mr Drumgold:** No.

**MR HANSON:** With a federal offence, if someone was to be charged under the federal offence for cannabis, does that come through your office or is that—

**Mr Drumgold:** No.

**MR HANSON:** So that is through the federal—

**Mr Drumgold:** Through the commonwealth office of the Director of Public Prosecutions.

**MR HANSON:** But then to the Magistrates Court locally?

**Mr Drumgold:** That is correct.

**MR HANSON:** And you do not see those cases. So you are only prosecuting offences on the ACT statute books, right?

**Mr Drumgold:** We have an agreement between me and my counterpart, the Commonwealth Director of Public Prosecutions, so that we do not get too many prosecutors at the bar table. So if there is a mix of commonwealth and ACT charges, we work out who runs the prosecution and we have delegations on behalf of each other. If it is purely a commonwealth charge, it will be dealt with by the commonwealth. I will not deal with a matter that only contains commonwealth charges or substantially commonwealth charges.

**THE CHAIR:** On page 12 of the annual report it is noted that the office has adopted a data-driven decision-making process. Do you have presently all the data that you need?

**Mr Drumgold:** I have the data that is useful. Need is a qualitative issue.

**THE CHAIR:** Sure. Give us your qualitative response then.

**Mr Drumgold:** I have sufficient data to make the decisions that I need to make in the office.

**THE CHAIR:** And will that data be published or made available if requested?

**Mr Drumgold:** By and large it is. By and large it finds its way into the annual report, but there are sub-datas—for example, I keep statistics on the number of matters that settle through the criminal case conferencing. There is nothing secretive in any of the data.

**THE CHAIR:** Finally, will we one day be able to find out how many people on bail are committing offences?

**Mr Drumgold:** I imagine that one would be able to extract that data.

**THE CHAIR:** Now?

**Mr Drumgold:** I am just working through my datasets in my cases system.

**THE CHAIR:** Can I perhaps get you to take that on notice?

**Mr Drumgold:** Yes.

**THE CHAIR:** Yes. Thank you, Mr Drumgold. We will move to the Electoral Commission. Thank you very much for your attendance today.

Appearances:

ACT Electoral Commission

Cantwell, Mr Damian, Electoral Commissioner

Spence, Mr Rohan, Deputy Electoral Commissioner

Hickey, Mr Scott, Chief Finance Officer

**THE CHAIR:** Welcome. I remind witnesses of the protections and obligations of parliamentary privilege. I draw your attention to the privilege statement set out on the table. These matters are important, so please confirm for the record that you understand the privilege implications of the statement.

**Mr Cantwell:** I acknowledge and understand the circumstances and provisions of the privilege statement.

**Mr Hickey:** I do.

**THE CHAIR:** Thank you.

**MR HANSON:** On next year's election, we have talked before about the issue of the dark arts of people interfering with election processes, particularly electronically. We have seen it in the US, on Facebook and on other electronic platforms. You have said previously, as I recall, that you were looking into this issue. Can you give me an update on what you have uncovered in your investigations and then what response the commission will be taking to make sure that we do not have any dark arts happening behind the scenes with regard to the upcoming election?

**Mr Cantwell:** It is an appropriate question, given that in the public domain there are issues associated with interference by foreign powers in other nations' processes. In particular you will recall the discussion we had around interference in the American presidential elections in 2016. Since then there have been two different lines of action that we have engaged in. In particular, at the collection of electoral commissions level there has been a body of work assisted by two separate task forces at that level, one task force and one working group, specifically looking at the risks associated with both cyber intrusion and malicious attack upon our democratic processes and, secondly, countering foreign interference as such.

In respect of the latter, countering foreign interference, the federal task force which has been set up to address this, the Electoral Integrity Assurance Taskforce, which is made up of our federal central security agencies and attended by both the New South Wales Electoral Commission and the AEC Commissioner, is looking at this as an active body of work. I have written to the task force through the AEC, as requested of me, seeking an appointment with them soon to examine the support the task force can coordinate with us to ensure that we have fair and free elections in October 2020.

In respect of the cyber intrusions, the risk of cyber attack upon our democratic processes, or indeed the systems that we have within Elections ACT, is a clear focus and a strong focus in our preparations for 2020. We are building upon the work we have already done that the Australian Cyber Security Centre has arranged with and

through Deloitte in provision of our cybersecurity maturity review. That review came up with a number of recommendations. Most recently they have reprioritised and provided us with the list of reprioritised recommendations. That forms the basis of the work plan which I have now initiated, in consultation with the ACT ICT team and their security advisory team, to get at those recommendations and to ensure that, as well as possible, we are both protected and resilient against cyber attack. So there are two lines of actions there, at our and the federal level.

We have also maintained that, as it relates to receiving such assistance from the federal agencies, the electoral commissions are far better set for success in this regard as a body of commissions, as opposed to separate entities. The former head of ACSC is on record as saying that that agency is far better able to provide its significant services in support of these aims if we regard it as a collection of commissions, as opposed to individual entities, in our approaches.

To this point I am quite happy with, in fact I am delighted with, the offer of support from that level of agencies. From speaking with my colleagues both at the federal level and in New South Wales and Victoria who have gone through the same processes in their recent elections, I am pleased to say that there has been no evidence of a deliberate intrusion upon those processes. But that is not to say, of course, that we can be in any way complacent or assume that even a relatively small undertaking like ours would not be subject to some form of interference. So it is very appropriate that we take all the actions we can to prevent that from occurring.

**THE CHAIR:** That was a very comprehensive answer, Mr Cantwell. My question goes to pre-poll, in preparation for our next elections, next year. I understand that there is a legislative requirement for us to have—is it three weeks of pre-poll.?

**Mr Cantwell:** That is correct.

**THE CHAIR:** Have you had a chance to form a view on whether that is in fact a positive or a negative—for the voters, I guess, because that is your main focus, not just the candidates—mostly because of the number of incidents that seem to be occurring at pre-poll stations now with volunteers who are there for a very long period of time doing hard work. In the electorate it is raised with me a bit that that is a very long period of time.

**Mr Cantwell:** Are you referring to party volunteers, Electoral Commission volunteers, or people who work or start to work for me in that area?

**THE CHAIR:** I think people who are working for you are fine, Mr Cantwell. We are talking about those outside the booths—not just political parties but sometimes independent candidates and so on. It is an ongoing conversation people have with me because of the job that I do. I would just be interested to know whether, in your view, the best way to do it is to have this almost month-long voting season?

**Mr Cantwell:** I think that current pre-polling legislation, which allows for the pre-polling period as it is, three weeks before the polling day, is appropriate to our circumstances. The intent is to be able to provide every opportunity to electors to cast their vote. I do not intend to challenge or question the reasoning behind the way the

legislation was developed in the first place, before my tenure commenced. But I am comfortable in that current arrangement.

I understand that there is a certain impost to that. Parties might regard it as an extended period of time in which they need to maintain a tempo that reflects their campaign objectives, and there is difficulty around that for some parties, perhaps minor parties or independents. But at the same time that needs to be balanced with the legislative requirement to give all those electors who otherwise would not be able to vote on the polling day access to the processes that they are required to take part in. So I think I am comfortable with where we are at in that space.

**MS CODY:** Mr Cantwell, you have a lot of areas of compliance work, largely with volunteer organisations, I believe. You do a lot of work with volunteer organisations; with things like the elected body, you run their elections for them. There are other examples that I can't think of at the moment.

**MS LE COUTEUR:** Unions.

**MS CODY:** Unions. What are the most difficult areas of compliance for you to cover?

**Mr Cantwell:** Compliance in regard to—

**THE CHAIR:** Elections.

**MS CODY:** Yes, from an elections perspective.

**THE CHAIR:** Not ACT elections; other elections that you are involved with.

**MS CODY:** Things like the elected body, for example.

**Mr Cantwell:** The provision of electoral services to other bodies?

**MS CODY:** Yes.

**Mr Cantwell:** It is working quite well. Where we have the capacity to provide those services, and those services are taken up by those bodies other than the Legislative Assembly, that works quite well. In fact, we have made some enhancements to the system that we provide to enable those elections to occur, known as Netvote. That has enhanced our capacity to provide or meet that service when it is required. I think it is working pretty well. Mr Spence might have some thoughts or comments in that regard.

**Mr Spence:** Yes. If we are talking about fee-for-service elections that we run, there are a whole array of those elections—enterprise bargaining agreements, elections for boards and organisations that have an ACT presence, and the Aboriginal and Torres Strait Islander Elected Body. That election, in terms of complexity for us, is a big election.

**MS CODY:** Yes. That is why it was the first one that sprang to mind.

**Mr Spence:** Yes. The complexity for us in the coming year is that it will be held in the same year as the ACT Legislative Assembly election.

**MS CODY:** You are mainly a volunteer-based organisation with respect to big election days. For the ACT election you have a lot of volunteers working during the three-week pre-poll, as well as on election day. You have a lot of volunteers that would work to assist you with the elected body elections. Is that correct?

**Mr Spence:** They are employees.

**MS CODY:** They are employees? They are not volunteers?

**Mr Spence:** No.

**Mr Cantwell:** No.

**Mr Spence:** They are paid for their services.

**THE CHAIR:** Everyone who is a part of it, from an Elections ACT perspective, is paid. Volunteers are on the candidacy side.

**MS CODY:** I just wanted to make sure. So everyone that works on those—

**THE CHAIR:** Yes, they are all paid.

**MS CODY:** They are all paid?

**Mr Cantwell:** Yes. There will be an increase in staff numbers, both on temporary and on casual employment arrangements, between now and October 2020. All of those employees, and our employees, will be employed by me as their employer to achieve the outcome that we need to achieve. If there are volunteers and there is unpaid work involved, they are not under my control or authority in terms of our legislative requirements.

**MS CODY:** Obviously, because of the nature of the work, there are a lot of casual employees or contract employees employed in that instance?

**Mr Cantwell:** Yes.

**MS CODY:** How do you ensure that you are employing those ethically? Do you follow enterprise agreement type standards when you employ people?

**Mr Cantwell:** It is something that we have revisited and refreshed for the upcoming electoral period. Ro has led a body of work with a contracted solution to ensure that the training they need to meet is appropriate for the task they have at hand. That is not to suggest that has not been the case previously, but I have looked to other jurisdictional experiences. Where there have been errors or issues that have arisen in the electoral process, it is often the result of someone who has had some experience in running a polling location or supporting one that is not current in their training.

I have sought, through a contracted training arrangement, to make sure our training systems are up to date and that the HR aspects of those people are always in compliance with our requirements. They are employees, and I have responsibilities for them in terms of not just their training standards but their WHS standards and the like. We make sure we are compliant in that regard. With respect to my team, as we have planned our way forward for next year, anecdotally, the team tells me their previous experiences have been that everyone works long hours.

**MS CODY:** Yes, absolutely.

**Mr Cantwell:** We have all seen that. People get a lot of personal satisfaction from that. But I have always been concerned that, in working those long hours and doing the extra bit, we are keeping a safe and healthy work environment. A balance has to be struck between having to get the job done and meeting my legislative requirements to ensure that those people are working in a safe and healthy workplace.

I have taken steps to make sure that that will be the case. The training system that Ro has developed with the commercial organisation that is working with us in that space is trying to identify where people have been trained before, to give them what is required, while making sure that everyone starts with a common starting point of knowledge and understanding of how to do their job, and how to do it safely and efficiently.

**Mr Spence:** You mentioned enterprise bargaining agreements. The staff who work in polling places are employed under the Electoral Act. However, we formulate their pay packet for the day's work based on enterprise agreement levels.

**THE CHAIR:** Because it is a tough and a long day.

**Mr Spence:** Yes. The duty statements that we attach to those roles are all linked back to the enterprise agreement.

**MS CODY:** Excellent; I am very pleased to hear that. I assume the increase in staff will ramp up during a 12-month period, from now until the election, and just after next year, particularly with the elected body being thrown into the middle of that as well. Do you increase the number of health and safety representatives as well—HSRs, as they are commonly known?

**Mr Cantwell:** We already have the required number of officers in place in the small core staff that we have. There is some redundancy built into that. If I send someone to do refresher training, I will make sure the redundant staff numbers also do the refresher training. We make sure that they have the appropriate requirements in place. Yes, it is one of my first concerns. It is all about our people. People enable our capability and enable the processes. It is all well and good having the legislative processes to abide by, and a framework to work through, but it is made possible by people, of course. I am very much oriented to make sure that people have what they need to get their job done safely. With the late hours that people will work, although they are worn as a badge of honour, I need to make sure that people are doing the right thing—

**MS CODY:** There needs to be a balance.

**Mr Cantwell:** and that the organisation is compliant. It is my responsibility to ensure that their welfare has been looked after.

**MS CODY:** Absolutely.

**Mr Cantwell:** And that of the people for whom they are responsible as well.

**THE CHAIR:** Yes, taking breaks and so on; also to be able to think clearly.

**Mr Cantwell:** Absolutely, if you have been working late at night.

**MS LE COUTEUR:** You are no doubt aware of the bill that has been introduced by the ALP that proposes a communications allowance. As I understand it, it will define a new class of expenditure that is not going to be caught in the campaign expenditure cap. I am wondering what issues you see in terms of administering that, because it strikes me that some of the things that the ALP legislation is talking about would otherwise be things that would be part of the campaign cap.

**Mr Cantwell:** The issue with the communication allowance has been one that we have been asked to provide advice on and we have done so through the JACS legal team as the draft legislation has been developed. In the end, we will provide advice as to the implications of the allowance being established as it might be proposed to be. It would have to ensure that the mechanism of its reporting and including it within individual and party expenditure caps is in place—that is, it needs to be reportable, if so defined. We understand that is now being tabled and is yet to be debated or developed further in the Assembly discussions.

**MS LE COUTEUR:** It has certainly been tabled. I have read it. If debated, it would presumably be in November. I was asking you how you saw its provisions, which define a whole bunch of stuff. Some of the provisions arguably would have been included in the campaign expenditure cap. It defines a bunch of stuff that, as far as you are concerned, will not be in. Is this going to cause any problems? How will you adjudicate on it?

**Mr Cantwell:** Again, we would have to look at how the legislation takes shape. I will need to ensure that I am in a position to provide advice as the legislation stands and make decisions around whether or not there are specific questions that relate to whether an item of communication allowance, any other allowance or any other expenditure are included in the expenditure caps. Until I see what that looks like in its final form, it is difficult for me to say how that would play out.

**MS LE COUTEUR:** We have the legislation before the Assembly. This is the form that we have to make our decisions on.

**THE CHAIR:** But presumably there are no regulations yet about how it would be implemented. There is just the pure legislation.

**MS LE COUTEUR:** Presumably, no. Possibly, the question that will come from it—

as Mrs Jones has pointed out, we are somewhat in the dark also. If the flyers et cetera were branded with an MLA's name and photo but did not include a party logo, would that qualify them as being outside the campaign cap?

**Mr Cantwell:** I will ask Mr Spence to comment on this because he has been involved more closely with the JACS legislative drafting team than I have. That issue of the specifics of what would be declarable or reportable is one of those things which we have raised with that team as we progress their draft legislation. Actually, I am not sure whether we have got to a point of clarity on some of these circumstances.

**THE CHAIR:** We certainly have not.

**MS LE COUTEUR:** We certainly have not. A supplementary question would be: how on earth could we get to it?

**Mr Spence:** I think you are right, in that, under the bill that is being presented, there is an intention for a continuing resolution to be set and we have not seen that continuing resolution as yet. As for identifying which elements are captured or not captured by the Electoral Act disclosure provisions in terms of expenditure, I think that remains to be seen. But from the bill that has been tabled, there are areas in which materials could be produced that, under current legislation, would need to be disclosed as expenditure and included under an electoral expenditure cap.

**THE CHAIR:** And would not be.

**Mr Spence:** But would not be disclosable under the bill.

**THE CHAIR:** We all sit around worrying about who is going to decide whether the face and name is too big or too small to have to be—

**Mr Spence:** The definition of “electoral matter” is quite specific in the Electoral Act. The bill, as it stands, has a number of elements that it quite specifically does not allow. But there are elements that would be captured under electoral matter that—

**THE CHAIR:** And who would be the adjudicator?

**Mr Spence:** That, at the moment, is unclear.

**THE CHAIR:** It is hard to vote on something when you do not know how it is going to work.

**Mr Spence:** My understanding is that that is part of the continuing resolution that we are yet to see.

**THE CHAIR:** As much as we would love to speak about this in great detail for a long time, and politicians can easily speak about these things for a long time, we will have to change and now have the JACS portfolio witnesses come before us. Thank you all for being here.

**Mr Spence:** Thank you.

**Mr Cantwell:** Thank you.

**THE CHAIR:** No doubt we will do this again in six months.

**Mr Spence:** Look forward to it; thank you.

Appearances:

Gentleman Mr Mick, Manager of Government Business, Minister for Advanced Technology and Space Industries, Minister for the Environment and Heritage, Minister for Planning and Land Management and Minister for Police and Emergency Services

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Doran, Ms Karen, Deputy Director-General, Community Safety

Whelan, Ms Georgeina, Commissioner, ACT Emergency Services Agency

Wren, Mr Howard, Chief Officer, ACT Ambulance Service, ACT Emergency Services Agency

Brown, Mr Mark, Chief Officer, ACT Fire & Rescue, ACT Emergency Services Agency

Jones, Mr Jason, Acting Executive Branch Manager, ComCen Project, ACT Emergency Services Agency

ACT Policing

Johnson, Assistant Commissioner Ray, Chief Police Officer

Chew, Commander Michael, Deputy Chief Police Officer

Levay, Commander Nicole, Director, Corporate Services

**THE CHAIR:** I welcome Mr Gentleman MLA, in his capacity as Minister for Police and Emergency Services, and accompanying officials to answer the committee's questions. I remind witnesses of the protections and obligations entailed in parliamentary privilege and draw your attention to the privilege statement on the table. These matters are important, so could each person currently at the table confirm for the record that you understand and agree to the privilege implications of the statement.

**Mr Gentleman:** Thank you, chair. Yes, we do.

**THE CHAIR:** We will proceed to questions from the committee. Minister, we have spoken a lot over the years about minimum crewing and have been advised at previous hearings that new systems of reporting on minimum crewing have been created or were being created to make it an easier process. Can you provide me with a final figure for how many shifts fell below minimum crewing level in the 2018-19 year, broken down by month and day or night shift?

**Mr Gentleman:** I will refer to the statement that I provided to the Assembly back in 2018 regarding minimum crewing. From that work the ACTAS operations management team have developed an updated ambulance resource plan. The plan is dynamic and flexible and details variations in the number and location of ambulance resources according to known patterns of demand. That will, of course, allow for a more informed and appropriate crewing model based on the predicted need rather than an arbitrary crew number across the whole of the week. I will ask Mr Howard Wren to provide some detail for you.

**Mr Wren:** There were 81 shifts across the entire year. I obviously cannot give you

each month exactly month by month, but I understand that that has been prepared.

**THE CHAIR:** Would you take that on notice?

**Mr Wren:** Yes.

**Mr Gentleman:** I reiterate that we do not have a minimum crewing policy anymore. The policy of arbitrary numbers was not appropriate, so we have changed the program to ensure that we can respond to demand where necessary. Of course, we have increased the numbers of ACTAS personnel for the ACT.

**THE CHAIR:** So for the 81 shifts across the year can you state day and night what the crewing numbers were?

**Mr Wren:** I can when we give you the monthly breakdown.

**THE CHAIR:** Under nationally agreed indicators ACTAS measures priority one response times against benchmarks of eight minutes or less for the 50th percentile. ACTAS achieved 9.1 minutes for, I believe, at least the second year in a row. Why was the response time target not achieved?

**Mr Wren:** That is essentially because year on year we have had an increase in the number of cases we have attended.

**THE CHAIR:** Has the fact that ACTAS failed to meet minimum crewing levels on all shifts, as was previously determined, along with general staffing pressures, had an impact on that outcome slipping?

**Mr Wren:** We do not believe so. Given that there was a relatively small number of shifts across the whole of the year, we do not believe it has had any impact at all.

**THE CHAIR:** Do we have a comparison to other metropolitan areas for these response times, compared to metropolitan areas of New South Wales or Victoria?

**Mr Wren:** The 9.1-minute figure is a capital city comparator as reported in RoGS.

**Mr Gentleman:** Whilst we look at these response times, we have also been looking at supporting ACTAS into the future. That is why we have provided a funding package to provide during this term of government to date: 53 additional paramedics by the end of the 2019-20 financial year; seven new ambulances by the end of the 2019-20 financial year; new defibrillator units to all of the vehicles; and powered stretchers to all 30 emergency ambulance vehicles.

**THE CHAIR:** Mr Gentleman, it is very interesting and enlightening to know the additional resources, but that was not the question.

**MS CODY:** Before I begin, Ms Whelan, I think this is your first annual reports hearing as the boss. Congratulations, and I am looking forward to working you over these hearings.

**Ms Whelan:** Thank you, Ms Cody. It is quite a privilege to have been appointed as the Commissioner for the ACT Emergency Services Agency.

**MS CODY:** I have a question about ECCs and how many have been stood up over the last financial year.

**Ms Whelan:** I have to take that on notice. My recollection is that we stood up for Pierces Creek. For all other responses we stood up an IMT but did not extend to the emergency control centre.

**MS CODY:** My understanding is that ESA staff now get paid at a higher rate when an emergency control centre is stood up?

**Ms Whelan:** Yes, we do. Under the last enterprise bargaining agreement with the CPSU we identified that there may have been a lack of equity across the appointments in terms of overtime and payment of that. We identified across the AIIMS structure the incident management positions. As staff fill those positions—whether they be a logistic position, an operations position or a planning position—they are paid overtime at the rate that the skillset for the position requires. We also provide all of the training across the agency, several courses a year, so that staff can access the additional training and make themselves available for those rosters.

**MS CODY:** When you provide me with the number of times you stood up an ECC, can you also provide me with how many times they were paid at a higher rate? I am assuming it would equate.

**Ms Whelan:** Yes, it would. We keep all the rosters and obviously we keep the overtime data associated with that.

**MS CODY:** That sounds very good. You were talking about your negotiations with the CPSU. I want to ask how you have been finding your role as commissioner over the last five months and your relationship with key stakeholders, particularly unions. I heard some advice on the weekend that was very complimentary, but I would like to hear how you think you are going before I pass on that additional information, Ms Whelan.

**Ms Whelan:** As I said, it is a privilege to have been appointed. Obviously, having two years as the chief of the State Emergency Service was an excellent apprenticeship in terms of getting to know the agency and the staff across the agency. I have made it my priority in the early months to engage across all four services right down to a tactical level. That has included visiting a number of stations and also opening up a number of collaborative working groups so that I can engage with the staff, be transparent in my vision for the agency and create opportunities for feedback from the staff. I would say that, all in all, it has been a very good first five months.

Having said that, I have also focused on addressing a number of the outstanding issues raised by the industrial bodies on behalf of their members. I have had a very constructive working relationship—to date; it is early days—with the United Firefighters Union. I have found them to be very collaborative and very open as to what they see as their priorities. I can say that if there is one thing that we are in

violent agreement on, it is the health, wellbeing and safety of ACT firefighters.

I have also had an opportunity to engage with the TWU, in particular as part of the blueprint for change program. Sitting on the oversight committee has been quite enlightening. We are now working through the next phase of blueprint for change. The comment made by the TWU representatives at the last working group was that they were very pleased to see what I had outlined as my vision to work with Mr Wren, with the ACT Ambulance Service, moving forward. As to the CPSU, I have had limited engagement to date. It is probably the quieter of the representations, but I take that as a very positive sign.

We have written to all three representatives in the last couple of months and I have invited them to collaborate on the development of our mental health and wellbeing strategy. You may have seen in the media that we have also partnered with Fortem Australia to look at social inclusion programs as well as working with the ADF to access the arts program for a number of our staff that have been diagnosed with PTSD.

I am known to be collaborative in nature. It does not mean that I lead by consensus, but it does mean that I am sending a strong message that I am open to new ideas and value the opinion of all staff across the agency.

**MS CODY:** I was lucky enough to attend what is colloquially known as the fire smoko over the weekend, as my father is a retired ACT Fire & Rescue firefighter, and because of my role here in the Assembly. I was lucky enough to get an invite. Many of the serving members have expressed to me your commitment to working with them very closely. They all see that as a very positive change and they have enjoyed the interactions to date, including the time you spent with them at Fyshwick fire station.

**Ms Whelan:** Thank you very much.

**THE CHAIR:** Just before we move on from the fires and the ongoing industrial action there, it occurs to me, from what we see now in the community, that there is approved rolling industrial action that the firefighters union is taking and that this has been an ongoing matter for the whole of this term of government. That has got to the point of fire engines having writing on them about the industrial desires of our firefighters and the wearing of union T-shirts on the job. Do you see a way that this can be resolved? And do you have a pathway for resolution? Your predecessor took a very antagonistic view towards these actions.

**Ms Whelan:** Yes, I do. As I have stated earlier, we have been undertaking facilitated negotiations with the United Firefighters Union over the last two months. We have been very receptive to the concerns that have been raised by the secretary and his membership, and we have been working with them to develop a five-year strategy for ACT Fire & Rescue, a strategy that will not only benefit Fire & Rescue but also benefit the agency as a whole. Certainly we are working with the union to understand and appreciate that

I am trying to break down the silence. We are seeking to make best use of the resources that we have been allocated across the entirety of the agency. I have clearly indicated to the unions that my focus is on interoperability across all four services and

to ensure that, where we can achieve collaborative training models and standardised policies and procedures, that will be what I am seeking.

We are running what we call an everyday leaders program on 26 November. That is a grassroots idea that has been brought to me by junior firefighters. The junior firefighters have developed a program that has been opened across all four services and our enabling staff. To date, we have had 30 staff members from across the agency sign up. The idea of the everyday leaders program is that we will get a voice for our staff and an avenue for them to put forward their ideas or their concerns in a constructive manner. We have also invited the unions to send representatives to that.

I have also introduced what we call a George talks program where we are doing a video each week and putting those messages up on the internet. I have invited the staff to provide direct feedback to our George talks email so that what I am actually seeing and working with my chief officers on is unfiltered information. I believe that by opening up a two-way conversation with the staff and the unions we will be able to identify a pathway forward.

**THE CHAIR:** In that process, have you started any work on the PFAS issue and the concerns that firefighters have about this, about PFAS historically in the ACT?

**Ms Whelan:** Yes, we have. We are working with the Australian fire and emergency services council, who are now taking the lead on a national review of the state and territory findings, so that we can identify an evidence-based approach to the way ahead. We have also been working with the unions on offering them an opportunity to create a health and wellbeing program so that we can best look at how we can maintain the health and fitness of firefighters, not just from a PFAS perspective but also because we have an ageing community, which we are conscious of. We are also very conscious of the fact that we have firefighters who want to work until they are 65 or 70. We want to enable them to do that.

**THE CHAIR:** You talk about health and fitness. Is there an assessment going on—or has there been or will there be—of any PFAS which is still in the ACT?

**Ms Whelan:** In terms of an audit of our facilities?

**THE CHAIR:** Yes.

**Ms Whelan:** I will get Mr Brown to come forward.

**THE CHAIR:** You can understand why there is concern and, whatever the answer is, I think people would like to know what it is.

**Mr Brown:** ACT Fire & Rescue has commissioned site surveys of nine of its current and former sites. Those were identified as the most likely sites to potentially have PFAS still there. We have been working through a tender process to identify a company to carry out the site testing. The contract will be signed in the very near future, and we expect the testing to take between about eight to 10 weeks before we get the results.

**THE CHAIR:** When do you roughly estimate that those results will come in? Is it early to mid next year?

**Mr Brown:** Early next year.

**THE CHAIR:** I understand that there is a former ESA site that currently has a childcare centre on it. Is that one of the sites?

**Mr Brown:** That is correct. That is the former Charnwood fire station.

**THE CHAIR:** You can see why there is great concern in the community. I wonder whether the minister wants to comment, given that until this change of leadership there has been no positive language about looking into the PFAS issue.

**Mr Gentleman:** Certainly we have talked about it in the media before. We have the PFAS action plan. It identifies that the ACT government will, of course, take the lead in this, whether it is with Fire & Rescue or whether it is in the planning portfolio. We want to make sure that we—

**THE CHAIR:** What do you mean by “take the lead in this”?

**Mr Gentleman:** That we provide the correct information to the community about PFAS. We have advice from the Chief Health Officer that says that basically PFAS has yet to be determined as a health issue. But it is an environmental issue and it does stay in the environment. So we are working through that action plan.

**THE CHAIR:** That is about as close to an apology as we will ever get, I think.

**Ms LE COUTEUR:** The zero emissions vehicles action plan talks about a target of all new leased passenger vehicles with zero emissions from 2020 to 2021. I have seen a number of pictures displayed by Minister Rattenbury of a potential electric fire engine, which looks great fun. It is a photo with snow behind the vehicle. Anyway, are you considering zero emission ambulances?

**Mr Gentleman:** Certainly not. I think at some point in the future we will. We are going to look at the provision of the fire unit from Rosenbauer. The work that we are doing at the moment is a first for an Australian jurisdiction. We were very pleased to announce it at the AFAC conference this year. We are working with Rosenbauer. I will ask our officer who is dedicated to this to come to the table to tell you about it. Of course, once that vehicle is operational, we will be able to see how effective it is and whether the platform itself could be used for other emergency vehicles across the ACT.

**Mr Jones:** We are looking at electric ambulance vehicles. Due to the complexities with it being commercial-in-confidence, they will not be available until 2025. That is currently with a Mercedes brand chassis. We are certainly on the radar for that. There are some complexities operationally with ACTAS that we have to consider when we go to electric vehicles. The fire engine that we discussed has an alternate or a secondary capability to ensure that it is going to function and perform its role. ACTAS is just a little different.

However, what it may include is a different operational tack with ambulance vehicles. Ninety per cent of our vehicles end up at the hospital; so we will look at some sort of strategy behind that to say that we are going to structure the ambulances so that they go to the hospital, exchange vehicles and go back out. This comes with a little more complexity than a fire truck.

In relation to the action plan, we have spoken with sgfleet, which manages our lease vehicles. As you know, with lease vehicles we are sort of two years behind the transition. So we have identified through the ESA about 20 vehicles that are suitable for hybrid or alternatively fuelled vehicles. ESA is currently trialling four hydrogen vehicles next year as well.

**MS CODY:** Hydrogen?

**Mr Jones:** Hydrogen vehicles. So we are doing it. Obviously, with the complexity of our fleet it is a little difficult.

**Mr Gentleman:** I should note, too, that the electric fire truck is for a feasibility study. We are working, of course, with the union to assess if it can be deployed in the territory environment.

**THE CHAIR:** Minister, I believe that the funded establishment for the firefighters is 338. Can you confirm whether that is correct? What is our current employment shortfall at the end of the financial year that we are reporting on?

**Mr Gentleman:** Mr Brown is on his way to the table. I just advise that funding of \$678,000 was allocated in this year's budget for two recruit colleges for 36 additional firefighters. The process to recruit for these colleges is well underway. The next training program is scheduled to commence in February 2020 and in June 2020 as well.

**Mr Brown:** We are currently above our funded establishment.

**THE CHAIR:** What is the number?

**Mr Brown:** We currently have 343 staff. That includes the 20 recruits that are currently nearing the end of their training programs.

**THE CHAIR:** They are not quite on the ground yet.

**Mr Brown:** That is right.

**THE CHAIR:** How many trainees are there?

**Mr Brown:** There are 20. They will graduate on 29 November. The shortfall is actually in operational staff. We have a large number of staff who are on long-term leave or who are non-operational due to injury or illness. That is the issue we are addressing.

**THE CHAIR:** What was the number of operational staff at the end of last financial year?

**Mr Brown:** Currently 289 staff are operational.

**THE CHAIR:** Yes, so it is a significant shortfall. You also mentioned the ageing workforce issue. What is the plan to get up to establishment on operational staff?

**Ms Whelan:** We have developed over the last couple of months what we call our strategic workforce plan. “Next generation fire and rescue” is the term for the project. We have identified a recruiting pathway that we will need over five years to enable us to address the number of staff who have indicated a likelihood to retire by choice and also to enhance the training program that supports the contemporary approach to fire and rescue.

**THE CHAIR:** In respect of that five-year pathway, do you have a number that you want to achieve as new operational staff over the five years?

**Ms Whelan:** We have identified that potentially up to 81 firefighters may elect to retire over the five-year period. We have also factored in a small percentage of staff who may just choose a new career pathway.

**THE CHAIR:** You could probably plan that based on the recent history, couldn't you?

**Ms Whelan:** We are reasonably confident of the numbers. We know that we will need to risk manage what potentially will be an overlap between the new firefighters that we will bring in and the firefighters that will transition from the organisation.

**THE CHAIR:** Have you basically identified a lack of preparation that you are now resolving? We actually have this ageing force that has not adequately had new employees come in behind it.

**Ms Whelan:** I cannot make comment as to the adequacy or otherwise prior to my appointment as the commissioner. What I can say is that I have a chief officer and a senior leadership team within Fire & Rescue who have been very focused. Obviously we have been supported by the whole of our directorate in putting forward what is a comprehensive plan to address what will be the percentage of officers that we have identified may retire.

**MS CODY:** Has the union been involved in that discussion as well?

**Ms Whelan:** Yes, they have. We have worked very closely with the United Firefighters Union. In fact, I believe that our estimates are within three—ie, we have identified a window. We have also identified some fantastic opportunities where we can ensure that each firefighter we recruit over the next five years will be operational. Some of the opportunities we are looking at would be to bring back retired firefighters, on contract, into non-operational roles. That would certainly give us the experience and the skill set that we need to ensure that every firefighter in those first two to three years actually is operational.

**MS CODY:** And has the ability to be almost a mentor type—

**Ms Whelan:** Absolutely, because we have identified that, over time, given the injection of firefighters at a very junior level that we will have, there may be a paucity of experience; hence the mentoring program. That is actually a grassroots level idea that has come forward from our firefighters themselves, and is warmly embraced.

**THE CHAIR:** Do you have a cost per person worked out yet for those additional firefighters that you are going to be needing over the next five years to recruit and train?

**Ms Whelan:** We have identified what will be required in terms of putting forward our forecast for our budget requirements.

**THE CHAIR:** Can you, on notice, provide that figure to the committee?

**Ms Whelan:** Yes.

**THE CHAIR:** Thank you. Minister Gentleman, just before we finish on this staffing matter, do you have anything to say about the fact that over the last several years of your ministry there has not been appropriate planning for this ageing workforce and that there might be a shortfall over the next five years of the 81 firefighters who might retire?

**Mr Gentleman:** That is the very reason we have invested in our force and that is why, as I mentioned, in this last budget we injected \$670,000 into Fire & Rescue to ensure that we have a future for those that are retiring.

**THE CHAIR:** Yes; we have got to know that there is going to be a future.

**Mr Gentleman:** I must congratulate our new commissioner. I think she is doing a fantastic job in planning with the union for the future of the service across the ACT.

**MS CODY:** How is the women in ESA program going? Where are we up to with that?

**Ms Whelan:** We have a particular focus on broadening the number of women in emergency services. Obviously it has commenced in Fire & Rescue and is now broadened across the entirety of the agency. I highlight that our narrative around women in emergency services is based on not so much quotas or targets but the fact that we want to be seen as an employer of choice and that members of our community regardless of gender seek employment, whether that be in Fire & Rescue, ACTAS, SES or the Rural Fire Service. We do not differentiate. You are an emergency services worker regardless of what uniform you wear as part of the agency. As a consequence of that, we have had a much more receptive uptake of that program.

Mark Brown has developed an excellent rolling recruiting program that will see us ensure that we are developing recruiting practices and policies that allow merit-based selection, including over the last 12 months in particular running a series of focused

workshops for our female candidates. We run a very good try-before-you-buy program for both genders, but in particular we have been running some extra programs for our individuals who may want some coaching in technique. We are also offering physical fitness programs so that they can pass both the physical and obviously the psychological aptitude tests.

We will not be looking at lowering standards because, as far as we are concerned, you need a particular skill set to save a life and we will not compromise on that. That has been very much welcomed by the women across our agency, across all four services—that they are seen to have been selected on merit. They are very proud of the work that they undertake and they are very well supported by all members of our agency.

**MS CODY:** An idea was put to me by a member of the community, which I have raised not from an ESA perspective but from a different perspective, about the possibility of talking to some of our fabulous women sportspeople here in Canberra who are at the elite level of sporting in particular because they also have a physical prowess and strength that may be more suited to an ESA profession. While we are in annual reports hearings: is that something that you have considered?

**Mr Brown:** We have already run a number of information sessions for women's sporting teams—hockey teams and football teams—and we will continue to do that.

**Ms Whelan:** We have also introduced, through our State Emergency Service, our youth engagement program that is being run across two schools in the ACT at the moment as a pilot, and we are also reaching out to our ACT scouts program. That way we are actually targeting the entire community and introducing education around prevention, preparedness and response but also to open up that exposure to employment in the Emergency Services Agency. And whilst it is led by our Chief Officer, SES, he has been very well supported by staff from across all four services. We have received some excellent feedback on that program and we will be looking to finalise the evaluation in the next couple of months.

**MS CODY:** And are all three unions that you have mentioned today involved in that women in ESA program?

**Ms Whelan:** We have given all three of our unions clear visibility of all the programs that we are running. We continue to send invitations to the unions to participate in working groups and any of our forums.

**THE CHAIR:** We will now go to matters to do with ACT Policing.

**MS CHEYNE:** How extensive is the CCTV network and what advice is given on where CCTV should be deployed?

**Mr Gentleman:** It is a very good question, I think. We have been rolling out more CCTV across the ACT and we have two capabilities—the fixed capability but also a portable solar-powered capability that we have been using with Justice and Community Safety and ACT Policing of course. That portable capability has given us the opportunity to place these cameras on particular pinch points where we have seen

vehicles being taken out to the forest and put on fire. This gives us the opportunity to have a look at that capability to ensure that we can see what vehicles are going out there, whether they return or not and whether a fire occurs, and we can get to it earlier. That is the emergency services part of it. But then of course there is the combatting crime component too, where we can get identification of vehicles that may have been in crimes as well. But as for the detail on CCTV—

**Asst Commissioner Johnson:** I think JACS might do well to answer some of it. I can certainly address Policing's interaction with the CCTV network.

**MS CHEYNE:** I am interested to know, if it helps, how we decide where CCTV gets put. Does Policing give advice to JACS, JACS to Policing? What is the interactivity there?

**THE CHAIR:** And there is a huge private network of CCTV as well.

**MS CHEYNE:** Indeed, yes, there is.

**Asst Commissioner Johnson:** Particularly to the mobile cameras, certainly police seek support from JACS to locate them operationally. And we have—

**MS CODY:** Mobile speed cameras or mobile CCTV?

**THE CHAIR:** No, CCTV.

**Asst Commissioner Johnson:** Mobile CCTV cameras.

**THE CHAIR:** They are going to hot spots, yes.

**Asst Commissioner Johnson:** Yes. We have used them in the past on some of our more remote roads into the bush to see if we can keep an eye on stolen cars or cars being taken up there to be burnt. It is as much a prevention measure as others but also it provides evidence. We certainly work quite closely with JACS on the cameras in terms of where they are deployed and when they are mobile. Ms Doran might talk more about it.

**Ms Doran:** Just on the numbers that you have started your question with, currently there are 18 units across Canberra, with an additional five units that we utilised for Floriade this year. As has been stated, the units are solar powered and portable. Whilst some of them are fixed, a number can be moved around for different events such as—

**MS CHEYNE:** Five at Floriade because people would steal flowers?

**Ms Doran:** Just because it is an event where there is a significant population coming together, and it presents an elevated risk in that sense.

**MS CHEYNE:** Five in one area is a lot.

**THE CHAIR:** There are a lot of exits to Floriade.

**MS CHEYNE:** Sorry, 18 generally across the territory and then five that you deploy to areas of high activity?

**THE CHAIR:** Like big events?

**Ms Doran:** Events and crowded situations.

**Asst Commissioner Johnson:** I think that is an important point to make. With Floriade, it was not so much the theft of the flowers but because it was a place where people gathered. In terms of crowded places, we are concerned from a security aspect to keep an eye on suspicious individuals and so forth because it is a potential point of attack. Major events and crowded places are places where we do quite a bit of work with deployment of cameras.

**MS CHEYNE:** And is there a ratio, where there are crowds and events, for how many CCTVs are used per head of population? How did you arrive at five being appropriate? What would be appropriate for the Multicultural Festival?

**Mr Gentleman:** We have a crowded places policy which works off the national crowded places arrangements, and that gives us evidence of what we would need to support the safety of people in crowded places. That can involve surveillance, if you like, the CCTV, or it can involve officers, for example, on the ground and also access and egress to those places as well.

**Mr Glenn:** Specific decisions will be taken, depending on the geographical layout of the event's site. Floriade had five because it was a dispersed site. To be able to get a sense of the crowd through the entire thing, you needed more cameras. Depending on the nature of the event and its location, that would determine the placement and number of cameras that we would deploy.

**MS CHEYNE:** I understand crowded places; it is not just about stealing things. But I see them in other areas like local shops, and I believe there is one on top of the Belconnen owl.

**THE CHAIR:** Is there one on top of the Belconnen owl?

**Mr Gentleman:** We will have to take that on notice. I can advise that the parks and conservation service also use closed-circuit TV cameras in our remote areas to observe people that would trespass into our national park where they are not welcome. They use that as evidence to form any prosecution for trespass. We have seen four-wheel drivers who are so keen to get into Namadgi that they will use petrol-powered angle grinders to cut the gates open, and we have video evidence of that. We get their registration numbers and we get visual recognition of the people and the offences taking place when we do that.

**MS CHEYNE:** There is a camera on the owl. So would that be used because it is a graffiti target? Recently an Extinction Rebellion symbol was marked on it. I am curious about the utility of a security camera there. Are we targeting low-level crime or is it because that is quite an expensive artwork for the territory and an icon for Belconnen and so it is worthwhile to have a camera there as a deterrent?

**Mr Gentleman:** Cameras are a deterrent; there is no doubt about that. But they are also very useful in gathering evidence for later prosecutions. In relation to the owl, we will have to take it on notice.

**Mr Glenn:** As a general proposition, the assessment criteria for placing a camera if it is relation to a crime type or an activity that is occurring in an area goes to what is the nature of the activity, what is the risk to the community and what is the value of the thing that might be damaged, for example. All those factors go into a decision as to where resources are deployed.

**MS LE COUTEUR:** Do you use facial recognition technology with the CCTV fleet?

**Ms Doran:** There is no such technology in place at the moment.

**MS LE COUTEUR:** Does that imply you are considering it?

**Ms Doran:** No.

**THE CHAIR:** I want to go to the number of police personnel, which we have obviously discussed ad nauseam in the Assembly. In the 2010-11 financial year there were 719 full-time equivalent sworn police officers in ACT Policing. In the 2018-19 year this dropped to just 670.22. That is 50 less than at the beginning of the decade. Are you concerned by this significant drop in frontline officers?

**Asst Commissioner Johnson:** The figure I have for the end of 2018-19 for the average full-time equivalent sworn police officers in the ACT is 710, which is the highest we have had in some years.

**THE CHAIR:** Well, according to the staffing profile on pages 89 to 95, the number for 2018-19 was 670.22. I am happy for you to take that on notice to clarify it, but even if we are on 710, we are still below where we were 10 years ago at 719 FTE.

**Asst Commissioner Johnson:** Yes, I think there was a figure but—

**THE CHAIR:** The 710 is a headcount.

**Asst Commissioner Johnson:** Yes.

**THE CHAIR:** I am not talking about headcount; I am talking about full-time equivalents. The full-time equivalent is 670.22, whereas for 2010-11 it was 719.

**Asst Commissioner Johnson:** The point has to be made that, at that time, what is now SRG, the specialist response group, was included in those figures. It is now included in the enabling figures, which is 145 FTE.

**Mr Gentleman:** Part of the agreement we have with the AFP means that we can access SRG when needed from the national unit.

**THE CHAIR:** But they used to be included in our numbers?

**Mr Gentleman:** Indeed.

**THE CHAIR:** You referred to a headcount of 710. We still had a higher number at the beginning of the decade. With an increase of over 50,000 in the population of the ACT, how have we ended up in a situation where we are not going ahead by an equivalent number?

**Asst Commissioner Johnson:** The point to be made is that we go ahead again next year. We went ahead this year in terms of government funding for staff, but we go ahead next year for the outyears. We have four years worth of increase of full-time equivalent staff for the next four years, which is about 60-odd.

**THE CHAIR:** That is a welcome addition, no doubt, but it does not answer the question about the fact that we have gone backwards. No doubt there is a conversation to be had with the minister and you, with the police officers of the ACT, about the workload they are under.

**Asst Commissioner Johnson:** I am certainly very concerned about the workload police are under at any particular time. The other point that has been made to me is that in those early figures police officers were doing our communications work and those roles have been civilianised since. That also changes the numbers in terms of the breakup of the work.

**THE CHAIR:** But it does not make up for the fact that there are 50,000 additional people living in the ACT over that decade.

**Mr Gentleman:** That is why we have invested a further \$35 million in this budget to fund more police in the ACT and, indeed, to fund a new policing service model which will see a better interaction with police and the community into the future. It will ensure that police can work with the community on identifying how we can disrupt crime and to talk about diversion prior to people moving into the justice system. It is a very important investment—

**THE CHAIR:** Minister Gentleman, thank you very much for delivering your lines about what we are doing for the future, but it is reasonable, on behalf of police officers and voters in the ACT, to ask how on earth we ended up in this situation in the first place where we have been effectively going backwards while the workload has been going forwards.

I am not the only person raising this concern. It is disingenuous to suggest that everything is fine because you are finally putting a bit of extra money into staffing. That might not plug the gap at all, because no evidence has been produced today or in the annual report which shows that that number will fix the problem. Have you quantified the problem? Do you know exactly what number of police you think the ACT should have per head of population going forward? How has the planning and accommodation been made for those people when your party has been in government for 20-odd years?

**Mr Gentleman:** The program going forward is to have a new police service model

which identifies a new way of policing in the ACT with the biggest investment we have ever made in policing numbers for the ACT. I think it is a worthwhile investment and I am looking forward to it rolling out.

**THE CHAIR:** Will that policing model require fewer numbers of police per head of population in the ACT?

**Mr Gentleman:** No. As I mentioned, it requires 69 new police for the ACT to ensure that a policing service model can be introduced. I should point out, for those listening, that the opposition voted against the budget to supply this funding for ACT Policing into the future.

**THE CHAIR:** Thank you, Mr Gentleman. At every opportunity you like to talk about how the opposition voted on the budget, which does not stop the supply of money, as you well know. I would ask you to refrain from adding additional information that is not relevant to the question that you have been asked.

**Mr Gentleman:** I think it is very clear that we are very keen to fund new policing in the ACT—

**THE CHAIR:** I think it is very clear, Minister Gentleman, that you have overseen—

**Mr Gentleman:** and there is a difference between the two groups.

**THE CHAIR:** a crippling of your own police force, as minister, and that is a disgrace. The men and women who serve on the front lines under your government are suffering.

**MS CODY:** Assistant Commissioner Johnson, I have a question for you. At page 26 of the report, there were 325 cautions issued in the reporting period. It is at the bottom of the page. Is there a way in which you can break that down for me? Was it drunk and disorderly? Was it traffic violations? Or is that a bit too difficult?

**Asst Commissioner Johnson:** It would be possible to break it down. Generally, I can tell you the sorts of things that would be included in that.

**MS CODY:** Sure.

**Asst Commissioner Johnson:** We can take the exact numbers on notice. It would include assaults; that could be a matter for cautions. Stolen motor vehicles, thefts, can be done as a caution, a criminal caution. Property thefts, firearms offences and others might well be dealt with by a caution. Those types of offences would be included in that group. We can take the question on notice and give you numbers. I am sure we will have them behind the scenes. I do not have the exact numbers here.

**MS CODY:** That would be wonderful, but I do not want you to go to too much trouble.

**Asst Commissioner Johnson:** I am pretty sure we could do it reasonably easily, so I will take that on notice.

**MS CODY:** Okay. I also note that there has been a drop in family violence related assaults over the last three years.

**Asst Commissioner Johnson:** Yes.

**MS CODY:** There could be many reasons why, but do you, as police, have an idea about things that are working and things that are not? Why has this occurred?

**Asst Commissioner Johnson:** We are really pleased that we have seen a drop in family violence assaults. I am always cautious on changes in statistics around crime numbers when they are not really big ones. I never want us to rest on our laurels in terms of any level of crime. It is important that a lot of work has been done with other parts of government, non-government organisations and the private sector to try to combat issues around family violence, and to try to reduce the number of times particular offenders come back to the justice system. I think they are places where we have made a difference. Often the continued assaults involve one person committing multiple offences. We can intervene using other non-government organisations or others to help us to prevent them from coming back into the justice system. That is starting to be evidenced in those figures.

**MS CODY:** That is great. Taskforce Nemesis: do you have any figures on how effective this has been?

**Asst Commissioner Johnson:** We would have. I will ask Deputy Chief Police Officer Chew to speak in a bit more detail. Nemesis has been quite a successful strategy in dealing particularly with outlaw motorcycle gangs and keeping significant pressure on them and their criminal behaviour.

**Cmdr Chew:** In response to your question, I will give some statistics that have occurred over 2018 and this calendar year. During 2018 Nemesis charged 27 criminal gang members. So far this year we have charged 23. In 2018 they were charged with 78 offences. This year it is 73 offences for those 23 people charged. We executed 100 search warrants in 2018 and we have executed 35 search warrants this year. Nemesis seized 20 firearms in 2018 and so far this year we have seized 12 firearms. I can break down the other offences that have been brought outside those search warrants, if you like.

**THE CHAIR:** Can you let us know what the full-time equivalent workforce is of Nemesis, what the number of different personnel, different classifications, is, and the total budget for Nemesis.

**Cmdr Chew:** Total funding for Nemesis over the period from 2016-17 through to 2021-22 is \$11,705,000. The FTE attached to Nemesis is 10 FTE; they are all experienced detectives working on the organised crime Taskforce Nemesis.

**THE CHAIR:** Are they all in the one classification level?

**Cmdr Chew:** They are all detectives, yes.

**Asst Commissioner Johnson:** Some would potentially be more senior than others. There would be at least a sergeant or two in there, and some more junior members. Generally, they are all experienced investigators. Often they will do work that requires support from other parts of ACT Policing.

**MS CODY:** I was about to ask that.

**Asst Commissioner Johnson:** Search warrants and other things.

**THE CHAIR:** You are drawing what you need, yes.

**Asst Commissioner Johnson:** We will often put a task force together and do the work that is needed over a day or two; they will then go back to doing what Nemesis does.

**MS CODY:** You may have police officers that have intel to provide to Taskforce Nemesis that is not counted in that sort of number?

**Cmdr Chew:** That is right; even down to community safety areas. They support all of the information and intelligence going into Nemesis around the OMCGs. Overall, \$5,239,436 has either been restrained or forfeited. That is not necessarily all about Nemesis but across ACT Policing.

**Asst Commissioner Johnson:** Certainly, it is all related to organised crime and the process of trying to get the profits out of crime, so that is a really good figure.

**MS LE COUTEUR:** Can you tell me about police enforcement of the minimum passing distance rules for overtaking cyclists?

**Mr Gentleman:** Police have been looking at our road rules for ensuring safety for cyclists. We have worked through the program “a metre matters”, and police have been out on the road looking at cyclists’ behaviour. I will pass over to the officers to give you the details.

**Asst Commissioner Johnson:** I will hand to Commander Chew to talk in a bit more detail. The legislation has been in place now for a period of time. As with most of these things where there is a change of legislation, our primary effort is to try to educate the public first; that effort has been ongoing. I made the point on radio a couple of weeks ago that we have started to harden our position a bit more around that. We have a good partnership with Pedal Power now in terms of getting messages out and some operational strategies that will, hopefully, reinforce the message. Can I say, though, that the vast majority of the driving community still obey the law. It is the odd one out that does not, but there many that do, I think it would be fair to say.

**Cmdr Chew:** Supporting what the CPO said, the focus of ACT Policing has been education on awareness of the change in the law and educating the community and the driving community in relation to safe passing. That is reflected in the figures. In 2015-16 there was one traffic infringement notice for the 1.5 metre passing rule; in 2018-19 there were nine traffic infringement notices issued. As for cautions, in 2015-16 there were no cautions issued; last financial year there were 15 cautions

issued. Again, it demonstrates our education and awareness build-up. At some stage, we will move into more of an enforcement regime. It is very important that people understand the rules and work out their requirement to abide by those road rules.

**MS LE COUTEUR:** Are there any other steps you are taking to increase the safety of cyclists on our roads?

**Asst Commissioner Johnson:** Going to the work that we have done with Pedal Power, we have come up with a mat, for want of a better word, which tries to show to the public what 1.5 metres looks like. Sometimes people do not quite understand. We are doing them in as many places as we can in terms of public education. Our members are in the media, when they can be, to continue that education process. We rely on other parts of government to help us with that education process, and Pedal Power are very keen to help. It is a progressive effort to try to educate the public. Part of that will now be now toughening our enforcement stance more. As I said when we launched that program a couple of weeks ago, “You never know. The next cyclist you pass might be a police officer.”

**MS CODY:** It is about time.

**Asst Commissioner Johnson:** I will take the opportunity to get that back in front of the public. There is a point where we need to start mixing education to the public with more enforcement, and we think now is the time to start doing that.

**Mr Glenn:** On education, the road safety fund has been able to fund devices like the mats so that you can physically see what that passing distance looks like, as well as some studies about driver behaviour around passing cyclists. Collectively, we can do the work on the education side, as the CPO says, as the enforcement work begins to harden.

**MS CODY:** I am going to ask a legitimate question, but it is going to sound odd, so bear with me. The other day I noticed that there were some uniformed police riding around in what I am going to call Barton. Are some of the police involved in the campaign “You never know. The next cyclist you pass could be a police officer” going to be unmarked, so to speak?

**THE CHAIR:** In plain clothes.

**Asst Commissioner Johnson:** Yes. Implied in the strategy is unmarked. The people you would have seen are part of our protection services for places like Parliament House and round the AFP national headquarters and other protection establishments.

**THE CHAIR:** They are part of the protection force.

**Asst Commissioner Johnson:** Yes. It is a good way to get around easily in places like Parliament House, where you can move around quickly on a bike. We can, and do from time to time, use pushbikes, but this strategy will be less obvious.

**Mr Gentleman:** They never gave us pushbikes when I was in the job.

**THE CHAIR:** Do you have another question, Tara?

**MS CHEYNE:** Yes. It is not on the owl. That is a serious question, though.

**THE CHAIR:** I do not disagree.

**MS CHEYNE:** It has been raised with me more than you would realise. It is very important to the Belconnen community. On page 47 there is a useful table about offences against property by offence type. It is very pleasing to see that so many property offences have been less common this financial year compared to last year, except for, in particular, burglaries at shops, with a 41 per cent increase. Are you able to shed any light on what has or may have contributed to that jump, particularly given that there has been such a decline in other property offences? And what proportion of these have been ram raids?

**Asst Commissioner Johnson:** I will hand over to Commander Chew because he will be closer to the action than me in terms of detail, but let me mention a couple of things with the figures. As I say, no crime figure looks good to me. Zero would be the best. But the numbers being low means that it does not take much to make a decent sized percentage change. That could be down to—and I suspect it is—the fact that we have seen a range of recidivist offenders taking opportunities. Ram raids and aggravated robberies will be part of that. I suspect that is right. The police response to that has focused on our crime disruption team, and the crime teams are focused very much on that particular crime type. You will remember that there was a period of time when there were quite a number. A number of offenders were arrested and dealt with by the system. They are out of the public system now. I always want to touch wood when this happens, but we have not seen a ram raid for a period of time now, based on—

**MS CHEYNE:** What does “out of the public system” mean?

**Asst Commissioner Johnson:** They are not in public.

**MS CHEYNE:** They are not in the community?

**Asst Commissioner Johnson:** Yes, so they are not able to commit offences. They are in custody.

**MS CHEYNE:** Can you say that quite a number of ram raids were connected? If you cannot, say no.

**Asst Commissioner Johnson:** I will go out on a limb. I would think yes. One would have to assume that they were not just a range of unconnected individuals all thinking that particular type of crime was—

**THE CHAIR:** At the very least, it is copycat behaviour.

**Asst Commissioner Johnson:** I think that is right.

**Cmdr Chew:** There is certainly an element of recidivism—

**Asst Commissioner Johnson:** Yes, for sure.

**Cmdr Chew:** in relation to the number, type and group of offenders that commit those types of offences. They are relatively well known. And, as the CPO said, a majority of them are now in custody in varying forms.

**MS CODY:** Talking about burglaries and access at the shops, there are parts of my electorate where there may not be shops yet but there have been people disrupting the peace, to put it in that way. Are they the sorts of things that the public can report through the channels? Is it not just burglaries as such but also hoons, burnouts and people being generally antagonistic?

**Asst Commissioner Johnson:** Yes; that is right. Sometimes there is concern among the public because they bring those types of issues forward and feel as though the police response is not up to scratch. The challenge often with those sorts of things is that they are very transient: they happen and they are gone. What we try to do is work with communities when we start to see that become a theme, try to focus on the problem.

What we are doing with our futures planning is trying to build a better capacity to do more of that and then focus police effort in terms of both trying to be there at the times when we see those sorts of quality of life issues come up and doing a whole heap of prevention work and police presence work as well.

Yes, we want members of the public to bring those things to our attention. It helps us to understand where the issues and the particular transient hotspots might be that we need to focus on. We rely heavily on the public to help us in dealing with those, because they give us descriptions of cars and so forth.

In the future, as we improve our online engagement, we see an ability for the public to provide that in a simpler way. We are trying to make it as simple as we can for people to bring us that advice. As to the police response to the particular complaint, we will respond to the particular complaint, but we may not be able to resolve that problem, although we recognise that often—

**MS CODY:** It is intel building.

**Asst Commissioner Johnson:** That is right. If we see a problem start to mount as a result of street gangs or people behaving badly in a particular area, we can tackle it longer term.

**THE CHAIR:** I have a few more questions regarding staffing. Can you advise how many hours of overtime were worked in 2018-19 broken down by sworn versus professional ACTP staff?

**Asst Commissioner Johnson:** I can do that. I will not have the exact figure with me. We can certainly give you that breakdown.

**THE CHAIR:** Thank you. Does the ACTP have a target or a set budget to be spent

on overtime pay?

**Asst Commissioner Johnson:** We start the year with an intention to spend within overtime.

**THE CHAIR:** Is there an envelope of money? Is there is an amount that you try to keep it to?

**Asst Commissioner Johnson:** Yes.

**THE CHAIR:** What is that figure and how did it compare to the actual spend in 2018-19?

**Asst Commissioner Johnson:** We have the figures. We can certainly share them. Without the exact numbers, I can say that we spent more in overtime than we budgeted for last year.

**THE CHAIR:** You will come back to us with the figures. That will be on notice.

**Asst Commissioner Johnson:** We can provide some details on that, yes.

**Mr Gentleman:** As somebody who worked shiftwork for 11 years, I think it is worth pointing out to the committee that the operation of overtime works consistently with 24-hour shift operation. Of course, filling a shift will most likely mean an overtime shift, because you are using the skills of previously trained officers. It has always been part of that. Whether it is nursing, whether it is policing or whether it is other matters—fire and rescue, for example—overtime is certainly a component of the workforce.

**THE CHAIR:** I do not think anybody is questioning whether there should ever be overtime. What specific support services are available to ACT personnel to address mental health issues in the workforce?

**Asst Commissioner Johnson:** As I think you are aware, we have been working on our mental health strategy as an organisation for some years. For ACT Policing particularly, we have had for some time three specific welfare officers. They are all sworn officers and understand the work that our members go through. Their job is to help, to intervene whenever and however. We have one psychologist attached to ACT Policing. As part of the funding we got this year, my intention is to recruit a second and we are now undertaking the process. We, like you heard the ESA commissioner say, are working with Fortum in terms of social inclusion work. This is a body of work that is really important to us, and we learn as we go.

**THE CHAIR:** In respect of the options that are available to people, is there a pastoral care option—

**Asst Commissioner Johnson:** There is.

**THE CHAIR:** that is less medicalised and less operationalised?

**Asst Commissioner Johnson:** There is. There are two pastors, for want of a better word, who people can go to. They use those people. They come often to crime scenes, when there is an incident and so forth, and are really helpful. Some people find that really useful.

**THE CHAIR:** Yes. It depends on the person.

**Asst Commissioner Johnson:** I also think the point to be made is that the welfare officer is there too. It is designed not to be too clinical and too health related. It is actually just about building a connection with someone.

**THE CHAIR:** Are people free to disclose whatever they want to them—

**Asst Commissioner Johnson:** Yes.

**THE CHAIR:** or are they required to report what they hear?

**Asst Commissioner Johnson:** Unless it is corruption—

**THE CHAIR:** Then no.

**Asst Commissioner Johnson:** No. The matters that they share between each other—

**THE CHAIR:** Are kept private.

**Asst Commissioner Johnson:** are matters between them. We encourage them to do that because we do not want to breach that level of trust.

**THE CHAIR:** That is right. That is the same for the pastoral care, presumably?

**Asst Commissioner Johnson:** Indeed, absolutely. I suppose the point to be clearly made, though, is that all members would know that they should themselves disclose things like corruption and serious misconduct.

**THE CHAIR:** Sure.

**Asst Commissioner Johnson:** But other than that, no. That is a matter between them. We know that there is—

**THE CHAIR:** But not medical matters and mental health matters—

**Asst Commissioner Johnson:** Correct; absolutely not. That is a matter for our medical services to deal with. If it were disclosed, it would be only on the basis of their agreement, for example. But we are trying to break down the stigma or concern. I have just been reminded that the only other time might be if there is such a concern for health that operational ability and so forth comes into play. We are always managing that balance.

**THE CHAIR:** Yes, of course. On that operational versus non-operational, based on people's current status, firstly, if people put their hand up and say that they have a

mental health issue, does that affect their operationality immediately or at a certain point in time?

**Asst Commissioner Johnson:** Again, it is very much dependent on the particular issue. What we are trying to get people to do is to come forward early. Mental health does not mean necessarily diagnosable PTSD or some other mental disorder. It might be just that they are feeling a little bit down, a little troubled in their workplace—

**THE CHAIR:** Yes.

**Asst Commissioner Johnson:** or they have seen something—

**MS CODY:** They could be going through some personal matters.

**THE CHAIR:** Personal matters, yes.

**Asst Commissioner Johnson:** That is right. They have seen something that troubles them and that they want to work through.

**THE CHAIR:** That is human.

**Asst Commissioner Johnson:** That is right. That is being human and that is bringing that forward. We do a lot of work in the early intervention space. We have seen an increase in the number of people who come forward sharing their feelings, sharing with the organisation and being prepared to put their hand up. That in and of itself does not necessarily mean that you cannot be operational.

**THE CHAIR:** Do you, as an organisation, recognise the term PTSI rather than PTSD, which is about a PTS injury rather than a disability or disorder?

**Asst Commissioner Johnson:** I have heard arguments for both terminologies. I will take the advice of people smarter than I am. I want the version that makes people feel less concerned about it.

**THE CHAIR:** The point was put to me by a pastoral care person recently at a Policing event that PTSI gives people more opportunity to be considered for promotion, because you can envisage an injury rather than a disorder. People can imagine that it is something that has been hard to deal with but maybe you could recover from or learn to manage. I would be very interested to know, maybe in six months time when we come back to have these conversations again, where we are at.

**Mr Gentleman:** It may be worthwhile just advising, too, that the AFP participated in the Beyond Blue national mental health and wellbeing study of police and emergency services, and the results indicated that ACT Policing and the AFP are on or below the police average for the prevalence of high stress and probable post-traumatic stress disorder, suicidal thoughts and substance misuse as well. I think that is a good news story.

**THE CHAIR:** If they are disclosing. I think we all know that there are issues with disclosing because of how people feel it will affect their careers.

**Asst Commissioner Johnson:** I think that survey was an anonymous survey and was of 22-odd thousand—

**THE CHAIR:** Across the country.

**Asst Commissioner Johnson:** first responders across the country. And it included our people. The minister is right. I think we turned out slightly better than others, which we take some credit for in terms of the systems we have got in place. But, again, we do not rest on our laurels on that front.

**THE CHAIR:** I would dispute that, because the people who have been talking to me do not believe that locally it is better. They believe that, in fact, there are people who will not disclose because of their fears for their careers. It is just feedback. You can do with it what you like. I want to ask about current non-operational staff. How many sworn officers are currently non-operational?

**Asst Commissioner Johnson:** We can get you that figure.

**THE CHAIR:** You can take that on notice if you like.

**Asst Commissioner Johnson:** Yes, we will take it on notice. It goes up and down, obviously. People are non-operational for a range of reasons.

**THE CHAIR:** Even at the end of the financial year it would be fine to know. I understand that sworn officers who are non-operational generally need to be covered by other officers working overtime. Is that correct?

**Asst Commissioner Johnson:** Not always, no. There have always been, and there always will be, a number of people that will be non-operational for a range of reasons. You build that into your plan.

**THE CHAIR:** Can non-operational officers be replaced in their duties or are their duties always covered by the existing workforce? What is the decision-making paradigm about whether you will get that person back in the short term or not?

**Asst Commissioner Johnson:** I guess there are a range of reasons why people are out of workforces day to day. It could be leave; it could be courses; it could be whatever it is—long term or short term. That is, again, the business of the day and we will always manage shifts based on the fact that we will never have everyone there every day all the time. There are occasions—

**THE CHAIR:** I will just give you an example. In the health workforce, when someone is non-operational, there are contingency staff for the purpose of filling non-operational shifts short term and also long term. Is there anything like that that exists for the police?

**Asst Commissioner Johnson:** We would look at—

**THE CHAIR:** A separate group?

**Asst Commissioner Johnson:** We would look at particularly our response workforce across the whole of the ACT—

**THE CHAIR:** And move people around?

**Asst Commissioner Johnson:** We move people around if we can and we need to. If for some reason we can't, there would be occasions when we might use overtime. We prefer not to if we can. There are occasions when members who might not necessarily be operational can undertake work that might free up an operational person.

**THE CHAIR:** Do your non-operational staff still form part of your FTEs?

**Asst Commissioner Johnson:** Yes.

**MS CODY:** I want to talk to you about what is being done to increase the numbers of women, culturally and linguistically diverse, Indigenous and LGBTIQ cohorts in the police force. I have a specific question that you may or may not be able to answer: how do you manage transgender people or those who are transitioning, and how do you support them in the workforce?

**Asst Commissioner Johnson:** I will answer the last question first. We are working on a policy to make sure we are clear on our processes. There are people who have done or are in the process of doing that and we try to ensure that they are supported. I am the executive champion for the whole of the organisation for the LGBTIQ community, so I have a vested interest in helping people through that pathway. Like any organisation, we are never perfect at that, but we are working hard to make it a better place for everyone.

In 2016 or 2017 we set ourselves a range of targets to improve the diversity of the workforce and include the cohorts you mentioned in the workforce. We have progressed our Aboriginal and Torres Strait Islander representation in the ACT to 2.48 per cent, if my memory is correct, which has been a progressive increase. We are working towards increasing the number of women towards a fifty-fifty split. We have increased the number of women on recruit courses, and the year before last the AFP ran a female-only recruitment round.

Traditionally from a recruitment round you get, on average, about 30 per cent female applicants and 70 per cent male, so you end up with a smaller pool of females than males ready to move through the process. We run a specific female-only round to make sure we have the ability to run fifty-fifty courses, and we have been working to do that. Nicole will have the exact figures, but we have increased progressively the number of women on percentage. We are not there yet, but we are working hard towards it.

**Ms Levay:** The figure is 38 per cent.

**Asst Commissioner Johnson:** That is certainly an improvement over the years. We try to pitch our recruitment processes towards the diversity of the community—culturally and linguistically diverse, female and a range of professions and skills. All

of that makes our business better and easier. The community should be able to see itself reflected in its police force.

**MS CODY:** We were talking earlier with the ACT Emergency Services Agency about the physical difference between women and men and how the requirement of having to lift a police motorbike, for example, can be more difficult for women to meet. You have spoken in either annual report hearings or estimates hearings, as did the ESA Commissioner earlier today, about providing some help to women in the fields of physical activity and physical strength. Am I remembering that correctly? Are those things on offer?

**Asst Commissioner Johnson:** Yes, and sometimes there are processes we put in place for ourselves historically that are not necessarily a good measure of whether a person is going to be a good police officer. We are trying to make sure that those things are removed. One of the classics is the old grip test, which females often failed. The grip test was based on a weapon of the time, which we do not use anymore. It was a bit of a silly test, so we have removed that, for example.

We are always trying to find opportunities to allow people to move through that recruitment process. We are working on getting females into traffic and giving them better opportunities. We have had female tryout days to determine whether smaller bikes might be suitable for female officers. In the bike course I did—this takes me back into the 80s—was the first female police officer on a motorbike. We were ahead of the curve, but we still have a way to do.

**MS CODY:** I have been invited to traffic operations and have sat on a police motorbike—I did not ride it, unfortunately—and they are very big and cumbersome.

**Asst Commissioner Johnson:** Yes, that is true. Sometimes the assumption about policing is that you have to be big and burly and be able to fight drunks in bars to be a good police officer, and the simple fact is that that is not right. In fact, your negotiation skills are more important to you than any other skill when you are doing police work. That levels the playing field very quickly.

**MS CODY:** How will the 60 additional operational and support staff be employed? Are they full time, part time, casual or contract? Can you provide a breakdown?

**Asst Commissioner Johnson:** We can give you a bit of detail. We will not know just yet for most of them, but I can say that the vast majority will be sworn police officers and they will be permanent employees. We will always give people an opportunity to work part time and the like, and some of them will be employed on that basis.

**MS CODY:** But that is through negotiation with the employee?

**Asst Commissioner Johnson:** Correct; there is no plan, necessarily. There might be some that we do on contract. One of the areas of speciality we are looking at is around intelligence. There might be particular people with particular skills and we are prepared to be flexible about the way we employ them to get them. But for the most part they will be sworn police officers and they will be employed under the same terms as other sworn police officers.

**THE CHAIR:** While we are on staffing, can you let us know how many police officers are currently on Comcare and cannot attend work in any form?

**Asst Commissioner Johnson:** Yes, we can give you those figures. That will fill part of the non-operational group.

**THE CHAIR:** The other question that I asked, yes. How many have come off Comcare in 2018-19 and how many went onto Comcare in 2018-19?

**Asst Commissioner Johnson:** We can give you the figures as they stand now.

**Ms Levay:** The total number of Comcare claims for 2018-19 has actually been going down. We went down by 15 per cent from 2017-18.

**THE CHAIR:** To what number?

**Ms Levay:** We had a total of 34 claims, of which 28 were accepted.

**THE CHAIR:** That was for 2018-19?

**Ms Levay:** That was in 2018-19, yes.

**THE CHAIR:** Maybe you need to take it on notice to see how many came off their Comcare arrangements, of not working?

**Asst Commissioner Johnson:** We will look into what we can get for you on that. The idea of the early intervention process is, hopefully, to intervene before people need to be on Comcare. We think we have seen an impact there. We have seen quite a number of people take up early access claims, 45 per cent, which is an excellent thing.

**THE CHAIR:** That is to get treatment before it becomes debilitating?

**Asst Commissioner Johnson:** Correct. That is the key one. The key purpose of that early intervention strategy is, "Can we just do what we need to do for someone early?" I come back to your question on broad numbers around people out of the workforce on longer term leave. That includes a range of things: mat leave and others.

**THE CHAIR:** It is not just long term, yes.

**Asst Commissioner Johnson:** People on suspension and other things. In June this year it was 44; in September it was 30. So it does come up and down, obviously, for various reasons. It is in our interest to keep it as low as reasonably possible, with people, again, going on mat leave and doing other things.

**THE CHAIR:** With mat leave, we would not want to keep it too low. People need to have babies.

**Asst Commissioner Johnson:** That is right. There will always be people who will be on mat leave.

**THE CHAIR:** That is good.

**Asst Commissioner Johnson:** You accept that as part of your planning.

**THE CHAIR:** Finally, on patrol numbers per shift, what resourcing levels do you require for night shifts? Do you have a minimum requirement for each station for night shift? I have recently been told about a shots-fired incident with one sergeant and two constables attending because they were the only ones available during that night shift. Do you have a minimum expectation for night shift in each station?

**Asst Commissioner Johnson:** Again, we are looking at it more as a whole-of-ACT situation. Inevitably, regardless—

**THE CHAIR:** Incidents occur.

**Asst Commissioner Johnson:** incidents occur, and we can have three or four things going on. You may well have cars tied up, and you need traffic to back up and you need people to come from Woden to help out in the city. That is the nature of the business.

**THE CHAIR:** What is your ACT minimum resourcing for a night shift?

**Cmdr Chew:** There are no minimum requirements. It is based on the team size.

**THE CHAIR:** What is the basic team size?

**Cmdr Chew:** Our team sizes are based on one and nine.

**THE CHAIR:** What does that mean?

**Cmdr Chew:** It is one sergeant and nine constables on each team.

**THE CHAIR:** How many teams are there across the ACT for a night shift?

**Asst Commissioner Johnson:** There are six rotations across five stations.

**THE CHAIR:** I am afraid you are speaking Greek to me.

**Asst Commissioner Johnson:** To fill a roster, the way the rosters are designed, each station will have six teams. So there are six sergeants with teams. As a consequence they will fill an entire roster, plus training shifts and the like. Those numbers are one and nine, based on—

**THE CHAIR:** One and nine is the group, but how many of those groups would be on for a night shift across the ACT?

**Asst Commissioner Johnson:** Each station will have one of those groups.

**THE CHAIR:** So five stations have at least one of those groups per station?

**Asst Commissioner Johnson:** They will, but, as I said before, they will never have all nine, or it would be a very rare occasion, because the sergeant is responsible for their people. They might be on training; they might be on leave.

**THE CHAIR:** What is the lowest number that you will accept before filling from another group?

**Cmdr Chew:** It is very hard to quantify that number because—

**THE CHAIR:** If you have one sergeant and two, that is clearly not the same as one and five. Is there a point at which you start to worry?

**Cmdr Chew:** No, not really, because we look at staffing across the ACT. Whilst one station may have two constables, two constables in the front office, and a sergeant, another station may have three cars of two constables. We look at the staffing across the whole of the ACT. Part of moving forward with the new policing model is about moving to looking at demand rostering—having the right number of resources on at the right time at which they are required to do the response policing work. It is very hard to quantify, because—

**THE CHAIR:** Yes, because it is hard to predict as well.

**Cmdr Chew:** We do look at it across the ACT. At individual stations, yes, there may be times when there is a sergeant and a two-person car at Woden, but calls for service will be dealt with by cars from Belconnen or Gungahlin.

**THE CHAIR:** Who is making that call about whether you have enough staff at a particular moment in time?

**Asst Commissioner Johnson:** Usually, it will be the officer in charge of the station.

**Cmdr Chew:** Or the team leader or the sergeant in charge of that team at that time.

**THE CHAIR:** The person making the decision is making a decision at the station level, but the decision is being made about the whole of the ACT?

**Asst Commissioner Johnson:** We have operational communications. There is the duty operations manager. We have a role called Alpha 8, the duty officer in charge. That person is responsible for the ACT during that period of time, as a senior officer.

**THE CHAIR:** Are they out at Winchester?

**Asst Commissioner Johnson:** They might be. It is on rotation, so they could be at any one of the stations. The Woden OIC could be on a roster, and he or she could be in the role at various points in time. They may well elevate the question up to deputy or superintendent, depending on the circumstances. There might be something going on that we have to do something with as well, so it is very hard to say.

**THE CHAIR:** Yes, if you have a big operation going on. I think I understand. Before

we wind up for our break, can I ask on notice about incident P1695674? It is a traffic matter which has not been followed up, and the person has not been able to access their insurance. It has been some months, so could that perhaps be followed up?

**Asst Commissioner Johnson:** Certainly. I am sure someone is madly writing it down.

**THE CHAIR:** Thank you very much, ACT Policing and Minister Gentleman. We will go to a break.

**Hearing suspended from 3.32 to 3.46 pm.**

Appearances:

Rattenbury, Mr Shane, Minister for Climate Change and Sustainability, Minister for Corrections and Justice Health, Minister for Justice, Consumer Affairs and Road Safety, Minister for Mental Health

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

McIntosh, Mr Andrew, Director, Justice Planning and Safety Programs, Legislation, Policy and Programs

Lutz, Ms Amanda, Manager, Restorative Justice Unit, Legislation, Policy and Programs

Owen, Ms Belinda, Manager, Road Safety Policy, Road Safety and Transport Regulation, Legislation, Policy and Programs

Peach, Mr Jon, Executive Director, ACT Corrective Services

Bartlett, Mr Mark, Senior Manager, Offender Services and Corrections Programs, ACT Corrective Services

Chief Minister, Treasury and Economic Development Directorate

Potter, Ms Chantel, Executive Branch Manager, Fair Trading and Compliance, Access Canberra

**THE CHAIR:** On behalf of the committee, I welcome Mr Rattenbury MLA, Minister for Justice, Consumer Affairs and Road Safety, and officials. Before we begin, I remind witnesses of the protections and obligations entailed by parliamentary privilege and draw your attention to the pink privilege statement on the table. This is important. Could you each confirm at the table, for the record, that you understand the implications of the privilege statement.

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

**Mr Glenn:** Yes.

**THE CHAIR:** We will go to questions. The first question is around the charter of rights for victims. Earlier today we had some discussions with the Victims of Crime Commissioner about the process around the charter of rights. The commissioner pointed to the department. Now you are here.

**Mr Rattenbury:** Yes.

**THE CHAIR:** We understand that there was a fair bit of work done under the previous Victims of Crime Commissioner, who had an interest in this particular area. Where are we up to and when do we expect the work to be finalised?

**Mr Rattenbury:** You are right to point to the previous work by the previous commissioner. In some ways, it has been a longish process, but the strength of that has been a lot of involvement by the community and quite a grassroots development of the charter. In terms of where it is up to, JACS is now leading a process to finalise it and take it through the cabinet process.

**THE CHAIR:** Do you have any idea of what sort of time frame you expect that to be around? Obviously the end of the term, but anything earlier?

**Mr Rattenbury:** No, nothing more specific than that.

**THE CHAIR:** We also noted earlier that there is not a specific line item for women in the current work on the JACS directorate website which talks about who the engagement has been with. There are all the usual groups—multicultural, young people, people with disabilities, parents of child victims, Aboriginal and Torres Strait Islander victims who are also offenders and LGBTIQ people—but we cannot find a line item for women. I am wondering if women have dropped off.

**Mr McIntosh:** It is not included in the list that you have talked about, but I can set out some of the additional information in relation to how women have been consulted specifically—

**THE CHAIR:** I am sure women have been consulted, because there are women in all of those groups, but from the perspective of women.

**Mr McIntosh:** Absolutely, but specifically as well. We have consulted a large range of community groups. Going to our online surveys, 87 online surveys were done. We have looked at the figures since the earlier hearings today, and 78 per cent of people who responded identified as female. We had 11 face-to-face meetings, of which 10 were with women. Six community groups were consulted, which included Beryl Women Inc, the Domestic Violence Crisis Service and the Women's Legal Centre. The Nannies Group was consulted and also the yarning group, with the female Aboriginal and Torres Strait Islander detainees for Aboriginal exits from the AMC. Also, the Victims Advisory Board has played a key part in providing advice, and 11 of the 16 positions on that board are held by women.

**THE CHAIR:** Perhaps we should make a recommendation that you include women in the list, given that they are being consulted.

**MS CODY:** I want to talk about road safety, about motorcycle lane filtering. Following the trial, we have now implemented that. How has that been going? Have we got any statistics to see that there have been no major incidents due to lane filtering? Motorbike riders are aware, but are car drivers?

**Mr Rattenbury:** We have got some statistics. While we are pulling the statistics up for you, I can say anecdotally that the feedback I have had, in conversations with the Motorcycle Riders Association as well as informal conversations with motorbike riders, is that people think it has gone very well. Motorcyclists are telling me that they are trying to be respectful, and when they do, they get pretty a good response from motorists. I have not heard any major reports of incidents, or even just aggro around it, to be a bit colloquial. That is part of reading it in terms of the stats.

**Ms Owen:** In terms of stats, what I have with me is the evaluation outcomes from when we evaluated the safety benefits of the trial. There was no significant increase in any incidents or crashes, or involvement in crashes of motorcycle riders. We had

positive results in terms of community awareness, which was one of the main driving factors of having this trialled and all of the campaign material developed around it. The evaluation showed that since the trial commenced, there has been a significant increase in the proportion of the community aware of the rules around it. When the minister announced the permanent inclusion of the rules, we expanded one of the conditions to include that all 40-kilometre zones were excluded from lane filtering conditions.

JACS is constantly reiterating and redistributing the campaign materials. In October, just last month, we had some more awareness around motorcycle safety week which included some reminders for people about the conditions for lane filtering, also for riders themselves to be reminded about the conditions and for other road users to be aware that people might be lane filtering around them.

**MS CODY:** On that, and more generally about motorcycle rider awareness, I know we had the Joe Rider campaign not so long ago, which was a bit of fun but also about motorbike safety. It was about reporting the fact that you have seen Joe Rider and where. What other campaigns are we doing to ensure motorcycle safety?

**Ms Owen:** The ACT road safety fund provided a grant to Stay Upright as a provider to provide some subsidised lessons—I think it was free lessons or free mentored rider training—for people when they get their Ps, to get a bit more confidence on the road amongst some experienced drivers. We partnered with the Motorcycle Riders Association to promote Joe Rider.

**Mr Rattenbury:** Also we have the return to riding program.

**Ms Owen:** Yes, the masters program, which is promoted by the MRA. That is where return riders—people who have had a motorcycle licence but had a break for some reason in their riding—reinvigorate their skills.

**Mr Rattenbury:** It needs to be ongoing work. I was chatting to the MRA when we had the launch of Joe Rider the other week. A couple of the riders that came to that event were saying that just that morning they had had a couple of near misses each. Their story generally is that they need to ride very defensively because motorists do make mistakes around motorbikes; there is that lack of awareness. This is not something we can ever stop on; the issue of raising awareness about motorcycle riders and their particular vulnerabilities will never be complete.

**THE CHAIR:** There have been quite a few changes to the road rules in Canberra in the last few years, to do with not just motorcyclists but cyclists. There is a lot for people to get their heads around.

**Ms Owen:** Yes. Also, part of the pre-learner materials for people who are learning to drive is some focus on awareness of vulnerable road users, including motorcyclists.

**MS CODY:** And cyclists more generally?

**Ms Owen:** And cyclists as well.

**Mr Rattenbury:** About two years ago now we brought in new competency specifically about vulnerable road users; it was an added competency to the learner driver process.

**Ms Owen:** Yes.

**MS CHEYNE:** I have questions on egg labelling. I understand that the legislation requiring ACT retailers to display a sign stating ACT government support for the maximum stocking density being 1,500 hens, as compared to the very disappointing national standard of 10,000, came into effect in late August. Has the signage rollout across the city been monitored and are all egg sellers complying by displaying this sign?

**Mr Rattenbury:** Just by way of background, this did result from the changes to commonwealth rules. We have gone with a specific approach in the ACT. There has historically been an egg labelling system. This has not been a major change for retailers. It has been, I guess, a tweaking of the system that was in place. In terms of compliance, the intent at the beginning is to certainly not take a strong enforcement approach but to work with the retail outlets to help them get there. In terms of the specifics?

**Ms Potter:** In terms of the commencement of the legislation, we ran our standard compliance program in relation to retailers shortly thereafter and went out and inspected 53 locations in terms of medium-sized retailers to assess their compliance with the new egg labelling requirements.

**MS CHEYNE:** What would be a medium-sized retailer?

**Ms Potter:** Local suburban supermarkets and grocery retailers—IGA, those kinds of retailers.

**MS CHEYNE:** Not Coles or Woolworths?

**Ms Potter:** Pardon?

**MS CHEYNE:** It depends on where they are?

**Ms Potter:** It would, yes.

**MS CHEYNE:** Woolworths Hawker would fall into that, but Woolworths Belconnen would not, in terms of medium sized?

**Ms Potter:** I unfortunately do not have a list in front of me exactly itemising what the limits are, but you get the picture. In terms of that inspection, we had five premises who had not yet come up to speed in terms of the displays that were presented. Access Canberra actually had signs printed that are quite durable, and they were made available to the retailers to use.

Some of them took us up on that offer. Others, just because of the way that their stock is positioned, had made their own sign or done it in a way that was compliant in terms

of those inspections. On the follow-up—we do a follow-up after we have done a program to check the compliance—we had compliance across all those 53 retailers.

In addition to that, we had the commencement of some fuel board legislation, which you might be familiar with. Some of our fuel retailers stock eggs. In addition to the fuel board checking, we went in and checked the compliance with the egg labelling in the petrol stations. In relation to that we had, again, a small number of non-compliant petrol stations, and we have worked with them since to assist them in becoming compliant with the scheme.

**MS CHEYNE:** That has been a focus on petrol stations and medium-sized retailers. What about our larger sized retailers?

**Ms Potter:** These were done immediately after the commencement of the scheme, in August; I think around 26 August. It is possible that early in the new year we might do some of the larger supermarkets, but we also have a response to complaints if people attend a larger store, a Coles or a Woolworths, and they see that the signage is not up. Certainly that is something that we would go out and have a look at.

**MS CHEYNE:** How would consumers go about making that complaint to you? That is where my concern lies. I think there are some larger retailers who are not complying, and I do not want them to feel: “We’re too big to comply.” How would a consumer go about contacting you to make a complaint so that you can—

**Ms Potter:** Through the usual channels with Access Canberra—phoning our line. It would be just the regular course into—

**THE CHAIR:** Just as a supplementary to that, how many inspectors do we employ to inspect egg signage?

**Ms Potter:** In compliance, for the fair trading team I have 19 FTE, but those officers are engaged to inspect a range of pieces of legislation. They inspect the responsible service of alcohol, for example. They are available to check motor repairers. We have got the new controlled sports scheme that has come into play as well. Depending on the programs that they run through the given year, which are reflected in the annual report, different compositions of that team will be sent out to engage with businesses and help educate them and bring them into compliance.

**THE CHAIR:** They are not a dedicated egg police?

**Ms Potter:** We do not have dedicated egg police; that is correct.

**MS CHEYNE:** That would be inefficient. I am very pleased to learn how you go about this. Perhaps a bit of a look at some of the larger retailers, if you happen to be there, would be appreciated.

**MR HANSON:** I have a question relating to restorative justice. We have moved into the last phase of that. Can you give me an update on how that is progressing? There is some information in the annual report on some of the outcomes relating to referrals. Certainly, in terms of the referrals for family violence and sexual offences it seems

that only a small number of those are proceeding. Can you give me an update on how that is all progressing?

**Mr Rattenbury:** Yes, we can. As you have highlighted, from 1 November 2018, just over a year ago now, we moved into phase 3, so any offence, which now includes family violence and/or sexual offences, can be included in the restorative justice process. In the 2018 financial year, the restorative justice unit received a total of 264 referrals across the board. Of those, 48 were related to family violence offences and five were related to sexual offences.

**MR HANSON:** How many of those referrals actually ended up proceeding to conference?

**Ms Lutz:** Seven of those.

**MR HANSON:** Seven of the total, or seven of the family and sexual—

**Ms Lutz:** Seven of those 48. There is a very stringent suitability assessment process before a matter is declared suitable to proceed to conference. We always anticipated that there would be far fewer matters of family violence because of the complexity, because of the safety issues and, if they are referred by the court, because of the motivational issues, the perceptions of motivations at that point of referral. So we are not surprised that it has been a smaller proportion of conferences that have come to pass. That is as we expected.

**MR HANSON:** Have they proved successful, compared to other conferences?

**Ms Lutz:** They have proved successful. When they are fully assessed and really well prepared, the gains and the benefits to those families or to those participants are really huge. We have been getting some really solid feedback from participants saying how wonderful it was for them to have that opportunity to have a voice in a context where they have never really been able to have a voice previously.

**MR HANSON:** What about sexual offences?

**Ms Lutz:** Far fewer sexual offences are referred. Perhaps that is the most sensitive and difficult of all of the offences to be managing. Again, we are not surprised that there have been a low number referred. Some of those relate to young people who are transmitting images of naked friends et cetera. Some of them are not the traditional sexual assault or cases of rape that you might immediately think of.

**MR HANSON:** In terms of the entire program, are you doing an annual review of it? What is the process of review for you to see that it is actually achieving?

**Ms Lutz:** We are constantly evaluating the service through surveys. We get, on average, an 80 per cent response rate for our surveys. We are always monitoring people's satisfaction with the process and compliance with any RJ agreements that go along with that. We are looking to partner up with the ALRC to look at a broader evaluation once we have enough data on the phase 3-type matters.

**MR HANSON:** Does your analysis include any quantitative, as opposed to qualitative, analysis—not just surveys but actual statistics in terms of reoffending when it is the perpetrator?

**Ms Lutz:** We do not do our own internal recidivism evaluation. That is quite a difficult and expensive thing to do. But we are delighted, and I think lucky, that the ALRC is offering to support us in the future evaluations.

**MR HANSON:** So there is an attempt to see—

**Ms Lutz:** Absolutely.

**MR HANSON:** Okay.

**Ms Lutz:** And it is really important that we do do that. Those kinds of matters are not being conferenced very broadly around Australia or even around the world; so there is a really strong level of interest in how those matters are being managed and the outcomes that are being achieved.

**MR HANSON:** As you have progressed with the program, is there a sort of growing body of experience that now enables you to expand the number of referrals that progress? Are you getting more confident with it?

**Ms Lutz:** Definitely. There is a saying that practice leads research. So all of the convenors in the restorative justice unit are really appreciating the opportunity to be doing that work. They are growing and learning; they are interacting with practitioners around Australia and with trainers and researchers. I guess that we are aiming to build a community of learning. We are recognised as being a really strong part of that and leading the way.

**MR HANSON:** Are there any particular areas where you have found it is very successful? For example, it might be road traffic offences as opposed to other areas where it is just not working? Have you found that some areas are easier to—

**Ms Lutz:** As I said, the most difficult space is the pre-sentence space. It is fraught with tensions; also, matters in that adversarial space.

**MR HANSON:** Right.

**Ms Lutz:** We are finding that not as many people are willing to step up and participate at that point. They know that they will have another opportunity at post-sentence.

**MR HANSON:** Right.

**Ms Lutz:** Yes, so sometimes when it is a highly emotional matter and there has been a lot of harm done, they tend to—

**MR HANSON:** So people are more comfortable if someone has already been sentenced?

**Ms Lutz:** Some are. We never know what a victim will want to get out of a process. Some recognise that as the only time they might get answers to some of the questions. But, generally speaking, the pre-sentence space does carry the tension that we do not find—

**MR HANSON:** So in the pre-sentencing, does the victim get to have a say or to shape the sentence in any way?

**Ms Lutz:** There is potential for that. Magistrates can refer at different points through the prosecution. Quite often what we are finding is that a magistrate might refer to restorative justice right at the point of sentencing, and then we manage them. That takes away a lot of that tension. We just come in and manage the matter and any perception of motivation for sentencing is taken away.

**MR HANSON:** So can a report coming out of a process go back to the magistrate to inform the sentencing?

**Ms Lutz:** Absolutely. Reports go back. It is the agreement that might come out of a conference that is a feature, usually, of a report. Reports are kept very simple to protect the interests of victims and offenders in that process. When the conference has occurred, there is an opportunity, if there has been an agreement made, for magistrates or judicial officers to take that into consideration, weave that into sentencing. They could make it a condition of a good behaviour order to complete any RJ agreement tasks. At this stage we are not seeing that practice happening a lot. We are seeing matters referred at the point of sentencing, I think, more than any other.

**MR HANSON:** Lastly, that 264 figure, what is that as a percentage of offences—

**THE CHAIR:** That go through the courts?

**MR HANSON:** that would be sort of potentially in the scope for being referred to RJ? Is it 10 per cent of potential cases being referred or five per cent? What is it in terms of the scale? I do not know what that means.

**Ms Lutz:** Sorry, could you repeat the question?

**Mr Rattenbury:** Yes, I see where you are coming from.

**MR HANSON:** You say that 264 cases have been referred to RJ, out of how many offences that have been committed that would potentially be in the—

**Ms Lutz:** I think it is a very small proportion.

**MR HANSON:** Yes.

**Ms Lutz:** If you contrasted it to New Zealand, where, with every matter that gets sentenced and an offender or a defendant is found guilty or pleads guilty, it must be explored for potential restorative justice. So they have really embraced that as an option in New Zealand. Here, I am not sure what it would be. It would be a small

proportion.

**MR HANSON:** Intuitively, it does seem that that is a small proportion. I am wondering, if it is a successful program, if it is achieving the outcomes that we all would hope it is, why that number so small. We took those steps 12 months ago to include all those other offences. What is limiting this from expanding? Is it that the magistrate is not referring cases? Is it funding? What is the limit; what is the constraint?

**Ms Lutz:** I guess one of the things that is limiting is that we had not anticipated as much interest to refer family violence offences as we have experienced. So each of those matters, because of the extra complexity and the safety issues, require two convenors to be allocated. That is drawing resources in a way that, yes, we had not anticipated. So, if you like, we are a victim of our success—

**MR HANSON:** Is it as simple as to say that if you got more resources you would be able to do more cases?

**Ms Lutz:** Absolutely.

**MR HANSON:** Is it the resources that are constraining us?

**Mr Glenn:** I think, Mr Hanson, there is also judgement supplied by the referring entities as to whether a matter, in their opinion, is actually suitable to be referred into—

**MR HANSON:** Yes, indeed. I am not suggesting every case is suitable.

**Mr Glenn:** I think there is an analysis there that sort of cuts some of the matters out. But actually working out the proportion of referrals, as against potentially referable matters, is a little complex because you will have multiple offences involved in any given matter. So the numbers are easily—

**MS CODY:** How do we compare to other jurisdictions?

**MR HANSON:** There is scope to increase it.

**MS CODY:** We have just talked about New Zealand, for example, and we do talk about Canberra as a restorative city. How are we comparing with other Australian jurisdictions, for example, for restorative justice?

**Ms Lutz:** In what way?

**THE CHAIR:** The numbers.

**MS CODY:** Not necessarily the numbers, but the types of cases that are referred to RJ, as well as the numbers of cases.

**Ms Lutz:** New Zealand is a bit like Australia—every jurisdiction across the nation does it a little bit differently. We are probably the only unit in Australia that has its

own legislation, which is a fabulous foundation, and it also carries a lot of flexibility.

Convenors in our unit are doing a very diverse range of matters—anything from a minor theft for a juvenile offence to a murder matter. It is really a huge range. If you throw family violence and sexual offences into that, there are a lot of complex matters. Convenors need to be able to move from one small, less complex matter to one which involves a lot of extra people in the mix—professional supporters. They might be at the AMC, so there might be a whole range of other influences and professional supporters who are connected to that.

**Mr Glenn:** In terms of the breadth of matters that can be referred, the structure of the unit and the legislative component—

**Ms Lutz:** There is no other—

**Mr Glenn:** essentially, the ACT is at the forefront of that work nationally.

**MS CODY:** From a legislative perspective—minister, this might be something for you—from a policy perspective, we would be making sure that we look at what other jurisdictions are doing, to stay in front of—

**Mr Rattenbury:** Indeed, yes. As Ms Lutz touched on, to some extent we are at the forefront and others are learning from us. Because of the nature of these things, some people are making progress in some areas. I know the team has really good connections with all of the other jurisdictions. There is a lot of sharing going on across those professional networks.

**THE CHAIR:** Before we go to Mr Gupta's question, I sat through an RJ process when Minister Berry was responsible. If there are members of the committee who have not done that, is that a possibility?

**Ms Lutz:** Absolutely. There are opportunities to observe.

**THE CHAIR:** We might get in touch about that. I think that helps to understand the process, which is unique.

**Mr Rattenbury:** Yes.

**THE CHAIR:** It is not what I would describe as an easy way out at all.

**Mr Rattenbury:** No, that is the interesting part. Some people might perceive it as a soft option. Like you, I have sat through examples, and it is hard work.

**THE CHAIR:** Yes, very hard work.

**Mr Rattenbury:** It requires people to take responsibility for their actions.

**THE CHAIR:** For what they have done; that is right.

**MR GUPTA:** My question is on road safety. Could you please expand on how the

safer cycling reforms have improved conditions for ACT cyclists?

**Mr Rattenbury:** Certainly, Mr Gupta. Probably the key reforms, to my mind, that we have had in the last couple of years—and we touched on some of them in answer to earlier questions on motorcycling—have been the addition of the vulnerable road user competency into the learn to drive process. There is now a specific part of the test where people have to learn about pedestrians, cyclists and motorcyclists as part of the learner driver process. For example, there is a new competency-based test for overtaking a cyclist, driving through high pedestrian areas and the like.

The minimum passing distance rules have been very important. Certainly, as someone who rides out on the roads, I have noticed that it has given Canberra drivers a much clearer sense of the sort of space they should leave. From the cycling community generally, I have had very good feedback that people think it is working well.

You may have noticed that in the last week ACT Policing has started an enforcement process around that, which is unique in Australia. We picked that up from what some of the West Midlands police in the UK have done. We now have police enforcing those rules in a quite specific way. We have also worked with Pedal Power through road safety grants. They have produced a big mat—you might have seen photos of it—that they take around and display, to help people understand what a metre and 1.5 metres look like when they are driving a car.

They are probably the main reforms. The other one has been to allow cyclists to remain on their bikes while going across a pedestrian crossing. That has been a little contentious in the community. We have some further education work to do in that space to make sure that cyclists slow down. We need to make it clear to cyclists that while dismounting is really inconvenient, and that is why we have changed the rules, that does not mean you should hit the pedestrian crossing flat out. You need to hit the pedestrian crossing at pedestrian speed or thereabouts.

**MS CODY:** Not the 60 kilometres an hour you might have been doing coming down Athllon Drive.

**Mr Rattenbury:** For example.

**MS CODY:** I have seen that occur. Not by me; I cannot go that fast. It freaks me out!

**MR GUPTA:** Have these reforms been well received and obeyed by drivers and cyclists?

**Mr Rattenbury:** I think so. In both groups there are always those who do not do the right thing, and that is frustrating. Overall, as I said, from my personal observation, and from the feedback I have had from other cyclists, they are really noticing the difference in terms of motorists observing the minimum passing distance. I think it gave drivers a really clear indication of what is a safe distance. It has given people something concrete to understand. I think that has worked really well.

**Ms Owen:** We did evaluate the trial originally, to investigate the benefits to road safety in introducing the reform. Also the road safety fund provided a grant to the

University of Adelaide to conduct an on-the-road investigation into compliance. That was where we had some volunteer bicyclists fit some devices to their bicycle that got some real-time GPS data about the compliance rate. It found some pretty good compliance. The compliance in the ACT in general was better in the lower speed conditions, which is the metre passing for 60 kilometres and under. It was less compliant but still quite successful in the higher speeds. That has informed some work we are looking into with Policing about their extra enforcement, and with Roads ACT about potentially using some more signage and other communication around education awareness for people, to understand the difference between a metre and a metre and a half.

**MR GUPTA:** How do you quantify the data? Is it sent through GPS? Are there other means by which you get that data collected?

**Ms Owen:** That one was a grant that was conducted by CASR, the Centre for Automotive Safety Research at the University of Adelaide. They used some sort of data analysis that collected all of the GPS data from all of the devices that were put on the bikes. They had some real time; we got mapping from that that showed what roads people were riding on. They did some more average analysis based on what types of speed zones had different compliance, to help us and police to focus on hotspot areas that people were having trouble with; or perhaps it involved a different type of road infrastructure.

**MR GUPTA:** What are the hotspots in Canberra, in the city area? Have you identified any of those? Do we put up a sign saying that it is a hotspot, an accident area for cyclists?

**Ms Owen:** We worked with Pedal Power on that. Based on some of the data and some information from police, we identified the Cotter loop as somewhere that was a bit more of a hotspot. It has more cyclist activity, and there are longer and more windy roads. We had some enforcement with speed cameras there and police presence, as well as signs containing reminder messages for drivers that cyclists may be in the area, and to provide the adequate distance.

**THE CHAIR:** It is also a much harder road on which to get the distance right, isn't it?

**Mr Rattenbury:** Yes. Of course, the rules are very clear that you can cross the centre line—

**THE CHAIR:** If you can see what is coming, yes.

**Mr Rattenbury:** if it is safe to do so.

**THE CHAIR:** The Cotter Road is a particularly difficult one for seeing what is coming.

**Mr Rattenbury:** It can be in places, particularly because on some of those roads the cyclists can travel quite fast.

**THE CHAIR:** Yes, and good for them.

**Mr Rattenbury:** They can be doing 60 kilometres an hour.

**THE CHAIR:** I have a question about the preparation for planned road protests. There have been at least two in the ACT, on 18 October and 25 October. Are you aware of what safety planning went on around that and how many personnel were diverted to Braddon and Civic in preparedness for those planned protests?

**Mr Rattenbury:** No, I have no line of sight on those matters; that is entirely with the police agency.

**THE CHAIR:** Regarding light rail critical incident response times, do you know what the response times were for the light rail pedestrian collisions this year on 9 March, 16 July or 12 August? Do you get any reporting on that?

**Mr Rattenbury:** I do not; that would be a matter through the Emergency Services Agency. Minister Gentleman will have responsibility for that area.

**THE CHAIR:** Do you have any role in traffic management?

**Mr Rattenbury:** Probably not, but do you have anything more specific?

**THE CHAIR:** Yes, the question is about the SCATS technology currently operating in Canberra.

**Mr Rattenbury:** No, that is Minister Steel, as the Minister for Roads and Active Travel, because that is run out of Transport Canberra.

**THE CHAIR:** And because the drug and drink-driving testing is done by the police, I presume you do not have line of sight to that either?

**Mr Rattenbury:** No, we set the policy on that. We are all clear on who does which bits.

**THE CHAIR:** That is a good start. The number of drug driving offences has increased by 30 per cent from 2017-18 compared to a five per cent increase in drink-driving offences. What road safety campaigns, if any, are specifically targeted at drug drivers?

**Mr Rattenbury:** The increase itself will be partly because of greater enforcement effort. We are concerned at the amount of drug driving that is occurring. We are seeing people taking greater risks in that space and not being clear about the road safety risks of driving whilst impaired by drugs.

**THE CHAIR:** I have friends who are on antipsychotic medication and they wonder whether they are meant to be driving. Is there a clear source of information about what antipsychotic medication people can take and still drive?

**Mr Rattenbury:** Not provided by the road safety area. I would encourage people to

have a good conversation with their treating doctor.

**THE CHAIR:** I do not think doctors know what is tested for by ACT police.

**Mr Rattenbury:** Sorry, I can tell you what is tested for. Those drugs will not be tested for. We test for only three drugs in the ACT—that is, cannabis, methamphetamine and MDMA. The various prescription medications are not tested for. There is, however, an offence of driving whilst impaired.

**THE CHAIR:** And that is where the judgement of the medical professional comes in?

**Mr Rattenbury:** And of the police in terms of a charging process.

**THE CHAIR:** How many drivers were roadside-tested during 2018-19?

**Mr Rattenbury:** That is probably a question for ACT Policing because that is operational versus policy. We will make sure they know when they come.

**MS CODY:** They have been.

**THE CHAIR:** Will roadside drug testing become more or less frequent as a result of the Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018?

**Mr Rattenbury:** The important part of that conversation is that we will lift our efforts in terms of community education. It is very clear that the drug driving laws have not changed as a result of that legislation.

**THE CHAIR:** And that drug can survive a long time in your system, presumably?

**Mr Rattenbury:** The best and consistent advice we have is that cannabis remains detectable in oral fluid for around 12 hours. That is the advice of the NSW Centre for Road Safety, the Alcohol and Drug Foundation and also ACT Health. What is important—and this will be part of the conversation we will have with the community as part of our increased efforts—is that that is the best advice.

**THE CHAIR:** So you cannot guarantee?

**Mr Rattenbury:** No. So my advice to people is that if you choose to use this substance you really need to think about your transport options and get a friend to drive. Treat it like alcohol.

**MS CODY:** Alcohol can stay in your system for up to 12 hours depending on how much you consume. Will there be ongoing education around cannabis use and drug driving legislation and also a reinforcement of alcohol use and drink-driving?

**Mr Rattenbury:** Yes, there will. I have two observations in that space. Firstly, unlike with alcohol, where there is a much clearer scientific understanding and history and research and all those things around how much alcohol relates to how much impairment, with illegal substances where we do not necessarily know the chemical compositions and their different impacts on different people, the impairment from

taking those substances is less clear or less scientific, if you like.

The second point is that we need to talk to people about the fact that the combination of drugs and alcohol is particularly potent. It has an amplifying effect that means from a road safety point of view taking them in combination is more dangerous than taking one or the other. That is something people are probably not as aware of, and we need to put greater emphasis into that element of the education.

**THE CHAIR:** Would there be a policy preference for people to choose between drugs or alcohol when deciding whether to drive, as in when planning?

**Mr Rattenbury:** My personal advice would be: if you are going to partake, do not drive.

**THE CHAIR:** For how long?

**Mr Rattenbury:** It depends on how much—

**THE CHAIR:** We are not sure.

**Mr Rattenbury:** No, no.

**MS CODY:** When the impairment is out of your system.

**THE CHAIR:** Okay, good; but, I mean—well, no, not really, because—

**Mr Rattenbury:** It depends. If you have drunk three beers or a slab of beer, it is going to have a difference.

**THE CHAIR:** Yes, but with the smoking, would the—

**Mr Rattenbury:** Yes. The best advice we have is that it remains detectable in your oral fluid for up to 12 hours.

**MR HANSON:** Up to? Anecdotally you hear of cases—I do not know how true they are—of people who have cannabis in their system for longer than that that then detects as active. Is that not true? Is that just people that have been saying that for whatever reason?

**Mr Rattenbury:** No, it is a good question, Mr Hanson. There is a difference if you are a frequent user. It will remain detectable for a longer period of time. So heavy users—

**THE CHAIR:** What is defined as “frequent”?

**Mr Rattenbury:** will have more than that 12 hours. The other difference is that you do hear people say, “I took it a week ago.” There is no science to suggest that it can remain in your bloodstream. But an oral test and a blood test are quite different.

**MR HANSON:** So the advice is being provided based on, I think, your amendment to

the bill. We have to get that packet of information available before it can commence. Are you contributing to that aspect of that information package?

**Mr Rattenbury:** Yes.

**MR HANSON:** You are?

**Mr Rattenbury:** The JACS road safety team will be involved in that.

**MR HANSON:** Right; and are you going to be reasonably definitive in terms of the time period to provide that advice?

**Mr Rattenbury:** Along the lines I have outlined in the committee today. We will say that this is the best advice but we remind you that this is not—

**MR HANSON:** Yes, I think there is quite a bit of confusion in the community about how long it is, what it all means.

**Mr Rattenbury:** Yes, and we have seen a few cases that have had a bit of a public profile, where people have claimed they had it days ago or they have had hemp seeds and the like—

**THE CHAIR:** But maybe it was actually—

**Mr Rattenbury:** and I think the science is becoming clearer on that. That has enabled us to communicate more effectively.

**MS CODY:** I am not sure where it fits into your portfolio, minister, but—

**Mr Rattenbury:** Try us.

**MS CODY:** Let us give it a red-hot go. There are currently some online alcohol delivery services popping up. Firstly, how does that fit, from a policy perspective, with the responsible service of alcohol, because my understanding is that they are delivering to personal premises?

**Mr Rattenbury:** Yes; I have seen the ads.

**MS CODY:** Yes, I have too. I have never tried it.

**Mr Rattenbury:** No, me neither.

**MS CODY:** I just wonder how, from a consumer perspective, you regulate that. “Keep control” might not be the right term, but how do you regulate that industry and how do you ensure they are still able to meet certain standards from a consumer affairs perspective?

**Mr Glenn:** I do not know whether we have any of our gaming and racing colleagues here, but a lot of this work, Ms Cody, actually sits in—

**MS CODY:** Sorry?

**Mr Glenn:** A lot of this work that JACS is involved in in this area sits in the attorney's portfolio.

**MS CODY:** Okay, sorry.

**Mr Rattenbury:** No, that is okay.

**Mr Glenn:** But certainly we can talk about it.

**MS CODY:** I was not sure whether it sat with you in consumer affairs.

**Mr Rattenbury:** I think, in respect of your question around RSA, it is not dissimilar to people being able to go to a bottle shop in that sense. You can have a sober person who is the one who rolls up to the shop and then provides the alcohol to people who perhaps should not be having it. It is the same in that the sober person can go to the door and the delivery person will have no concept of who else might be in the house. I think that would be the issue there. But it does raise some really interesting questions about what the regulatory model is.

**MS CODY:** Yes.

**Mr Rattenbury:** I am not sure if that part of the agency has appeared yet, but we will—

**Mr Glenn:** No, we did not get to that early this morning but—

**MS CODY:** Sorry.

**Mr Glenn:** there is an amount of work being done within the industry—

**THE CHAIR:** Put a question on notice.

**Mr Glenn:** to develop almost a self-regulatory model around on-demand alcohol delivery. There are a couple of dimensions to that. There is the delivery of alcohol to home premises, whether it is the delivery of a case of wine or whatever, as opposed to the delivery of alcohol that is intended to be consumed immediately by the recipient.

**MS CODY:** Yes.

**Mr Glenn:** So in that space there is work being done by the industry around a code of practice that talks about not leaving that alcohol at unattended premises, not leaving that alcohol with a person who appears to be underage, and providing incentives in the sort of self-regulatory code for the delivery agents, or whoever the distributor is, not to leave alcohol in places where it might be consumed by people that it should not be consumed by. I suppose this is a reversal of the usual incentives for that side of the business, which are that the deliverers will receive better remuneration if they deliver more goods, to say on this occasion that potentially they actually wish to deliver less and take stuff back to the warehouse if in fact they cannot deliver it safely into the

hands of an adult.

**MS CODY:** Particularly around spirits. As you said, people may get cases of wine delivered from wineries on the odd occasion—

**Mr Rattenbury:** Apparently.

**MS CODY:** Apparently; so I have been told. But bottled cases of spirits, for example, may be a different scenario.

**Mr Glenn:** Yes, which could be ordered by anyone with a smartphone and a credit card.

**MS CODY:** Yes, and a credit card.

**Mr Glenn:** And who could be any age.

**MS CODY:** Yes, absolutely.

**THE CHAIR:** Of any age, yes. Young people are getting very clever these days.

**MR GUPTA:** What about on the drone deliveries? A drone does not speak to anyone.

**THE CHAIR:** Drone deliveries of alcohol?

**MR GUPTA:** They just leave it in front of your house.

**Mr Rattenbury:** I do not believe a drone service is delivering alcohol at this time.

**THE CHAIR:** Not at the moment, no.

**Mr Rattenbury:** It would raise an interesting question.

**Mr Glenn:** Yes.

**THE CHAIR:** But I think there is also a plan to deliver medication, which is another whole issue.

**MR GUPTA:** They do supply medications in other states.

**MS CHEYNE:** I have a question, but I would like to check whether it fits here, regarding the reports on the weekend that Access Canberra is investigating a landscaper who has been operating under a variety—

**Mr Rattenbury:** This will be consumer affairs, yes.

**MS CHEYNE:** I just thought Access Canberra investigations would be—

**Mr Rattenbury:** We are aware of this matter; so fire away.

**MS CHEYNE:** Can you please explain, for starters, what the difference is between the Access Canberra Gordon Ramsay area and the Access Canberra this area for investigations? Are they doing more building developer compliance?

**Mr Rattenbury:** Yes.

**MS CHEYNE:** And does consumer affairs do more smaller businesses?

**Mr Rattenbury:** Matters under the Australian Consumer Law, matters of misleading and deceptive conduct. For anything that would be covered by the Consumer Law, Access Canberra is the enforcement agency, as Ms Potter outlined before. The inspectors range across bits of legislation. Within the administrative arrangements I have responsibility for some of the acts and the attorney has responsibility for some other acts. It is clearly set out in the AAs. The agency will answer to the different minister, depending on what the subject area is.

**THE CHAIR:** What is the actual question about the landscaper?

**MS CHEYNE:** I am interested in how it came about and, more broadly, how many other investigations there are, or there have been in the last little while, for similar actions that have been undertaken.

**Mr Rattenbury:** When you say “similar actions”, you mean for landscapers or for—

**THE CHAIR:** Do we have a landscaper problem on our hands? Is that the question?

**MS CHEYNE:** No, it is not the question. The question is: is this behaviour common—accepting payments, failing to show up—across all industries?

**THE CHAIR:** That we look at?

**MS CHEYNE:** With renovations and repairs to houses. Is this a problem in this town or is it just—

**THE CHAIR:** Or is it rare?

**MS CHEYNE:** Or is it just limited to an occasional business?

**Ms Potter:** In this instance the commissioner has gone out publicly with the profile of activity, which is publicly available to anybody who has been online, and there has been a social media presence associated with that as well. It appeared on the RiotACT. The purpose of flagging that specific profile of behaviour is to raise awareness in the community about a risk as a result of information that we have in terms of active investigation within the Consumer Law investigation team.

In relation to broader concerns about industries in which people are undertaking handyman work or general work, I would not want to put a sense of alarm out there in the community that we have received complaints across the board. I think there is an important distinction around the way that people quote for work and the homework that people do for themselves in establishing which tradesman they want to do the

work. What we would encourage consumers to do in all instances where they are requiring the services of a handyman or a tradesperson, or anything involving a significant transaction, is seek to acquire a number of quotes in relation to that work and seek to protect themselves using a common-sense approach. I would not want to cause alarm that this is broader than the profile that we have gone out with publicly under the commissioner's tag line.

**MS CHEYNE:** What was it about, these circumstances that raised it to a level that you decided to go out on this occasion?

**Ms Potter:** It would involve the threshold amounts that people in relation to this activity have parted with, in terms of undertakings given and the number that have been reported. But, it being an active investigation, I am quite reticent to speak in too much detail about the particulars of the case. It is important that people in the community are aware that this is a concern such that the commissioner has gone out to let people know.

**MS CHEYNE:** Without going into particulars, are there any investigations regarding roofing companies that are live right now?

**Ms Potter:** I could not confirm or speak to that, I am afraid.

**THE CHAIR:** At that point we thank those who are appearing on behalf of the protection of rights, consumer affairs and road safety.

**THE CHAIR:** We will commence now with corrections. Mr Peach, have you read and understood the privilege statement?

**Mr Peach:** I have definitely seen and understood the privilege statement.

**THE CHAIR:** My first question is: was the AMC put under a lockdown at any time on Monday, 4 November?

**Mr Peach:** Yes. On 4 November we identified that we had a breach in our perimeter. We identified a hole in the fence in the perimeter. That was picked up in one of our daily prudence checks. As an immediate reaction we automatically put the centre into a lockdown, undertook a full emergency muster and confirmed that all detainees were present. Following that, we reviewed our CCTV and identified that a member of the community had cut a hole in the fence and thrown a package into the jail. As a consequence we secured the unit that was nearest to the fence hole or the breach and moved every single detainee out of there to other units and undertook a thorough search of those detainees and the area.

As of today I have also declared under section 26 of the Corrections Management Act an emergency for the AMC and I have placed it in lockdown for the next few days while we continue to search within the centre. I have done that because I am not satisfied we have recovered all items that may have come through the fence. Obviously I intend to ensure that community safety and the safety of our staff and detainees is maintained by undertaking a thorough systematic searching of all of the prison.

**THE CHAIR:** Of the whole prison?

**Mr Peach:** Of the whole prison.

**THE CHAIR:** Has the lockdown that occurred on the 4th been ongoing?

**Mr Peach:** No. We did an initial search. The lockdown on the 4th was so that we could have the time to assess what happened, gather intelligence and search the unit in proximity of the breach.

**THE CHAIR:** Was the whole of the AMC locked down at that point?

**Mr Peach:** Yes, absolutely.

**THE CHAIR:** Was a package which contained drugs, phones or other contraband found near the remand cottages?

**Mr Peach:** We have not found a specific package. Obviously as we have been searching we have found a range of different contraband, which is why I have continued that searching practice throughout.

**THE CHAIR:** Did any detainees escape their cells or compound from the remand cottages in an attempt to collect the contraband?

**Mr Peach:** I have no intelligence or information to suggest that they did.

**THE CHAIR:** The perimeter fences are monitored by cameras and alarms; is that correct?

**Mr Peach:** It is correct, yes.

**THE CHAIR:** Did the alarms sound when the fence was breached?

**Mr Peach:** Yes; my understanding is that the alarm did sound. We are conducting an internal investigation into identifying what systems and processes were or were not taken at the time. But my understanding is that the alarms sounded.

**THE CHAIR:** How much time was there between the hole in the fence being cut and corrections staff becoming aware of it, or you do not know yet?

**Mr Peach:** We are still doing the full investigation, but my understanding is that the hole was made on Sunday and it was picked up by our routine patrol on Monday.

**THE CHAIR:** Is it true that the package was left in a blind spot out of the view of the cameras?

**Mr Peach:** We have not been able to ascertain yet exactly where the package was. We know of the package being thrown; we have not been able to retrieve the package so unfortunately I am unable to confirm where the package actually was.

**THE CHAIR:** Are you aware of how the hole in the fence came about? You said before that a member of the community, as in a non-detainee, made the hole?

**Mr Peach:** Yes.

**THE CHAIR:** Do you know how?

**Mr Peach:** Again, we have not got confirmation of how because we cannot see on the footage exactly how it was done. I suggest from looking at the nature of the hole that it would have to have been cut.

**THE CHAIR:** So you have a current investigation as well as a current emergency lockdown that will last several days?

**Mr Peach:** Yes; we have two ongoing issues. The first is the investigation into exactly what happened on Sunday when the fence was cut, whether our procedures did or did not fail us, how it happened and what were the circumstances of that breach. The current lockdown is a response to that incident. As I say, we are of the opinion that a package entered the prison. We have recovered some contraband but I am not completely sure whether that is the whole package and, equally, what that package was.

**THE CHAIR:** What warnings, if any, have corrections staff reported about the remand cottages not being adequately secure?

**Mr Peach:** I have to take that on notice; I do not recall any. Approximately two years ago we had, as you may recall, some concerns about some of the cottages being insecure. We have taken a fairly extensive retrofit of cottage windows over the last two years to address that issue. I have not heard any recent stories of potentially—

**THE CHAIR:** But you will take that on notice and check whether you have had any reports from staff about the cottages not being adequately secure?

**Mr Peach:** Yes, we will check that, but I can confirm that I have heard none.

**MS CODY:** Are the current staffing levels at AMC appropriate?

**Mr Peach:** As far as my knowledge goes, they are. The reality is that we have a staffing profile; our staffing profile meets the needs of the jail and has grown exponentially with the jail as our population has. There is always discussion around whether you can have more staff or whether you have fewer staff, but, from my assessment, our allocated full-time equivalent is appropriate for the running of the jail.

That does not mean that we do not suffer occasionally from day-to-day shortages, which are normally impacted by personal leave, carer's leave and the range of different issues as to why people may or may not turn up for work. In those situations, it is my intent, through our philosophy, to ensure that we maintain our staffing levels as fully as we can, to ensure that we continue to introduce our integration and rehabilitation programs. Where there are staff shortages, we try to backfill as far as we

possibly can, through overtime if necessary.

**MS CODY:** Have your overtime budget or payments increased since the last financial year?

**Mr Peach:** I think it is fairly stable.

**MS CODY:** I am not good at remembering what the financial years are or where we are up to, but over 2017-18 and 2018-19 they were pretty stable?

**Mr Peach:** I would have to take on notice the dollar calculation, but there has been no significant increase that I am aware of in terms of overtime. In the 2½ years that I have been here, we have been fairly equitable in ensuring that we manage our population through open access to programs et cetera. We try not to lock down and, as I say, we maintain our regime as best we can. It does fluctuate; obviously in some months there is more overtime than others and more sick leave and more annual leave.

**MS CODY:** I would like you to take on notice to provide the figures. That would be great.

**Mr Peach:** Sure.

**MS CODY:** But I still have a few more questions on the overtime budget. Apart from the incident that we have just been talking about with Mrs Jones, does emergency duty get used often?

**Mr Peach:** No. As you would be aware, we have a matter in the Fair Work Commission at the moment around emergency duty overtime. Our interpretation of the clause within the enterprise agreement is that emergency duty is exactly for instances like what we have now, where we declare an emergency, and it comes as a response to a riot, significant indiscipline, a fire or those sorts of issues, where we are required to call staff in at short notice. That is our interpretation of the award. A different interpretation is applied by the union. The union believe that if we call staff in or ask staff to come in to work to cover a shift, that should be emergency duty. That is not emergency duty; emergency duty is short notice as a response to an incident. Calling people or, rather, requesting people, with notice, to come in and attend work for a period is just plain overtime. It is covered well in the agreement as well.

**THE CHAIR:** Is that a request for overtime?

**Mr Peach:** Yes.

**THE CHAIR:** Or is it a demand for overtime?

**Mr Peach:** No, we do not demand; we request people. The way it works is that staff can nominate to come in on shifts. They will put their name in a list or in a book that says, "I am available on this date." They will be the first people contacted where we have staff shortfalls. The phone call is made, usually a couple of days in advance but it can be shorter, and the shift is offered to them. There is no requirement for them to come in.

**THE CHAIR:** When the shift is offered to them, will they be paid at their usual rate or at an overtime rate?

**Mr Peach:** They are paid at an overtime rate.

**MS CODY:** Which is why I was asking.

**Mr Peach:** There are two different rates. There is an emergency duty rate, which is—

**MS CODY:** Which is now what I am talking about.

**Mr Peach:** Which is a penalty rate, which allows for travel time, an extra allowance. Then there is an overtime rate, which is a standard overtime rate, which is what we pay for people to come in on overtime.

**THE CHAIR:** To do extra shifts?

**Mr Peach:** Yes. Just to clarify, if I may, when we have staffing shortages, we have the option of running not at our optimal staffing level, so we can close things down.

**THE CHAIR:** Yes, lock down bits of the prison.

**Mr Peach:** Yes. We can lock down, not provide services or reduce education; there are a range of different things that we can do. As aforementioned, my philosophy is that we want to provide programs as best we can to our detainees; therefore, we do try to keep the staffing levels at the required level. But I draw short of ordering staff in to maintain that, because I do not think it is appropriate.

**MS CODY:** You draw short of what?

**Mr Peach:** Of ordering staff in to maintain the regime—unless it was at minimum staffing where I could not maintain safety and security. That is not practical, and over time, that would not be sustainable either.

**MS CODY:** How many serious or notifiable incidents have occurred in the AMC over the last 12 months?

**Mr Rattenbury:** Do you mean as in ones that would go to the Inspector of Correctional Services?

**MS CODY:** I am talking about to staff—any serious injuries, notifiable injuries or incidents?

**Mr Rattenbury:** There are a couple of categories. There are matters that go to the Inspector of Correctional Services, which ultimately he undertakes or his office undertakes.

**THE CHAIR:** That gets reported here.

**MS CODY:** Yes; that is correct. I am talking more about things of a WorkSafe nature.

**Mr Rattenbury:** Questions around assaults on staff?

**MS CODY:** Sure.

**Mr Rattenbury:** We have a *Report on Government Services* measure of that.

**THE CHAIR:** Yes, that is right. We are one of the highest in the country.

**Mr Rattenbury:** I do not know if we have them to hand, but we can certainly provide them on notice.

**MS CODY:** That would be great.

**Mr Peach:** I can say that over the last 12 months we have had no serious assaults on staff. We had one incident where a staff member was injured in the process of restraining a detainee, but under the definition that was not classed as a serious assault on a member of staff. That was prosecuted through the courts. We have had no serious assaults on staff in the last 12 months.

**THE CHAIR:** Can you give us, broken down by month over the 2018-19 year, the different colour codes that have been called? Are they electronically reported for analysis or are they only manually recorded in the control room logbook?

**Mr Peach:** They are usually just recorded in the manual control room logbook, and whether we have that data available will be questionable.

**THE CHAIR:** That is a really interesting point which it might be worth asking more questions about. I will have a think about that. The codes being called are only physically recorded; is that what you are saying—not electronically?

**Mr Peach:** We do not record them electronically. What happens if a code is called, and the response that we send to the issue depends on the code—

**THE CHAIR:** How do we analyse whether there has been a significantly higher number of a particular code in one year compared to the one before? We do not?

**Mr Peach:** We have not been doing that work. As has been previously reported, our IT systems are archaic in that regard. We are working through that system, with a new live system coming this year.

**THE CHAIR:** It will hopefully have that.

**Mr Peach:** Hopefully, yes.

**THE CHAIR:** With code blues, which are assaults, is it possible that they are not always being recorded?

**Mr Peach:** They probably would not be recorded as code blues. Under RoGS we have

a requirement to record all assaults, of whatever nature.

**THE CHAIR:** As a different measure?

**Mr Peach:** Yes. We would not record them as code blues; we would record them as assaults for the purpose of RoGS reporting. There are two separate things. There is the response, which is dictated by the code, and the actual nature of the assault is what we record. In terms of whether we record them, yes, we record all.

**MS CODY:** You record all assaults on staff?

**Mr Peach:** We record all. We have two ways of recording. One is that every time we have an incident we are required and mandated to report through an incident report. They inform our statistical branch that keep the records of assaults and the nature of assaults for RoGS reporting purposes.

**MS CODY:** I think that was what I was referring to.

**THE CHAIR:** Why do we not record for both RoGS format and code format?

**Mr Peach:** I have never really considered, Mrs Jones, why we would do it on code blue. If it is the RoGS reports, we already have the data and the dataset there.

**THE CHAIR:** But you said that it is not only code blues that get recorded as assault.

**Mr Peach:** No—

**THE CHAIR:** Presumably, there would be a code purple, which is a prisoner fighting a prisoner, a prisoner assaulted—

**Mr Rattenbury:** I think that is a different RoGS category, though. There is a prisoner-on-prisoner assault category in the—

**THE CHAIR:** With a staff member assaulted/at risk of assault, which is code blue, unless there is an actual assault, it will not end up in the RoGS data?

**Mr Peach:** Just to clarify, code blue is what we call to get a response from staff. It is not necessarily the only way; we could have an assault that is identified and gets reported in RoGS that is never recorded as a response. A code blue is to actually request a response. It is a live action where we request a response. That does not tell us how many assaults we have had for the year. It tells us—

**THE CHAIR:** No, because it is how many code blues have been called, but if a code blue is called, it means there is either an assault or there is a risk of an assault. That, in and of itself, is worth recording, because you can look at the behaviour patterns in the facility.

**Mr Peach:** We record the fact that there was an assault or non-assault separately. We would not record it from the code; we record it from the assault. Does that make sense?

**THE CHAIR:** Yes, I think so.

**Mr Peach:** I suppose one is simply a response, and that may or may not be an assault, but the honest answer is that there are lots of assaults that occur in the AMC that are not subject to code blue. It may be an assault that has occurred that we do not know about, but it still gets reported two hours later.

**THE CHAIR:** It sounds to me like a whole lot of work needs to be done.

**Mr Peach:** Which is probably why I do not want to record code blues as well.

**MS CODY:** Going back to staffing, the Inspector of Correctional Services does reviews and is mandated to do reviews of the AMC. I do not know if you call them that.

**Mr Rattenbury:** There are two types of reviews. There are reviews in response to a critical incident, and they are the ones that you have seen coming through the Assembly. They are also required to do a healthy prisons review once every two years, which is a much more proactive kind of review that is about systems, processes and the like, as opposed to incident reviews.

**MS CODY:** My understanding is that the healthy prisons review is due to be tabled in the Assembly soon?

**Mr Rattenbury:** Yes.

**MS CODY:** Do you get a copy of that prior to it being tabled?

**Mr Rattenbury:** Yes. It is not unlike the Auditor-General process. A version will be supplied, a draft, with an opportunity for the agency to provide comments or clarifications before the final is produced. It is the same as the Auditor-General process.

**MS CODY:** I noted this morning that the commissioner or the acting—

**Mr Rattenbury:** The deputy, Ms Minty.

**MS CODY:** Ms Minty—did not want to expand but definitely felt that numbers of staff in the AMC were an issue that would be included in that report.

**Mr Rattenbury:** We will see their recommendation when it comes. The legislation was designed so that the information that the inspector draws on is available to the whole Assembly. For me, it is a really important process. It not only gives me as minister confidence in having that external agency come and be a critical friend but also the Assembly is able to have access to that same information. That is how we wrote the legislation; it was a very deliberate design.

**MR GUPTA:** I do not know who would answer this, but could you provide an update on the proposed decrease in recidivism by 25 per cent by 2025?

**Mr Rattenbury:** That is a government policy that is set out in the parliamentary agreement and is forming a key basis of policy development by the justice agency. We had a significant workshop just last week with a range of stakeholders. This is not something that just Corrective Services can do; it requires a whole-of-government approach. We are working with the Director of Public Prosecutions, Policing, the Community Services Directorate, the Health Directorate and a range of community organisations. We had the Women’s Centre for Health Matters there last week. Winnunga and the Victims of Crime Commissioner were in the room. It really is a whole-of-government approach that says, “To reduce the rate of recidivism requires us to go back up the pipe from the corrections end and to actually look at the drivers of crime and the social determinants of crime.”

**MR GUPTA:** Are we on track to achieving 25 per cent by 2025?

**Mr Rattenbury:** We are still doing the work. There are a number of ways we can measure that reduction as well. We are doing some work to think about what that measure actually looks like. The most obvious way is the *Report on Government Services* recidivism measure. But we think there are also other important ways of measuring recidivism reduction, such as the frequency of offending, the severity of offending and the number of offences. There are a whole series of measures that we think are important indicators that the community is safer as a result of our attempts to reduce recidivism.

**THE CHAIR:** Going to the court transport unit, which we touched on in the Assembly recently, is it factual that corrections officers cannot easily see in or out of the cells if that is only able to be done via the cameras?

**Mr Peach:** In each cell there is a gap—

**THE CHAIR:** On what?

**Mr Peach:** In each cell there is a cell window. On that cell window there is frosting and there is also a viewing panel through the window in that frosting. One of the conversations that is being had at the moment with both the CPSU staff and WorkSafe is about extending that view panel in that frosting.

**THE CHAIR:** I think the feedback that has been received is that officers feel as though it is difficult for observations to be conducted in that unit because of the size of that viewing gap.

**Mr Peach:** I think the best way to describe that is that the CTU has been operating down there since July. This is an issue that has only just been brought to us.

**THE CHAIR:** There are a whole number of issues at the CTU that have been raised.

**Mr Peach:** There are indeed. As I say, this is one that has been recently brought to us to talk about. It is currently being addressed in work that we have ongoing with CTU staff and the CPSU. My understanding is that the issue that is raised is purely around the fact that the viewing gap, for want of better words, is such that staff feel that it is

not wide enough for them to do that. That is a piece of work that we are doing with ACT courts to make sure that that gap is increased so that staff can have better access.

**THE CHAIR:** Is it a condition within the enterprise agreement or some other work conditions that corrections officers must conduct observations in person only?

**Mr Peach:** Yes. It is not in the enterprise agreement. Observation is part of our policy and procedures. One of the things that we require, when we do observations, is not simply just to see somebody. We like to get a response from them as well.

**THE CHAIR:** See what state of mind they are in?

**Mr Peach:** Absolutely.

**THE CHAIR:** How long do you think it will take to resolve this issue? Is there going to be a change?

**Mr Peach:** As I say, it is a discussion we are having with the CPSU now to make sure that it is actually needed. I have only had the issue brought to me today.

**THE CHAIR:** Only today?

**Mr Peach:** To me, it has come today. Can I clarify that for you?

**THE CHAIR:** Yes.

**Mr Peach:** The issues with the CTU arose, I think it was, about Friday, 18 or 23 October. Unfortunately I have been away for the last two weeks of that—

**THE CHAIR:** Now you are back.

**Mr Peach:** The issues have hit me today. While I am fully appreciative, I fully understand the issues, some of the answers that I may be able to give about where we are at with them may be a bit bland.

**Mr Glenn:** We can add, though, that we are working very closely with the court and with Laing O'Rourke to be able to give effect to those changes.

**THE CHAIR:** These are newly built cells, are they not?

**Mr Peach:** Yes.

**THE CHAIR:** If it is not really working then, from the perspective of the staff—

**Mr Peach:** As I say, we have actually been operating the court transport unit since July.

**THE CHAIR:** But perhaps not as well as it could have been?

**Mr Peach:** I do not necessarily disagree. But I think that the point is that staff have

not raised their concerns around this viewing until recently.

**THE CHAIR:** Does anyone go down there and say every day, “How is it going?” I think it takes a while for these processes to get going, doesn’t it?

**Mr Peach:** I have been down there several times between the opening of the courts and now.

**THE CHAIR:** Have you been checking on the cells?

**Mr Peach:** I do not personally do the observations.

**THE CHAIR:** Through the little space?

**Mr Peach:** I do not personally do the observations but again—

**THE CHAIR:** Perhaps you should have.

**Mr Peach:** Maybe.

**THE CHAIR:** Maybe then we would have found it earlier. Just finally, in a response to a question from estimates, it was revealed that over the past three years there have been 93 resignations amongst corrections staff. Why has there been such a high number of resignations?

**Mr Peach:** Again, I will have to take this on notice, but I recall the question being asked originally and it was not 93 full-time members of staff. Many of those were casuals, many of those were on temporary employment. There were not necessarily 93—and I am happy to take it on notice—but I do recall checking that at the time. It was not 93 full-time staff members, as some of those were people who were on temporary contracts.

**THE CHAIR:** I am happy to see that broken down. Nonetheless, can you also then compare, according to the same categories that you break that down by, how many resignations, redundancies and terminations occurred in 2016-17, 2017-18 and then 2018-19 so that we can see the trajectory across those three financial years, if that is possible?

**Mr Rattenbury:** It is important to bear in mind that we have increased staff significantly in that time. I would expect to see some high numbers.

**THE CHAIR:** I am happy to see that as well. It will be good to have that alongside the total numbers of staff so that we can—

**Mr Rattenbury:** What do you think an acceptable resignation rate is in a year? You have put a judgement on whether that is a lower or a higher figure. What do you think is an acceptable number?

**THE CHAIR:** I think that is very interesting because it was not I who raised it as an unacceptable number; it was people who worked in the prison. I think that is a

reasonable question to be asked and to put to the minister.

**Mr Rattenbury:** I am just wondering what you think is an acceptable level.

**THE CHAIR:** I put a lot of trust and a lot of faith in people who have worked in the facility and who would like to see it run better. If they say to me that there is a high level of resignations then I am willing to trust that that is highly likely to be the case. They do not have a lot of benefit to gain by coming to me and telling me porky pies.

**MS CODY:** Minister, Mr Peach mentioned that he was only notified about the CTU and silica stuff recently. When were you notified?

**Mr Rattenbury:** I would have to check the record, but it was when the issue first came to light, about two weeks ago.

**THE CHAIR:** It was before the sitting week.

**Mr Peach:** Can I just clarify, Ms Cody. I did not say I was notified of the incident. I was actually on duty at the CTU when the dust was found. I was actually there, speaking with the Chief Magistrate, making arrangements for how we deal with it.

**MS CODY:** Sorry, I misunderstood; I apologise.

**Mr Peach:** Just to clarify, what I was not presented with at that point was a list of the different issues that have since come out. I was very much present when the silica dust issue hit, for want of a better word.

**MS CODY:** Thank you for that clarification.

**Mr Glenn:** Ms Cody, I can confirm that the directorate engaged with ministers' offices as the incident evolved on that Friday afternoon, as we learnt more about what was going on.

**MS CODY:** Mr Rattenbury is here; I thought I would ask him for myself.

**Mr Rattenbury:** I received an email in the afternoon of the incident being notified.

**MS CODY:** Mr Peach, have the issues of body scanners been raised in relation to some of the issues that have been picked up with the CTUs instead of strip searching or the ability or inability to strip search?

**Mr Peach:** Not in terms of the CTU. However, we are doing a considerable piece of work at the moment around strip searching. Obviously in corrections we have to balance the operational practices that we have and the decency element of that. Strip searching is not a pleasant experience either for detainees or for staff. There are a range of technologies that we are currently exploring that would alleviate the number of strip searches that we would need to do. There is a report that is waiting for our next executive to consider around at least three different technologies. Then we will make a decision as to what is viable and what is not, and what is financially viable, for us to go forward with. The answer is that, yes, we are certainly looking at the

technology, and there are certainly options there, but the level and the intrusion of each of those need to be considered.

**MS CODY:** I want to know about some of the things that are happening within the AMC. In particular, how is the bakery going? The annual report mentioned that you are putting on more shifts of people, for want of a better term. There was also talk of the metal shop; I want to know what is going on there. And what other courses are being offered? That is to start with; I do not want to bombard you.

**Mr Peach:** I will invite Mr Bartlett, who is our head of detainee services, to speak to all of those. Mark is always the one to sell our really positive stories.

**Mr Bartlett:** The bakery is a good news story. It is a wonderful addition and a wonderful resource for us. It is also quite good for detainees. As it says in our annual report, we have employed two bakers on a full-time basis now. They work split shifts with a bit of overlap, so we have the bakery operating six days a week.

In terms of the detainees, to start with, when we first opened the bakery, we just had female detainees working in there. We would have up to 10. Now that we have put on our second baker, we have been able to be self-sufficient with our own bread. Instead of purchasing bread, we make—

**MS CODY:** For the whole of the prison?

**Mr Bartlett:** For the whole centre, yes. We do not sell it, but we are our own customer in that regard. We now have two full-time shifts that operate in the bakery. We have also had a bit of a drop in the number of female detainees and those that are available and interested in working in the bakery, so we are even looking at moving to a three-shift option, again just over the six days. The bakery is going along quite well. Our education provider has a range of qualifications that the detainees that are working in the bakery undertake, so there is a whole cluster around—

**MS CODY:** Would it be possible to table those or provide them on notice?

**Mr Bartlett:** Yes.

**MS CODY:** The metal shop?

**Mr Bartlett:** We are also our own customer in that regard at the moment. We currently have five detainees employed in the metalworking shop. We have just employed a qualified fitter, and he will be the supervisor for our metalwork factory going further forward.

**MS CODY:** Excellent. I have one more question that is sort of related but I am not sure it is for you.

**Mr Bartlett:** I will put it on notice if you are happy?

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

**MS CODY:** It relates to White Ribbon. I believe there was some work that the AMC was doing around being ambassadors. Is that correct?

**THE CHAIR:** But now White Ribbon has closed up.

**MS CODY:** Yes, but now White Ribbon does not—sorry; someone can answer me.

**Mr Glenn:** Yes, the directorate was going through a process of seeking White Ribbon accreditation.

**MS CODY:** Yes.

**Mr Glenn:** That was a process doing education amongst staff and encouraging staff discussions around an inclusive workplace, men's violence against women and those sorts of issues, all of which was leading to the submission of a package of material for White Ribbon, which then goes to accreditation.

We got the stage of submitting our documentation to White Ribbon for accreditation at the point that White Ribbon unfortunately folded. To an extent, White Ribbon was only a vehicle or a means to an end of having those conversations and doing the work within the organisation about how inclusive our workplace is, what attitudes are to men's violence against women, and how we address those things in our workplace and in our community. So there was enormous value in going down that path. We are now in a situation of having a further think about how we take that work forward in the absence of White Ribbon.

**MS CODY:** I guess my point in asking this question of this portfolio is that one would assume in your workplace you have detainees that have possibly been involved in domestic situations. How do you manage those tricky situations between staff, between detainees, and what sorts of things are you doing to address those?

**Mr Peach:** I think the answer is that we do a range of interventions across the AMC. Some of those are directly attributed to domestic violence, of course. We work closely with DVCS. There are lots of different programs we have. In terms of the nexus between staff and detainees, again we do not see that purveyed, if you like, in the jail. What we actually see is that we deal with the detainees or we support the detainees that we identify where domestic violence issues are prevalent in their offending behaviour.

**MS CODY:** If staff are involved in a domestic situation, there are processes in place for them. I would assume that JACS manage from a—

**Mr Peach:** Yes.

**Mr Glenn:** We are very live to the fact that amongst our complement of staff there will inevitably be people who have had a lived experience of, or who are experiencing at the time, family violence or other issues. In fact, we have mechanisms in place through our employee assistance program and other mechanisms to deal with it—

**MS CODY:** I am assuming that corrections staff have access to those—

**THE CHAIR:** Same things.

**Mr Peach:** Yes, we have also done a little more this year, Ms Cody. In August of this year we also ran a pilot program that came from Western Australia, from the Prison Officers Union in Western Australia. It was a mental health program for staff, which is called the stand T.A.L.R program. It talks about how we as prisoner officers occasionally have that machismo that we do not accept that we are suffering from mental health problems.

One of the programs that we delivered was very much around trying to get staff to understand that it is okay to talk to each other, to make sure of each other and to promote the access to employee assistance programs and just to try to take the stigma away from what can often be quite a confronting situation for staff around the range of mental health problems. It is a fairly key focus for us.

**Mr Rattenbury:** Actually, I went and observed one of those training sessions on the issue of family violence. The instructor identified that our staff work in a stressful environment—

**THE CHAIR:** Yes.

**Mr Rattenbury:** and they can go home—

**THE CHAIR:** To a stressful environment.

**Mr Rattenbury:** They talked about the fact that they need to not take that home, and how to identify if they are taking it home, which can, in some cases, lead to them being violent in their relationships. Because it was peer delivered, I think it was particularly powerful. It was delivered by other corrections officers. The staff that I observed really got a lot out of those sessions.

**THE CHAIR:** I want to go back for a moment to the current lockdown to understand it a little better. What does that exactly mean? How long has it been locked down for in this session?

**Mr Peach:** I called the lockdown at about 2 o'clock today.

**THE CHAIR:** Today, yes.

**Mr Peach:** The declaration was signed around about that time.

**THE CHAIR:** Is there a formal process for you to do that?

**Mr Peach:** Yes. Under section 26 of the Corrections Management Act, I am delegated authority from the director-general to call a state of emergency for the AMC. It basically means that I can put limitations on the regime of the jail, who can and cannot access the jail for that period. Essentially, what it really—

**THE CHAIR:** It sort of stopped people accessing—not going in or out at the

moment; is that right?

**Mr Peach:** Yes, to a degree. What we have actually done is pretty much stop visits. It means that detainees are secured in cell while we go through the process of searching anywhere.

**THE CHAIR:** They do not go out of the cells at all during that—

**Mr Peach:** We still meet the mandatory legal requirements. They will still be afforded the hour exercise a day that they should get, but essentially while we go through the process we will be securing the detainees in cell because obviously we have to limit the amount of contact.

**THE CHAIR:** Is the maximum 23 hours a day in cell, not 24?

**Mr Peach:** That is right.

**THE CHAIR:** Is that what you are saying?

**Mr Peach:** Yes.

**THE CHAIR:** Is there a set period of time that that is going to be for?

**Mr Peach:** Yes; the declaration is signed for three days. I can at the end of the three days review that and reissue a declaration. My anticipation is that I would not want to extend it beyond that.

**THE CHAIR:** No, of course not.

**Mr Peach:** But the reality is that I will extend that declaration or stop that declaration at the point that I am satisfied that the searching that we have done is thorough enough to reduce, mitigate or eliminate risk.

**THE CHAIR:** With regard to what has potentially entered through the hole in the fence or by other means, do you have a concern that there were firearms brought into the facility?

**Mr Peach:** I think the answer is that we do not know what came in that package. Therefore, we have to search and make sure about any issue.

**THE CHAIR:** Have concerns about firearms or tasers entering the facility been raised?

**Mr Peach:** We have had different rumours and different anecdotes of what could have been in that package. As I say, we always search to the worst-case scenario.

**THE CHAIR:** Mr Peach, why are there blind spots with the cameras along the perimeter?

**Mr Peach:** I would have to take that on notice. The reason I say that is that, the last

time I was aware, I did not believe there were blind spots. The comment I would make is that our cameras are pan-tilt-zoom. They are not fixed on one particular area at one point; they move around. The last time we had a camera review was about 2½ years ago. Of course, there are blind spots in the prison. I do not recall seeing any on the perimeter. It just depends where the camera is.

**THE CHAIR:** So it may have been moving at the time.

**Mr Peach:** Perhaps.

**THE CHAIR:** How is it that the hole was cut on Sunday but it was not discovered until Monday, especially if you say it is alarmed? Was the alarm not on until Monday?

**Mr Peach:** As I said earlier, the alarm sounded. We are having to look at that as part of our review. In terms of when the hole was found, it was found on one of our routine perimeter checks, so it was found on the next perimeter check. As to why and how, I cannot explain any more than that. What I can explain is that when we backtracked from the discovery, we were able to ascertain what time that hole was made. Obviously, our internal review will ascertain the issue around the alarm sounding and timeliness of patrols.

**THE CHAIR:** You do not know at the moment when the alarm sounded?

**Mr Peach:** The alarm sounded at about 1700 hours on Sunday.

**THE CHAIR:** But the hole in the fence was not discovered until Monday?

**Mr Peach:** That is correct.

**THE CHAIR:** With regard to the rumours or allegations, is there anything other than firearms that has been mentioned? I understand that it is a broad question.

**Mr Peach:** I am trying to think how best—

**THE CHAIR:** It is a pretty serious thing to do, to lock the whole facility down for three days.

**Mr Peach:** Absolutely. I go back to my original point. We work on a worst-case scenario. You have alluded there to a firearm in the jail; the honest answer is that, in a worst-case scenario, there would be a firearm.

**THE CHAIR:** That would be your worst-case scenario?

**Mr Peach:** That would be one of—

**THE CHAIR:** You are working on the basis that that may be a possibility; is that what you are saying?

**Mr Peach:** I would never rule anything out on contraband. We do not have the

package, necessarily, and we have not recovered the package; we have recovered—

**THE CHAIR:** That might explain why there is such a concern to get hold of whatever is alleged to have gone in there.

**Mr Peach:** Absolutely. As I said earlier, as a consequence of the searching that we undertook yesterday, I am not satisfied that we have recovered everything that could potentially have come in that package. Therefore I have extended the range of searching across the whole establishment.

**THE CHAIR:** It is more that you want to search every room than you will go until you find a firearm, or what have you?

**Mr Peach:** Absolutely. We will search the AMC—not just every cell but every area of the AMC—thoroughly until I can satisfy myself that none of my staff’s safety, our detainees’ safety or indeed community safety are at risk.

**THE CHAIR:** Is this the first time an emergency like this has been declared at the AMC?

**Mr Peach:** I understand so, yes.

**MS CODY:** I have a question on the canine unit. How is it going? They are very cute. I am sure they are not supposed to be cute!

**Mr Rattenbury:** We have two fully trained canines and great handlers that go with them. As you might have seen in some of the media reporting, it is a very personal relationship. The trainers train with a specific dog. It is their dog. They are the only person who can operate the dog.

**MS CODY:** It is a bit like police dogs, from my understanding.

**Mr Rattenbury:** It is. They obviously play a really important role in detecting contraband coming into the jail; also they can inspect inside the jail. It is an important part of the overall security regime of the facility, and they are also very cute.

**MS CODY:** They are very cute.

**Mr Peach:** The use and extension of canines, as well as the intelligence work we have been doing over the last two years, have reaped significant rewards in terms of contraband. If we take the latest incident that we are dealing with at the moment, if somebody has had to resort to trying to cut a hole in the fence to get contraband into our prison, we are clearly doing something right in keeping it out through less risky methods. It is an exceptional circumstance that I have never come across before, fortunately. The reality is that if people are having to go to that extent to get contraband into the prison other than by using routine methods that they have been deploying, we are beginning to see a turn in what has been predominantly a problem for us for a number of years.

**MS CODY:** Yes, I agree.

**THE CHAIR:** I would like to hope so. That brings us to the end of our questions for you. I will just find my script.

**Mr Rattenbury:** We will provide the questions on notice within the agreed number of working days.

**MS CODY:** Five days, with day one being the day after receipt of the *Hansard*.

**THE CHAIR:** I did read it into the *Hansard* at the beginning of the day, so you will find it.

**Mr Rattenbury:** We are familiar with the rules, and we will get the information to the committee as soon as practicable.

**THE CHAIR:** Yes, as soon as possible. Thank you, Mr Rattenbury. I thank all of the officials who have come along today, even those who have not had the stress of being asked a question. This is an important process for our people and our Assembly.

**The committee adjourned at 5.24 pm.**