LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Inquiry into community corrections)

Members:

MR P CAIN (Chair)
DR M PATERSON (Deputy Chair)
MR A BRADDOCK

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 17 FEBRUARY 2022

Secretary to the committee:
Ms B McGill (Ph: 620 70524)

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.

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Privilege statement

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Amended 20 May 2013

The committee met at 9.40 am.

YATES, MS HEIDI, Victims of Crime Commissioner, Victim Support ACT, Human Rights Commission

THE CHAIR: Welcome to the Standing Committee on Justice and Community Safety inquiry into community corrections. Before we begin, on behalf of the committee I would like to acknowledge that we meet today on the land of the Ngunnawal people. We respect their continuing culture and the contribution they make to the life of this city and this region.

The Assembly commenced this inquiry in June 2021. The committee has received 29 submissions, which are available on the committee website. Today the committee will hear from 10 witnesses: the Victims of Crime Commissioner; Legal Aid ACT; Canberra Mental Health Forum; Mr Jason Taylor; Tjillari Justice Aboriginal Corporation; Justice Reform Initiative; Prisoners Aid; Professor Lorana Bartels; Sentence Administration Board; and the ACT Attorney-General.

Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live.

We will now hear from the first witness appearing today, Heidi Yates, the Victims of Crime Commissioner. On behalf of the committee, thank you for appearing today. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that is before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Ms Yates: I do.

THE CHAIR: Before we proceed, noting that we do not have a long time with each of our witnesses for much of the day, Ms Yates, would you like to make a brief opening statement?

Ms Yates: Thank you, Mr Cain and committee, for having me here this morning. I begin by noting that, according to the ACT Corrective Services strategic plan, corrections' utmost priority is community safety, which is a priority that also frames my work. In my view, to achieve that aim, much greater investment must be made in consulting with and understanding the views of victims of crime, including compliance with the requirements of the new charter of rights for victims which commenced in January last year.

In particular, given the high prevalence of domestic and family violence in our community, safety cannot be achieved without a specific agency focus on the unique elements of domestic and family violence offending and the rights of victims in that context.

Today I would like to highlight two key areas of focus, the first being the need for

much clearer, structured and resourced processes within corrections for upholding victims charter rights. This is really about ensuring that victim concerns are properly sought and considered by community corrections officers, or CCOs—I might call them that today—in their decision-making.

Secondly, I want to highlight the need for a significant improvement in the way that community corrections engage with DFV matters. I will note that in the last year in particular corrections have shown an active interest in improving the work they do in this area. They are attending the weekly case-tracking meetings, as they have done for many years, on the matters that are before the court in the family violence list each week. They are also participating in our new Family Violence Safety Action Pilot, which is about coordinated approaches to high-risk family violence matters. As Mr Bruno Aloisi indicated before the committee yesterday, there is still much to do. I am happy to speak to either of those matters or to answer questions.

THE CHAIR: Thank you. We note that a submission was not provided from the Victims of Crime Commissioner, so our attention was drawn to the website. Thank you for the two points you have highlighted. On the engagement from community corrections with victims of crime, could you outline some examples or general occurrences that show there needs to be some improvement? What specific improvements would give better outcomes for victims?

Ms Yates: The charter of rights contains specific provisions which require victim input into certain decisions. For example, under part 17B of the charter, if asked, corrections must seek and consider victim concerns about the need for protection in preparing a pre-sentence report or an ICO assessment. It has only been in the last couple of months that corrections have begun piloting a new arrangement with police whereby victim input is routinely sought into those. Previously, there was virtually no consultation with victims in relation to preparation of those documents.

We certainly welcome that trial and will monitor its implementation. I think that, even in its early stages, in consultation with corrections it is clear that victim survivors are taking up that opportunity, so police are writing to them to seek their views. However, even where victims are then contacting corrections, there are real challenges in terms of the team there being well equipped to respond and to engage with victim survivors, to sensitively hear their concerns, to be able to weigh up the information provided and how to document that information in a way that does not increase risk to those victim survivors.

It is a really practical matter. Victims have a right to be consulted, but at the moment there has not been the investment in community corrections to ensure that, when that offer is made and accepted, they are well equipped to engage, respond and balance the information in their decision-making.

We would say that we need a much more consistent approach to consultation with victim survivors across every matter where CCOs are making decisions. From my perspective, that is crucial in terms of them being able to make an informed risk assessment about the community safety aspects of their decisions. It is essential in terms of promoting transparency and building community confidence in the work of community corrections, particularly in light of notions in the broader community that

community sentences are a soft option, if you like, for individuals. Most importantly, it is about recognising that victims have a right to be consulted, should they wish to do so, and that has to be delivered day to day in community corrections.

DR PATERSON: You referred to clearer structures to uphold victim rights, so more training for corrections staff. Are there any other key aspects in upholding this charter of rights?

Ms Yates: From a practical perspective, I would make three recommendations. I would suggest that, in the first instance, there needs to be greater investment in and prioritisation of Corrective Services' engagement with victims, either directly or, perhaps preferably, through resourced partnerships with agencies such as my own, Victim Support ACT, or with ACT Policing to support that engagement and consideration.

Secondly, I would recommend that, in all policies that guide CCO decision-making about matters that impact victims—and that includes things as broad as proposed early ending of supervision orders or what to do about consistent breaching of orders—there should be specific directions for CCOs to seek victim input in making those decisions.

Thirdly, Dr Paterson, picking up on your comment there, we need an increased focus in community corrections on training and upskilling of staff. We know that community corrections officers access some general training, particularly about standard domestic and family violence dynamics, for example, but their work requires much more nuanced training about working with offenders in these cases, including the real risk of offender collusion in circumstances where they may only be hearing from the offender regarding their rehabilitation and wellbeing in community, when the evidence base clearly tells us that we need to understand the victim survivor experience of the offender's ongoing conduct to assess risk.

MR BRADDOCK: I am interested in your perspective on restorative justice approaches and, from a victim's perspective, what has worked—or not worked—that you might like to see in that space.

Ms Yates: Mr Braddock, we need all of the tools in the toolbox when we think about ensuring that victim survivors' rights and wellbeing are central to the criminal justice response to violent crime. It has been welcome to see our restorative justice processes in the territory expand to allow for participation in matters involving domestic, family and sexual violence. We are a couple of years into that phase 3 work.

We still do not know enough about how those matters impact victim safety and wellbeing in the long term. We have only seen a very small number, for example, of sexual violence offences go through that process. But I welcome further exploration of those pathways. We know that, for the vast majority of victim survivors, the criminal justice system does not offer a resolution that gives them a sense of justice having been done. Restorative justice is one pathway that offers a greater chance for victim voices to be heard, where people feel safe participating.

MR BRADDOCK: You would support a continuation, whilst we wait for more data

to be able to analyse the effect that it has had?

Ms Yates: Indeed. One of the further developments that I would support is the exploration of potential access to professional restorative justice services without an initial report having to be made to police. At the moment the pathways require formal engagement with the criminal justice process. Research suggests that there may be greater uptake of restorative processes if victim survivors had the option of seeking restorative pathways without the need for a formal police report.

THE CHAIR: You may want to take this on notice. I am interested in how many victims of crime seek to be registered to be part of providing input and part of the conversation as to what happens to the offender, and whether it is possible across the different types of offences. That might be something you have to take on notice, or you might have it at your fingertips.

Ms Yates: The victim registers, the three different registers, are located in three different parts of the ACT government. At present, none of them sit within my responsibilities.

THE CHAIR: That is unusual.

Ms Yates: At present, part of the commitment around the implementation of the charter of rights is for those three registers to be brought to my office. We are currently in the process of negotiating for that transfer to occur. We think that will be a far more streamlined and effective way of delivering those registers, particularly given that, at present, for example, victims often say, “I just don’t feel comfortable giving my personal details to Corrective Services.” We are very interested in the benefits that bringing those registers together will bring for victims of crime. We are conscious that at present there are much lower numbers on those registers than we think reflects community interest in being on them.

THE CHAIR: It may well be that the committee will be sympathetic to that move.

Ms Yates: Might I be opportunistic there, Mr Cain, in noting that when those registers do come to our office, at present there is only one FTE attached to the administration of all three registers. I am very concerned about, if we are going to build trust in community through our office in coming onto those registers, the work health and safety dimensions of a single officer having to administer those.

THE CHAIR: Currently, what do you think is preventing more victims from registering and how do you plan to deal with that, assuming you have ownership of those registers?

Ms Yates: At present, the fact that the registers are in three different places makes it very difficult for victim survivors to understand their entitlements and where to go. A streamlined approach, where we have a single pathway in, is extremely important. The victims charter also makes clear, under sections 15 and 16, that victims have a right to be informed about their ability to be on the register, and we are simply not informing victims in sufficient volume.

I also think that the question about victims being uncertain regarding giving their personal details to agencies with whom they do not have trust and rapport is significant. Simply, we do not have the information flow right to give people that opportunity. We are looking already to the design of information which ensures that people are getting that information early on; for example, when they are preparing their victim impact statements. Should people wish to come onto the register, we are having conversations at the same time about the other wraparound services we can offer for them at Victim Support. For example, if they are given the opportunity to make submissions at a parole hearing, do they need support to draft those and to attend before the SAB to give them?

We are hoping there will be much greater opportunity for people to know about the registers. We expect that to flow on to much higher levels of registration. We are concerned about our ability to cope with the increased workflow that will likely come with that.

DR PATERSON: It would be great to have a discussion about parole. The Law Society was advocating for sentences under 12 months—

THE CHAIR: Yes, less than a year.

DR PATERSON: to have automatic parole, rather than going through a parole process. Can you speak to that at all and how you think victims would feel about that?

Ms Yates: At this stage I would be concerned about the loss of discretion in those matters, in terms of taking account particularly of the immediate safety of any victim survivors in the context of a violent offence. I would reflect public commentary which is on the record in relation to the fact that many survivors of violent crimes, particularly those perpetrated in a domestic, family and sexual violence context, feel that the court sentences, which may well be 12 months or less, do not in any way reflect the severity of harm that results from that crime.

Often, for example, the opportunity for someone to apply for parole is a pause in the system where, once again, the victim survivor has the opportunity to indicate what it would mean for their safety and wellbeing for that individual to be returned to the community.

I am sympathetic to the efficiencies that it might bring for those parole applications not to have to be made, and I am happy to look at the further nuance of that kind of proposal, but I think that, as a starting point, we do not want to minimise the opportunity for victim voices to be heard in matters where the impact of a violent crime may have been great indeed and the sentence already, in their view, does not reflect the severity of that harm.

DR PATERSON: Can you go into a bit more detail about the unique experience of family violence victims engaging with community correction orders and how that works for them or does not work for them?

Ms Yates: Dr Paterson, there are three things that I would flag in response to that, which I think we would do well to provide a better focus on in community corrections.

The first of those relates to the need for greater specialisation within community corrections around dealing with high-risk DFV matters. For example, we know there are multiple policies guiding the exercise of CCO discretion; however, none of them at present provide specific guidance around engaging with or managing DFV offenders. As I mentioned earlier, there is a rapidly growing evidence base about the unique aspects of DFV, particularly the high risks associated with offender use of coercive control, which may not be visible. It is clear that if we are going to achieve a reduction in recidivism and increase community safety we require a specialist approach to these matters.

In my view, again going back to the fact that I think CCOs require more than just baseline training if they are working with high-risk DFV offenders, we think that it would be appropriate and a good investment around community safety for there to be a specialist DFV team of CCOs who can lead best practice across decision-making. I also think that consideration should be given to a specific DFV offender management policy and that that should be transparent and available to the public.

The second issue I would speak to is the need for a domestic and family violence specific risk assessment framework. At present, corrections is using a tool, the LSI-R tool, which is applied across all offence types to identify offender risks and needs. This is not DFV-specific and it does not draw on the common risk assessment framework that we are working on across other parts of the ACT government.

A really practical example of that is that there is only one community corrections DFV program for offenders, the domestic abuse program. You have to be assessed as a high-risk offender to enter that program. It is often the case that an LSI-R assessment might indicate that someone is not high risk and therefore cannot access that program; they are then released to a community program, and the community program, applying the ACT government risk DFV framework, says, "They are high risk and therefore they can't come to our program." It is a perverse outcome because of the inconsistency in the risk assessment frameworks being used.

Again, I would recommend that community corrections be directed to engage with the Office for Family Safety to ensure that there are consistent approaches being taken in addition to the more general LSI-R risk assessment tool that may need to be applied for other purposes.

THE CHAIR: On behalf of the committee, I would like to thank you for appearing today. When available, a copy of the proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. I do not think there were any questions taken on notice or further information to be provided.

Ms Yates: I do not think so.

THE CHAIR: Thank you for appearing before us.

CHILDS, DR ALISON, Co-Convenor, Canberra Mental Health Forum
HASKINS, MS JANINE, Canberra Mental Health Forum

THE CHAIR: I welcome the next witnesses appearing today, Dr Alison Childs and Ms Janine Haskins from the Canberra Mental Health Forum. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that is before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Dr Childs: I do.

Ms Haskins: I do.

THE CHAIR: Before we proceed to questions from the committee, perhaps one of you would like to make a brief opening statement.

Dr Childs: Yes, I will do that on behalf of the Canberra Mental Health Forum. We thank the Standing Committee on Justice and Community Safety for the opportunity to provide support and comments on community corrections in the ACT.

The Canberra Mental Health Forum is an independent community group with lived experience, advocating for improved mental health services. We are an active group of carers, consumers, people with work experience in mental health services, justice services or policy development. We highlight key components of our submission in this opening statement. We are concerned about the higher incidence of those with mental illness or disorder, as described by the Mental Health Act, in the justice system than in the community, particularly in youth justice systems. We are conscious of the importance of community safety, both for victims and for those involved in the justice system.

From the perspective of carers and families of people who have been charged with a crime and have a mental illness/disorder, families' experiences of the interaction between the mental health and justice systems repeatedly are described as traumatic for all family members. This is due to confusion and lack of information and support for families and detainees, with insufficient and overstretched services. There are personal and society advantages to community corrections, but such approaches require sufficient resources and programs to support those with a mental illness or mental disorder and could be more cost effective than current arrangements.

Our submission focuses on four components; that is, prevention, diversion, improved treatment and transitions. We would like to highlight some key recommendations included in the submission. We recommend additional nursing, clinicians and community mental health support to prevent escalation of mental ill health and, where applicable, alcohol and drug services. There need to be additional housing options with wraparound services for those with mental ill health. There needs to be accelerated work on the disability justice strategy. There needs to be improved understanding and addressing of complex mental illness in the community, in justice

services, especially for those with First Nations or multicultural backgrounds. There also needs to be additional support for family members and carers involved with the mental health and justice systems.

Research reports far better outcomes, including lower recidivism, for those caught up in the justice system where they are treated at a mental health unit rather than through prisons. There need to be additional supports in the community and in health facilities and, where substance abuse is also present, increased places available, but not to the detriment of voluntary community members seeking treatment.

THE CHAIR: Dr Childs, we might move on to questions now. I am sure you will have an opportunity to present your other statements—

Dr Childs: As part of that; yes.

MR BRADDOCK: I am concerned about offenders who are not actually going into detention and the ability of the system to identify, diagnose and treat mental health disorders in that group. Do you have experience of how the community corrections system is able to do that, for those people not taken into detention?

Dr Childs: There is a national program looking at trying to identify key risk factors for those that could be at risk. That is a national program. The University of Queensland is currently investigating that and looking at where resources should be put in terms of community mental health, bed-based services and prison systems.

We currently have a system where people are on bail and then placed in a Justice Health housing service. There is meant to be monitoring of those people. We would suggest that there is insufficient monitoring, as we have had recent calls where people have ended up moving across to AMHU under PTOs because they have not been supervised sufficiently. That is a concern for families, for people under charge and also for community safety. We believe that there need to be additional supports in the community to support such people.

MR BRADDOCK: What about people on intensive correction orders or DATOs? Do you have concerns about those?

Ms Haskins: I have worked in the criminal justice system as a probation and parole officer, but it was a long time ago; it was before ICOs came in. From what I can gather, ICOs are intensive. I do not know how they address the mental health needs of offenders, but I know that it is a lot of work for a community corrections officer to monitor an ICO. I understand that it is an alternative to prison, but it is very resource intense. I think there need to be more programs within the prison system and within the community that are overseen and reviewed by community corrections.

Dr Childs: In our submission we also make reference to programs such as Wellways that are currently doing those transitions to release for those with a cognitive or mental illness and disability, including parole. With Wellways, I am not sure whether you have spoken with them yet.

DR PATERSON: Yesterday.

Dr Childs: We certainly support programs like that having additional resources and a somewhat broader remit.

THE CHAIR: It became clear, particularly from my involvement in the inquiry into the drugs decriminalisation bill last year, that mental health and drug and alcohol dependency and addiction are very much connected. In other words, sometimes the addiction will lead to mental health issues and sometimes a mental health issue will lead to comfort from addiction, at least initially. What do you think could bring those two policy drivers together from a governance point of view so that we are not treating someone just for mental health or just for prevention; we are treating the whole person, when those two things are so frequently linked?

Dr Childs: They are frequently linked. Currently, the governance arrangements are that separate ministers oversee that. You would be aware of that.

THE CHAIR: I will take that as a suggestion for improvement.

Dr Childs: Yes, that is a suggestion for improvement. The forum also met, late last year, with both ministers and advisers to raise that as one of the concerns; so they are aware of a position of greater linking and coordination. There are different needs in both of those people needing assistance, so one size does not fit all. Some people with mental illness do not have alcohol or substance abuse disorders and some with alcohol and substance abuse would not have that. We need to make sure that there are multiple models to best suit those requiring voluntary treatment as well as those who may need more assertive support.

THE CHAIR: Ms Haskins, I know you have a personal, tragic experience.

Ms Haskins: Yes. Presently, as we have ascertained, the systems work in silos and they do not communicate with each other. There is very little collaboration; there is no holistic approach to caring for and treating people with comorbidity issues. The Canberra Mental Health Forum and many others in the community would like to see a specialised unit for treating and caring for people with comorbidity issues. At the moment, from the examples I have heard of, some people with comorbidity issues cannot get into rehab until they have dealt with their mental health issues. If they have substance use, it is the other way around, so they never connect or link. We need an integrated system which serves our consumers in an appropriate manner.

Dr Childs: We do believe that staff sometimes get caught in the system, in that they are only funded for treating alcohol and drugs or funded for treating mental health.

DR PATERSON: I am interested, with the community corrections or intensive correction orders, in how family members, particularly if there is a mental health issue involved, cope with that situation. We spoke to the minister yesterday. I asked this question and they said that corrections focuses on the offender. What need is there to focus on the family and what supports would assist family members who may have an offender living in the house?

Dr Childs: It is a very difficult situation, especially if, for example, violence has been

a concern. We are concerned for carers that are being placed, again, in difficult situations. There needs to be a willingness on the part of both parties to set boundaries, but we do believe that there is insufficient support for carers in that situation. Sometimes people are being released from a mental health unit without sufficient support or information being given to the family as to what the situation is and what would be the best treatment situation. Janine has a reference to discharge planning and support. There needs to be greater information sharing so that people are aware of the challenges involved in that situation.

Ms Haskins: That is not only with ICOs; it is also with bail orders. In my case, my daughter was directed to reside with our family. There was not a lot of time for liaison. I know also that, during the time that I worked at corrections, there was not very much contact with families. There were issues, particularly with family violence, around whether you could contact the victim. It was kind of a no-no when I was working there. As I said, I think it is the case with any order. It does not have to be an ICO. Bail is conditional liberty, so there should be contact with the families and support for the families, which, in our experience—

Dr Childs: There seems to be a limit on communication. We appreciate that the case load for many of the workers is pretty much unmanageable. Again, we are not particularly presenting criticism of the caseworkers; it is essentially a system issue. Obviously, the case managers and staff need additional training to understand some of the challenges with mental illness and disorders.

Ms Haskins: For example, just recently we had the inquest for Bronte, our daughter. The bail officer was one of the witnesses, and she failed to submit breaches on behalf of Corrective Services and, in essence, for Bronte. However, once it was opened up to discussion, the bail officer stated that she had over 130 offenders on her case load.

Even though the bail officer is monitoring bail or compliance, and there is a template for breaches, the issue is about having to deal with that many people. Also, there is a significant wait when someone is tested for urinalysis. It can take up to 10 days for those results to come back. That is a long time for somebody to be out there and with comorbidities; perhaps they are using substances as well as having mental health issues. There are a lot of service gaps there.

Dr Childs talked about discharge plans. One of the big things we found when Bronte was released from the AMC was that, despite her being assessed as a prisoner at risk on admission, she was released on bail without a discharge plan from a mental health unit or the crisis support unit of the AMC. Again, it was just directed towards alcohol and drugs and not mental health. That is a fine example of not looking at the different components and maybe the magistrate not receiving that information that Bronte was assessed as a prisoner at risk.

DR PATERSON: Was it the situation that they were not assessing mental health or that they did not assess her appropriately?

Ms Haskins: Bronte was assessed as a prisoner at risk. She expressed suicidal thoughts when she was admitted to the AMC. They monitored her for five days; she was in the crisis support unit. She also managed to detox from her substance use.

After that, she went into the mainstream wing with the women. When she was released on bail through AVL, from the AMC, the mental health clinicians were not aware that she had been bailed. When I rang them and asked them what the process was, they said, "We quite often don't find out that people have been bailed until after the event." Their model of care states that they will liaise with families of people that are in custody. We received no contact from them at all. I had to chase them up. So there are definitely gaps there.

THE CHAIR: Our time has come to a close. On behalf of the committee, I would like to thank you, Dr Childs and Ms Haskins, for appearing today. When available, a copy of the proof transcript will be forward to witnesses, to provide an opportunity to check the transcript and identify any errors in transcription. I do not believe that you took any questions on notice. Thank you for your attendance and for giving us your time.

Hearing suspended from 10.20 to 10.39 am.

TAYLOR, MR JASON

THE CHAIR: We will now move to the next witness appearing today, Mr Jason Taylor. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you confirm for the record that you understand the privilege implications of this statement.

Mr Taylor: Yes, I can confirm that.

THE CHAIR: I will give you an opportunity to make a brief opening statement, or are you happy to go straight to questions?

Mr Taylor: I would like to make a brief opening statement.

THE CHAIR: Okay, thank you.

Mr Taylor: First off, I would like to thank the chair and the committee members for the opportunity to appear before the committee today. I would like to acknowledge that my intention is to keep my opening remarks brief. I would like to reiterate that I am a victim/survivor and a police officer, and I believe I bring a unique perspective to this committee's inquiry.

I would like to applaud the members of the Assembly for the work that you do to protect victims of crime with the work that you are doing here in the Assembly. I would also like to applaud you, Dr Paterson, for your recent efforts in the legislation that you have brought before the Assembly.

DR PATERSON: Thank you.

Mr Taylor: You should be very proud of that. However, it is my opinion that without a strong and effective sentencing regime the veracity of parliamentarians' public claims about actually protecting victims of crime is not as it would seem. The bravery and toll it takes to be a victim of a criminal matter and travel through the court process and beyond is immense. I know this as I have travelled that road as a victim and an investigator. It has nearly broken me.

I come before you to speak to the ICO regime. It is my opinion that it is not fit for purpose. The community quite rightly expects that if you commit a crime that warrants the court imposing a term of imprisonment, then that is where you go. The ICO regime circumvents this. It allows the courts, and indeed the government, to appear tough on crime when this is not the case. I would like to point out to the committee that there are some people that cannot be rehabilitated, or simply will not be. The community needs protecting from these people.

I would also like to reiterate a point I raised in my submission. It is very simple: some crimes and some criminals warrant a term of imprisonment. This is a base level expectation of the community. The scales of justice in the ACT are far too far in

favour of the offender and they need to be rebalanced. Thank you.

MR BRADDOCK: Thank you, Mr Taylor, for sharing your personal story, for your submission and for what you said just then. I think we are all aware of the emotional toll that has had on you over time, and we also appreciate the service that you have provided to the community.

Mr Taylor: Thank you.

MR BRADDOCK: I just want to ask a question about the ICO being not fit for purpose, which you just mentioned in your opening statement. I definitely agree that there are some people and crimes where imprisonment is the best option. But there are also some where an ICO may be a good option to provide. Is it the case that maybe the community is not aware, or does not understand, what an ICO involves in terms of limitations and constraints it puts on the offender, and the objectives of it?

Mr Taylor: Well that may be the case. In my opinion, having seen it and also from my own experience, it is not so much about the community needing to understand the purpose of ICOs but perhaps the way in which they are applied and the suitability of them as is determined by the assessment that is made. That probably needs to be much stricter than is currently applied. So, if you were to ask me what my thoughts on that are, I would say that if we are talking about a serious, violent offence against an individual, that probably should not deem you eligible for an ICO.

MR BRADDOCK: Probably, your concern is the misuse of ICOs on individuals and certain crimes.

Mr Taylor: That is correct.

MR BRADDOCK: Okay, thank you. Thank you for clarifying that for me.

THE CHAIR: Thank you. I have a question about you as a victim and perhaps explaining your engagement with the Office of the Victims of Crime Commissioner and obviously the registers that are available for registering as a victim. Could you go through your experiences and the lessons learned. Do you think there should be better governance of all of that?

Mr Taylor: In terms for support for victims of crime?

THE CHAIR: Yes; you as a victim.

Mr Taylor: There is no issue with the support of those bodies. I have dealt with them in the past as a police officer. So in terms of my actual engagement with them as a victim, it was, I will be honest, fairly limited, but that was not the support that I needed. I think my big frustration and disappointment in the whole process is that as a victim—and I said this earlier in my opening remarks—the difficulty of going through the court processes is very taxing. I do not think that I really had much of an appreciation of just how much that was, despite the fact that I have investigated hundreds of crimes and dealt with many, many victims.

I do not think I ever really appreciated what the process is actually like when you are the victim yourself. I felt that when it came time for my opportunity, particularly with VIS, there was a bit of lip service paid to that by the court—the simple fact that the offender who was sitting at the bar table whilst I was giving my VIS was able to continually talk throughout that whole process and was not rebuked by anybody.

Add to that the fact that I was court ordered not to say certain parts of my victim impact statement. My understanding is that that has never been the purpose of a VIS. It is my interpretation of the incident and how it has impacted upon me. I had to be talked down from parapet by some people before I went in, to make sure I did not say the stuff. The ultimate irony—with the outcome as it was—is that if I had ignored the magistrate's order and said what I wanted to say, and should rightly have been able to say, the only person that would have wound up in the cells is me. So the bloke who assaulted me for doing my job got to walk out of the court, despite the fact that he had been sentenced to a period of imprisonment.

THE CHAIR: I am surprised to hear that. So what was the basis for the court ordering—

Mr Taylor: You would have to ask the magistrate that; I have no idea. My understanding was there was an objection to some of the stuff that I had said. Without going into too much detail, it related to a characterisation of the character of the offender, my interpretation of him and the impact that that had had on me, and then perhaps his character being part of the reason that this offence occurred against me. I believe that that was objected to by the defence. I was asked not to say it and I made it very clear to the prosecutor that I would be saying it.

This is what I mean when I say that when we start talking about the scales of justice, that is an opportunity for me to have my say. I did not get to have my full say because an offender does not like my opinion of him.

DR PATERSON: Thank you for your submission and very powerful advocacy. Can you speak to how it feels as a victim knowing that the offender is in the community carrying out their order? What was your experience of that? What was the time frame and what was your experience?

Mr Taylor: Twenty months. Had he been sentenced to 20 months in jail, that is an opportunity to say that that was maybe a just outcome. I do not know. I do not really care in that regard, because the simple fact is—and I can speak on behalf of a lot of victims—the outcome really is not going to change anything for you, but the reality is that you want to see some form of justice. It is important to you as a victim and what has happened to you. I can speak about me in terms of what happened to me and what it resulted in, and what I have lost as a result. I do not place all the blame for what I have gone through at the feet of the offender, because there is a whole range of things that law enforcement will do to you over a period of time.

But I do blame him for the fact I was never able to deal with those issues on my own terms. Effectively, there was no punishment ever for him, for his role in what happened to me and what I have lost. And so I just do not believe that, as a victim, the experience and the impact that that has had on me was actually take into consideration.

Like I said before, I believe it is just lip service.

So it may be the case that when it comes to sentencing, a magistrate actually has to refer to the impact that an offence has had on a victim. I can tell you from experience that the impact that a crime will have on a victim can vary. But generally, for most people, it is one of the worst things that has ever happened to them, whether it be anything from a burglary, all the way through to serious assaults. So, by having legislation and saying that we are protecting victims, we are encouraging them to take part in the process. I can tell you—and I have had people say this to me before—that they would never want to go through this again. So you are talking about having an impact on people's thought processes the next time something happens to them. It would be, "I am not going to bother reporting this or getting involved in the criminal justice process because of what happened to me last time and the impact and the difficulty around that. Why would I put myself through that again?"

THE CHAIR: Do you have a substantive question?

DR PATERSON: Yes. We heard from the Victims of Crime Commissioner this morning, and one of the things that she said was that corrections officers do not have experience working with victims and that, yes, a lot more work needs to be done in that space through engaging with victim statements and either through court processes or through parole processes, bail, and those types of things. Can you speak to how that would be helpful and how that is needed, or do you believe that it is needed?

Mr Taylor: Do you mean corrections staff in terms of the ones that are at the prison or those perhaps that work in community corrections?

DR PATERSON: Let us go to community corrections.

Mr Taylor: Yes, definitely. The only real interaction they are having is with offenders. Like I said before, the impact that an incident will have on a victim should then be able to frame their mind in terms of this person's suitability for whatever order we might be assessing them for, or, with parole et cetera, their suitability to be released from prison, if that is where they are. The most important thing is that we live in a society where we are governed by the rule of law, so actions do have consequences. But, also, laws exist to protect people; that should be the primary purpose of it.

MR BRADDOCK: I have a supplementary question on that. The Victims of Crime Commissioner was talking about that consultation with victims about further orders, whether it be parole breaches or being released—all those sorts of aspects. Would you agree and support the need to consult the victims at all stages in those processes?

Mr Taylor: One hundred per cent. You have to give the victim agency over, or certainly involvement in, that whole process. They are the ones that are really impacted the most by it and, like I said before, you want to be heard and you want to feel that what has happened to you, and the impact that it has had on you, is important and it is considered. I 100 per cent agree with the Victims of Crime commissioner on that one.

THE CHAIR: You mentioned that the Crimes (Sentencing) Act needs to be reviewed, and a clearer sentencing regime adopted. I very much take your feedback saying that specific attention to the victim's perspective needs to be applied.

Mr Taylor: Yes.

THE CHAIR: What else do you see as being part of that clearer sentencing? What would be your vision?

Mr Taylor: I mentioned before—and it may come pre sentencing—that the eligibility criteria for ICOs in particular is far more strictly applied. So, my opinion, like I said again, is that it is a matter for parliamentarians to decide the threshold, but in the case of a serious offence against a person—my instance, for example, attracts a maximum penalty of five years' imprisonment; I would suggest that that is a serious offence against a person—and/or when the offender has a significant criminal history, they would be automatically ruling themselves out of eligibility because they are recidivist offenders.

How many opportunities do you want to give people if they are not going to take it? Like I said before, and I speak from experience, there are some offenders that will just not rehabilitate, because they do not want to or because they cannot be rehabilitated. And that is the reality of it.

MR BRADDOCK: So in terms of the legislative framework, how do you think that could be remodelled or amended to recognise the impact on the victim?

Mr Taylor: I think I might have said before that there needs to be a specific consideration by the magistrate or the judge, when they give their sentencing remarks, of all the information in the impact of that crime as an aggravating factor for the offence. It is as simple as that, in my opinion.

DR PATERSON: In the legislation under the meaning of "victims' rights", it talks about a right to information about investigations, proceedings and decisions and a right to participation in proceedings. It sounds as if what you experienced was an incredibly disempowering process. What could be done more in terms of engaging with victims to empower them in the process? You have talked about the judge recognising the impact, and you being able to give a victim impact statement that is full and complete. Are there other things that would have helped in the process?

Mr Taylor: In that regard, I do not really think so. I had been through the process previously, so I was familiar with the court process. The support that is given to victims through the process, in my experience anyway, is good. Maybe the victims need to be engaged a little bit more. In my circumstance, as the penalty was for a five-year offence, obviously there needed to be consent from both sides for that matter to have been dealt with in the lower court—the Magistrate's Court. It was not discussed with me that that was going to be the case. I think victims need to be engaged with on that.

In my instance, I do not believe the DPP tried hard enough to get him in jail, if I am honest. I think the remarks of the prosecutor were that a term of imprisonment was

warranted but it was for the magistrate to decide whether or not that is full-time custody or an ICO. That disappointed me. I think perhaps prosecutors need to engage more with victims around their thoughts about potential sentencing outcomes, because it may be that, particularly in some circumstances, the victim may see the value in an offender not having a fulltime custodial sentence, for whatever reason that may be.

I certainly did not agree with that in my instance, not so much because I wanted to see him spend at least a day in jail but because of the concern about the message that that sends to my fellow colleagues: you go out and do your job—and that is exactly what I did—and you will be treated as a punching bag. You will have to put yourself through a quite taxing process and this is what will happen. That sends a message to them that you are not as important, but it also sends a message to anybody that might be willing to assault a police officer that you can do it in pretty terrible circumstances but the outcome is not going to be too inconvenient for you.

THE CHAIR: Thank you. This time has come to a close. Mr Taylor, I want to thank you on behalf of the committee for appearing today. When available, a proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription. I do not believe there are any questions on notice or further information to follow. I thank you for giving us some of your time, and, of course, the committee wishes you the best going forward.

DR PATERSON: Absolutely.

Mr Taylor: Thank you for having me; I really appreciate it.

BARTELS, PROFESSOR LORANA, Professor of Criminology, Australian National University, and Co-chair, ACT Chapter of Justice Reform Initiative
HUMPHRIES, MR GARY, Co-chair, Justice Reform Initiative

THE CHAIR: Welcome back to the public hearing of the Standing Committee on Justice and Community Safety inquiry into the community corrections. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. Proceedings are also broadcast and web-streamed live.

The next witnesses appearing today are Professor Lorana Bartels and Gary Humphries AO from the Justice Reform Initiative. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. I think it is appropriate, given the location and the nature of our business, to acknowledge Mr Humphries as a former member, Chief Minister, Attorney-General, Treasurer and senator for the ACT. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you each confirm that you understand the privilege implications of the statement.

Mr Humphries: Yes, I do.

Prof Bartels: Yes, I do.

THE CHAIR: Thank you. Now, we do only have a 20-minute slot so I would like to invite one of you to make a brief opening statement.

Prof Bartels: My name is Lorana Bartels. I am co-chair of the ACT chapter of the Justice Reform Initiative. I am here with my fellow co-chair, Gary Humphries AO, who is of course very familiar with this committee and this place. I would like to pay my respects to the Aboriginal and Torres Strait Islander people here today and acknowledge the Ngunnawal people as the traditional custodians of the land on which this Legislative Assembly is based.

The Justice Reform Initiative, or JRI, is an alliance of people who share longstanding professional experience, lived experience and/or expert knowledge of the justice system, and who are supported by a movement of Australians from across the country who all believe that jailing is failing, and that there is an urgent need to reduce the number of people in Australia's prisons.

You have our submission, which includes the membership of the ACT chapter of the JRI. We believe that the overuse of prisons is fundamentally harmful to those in prison, to their families and friends, and to the broader community. We assert that prisons are ineffective as a deterrent, ineffective at reducing crime and ineffective at addressing the drivers of criminal justice system involvement. We believe that the overuse of incarceration is a waste of human potential and a misuse of taxpayer dollars. The evidence shows that the majority of people entering prison usually arrive there because of an underlying cycle of disadvantage, and that prison both exacerbates and entrenches that cycle of disadvantage, which needs to be broken.

We believe that the moment has come for a change. A combination of political, economic and social forces are coalescing to create an opportunity to genuinely challenge and respond to our reliance on incarceration, and offer up an alternative vision. In particular, we want to build on the emergence of a powerful network of advocates in Australia, green shoots of cross-party support for change, a strong precedent for cross-party support in the United States and a large and compelling evidence base outlining how to build alternatives to incarceration and pathways out of the prison system.

And in a local context also, we want to respond to the need for governments to address rising debt in the post-pandemic context with more economically efficient approaches. All of this means the time is right now, and there is a window of opportunity to make fundamental change and break the cycle of incarceration in Australia. We want to halve the number of people in Australian prisons by 2030.

That information is essentially taken from the JRI's strategic plan, and I have brought copies for the members of the committee with me today, together with copies of a briefing paper that was provided to all Australian members of parliament when the JRI was launched in September 2020. That was, of course, before the presently constituted committee had been elected to parliament by the good people of the ACT. I have brought copies of that as well, if they could be provided to the committee for your later perusal.

I am sure there are many questions, so I will not take up too much more time, but I briefly want to draw your attention to a very recent paper that was released by the NSW Bureau of Crime Statistics and Research. It is called *The effect of parole supervision on recidivism*. The aim of the study was to compare recidivism outcomes for what we would call detainees who were released to parole, with those who are released from prison unconditionally. Three recidivism outcomes were measured—reconviction with a new proven offence of any type, reconviction with a new personal property or serious drug offence, and reimprisonment.

I will not go into the details but suffice it to say that reconviction rates both generally, and for specific offences, and the chances of being reimprisoned were vastly reduced for those on parole. That report is readily available, but I can also send through the details if desired. I draw this to the committee's attention not only because it is very new research but because it highlights the important role that community corrections, if appropriately administered, can play in reducing recidivism, which is, of course, a key policy objective of this government and aligns with the JRIs goal of reducing imprisonment.

More broadly, we encourage this committee to support—including calling for the adequate funding of—a range of measures that help people stay in the community, rather than be incarcerated. This is particularly important given the many stories we have heard and seen, in the last 18 months or so, about issues at the Alexander Maconochie Centre. We are now available to take any questions you may have. Thank you.

THE CHAIR: Thank you, Professor Bartels.

MR BRADDOCK: On page 3 of your submission, you talk about an ongoing need to ensure that increasing use of community corrections does not result in an overall net widening of the criminal justice system. Do you have any evidence to indicate that that has been happening in the ACT? Has it been widened?

Prof Bartels: I seem to have handed up a copy of my submission, or possibly left it at home. There is not actually any clear evidence on it but there has not been any robust analysis of it either, I must say. So it is very difficult, at times, to determine whether net-widening has occurred. It is certainly the case that the use of imprisonment has been going down in the ACT.

It is one of the few jurisdictions in Australia where that has been the case. So it is probably fairly safe to say that there is no evidence of net-widening and that that is not occurring, but there is a difficult relationship generally between expanding the use of community corrections and whether there is a reduction in imprisonment. But I think in the ACT, to the extent one can tell, there probably is not evidence of net-widening.

MR BRADDOCK: Okay, thank you.

THE CHAIR: I note that on page 16 you advocate for the expansion of restorative justice to federal offences investigated by ACT Policing. What is the frequency of that kind of offence that is not able to be turned towards restorative justice? What is the nature of those offences, and how big an issue is this at the moment?

Prof Bartels: I do not have specific data. This was put forward by two of our other patrons, Rudi Lammers, who was formerly the chief police officer here in the ACT and John Braithwaite, who is generally regarded as one of the founding fathers of restorative justice. I suppose we would have to speak to them and/or there would have to be data taken from ACT Policing as to how frequently that occurs. But obviously, currently, they can only deal with offences that are ACT crimes, and anything in the commonwealth space would be outside the purview of the Crimes (Restorative Justice) Act.

THE CHAIR: While I do not want to add to your very busy lives, are you able to perhaps fill out some detail on that statement?

Prof Bartels: We can certainly find out, yes.

THE CHAIR: I really offer that as something you could volunteer, rather than ask it as a formal question on notice, but are you happy to take it on notice?

Prof Bartels: Yes.

THE CHAIR: Thank you.

DR PATERSON: In your submission on page 9 there is a quote from the New South Wales government, and it says that community safety is not just about incarceration. In the previous evidence, we heard from an ex-police officer who was a victim of very serious crime, and the perpetrator was given an intensive corrections order. The

witness feels very strongly that this was not punishment to match the crime. I guess incarceration is also about punishment. So, from engaging with victims, how do you balance out incarcerating people and the price that you pay for committing a crime against someone, particularly in the context of the ACT, where we are just looking to increase penalties for family violence offenders. Where is the balance in all that?

Mr Humphries: Punishment is a very subjective concept, I think. If you have been the victim of a crime, you will most likely feel very strongly that the person who perpetrated that crime should be punished more severely than you might if you read about that crime in a newspaper and you felt, "This person committed a certain kind of crime; it should be punished in a certain kind of way."

I think it is important to satisfy the community that punishment is a feature of our criminal justice system, but it is also important to adopt measures of success which go beyond just the notion of being punished. The sense of rehabilitation and the sense of diverting people from the system in the future is far more important, in a sense, than simply punishing someone for a crime they have committed already. Much better to deal with that person in a way which prevents further occurrences of engagement with the system and further needs for punishment in the future. So we think that any of the measures that you apply suggest that there are serious problems with the process of the system, a serious lack of engagement with rehabilitation as a factor in the way in which our system works.

One of our co-patrons was referring to some stats that might be a little old now, but he mentioned that some years ago there was evidence that of the people who went through the juvenile justice system in the ACT, 100 per cent of those people ended up in the adult corrective system. So clearly, rehabilitation is, in that context, completely ineffective. It just is not working. I think that the community expects us, with such a large investment, to get better outcomes than that. Punishment is part of that, but it is, in a sense, less important than fixing the problem—dealing with criminality, removing the causes and reducing recidivism.

Prof Bartels: Can I just add to that? I was a member of the working group on sexual violence that gave rise to some of those recommendations that fed into the most recent bill. Part of that was looking at the legislative maxima for sexual offences, and recognising that they were lower in the ACT than elsewhere. So I certainly recognise that punishment is a critical part of a criminal justice system, but we also need to recognise that the research shows that victims are no more punitive than other members of the public, and it is something of a misunderstanding.

I am sorry to hear that this gentleman did not feel that he was satisfied with the outcome in his particular case, but it is a misperception that victims necessarily want to see the perpetrator, in their case, punished. What the research shows is that generally they want to see effective justice insofar as they do not want it to happen to someone else. And that can include something like a restorative justice conference, and that can include rehabilitation for the offender so that that particular offender does not reoffend. A range of outcomes can satisfy victims. I do not have in front of me whatever the page was that spoke about restorative justice and the outcomes here in the ACT. That shows that 97 to 99 per cent of both victims and perpetrators who participate in our RJ conferences are satisfied. That is an extraordinary level of

satisfaction.

So RJ can be a very effective mechanism for victims to walk away from the system, having participated in a process where they understand why the perpetrator did what they did. They have had a say in the punishment process. Mostly that includes an apology from the perpetrator. It is not a punitive response, per se, but it does yield satisfaction for them. So that is a very clear example, probably the most clear example, based on empirical evidence, that demonstrates that it is not as simple as "Heavy punishment, victim is happy; light punishment, victim is dissatisfied."

DR PATERSON: Yes, thank you.

THE CHAIR: I have another supplementary question on the theme. Obviously, there are views that incarceration is not just about punishing an individual but also about preventing them from moving freely, unhindered in the community in which they inflicted the damage. Obviously, from a victim's perspective—we have heard about this first-hand this morning—there would be some victims, particularly in the domestic violence space, who would not be happy with the knowledge that the perpetrator is free to move in the society. Do you have a comment or view on that?

Prof Bartels: Yes, absolutely. The reality is that anywhere between 95 and 98 per cent of people who go to prison will return to the community. So, although prison does have a role to play in incapacitating people during the time that they are in prison, they will return to the community. So the challenge is to ensure that anyone who is removed from our community for a period of time returns to the community a better citizen then when they left. But there are means to keep them in the community in a way that is safe, and I will be speaking to this committee shortly about electronic monitoring and the role that that may potentially play, but there are other ways to keep someone in the community and put systems in place so that they are not a risk to the community, a risk to the victim and a risk to themselves. So conceptualising prison as the only way to incapacitate is unfortunately not a helpful way; it is only a stop-gap measure, because almost all of those people ultimately will return to the community.

THE CHAIR: I have another supplementary question. What is the idea of prisons being a focus, shifting from "We are going to keep you away from the community," to a place where restorative justice principles can be practised and applied and imbued into the whole purpose of that incarceration?

Mr Humphries: I was going to say that I think this is where community corrections play such an important role. They have the chance of taking a person who otherwise would end up in the criminal justice system, or who is leaving it on parole, and putting them in a real-life, real-world context and dealing with the issues that have contributed, potentially, to their criminal offending in the first place.

I suppose, a prison has to be the anchor point for any criminal justice system. Although we are advocating for less jailing, we realise that prisons are still needed; they cannot be dispensed with. But pushing the emphasis out of prisons into other forms of management of the issues that lead to criminality is the key to making this a successful transition away from a prison-based system.

THE CHAIR: Thank you.

MR BRADDOCK: I am interested in your perspective on the transitional release centre at the AMC, which is admittedly underutilised and also, the justice reinvestment centre, which is hopefully coming down the track. How do you see them working within the corrections space?

Prof Bartels: So my understanding is that last year something like eight people went through the TRC. Is that—

MR BRADDOCK: It would be in that vicinity; yes.

Prof Bartels: In that vicinity. I was looking at the Australian Bureau of Statistics data, and they reported about 200 people leaving the AMC every quarter. I do not know if you can necessarily multiply that by four and say it is 800, but it is in that order of magnitude. To have only eight people go through the TRC is a lamentable underutilisation.

I have seen proposed revisions to the TRC eligibility criteria. I think it has been freely acknowledged that the TRC has not been operating as intended. Some of that is due to COVID, and I appreciate some of the complexities that have beset AMC management in recent times. It has been a very complex time for corrections around the world, quite frankly, but especially here in the ACT. I know that there have been efforts underway to increase the flow of people through the TRC and to expand the way the TRP operates, and I certainly strongly support that. In terms of the proposed reintegration centre, my understanding is that that has been shelved for the foreseeable future, and I think that that has been the subject of disquiet for a number of members of the community.

MR BRADDOCK: Thank you.

THE CHAIR: Are you aware what the rationale is for delaying this reintegration centre or not instituting it?

Prof Bartels: I am not sure that there has been any official decision articulated publicly.

THE CHAIR: We might be interested in the Attorney-General's response this afternoon.

Prof Bartels: I will be listening with great interest.

THE CHAIR: Sadly, our time has come to a close.

Prof Bartels: Thank you.

THE CHAIR: On behalf of the committee, I would like to thank you, Professor Bartels, and Mr Humphries, for appearing today. When available, a proof transcript will be forward to you to provide an opportunity to check the transcript and identify

any errors in transcription. I believe you took some questions on notice and your answers would be appreciated within one week from today. Thank you again for sharing with us and for your submission.

Prof Bartels: Thank you very much.

Mr Humphries: Thank you for your time.

DOYLE, DR CAROLINE, President, Prisoners Aid (ACT)
SMITH, DR HUGH, Vice-President, Administration, Prisoners Aid (ACT)
TIBBITS, MR GLEN, Manager, Prisoners Aid (ACT)

THE CHAIR: We will now move to the next witnesses appearing today. We have Dr Hugh Smith, Dr Caroline Doyle and Glen Tibbits from Prisoners Aid. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. Can I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table, the pink document. Could each of you confirm for the record that you understand the privilege implications of the statement?

Dr Doyle: Yes.

Dr Smith: Yes.

Mr Tibbits: Yes.

THE CHAIR: I would like to invite perhaps one of you to make a very brief opening statement before we get into our questions.

Dr Smith: I will do that. Thank you, Chair and members, for this opportunity.

THE CHAIR: Masks can be off while you are speaking.

Dr Smith: Prisoners Aid stands for social justice and a fair go for all—not least the original inhabitants of this country. We began in 1963. Since then we have helped thousands of prisoners, ex-prisoners, families of prisoners, people caught up in the prison and court system: accused people, victims of crime, witnesses, people in police cells, many in community corrections over the years. We have never been short of clients. If you would like to know more about the history of Prisoners Aid and what we have done, I would like to table this document, which is a history of Prisoners Aid.

Corrections in general is a large, complex, often unwieldy type of business involving police, corrections, court, prisons, Legal Aid, community orders et cetera et cetera. Each organisation has its own priorities and values, and rightly so, but they do not always fit together well. Often individuals are confused by the complexity of the system they encounter and simply do not understand what is happening to them or why it is happening or what they could do next.

We believe that Prisoners Aid fills an important gap in the system or gaps in the system. One of these is described in our submission as the individual who is let out of the courtroom and expected to make his or her own way to a rehabilitation centre. There is no official body responsible for getting him or her to that centre, even if it is on the other side of Canberra or in Sydney or wherever. That is something that Prisoners Aid has done several times in recent years.

THE CHAIR: Dr Smith, I am sure you will be able to give your detail in your statement in response to some of our questions. Is it okay if we move to questions

now?

Dr Smith: Yes, sure.

THE CHAIR: Regarding subheading 3 on page 3, you list as one of your objectives: to help the families of those in jail. We did hear yesterday from the corrections minister, from his officials and from others as well that sometimes this is a really problem area for a single parent/carer with children who is incarcerated. What do you think could be done to improve some of the outcomes that we are aware of in that kind of scenario?

Dr Smith: You are talking about a single parent who is put in prison—

THE CHAIR: Yes. Usually it is a mother, of course, but not necessarily always.

Dr Smith: Yes. It is not a problem easily solved. I would think one important factor is to maintain relations between the parent and the child or children as much as possible. In some cases I believe the child can be with the mother, especially very young children, although there are difficulties with that. That would be the key factor. I do not know whether others have—

Dr Doyle: Yes, exactly as you said. It is about ensuring that we can maintain those relationships and sometimes it is about visiting at an appropriate time for the child, visiting their mum or dad in prison, and also making sure that phone calls are affordable and that they are also able to be made at times—whether it is in the morning, whether it is during the evening—which sometimes do not fit in with the schedule in the AMC, It is about that importance of maintaining those relationships. I do not know if, Glen, you want to add anything.

Mr Tibbits: One thing that is very important in respect of keeping the contact and the family unit together is making sure every process of the child going from the home environment to the jail to visit—that is traumatic in itself for the child—is covered.

Looking at transport, we cannot expect to place these young children, even a teenage child, on a bus and be intimidated when arriving at the AMC to see their parent and then having to wait another hour or so. They have got to be there about half an hour prior to their visit and also, once they get out, they are still waiting possibly another 45 minutes for a bus home again. If we are not on daylight savings and we have late visits, this child is now travelling on public transport at night. SHINE for Kids do a very good job. We try and assist in every way we can with Ubers and have our volunteers who are possibly able to assist the children going to and from. However, there is also risk associated with that as well. So keeping that family unit together is of utmost importance not only to the child but to the parent as well. We need to focus on that, and trying to keep that unit.

MR BRADDOCK: Are there any jurisdictions that do that well in terms of keeping those family connections and all the different units together?

Dr Doyle: Define “well”. That is sort of—

MR BRADDOCK: Best practice, I will say.

Dr Doyle: I think this also comes down to, as Glen said, maybe SHINE for Kids does a little bit; maybe there is an equivalent to a Prisoners Aid which does a little bit; maybe a throughcare unit will do something similar; maybe the CRC, the Community Restorative Centre, which is in New South Wales, will do a little bit. I think it is about people are all doing a little bit and then are they reporting and saying, "Okay, what worked well?" "Mum and dad and the kids got to visit each other." Is that a tick? Or is it mum did not go back to prison or the child did not go back to prison? I think that is the challenge in saying, "Define 'well' and jurisdictions in terms of how they have been doing."

Mr Tibbits: It also comes down to finance as well, for the detainee in AMC. As you would be aware, the child cannot call the parent; the parent has to call the child; it has to be an external phone call from within. If that parent does not have money in their phone account, then there is no way they can make that phone call to the children and keep in direct contact with them. Even just listening to them talk about their day at school et cetera makes a huge difference. That is another worry there as well.

THE CHAIR: That does seem an obvious area to improve.

DR PATERSON: In respect of community correction orders or people who are out on parole, what is that like for people who are under orders and working with them? What are some of the needs that you see that could be addressed or things that we could do better?

Dr Doyle: Do you want me to jump in on this one?

Mr Tibbits: I will. I feel that the supports needed need to be of a greater standard—everything from food to assistance with clothing, not only for the perpetrator, so to speak, but also for the family. As you were saying before, we also deal with victims as well as people who have been convicted of those crimes.

We are non-judgmental in any way, shape or form. We prefer not to know anybody's past history crime-wise. We are there to support and help people move forward in society and we all need to work together—external agencies as well as government—otherwise we are all failing. And this needs to be done. If it is not done, we are all just moving along and nothing changes.

MR BRADDOCK: If you had to prioritise, where would you see the biggest gap which could be addressed by Prisoners Aid, which you are not meeting at the moment?

Dr Smith: Perhaps I could suggest something. I do say somewhere that one of the important things that we do is spend time with people, with offenders, with released prisoners and with families, and we hope to win their trust. We have no authority over them. We have no powers, no legal powers. We can only do our work through trust, and that means spending time with them, winning their trust, providing support, guidance, help, moral reassurance in whatever way we can. We need people to do it. We have a small staff; we have a few volunteers.

What I am saying is that the more time we can make ourselves available to people in trouble, the better the outcomes will be for them. None are guaranteed. We can bust a gut helping someone and the next day they will go and knock someone over. But equally, we get good results where someone has been on the brink of further crime. We help them out, give them accommodation for a couple of nights, a good feed and they come back a few months later and say, "I have got things together." But we never know.

We do know that unless we try and spend time with them—and time more than resources in a way; it is the personal relationship that can put people back on the right track—

Mr Tibbits: It is someone to believe in them. It is someone to mentor, in a way, even if it is an adult. It is someone to believe in their own ability to make the right decision. We have had many occasions where I have had people that I have been dealing with for six years and they have made such progress in their life they are no longer in the criminal justice system and they are proud of themselves. They are proud of the way they have made their way through, they are proud of the way they have got a job. One in particular is so proud that he did not have to steal to get Christmas presents for his children; he was able to save for bicycles and a PlayStation for them due to the hard work that he did.

These are really good success stories but there are also stories that people cannot find their way out from under, whether it be a drug addiction or whether it be an alcohol addiction, and we can only go so far with the people that we have—and we have very talented people—and we can throw more progress and programs into place that would make a hell of a difference.

We do have people that come back and see us in at the office at the court who thank us very much for everything that we have done for them, and this has let me know exactly what they have done in their life and how proud they are of themselves. That in itself is a huge pat on the back for all of us. It is not only us in the offices; it is everybody in Prisoners Aid, all the volunteers, everybody concerned. With a bit more effort and a bit more—and I do not want to say it—funding and things, we can make more of a difference. It is a matter of believing.

THE CHAIR: Within the scope of your activity and work focusing on prisoner aid, how much do you emphasise trying to get the prisoners to, in a way, recognise the damage they have done, which sometimes is to an individual and to an individual's person and sometimes that can be very serious and harmful? What role do you feel you can play in, I guess, restoring the relationship or getting some recognition from the offender about the seriousness of their conduct—restorative justice in principle?

Dr Smith: If I can begin on that, I would say that is not our primary goal. Our primary goal is to get through to the person, to win their trust. Often these people have never trusted anyone in their lives, not even parents, whom they should be able to trust. They are suspicious and they are aggressive, because they have no one to rely on or guide them. That is the first thing.

Sometimes what they have done comes out. We rarely would ask them what they have done—very, very rarely. Sometimes they are only too ready to talk about it because it is on their conscience and they feel bad, and certainly we talk them through that. At times, we might point out, "Do you realise what you did," once they have raised their crime and basically realised they have really hurt the whole family—"when you did such and such" or "you terrified the children"—but it is very much a matter of judgment by one of us on exactly how to work that issue. We do not want to come across as judgmental, because that will lose trust.

THE CHAIR: We will have a short break now.

Short suspension.

THE CHAIR: We are back live. We have reconvened after an interruption. We can proceed with two of us. We were coming to a close but we will come to a close very, very shortly. I think you were finishing some comments on my last question.

Mr Tibbits: Your question was whether we bring to the attention to the perpetrator, so to speak, the ramifications of their crime and do they understand that. No, we do not. If they wish to talk about it, we are happy to talk about it with them. But one of the comments that I do make to quite a few people that I interact with—and I ask them not to answer me right there and then— is, "How much time are you going to give of your family to drugs, alcohol, the justice system.?" They go away; I let them think about it; they do come back. Four out of five have an answer for me. They do not want to be in the position and they do not want to be there anymore.

DR PATERSON: We have heard about increased rates of women being incarcerated and also we heard from A Gender Agenda about the experiences of transgender, gender diverse and intersex people. I would really love to put the question on notice: are there different ways you engage with those different cohorts? Do they have different needs when they are coming out of the system?

THE CHAIR: We will take that on notice because time is pressing.

Dr Doyle: Sorry, it was just in relation to women, transgender and if there are different or unique needs that people require that you might need funding for?

THE CHAIR: Yes. On behalf of the committee, I would like to thank you all from Prisoners Aid for appearing today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and identify any errors in transcription. I note that you undertook to answer a question on notice, and that answer would be appreciated within one week from today. We do thank you so much for coming and spending time with us and also for your very worthy work through Prisoners Aid.

Dr Doyle: Thank you.

BARTELS, PROFESSSOR LORANA, Professor of Criminology, Australian National University

THE CHAIR: We move now to the next witness appearing today, again, after an interruption, Professor Lorana Bartels. On behalf of the committee, thank you for appearing today and for your written submissions to the inquiry. Can I remind you of the protections and obligations afford by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you confirm for this session that you understand the privilege implications of the statement?

Prof Bartels: Yes, I do.

THE CHAIR: Unless you want to make a brief opening statement, are you happy for us to move straight to questions? I will leave that to you.

Prof Bartels: I have just two things to say very briefly. Thank you for inviting me back. I have a paper to hand up which has just been accepted this week, subject to minor revision, which I believe may be of interest to the committee. It is called *Penal Diversity, Penality and Community Sanctions in Australia* which I co-wrote with Arie Freiberg, probably Australia's leading sentencing expert and, given the topic, I thought that may be of interest.

I also want to correct a matter that I heard in committee hearings yesterday around the drug and alcohol sentencing list, DASL. I believe one of the members appearing said that people with mental health issues are not eligible. They are in fact eligible to participate in the DASL program. As one of the evaluators of the program, I can attest to the fact that a number of the participants do have significant mental health problems.

THE CHAIR: Are you happy to take on notice, just to provide support for that, your position? Obviously others who appeared before us believe otherwise.

Prof Bartels: I have certainly read all the publicly available judgments in relation to DASL and there is evidence of that. I can forward some of those details to you.

THE CHAIR: I am throwing it up as an option to assist us.

Prof Bartels: Sorry?

THE CHAIR: I am throwing that up as an option rather than a requirement. Is that okay?

Prof Bartels: Sure.

MR BRADDOCK: I am very interested in what you presented around electronic monitoring. How much could this be utilised here in the ACT in terms of what proportion of offenders could potentially be going down this path of electronic monitoring?

Prof Bartels: I do not have any specific data, and obviously it would have to be a matter for corrections to provide modelling on that. I also do not have up-to-date numbers from other states and territories. But I think it can safely be said that, given that I gave evidence before, some hundreds of people are released from prison every quarter. More significantly, we have a number of people on bail. I am not saying that everybody who is subject to bail should automatically be subject to such monitoring; that would be a very clear example of net-widening. But I do think that in instances where there is a level of discomfort around giving someone bail and, certainly when we are talking about the sizeable proportion of people who enter the AMC on remand and the vast majority of people who enter the AMC—at times it is upwards of 93 to 94 per cent enter on remand—I think we could be looking at using electronic monitoring to see if those people can be retained in the community and fitted with this technology so that they are staying in the community rather than in prison.

MR BRADDOCK: I am just thinking particularly of instances of family violence. There could be a very helpful safety-of-community side to that as well.

Prof Bartels: The evidence from interstate suggests that. I do not have the figures in front of me as to quite how many cases that would be. That would be a matter for policing, courts and corrections to provide that sort of data. But I think the numbers would be quite sizeable.

THE CHAIR: I have a supplementary. Given your, I guess, single theme sort of—

Prof Bartels: We can talk about other topics too.

THE CHAIR: Noting you have been with us before—and thank you for that—we might have a range of supplementaries. I do have one. For the record, could you explain what electronic monitoring is and how it works? Why is the ACT the only jurisdiction in Australia not to have this device available?

Prof Bartels: It is a form of monitoring that generally is used as an ankle device, and it tracks where a person goes. Initially it would only really be able to track, by use of radio frequency technology, whether a person was at home or not. But with more sophisticated global positioning system technology, it can track where someone is. It is really not that radical in the sense that our telephones know where we are all the time anyhow. So it is a way of monitoring someone's location.

I am not the most tech-savvy person but I understand that, where it is used in family violence matters, for example, with the other person's consent, the family violence victim gets a ping if the person comes within whatever is agreed—the stipulated 500 metres or 100 metres of the home or the person's workplace, or whatever is the condition that they are not to come within that distance. There are different ways of setting it. For example, if it were a condition that the person not go within 100 or 500 metres or whatever of a school, you could put different settings on the technology of where a person can go or cannot go. Then resources need to be allocated to have someone monitoring where the person is in real time, and there are computer packages and algorithms that also can do some of that work.

As to why the ACT does not have it, again that would be a matter for government to

answer. As I said in my submission, I was asked to research this for the government in a report I did in 2014. That was a report that fed into what ultimately became the intensive correction orders. The report spoke about intensive supervision orders but ultimately they were called intensive correction orders. I was never told why EM was not taken up the government, so I cannot comment further on that.

Obviously, the technology is used elsewhere, although I know that it was only taken up in Tasmania relatively recently, with Project Vigilance which only commenced, I think, in 2020 or 2019 or something like that. We are late to the party but Tasmania only commenced it recently. Other jurisdictions have had it for longer.

THE CHAIR: We have the Attorney-General before us this afternoon. One of us might ask that.

DR PATERSON: The fact is that we are a human rights jurisdiction. I would imagine that there are human rights issues with electronic monitoring.

Prof Bartels: I think that is a good question. Obviously it is used in Victoria, which has the charter. It is used in Queensland, which now has similar legislation. So it is not an insurmountable impediment. The person does need to consent to it and generally other co-residents also would need to consent if it does have implications for them.

Yes, there are human rights implications, but I do not think that they are insurmountable, compared to being incarcerated. I am in regular contact with someone in the AMC who says, "You could fit anything around my neck, I would take it tomorrow." A lot of people, if given the option—if this were to be considered, I think it should be the subject of research with people to see what the appetite is with the sorts of people who might be using it—but certainly, this gentleman has said there would be huge enthusiasm amongst detainees who would say, "Fit me with anything that you want; I just want to be in the community."

Yes, there are human rights implications, of course, but they are not insurmountable.

DR PATERSON: The research on family violence is saying that electronic monitoring has been really successful. Is it because it acts as a deterrent or is it because police get notification straight away when there is an attempt at contact? Why is it working? Why does electronic monitoring work for domestic violence?

Prof Bartels: I think it is a good question. I think it is probably multiple things. There is a lot of research that demonstrates, around deterrence generally, that what is the most effective thing is the likelihood of being picked up. If we are driving on the highway up to Sydney, if we think we are going to get pinged, it is not so much whether we are going to get a $200 fine or a $400 fine; it is whether we think that the cops will get us.

Having that monitor on—and people who wear them say you get sweaty; they are uncomfortable; you are aware that you have it on; you are very aware that you cannot just pop around to the ex's house and it will not get picked up—that salience of the monitor and the knowledge that your actions are captured in real time, I think, does,

for a certain cohort, stop them engaging in the conduct that they are not allowed to engage in.

Anecdotally, and some of the evidence is, it creates accountability and provides the victims the breathing space. It also can then diffuse some of those tensions in the relationship because, if they are not going to the house or having that direct contact, then that removes, in some cycles of violence, a constant or near constant fear and a repetition of behaviours. By not being able to engage in that behaviour, then there simply is that separation.

Other experiences with electronic monitoring—and I imagine that pertains here too—are that, where it is coupled with a requirement that someone engage the perpetrator in a behavioural change program, then that is part of it. Generally, the evidence on electronic monitoring is it should not be the sole thing. It is a tool but it should not be the sole thing.

DR PATERSON: The next supplementary is about the police response. If a perpetrator does go near a victim, you have got to have assurances that police will be able to respond to that immediately.

Prof Bartels: Yes, absolutely. I think the issues in the ACT would be lesser than in probably just about any other jurisdiction in the country in terms of the size and the ability to get across the jurisdiction, compared with Tasmania, or the NT or other places. But of course, that would be a matter for the police to be adequately trained and adequately resourced to appropriately respond to incidents.

MR BRADDOCK: My question is: what would be the criteria you would apply if electronic monitoring should be applied here in the ACT?

Prof Bartels: I think that there would need to be adequate consultation with relevant parties; policing and corrections would have to be part of an extensive consultation process—and judicial officers. But I really see its application being for those borderline cases where the magistrate might have someone before them for a bail decision and the magistrate is thinking, "I just don't feel comfortable about you walking around in the community without some additional tool to feel that the community is safe; I am going to send you to the AMC because I do not have any other options." That is where I think it would be of greater utility.

At the other end, coming out of prison, someone might not be able to obtain parole from the Sentence Administration Board. They see out their sentence, they are going to get released in all likelihood anyhow, but the fact is that the SAB—again, it is maybe a little bit borderline—might say, "Here we have got a greater accountability mechanism to know what your movements are."

Again I just want to make it abundantly clear that this is not a panacea; it is not a silver bullet; it is part of a broader suite. There are still going to be housing issues, substance abuse issues, mental health issues and violence issues, but it is something that is missing in the suite, in the arsenal, of options available for monitoring people.

I think what happens—and the evidence in particular around remand in the ACT—is

too many people end up in the AMC because we do not have sufficient effective options for keeping them in the community.

DR PATERSON: We have the Sentence Administration Board coming up this afternoon, and I will ask them these questions about this. In this research there is a note there saying that victims do feel the electronic monitoring does work for victims of family violence. Is that research extensive? Do victims of family violence feel safe with the perpetrator out there if they have got electronic monitoring as opposed to them being incarcerated?

Prof Bartels: In the Australian context I am only familiar with what I believe is the only research from Tasmania and South Australia. I think that the Victims of Crime Commissioner would be best placed to speak in the local context. What I would say about the potential application here, and thinking particularly about family violence and section 9F of the Bail Act issue, is what emerged when I was doing the Family Violence Act review with Dr Dodd and Professor Patricia Easteal, which was that, because of the way that provision is currently framed, there were some complainants of family violence who did not necessarily want the person to be taken into custody but their say in fact was not taken into account and police did not have any other option. That is actually disempowering for victims and, if this were available, or something else—but in the present context, if this were available—it actually would be giving more of a voice to victims and empowering them and having their concerns legitimated.

You can readily imagine a scenario where what the victim wants is for the violence to stop but the person might be the main income earner; they might be an effective father to the children and having that person remanded in custody is not actually the best outcome.

THE CHAIR: Professor Bartels, thank you again and thank you for your commitment across the spectrum here. You have appeared before us twice. I think that is a very notable achievement. I appreciate your commitment. A proof transcript will be forwarded to you to provide an opportunity to check the transcript and identify any errors in transcription. We do have a question on notice, and it would be much appreciated if you could provide that answer within one week from today. The committee will reconvene at 2 pm.

Hearing suspended from 1.09 to 2.00 pm.

BEACROFT, MS LAURA, Chair, ACT Sentence Administration Board

THE CHAIR: We move to the next witness appearing today, Laura Beacroft, Chair of the Sentence Administration Board. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. Could I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Ms Beacroft: Yes, I do.

THE CHAIR: Before we proceed to questions from the committee, would you like to make a brief statement?

Ms Beacroft: No. I was not going to because I tried to make my submission fairly comprehensive and I think it is self-explanatory. I know we have always only got a certain amount of time. I will just draw to your attention that, if there is any data in my submission, I have tried to update it and I can provide you with that update if it becomes relevant. However, in checking the data, it does not change the trends that I have indicated there. It would just be another number to illustrate the trend.

THE CHAIR: I will get the ball rolling. Yesterday we heard from the Law Society—and in their submission and in the submission from Legal Aid—concerns about the waiting time for parole applications. While we have not yet had a hearing with Legal Aid, the Law Society suggested that it was to do with the timing of the meetings of the Sentence Administration Board and, I guess, the resourcing available to the board. The Law Society quoted a figure of three months for applications to be processed. Legal Aid quoted a figure of eight weeks.

Could I get your comment? Obviously, for short sentences a lengthy parole application process could actually see the person technically in prison longer than they ought to have been. Would you like to comment on that and give us your observation of the parole application process and whether you think it needs improving?

Ms Beacroft: There is always room for improvement, but I will just deal with the question about time frames. Time frames have gone up and down over the last few years, for a number of reasons. One of them has been resourcing, which has now been rectified. We have three judicial members instead of two now. We have also recently been resourced for two extra positions. Where that leaves us is that we are now sitting most of the time twice a week and even three times a week. We can have victims hearings, which has added an extra pressure. Of course they are very important, but I am just saying that victims hearings are now in the mix because of the victims charter.

I have got the current time frames for parole applications. We have not got a fabulous data system but we collect the data on very critical things, including time frames. At the moment there are two kinds of applications where someone is trying to get out of prison. One is a parole application, which is the vast majority, and then also there

could be someone who has an intensive corrections order that was cancelled and they are trying to get it reinstated. That is a very small number.

If we look at parole applications, the shortest period it took to completely finalise the matter—so they got a decision—was 57 days, and the longest was 244 days. I can provide this data afterwards. The average was 148 days. If we look at the average of 148 days, by my calculation, that is about 22 weeks to finalise.

THE CHAIR: Is this a parole application?

Ms Beacroft: That is a parole application. Let us look at time to first listing, which is the better indicator, because it can be to an offender's advantage to have the matter adjourned. They might not have accommodation. We do not want to just refuse them on the first hearing, so we will say, "All right, let's see if we can get you accommodation." So it is in their interests to have it adjourned. They might not have yet got a confirmed place in their residential rehab, so we will say, "We will adjourn rather than you having to start all over again." The time to finalisation might be something that is to the offender's advantage, in the sense that they get their accommodation or residential rehab and they get parole. Otherwise, we would refuse.

If we look at time to first listing, which is probably, I think, the better indicator, the shortest time for a parole application to be listed before the board from the date that we received the parole application was 37 days. The longest was 148 days, and the average is 86 days. By my calculation, that means the average time from when we get a parole application to when we list it the first time before the board is 86 days. That is 12 weeks.

At the moment, when it first gets listed before the board, we always have what is called the pre-release report from ACT Corrective Services. That is a very critical report; it is a statutory report. It has all sorts of critical information in there. It has been shown to the offender. The offender has commented. Accommodation has tried to be sourced and so forth. Eight weeks of those 12 weeks is essential at the moment, from the board's point of view, because we have to have that report. What we are trying to do is bring down that period from 12 weeks to eight weeks so that we list it immediately after we get the report. We are not there yet, but we do have those extra resources coming online.

THE CHAIR: From when have you had three judicial members?

Ms Beacroft: Three judicial members: from a year and a half ago.

THE CHAIR: The figures you have presented, even with that extra resourcing, seem to support the concerns of the Law Society and Legal Aid as well, even though they gave your average as less than what it actually is. For incarcerated periods of a short time, that is problematic, is it not?

Ms Beacroft: It would never go past their sentence date. If someone is applying for parole, we would not be making a decision after their sentence date.

THE CHAIR: I guess the point I am making is that they may actually be, as it turns

out, eligible for parole but may have served a full sentence.

Ms Beacroft: Yes, but what—

THE CHAIR: For which they have been denied a benefit?

Ms Beacroft: What I have not got is the figures for when the first date is after their non-parole date. At the moment we try to get an offender to lodge their parole application before their non-parole date. That is the first date they become eligible for parole. What happens is that a letter goes from our secretariat to anyone who is eligible for parole, seven months prior to their eligibility. There are processes within ACT Corrective Services—not perfect—that were looked at by the Ombudsman's review. Nothing is perfect; nonetheless, there are processes for an offender to get support and they get that letter straight from the secretariat to get their parole application in.

We will receive a parole application well before the non-parole period expires. If we do, they get processed and sometimes we are hearing matters where the non-parole period has not ended yet, so we have to determine that they get out in a month's time, because actually they are not eligible until then. I am sorry I have not got the data on the NPP. We have not got a great data system yet, so I am not in a position to tell you, of the matters that we are hearing, which ones are being finalised after the NPP date.

DR PATERSON: The Law Society was advocating for an automatic parole so that people do not have to go through the board for, I think, an under a year sentence. What are your views on that?

Ms Beacroft: Auto parole is familiar to me. They have it in other states. I have visited the United States and it is very common in the United States. It is something that at some point the ACT will have to consider, when the volume becomes such that a board cannot look at every single matter.

I think whether auto parole is a good idea or not depends a bit on what we mean by auto parole. If auto parole means by legislation or perhaps the court determines that you will automatically get parole on this date, I think what is critical is: does it then mean they are just effectively on a good behaviour bond or does it mean they are still subject to management and supervision by our board or the relevant board? If it is the latter, and they are still getting managed and supervised, I think, depending on the criteria you apply, auto parole could work.

It is still not offering the same level of scrutiny that we would offer. For example, if there is auto parole then a person, just like at the end of their sentence, could be released into very risky circumstances: homelessness, alcohol and drug services not set up. There are risks with that. At the moment that does not happen when we make our decision. We are looking at: what is the reintegration plan? Where are you going? Where are you living? Is it satisfactory? How often are you being supervised? And we are tailoring the conditions to the person's requirements. Have you got an NDIS plan? We want to talk to the case manager of NDIS. It is quite a different process.

Auto parole brings its risks. But volume, ultimately—I am not saying we are at

volume yet—I would think would put it on the agenda for very serious consideration.

MR BRADDOCK: I would be interested in what that volume would look like. Is the ACT close to this? Are we talking decades down the track?

Ms Beacroft: I personally do not think we are at volume now and, if it is the timing that is driving it, I think this year you will see us reduce those time frames because of the extra resources that are being provided. There are other things that can be done to make our processes efficient, which we are working on with ACT Corrective Services, like limiting the number of adjournments we have to do because really critical information is not yet available, which then clogs up our lists. If we do not have those adjournments, we are quicker.

My primary goal under the act is community safety, and I think auto parole brings risks. It might not seem obvious to many people, but if someone is released into homelessness it just brings a whole series of risks and I think you are going to find that recidivism is going to go up. So auto parole would have to be very carefully considered, carefully set up. It would take a while.

THE CHAIR: Forgive me if I did not pick this up in your answers, but do other jurisdictions in Australia have auto parole?

Ms Beacroft: As far as I know, they do. Jurisdictions with high volume have auto parole. That is my understanding.

THE CHAIR: New South Wales? Are you aware—

Ms Beacroft: I think New South Wales does. I have visited Queensland; they have auto parole there too, as far as I know.

THE CHAIR: Just on your concern about what the person might be released into—say, homelessness, which is to be avoided, of course—surely if they list a nominated residential address as a requirement for the application, that would, as best as one could, take care of that at that point in time?

Ms Beacroft: They would, but auto parole, as the term suggests, means they have a right to leave. It is just like the end of a sentence. No doubt they would be asked to give an address but whether it is actually a real address would be unknown. At the moment what happens is that the address is actually assessed by a community corrections officer, who normally does a home visit and interviews the co-resident; so it is quite a different story. But I am not opposed to auto parole; I am just saying it requires careful set-up and it brings risks that at the moment we do not have because we do not have auto parole.

DR PATERSON: This has come through your submission: "requires written authority from clients to indicate that a solicitor is acting for the client". There is another submission that talks about the justice review reform initiative. One comment is: "Applicants before the SAB are not eligible for legal aid assistance." We have not yet spoken to Legal Aid. What is the process? Is it only if you pay for a lawyer that you can get a lawyer? Should people have legal representation when they appear

before your board? What should we be doing there?

Ms Beacroft: It is a real question. Under our act, if someone is legally represented, the legal representative has a right to appear. We have had discussions with ACT Legal Aid. Obviously, it is best to ask them about their policies but, as I understand it, in some circumstances legal aid is available. In the past, when someone who particularly seemed to need legal representation made contact and we assisted that person to make contact with ACT Legal Aid, they were good enough to consider the matter and provide legal aid.

Some offenders are privately represented, but of course you have to have means to pay for the lawyer. We are always grateful when we have those legal representatives there. There are other advocates that can appear for offenders. They are not legal representatives. They might be from organisations that the person is involved with. I visited the Hawaiian paroling body and watched them. They have a permanent government-paid advocate who is a lawyer who specialises in doing the parole matters. They have a very high volume there and their matters proceed very quickly because of the skill of that person. We have a lot of matters and no doubt there would be a cost if such a person were to be made available for every matter.

DR PATERSON: In a best practice circumstance, would you have a lawyer there?

Ms Beacroft: Having seen the Hawaiian system, I think that having a trained advocate—it might not be a lawyer; it could be a really great paralegal—would be advantageous, obviously, to the offenders. As I say, the board always appreciates it when there is a legal representative present; it is a minority of matters at the moment. When I first started on the board, which was quite a while ago, there was virtually no legal representation.

The board has spoken to the Law Society. We did training through the Law Society. We did a mock board hearing, which I believe you can watch on the Law Society's continuing legal education stream. We have spoken to private law firms. I know everyone is trying to do more in this space and the board has tried to make a contribution. For example, it is my understanding that one of the criminal firms in Canberra has set up a pro bono service for women detainees. It is good to see that we have legal representatives for some of the women detainees and I think it is through that program. There are things happening, but more can happen.

MR BRADDOCK: I just wanted to go to victims. I noticed in your submission you gave some statistics about victims' written submissions and hearings where you hear from them. I just wanted to understand the extent to which victims have agency or are effectively consulted as part of this process. Is it a tick the box or is there a more in-depth sort of engagement happening there?

Ms Beacroft: As you know, the victims charter, which was an amendment to the Victims of Crime Act, began on 1 January last year. Even prior to that, the Crimes (Sentence Administration) Act, which is the act that broadly guides what we do, already had specific statutory provisions for when victims must be approached and their input sought. The board, through ACT Corrective Services, has had a position called the victims liaison officer, who is a very skilled person working with victims

personally. It is not a tick the box; they actually contact the victims and speak to them. We have got separation from that position because, in the end, the victim has to be in charge and in control of what ultimately goes to the board. So we only see what they decide ultimately goes to the board and we can make that material in-confidence.

I think what has changed since the victims charter came in is that we are going back to victims more and more now. For example, even though we are trying to speed up our breach time frames, in that short time frame before we hear the breach, we are still trying to go to victims where it seems very important. More and more victims are wishing to give their submissions orally, which means we have hearings, whereas before it was largely done through written submissions. I am finding that victims increasingly wish to give oral evidence, which is usually also in confidence. Does that answer your question? It is not a tick the box; it is very personal—

MR BRADDOCK: Have you done any surveys on the victims' experiences and has that satisfied what they have been seeking out of those processes?

Ms Beacroft: We personally have not done surveys. I know that the victims charter followed on from a lot of analysis of victims' experiences. All of the reports that I read showed that victims find all their engagement with the criminal justice system very difficult. It is a bit difficult for them to navigate their way through all the avenues they have to put their views forward. I know that the Victims of Crime Commissioner, through the work she is doing, is trying to make that better, and our victims liaison officer is also very aware of that. We personally have not done surveys, but I am very aware that a lot of victims find it a very gruelling process.

The commentary that we receive when victims give evidence is that they have found it much easier than they thought it would be. We are not a court, so we are not subjecting them to the rules of evidence. We really have a very informal hearing with them. I call it a hearing, but it is very informal. Even though we are being transcribed, it is usually requested that it be made in-confidence. We really allow them just to tell their story as they wish. They are almost always supported by a victims liaison officer. It is still very upsetting for them, obviously, because they will say, "Well, I'm retelling what I said at the court," which is their choice. We have got the material from the court, but victims may choose to retell it.

THE CHAIR: You have mentioned the victims liaison officer. I note on page 10—and we had some confirmation of this as well from the Victims of Crime Commissioner earlier today—that the position of victims liaison officer will be moving to the Victims of Crime Commissioner office in 2021-22. Given that we are well into the second half of that financial year, do you have an update on that transfer?

Ms Beacroft: My understanding is that that will be occurring. The victims liaison officer is employed by ACT Corrective Services. I understand that there is quite a bit of detail to be worked out for that transition to occur smoothly. It might be a question better put to ACT Corrective Services. From the point of view of the board, it is our understanding that the victims liaison officer will continue to do the work that they have done for the board. We have exchanged draft arrangements, if you like, with the Victims of Crime Commissioner just to completely clarify what that is. From the board's point of view, the transition can occur whenever it is suitable for everybody

else.

THE CHAIR: Percentage-wise, how many parole applications would be accompanied by—I am not quite sure what it is called—a victim statement or representation from a victim?

Ms Beacroft: I have got the numbers—

THE CHAIR: Even an approximate percentage figure.

Ms Beacroft: I am not sure if I gave the numbers—

THE CHAIR: You are always welcome to take something on notice if you feel you need to.

Ms Beacroft: During 2021 we had 13 written submissions and eight hearings. Normally, a victim would not do both. So that is 21. I can take it on notice.

THE CHAIR: Okay.

Ms Beacroft: It is a small but increasing percentage, and it tends to be the very complex cases, with very serious offending.

THE CHAIR: Thank you. I have a fresh supplementary on this. Regarding intensive correction orders, on page 5 you note that there has been a steady increase in breaches of these orders. Obviously, as more offenders are sentenced to this type of order, one would expect numerically the breaches would go up. But has the percentage of breached orders changed?

Ms Beacroft: I will have to take that on notice.

THE CHAIR: Okay.

Ms Beacroft: I can give you our data, but because we are coming from zero and we are only really just seeing—

THE CHAIR: Sorry; what do you mean by "coming from zero"?

Ms Beacroft: There were zero intensive correction orders. The cohort subject to an intensive correction order is really only settling down now, I think. I can tell you our rates over the last few years, but it is probably a bit distorting. Some judges and magistrates probably took a little while to start using them, so you might have had a bit of a distorted cohort subject to them initially; that is all. I can certainly provide what our data tells us. I think that the review of the intensive correction order—I am not sure if you have seen that report—might actually have the breach rate in there as well. I will have a look.

THE CHAIR: I am sorry; I just did not understand your statement that you were coming from zero.

Ms Beacroft: When intensive correction orders started—

THE CHAIR: In 2016, I believe.

Ms Beacroft: That is right. It seems like a long time ago, but in criminal justice time it is not a very long time. I am just saying that I think the cohort subject to intensive correction orders was probably very different for the first, second and third year, but now they are starting to be used more widely. You are probably starting to see what might be a more regular cohort. Our breach rate—and I can go back for the last few years—is really reflecting who was on the intensive correction order. All I am saying is that it might not be a great indicator of the true breach rate over the next few years.

THE CHAIR: There is going to be an increase in the numbers who breach, but whether there is a change in the proportionality of those breaches would be of significance, I would suspect.

Ms Beacroft: I can provide you with that data. We do that for every annual report.

THE CHAIR: Thank you so much.

DR PATERSON: As you would be well aware, there is a disproportionate representation of Aboriginal and Torres Strait Islander people in the ACT corrections system. We have read about the Yeddung Mura parole provider doing a trial of culturally safe parole. We also spoke to ACTCOSS and asked what could be done and what was leading to breaches and people being reincarcerated. Flexibility came up as a big thing, particularly in respect of the intensive correction orders. From your perspective, I have two questions. Do you feel that the board provides, or attempts to provide, a culturally safe environment for Aboriginal and Torres Strait Islander offenders? The second part to the question is: what services or things do you wish were in place that you could use as tools in your administration of offenders?

Ms Beacroft: The board aims to provide a culturally safe environment, but we would like more Aboriginal and Torres Strait Islander peoples to be appointed to the board. I know that this is a widespread wish. I know that the government in the past has really tried to do that. I am sure that is an ongoing goal. We are very fortunate to have one Aboriginal member, to the extent that she is available. We really like her sitting as often as she possibly can. But she is only one person.

DR PATERSON: Sure.

Ms Beacroft: We do have other people, including me, who have worked extensively with Aboriginal and Torres Strait Islander peoples. I would hope that that makes some difference to the way that the proceedings are conducted. We are fortunate in Canberra to have some support for Indigenous people appearing in front of us. There are Indigenous liaison officers, there are advocates and, wherever possible, we encourage and allow health professionals who might be willing to participate to provide support to people. It is not perfect, but we do try. There is more, obviously, that could be done.

There was a very important report done—I am sure you are familiar with it—by the

Australian Law Reform Commission which looked at how we can reduce incarceration of Indigenous people. There is a whole chapter on community corrections. That was a report which was based on an enormous amount of research and consultation. Even though it was brought out a couple of years ago, 2018 I think, it is still probably one of the most important reports that one can look at. In very broad terms, what it essentially says is that in making sure that we are culturally safe, that we operate in a culturally safe way, we also have services that are tailored to Aboriginal and Torres Strait Islander people. They talk a lot in that report about what that means: being trauma informed, being culturally appropriate and being tailored to the individual.

I think another important thing in that report that was done by the Australian Law Reform Commission was about making sure that prison rehabilitation programs and post-prison services can deal with what we call complex needs. I can really underline that. For people who have spent quite a bit of time in the criminal justice system—and, unfortunately, that can be some Indigenous people—often you can see that it is about complex needs. They have experienced trauma as children, they may have all sorts of health or disability issues and they might not be literate. That is called complex needs. That is before you even get to some of the more practical things like housing and family support. There is a lot of evidence to show that unless we are very careful about the way we set up and fund services, they will cater for the easier people. If we are going to reduce recidivism and help some of the Indigenous people that I meet, they need to be able to deal with what I call complex needs, and effectively deal with it. That means long-term support too, because it might not necessarily be a lifetime swap from that service; complex needs can be about lifetime issues. I am really just paraphrasing what is in the Australian Law Reform Commission report.

THE CHAIR: Thank you.

MR BRADDOCK: In terms of how the Sentence Administration Board used to sit within the ACT courts but has not been able to, I am trying to understand whether that was due to COVID. What was the reason given as to why you can no longer sit there?

Ms Beacroft: About 5½ years ago the Chief Justice wrote to me and the ACT government and said that she did not wish us to sit in the court complex anymore because it breached the separation of powers. There has been a process which the government has been managing. For a while we continued to sit there, but at a certain point we moved out. That coincided with the beginning of COVID. But that is the main reason we do not sit in the court today.

MR BRADDOCK: Is there any long-term plan to find you a suitable location in which to sit and address the issue you identified in your submission?

Ms Beacroft: It is probably best put to JACS. There has been a lot of work done to try to resolve this issue. It took a number of entities, including the board, by surprise, because in fact when the court complex was redesigned it had a dedicated room for the board. I am just illustrating that it was a surprising situation. Then COVID, of course, happened. As it turns out, the board was well set up for sitting remotely because we were having to—because we did not have a physical venue. At the moment, unfortunately, the board, even though it is trying to work therapeutically,

does all of our hearings by phone or Microsoft Teams.

MR BRADDOCK: Which is the concern you identified when orders are cancelled or suspended.

Ms Beacroft: That is right. In working in that way, it means we have not got the offender sitting in front of us. When we sat in the court complex, just like the court, we were sitting in a room often set up like this but the offender was in the room. If the board decided they had to cancel the order, because they were subject to a community correction order but the evidence was that the board needed to cancel that order, they were immediately taken into custody. Now, because we are sitting remotely, they are at the end of a phone, sitting in all sorts of locations, which, of course, is a great concern. We have to tell them we have issued a warrant. The police then have to go and arrest them. We do ask them to hand themselves in, and there are some offenders that hand themselves in, but what we are finding is that some warrants remain unexecuted for significant periods of time.

DR PATERSON: You have just spoken about offenders having complex needs. You have got to have technology and it can be complex to get online and communicate online. Just for the record, this is not an ideal situation at all. Do you think that the board should be placed in the court?

Ms Beacroft: Yes, I do. The first reason is community safety. What I just said to you is of great concern to the board. It has been happening for quite a time. There are all these days when an offender is now in the community when, before, they would not have been. That can be very risky for the offender because, knowing that the warrant has been issued, they can really sink low. That is a very dangerous moment for them and the community. Also, of course, we are concerned about victims. We should be sitting in the court. It is secure and there is a dedicated room for us.

THE CHAIR: I have a supplementary on the reasoning that you do not sit in courts. Obviously, being in the same building as another government function does not necessarily blur their separate governance responsibilities, in this case executive and judiciary. What was your reply to that conclusion as to why you could not be there, and what was the response?

Ms Beacroft: We brought it to the attention of the minister and the attorney. It is a matter for them in the end. I struggle to see, personally, how we could be interfering with a court decision-making process because we are just occupying a room. I have worked all over Australia as a lawyer and also as a bureaucrat and I am very aware that in courts all over Australia you have all sorts of tribunals and even bodies using the premises. For example, it was not too long ago that I had to go to Queanbeyan, and the equivalent of ACAT there was sitting in the Queanbeyan Local Court.

THE CHAIR: Which used to be the case in the ACT as well.

Ms Beacroft: Exactly, although it is not now.

THE CHAIR: The AAT defined—

Ms Beacroft: Exactly. Certainly, as far as I know, the courts in New South Wales are used for tribunals. The board is like a tribunal. Obviously, the board, when it has sat in the court, is very mindful of keeping our separation, if you like, from judges and magistrates. We use the public entrance and we are very happy to do so. We are very mindful that we have to maintain separation. In the past all we have done is use the physical space.

THE CHAIR: With respect to that decision, obviously you would not be here unless you were part of the executive. The judiciary do not appear before this committee.

Ms Beacroft: Correct. We are an administrative body.

THE CHAIR: What was the Attorney-General's position on that direction from the Chief Justice at the time?

Ms Beacroft: I might let you ask the attorney.

THE CHAIR: A different Attorney-General, probably.

Ms Beacroft: Yes. I do know that there has been a very considered process on foot for quite a period of time to try to resolve this issue, and I am very appreciative of that. I respect everybody's point of view, including the Chief Justice's point of view. But, in the end, there has to be some resolution of this because our current arrangements concern me greatly.

THE CHAIR: Once the new Chief Justice is appointed, which is not very far in the future, of course, will you be making a fresh application to sit in the court premises?

Ms Beacroft: The board has not discussed that yet.

THE CHAIR: Okay. I have a substantive. Regarding the Drug and Alcohol Court, I note that on page 6 you say that the board is currently managing the vast majority of "these offenders", and that is those under a drug and alcohol treatment order. Is that what you mean by that?

Ms Beacroft: No. I mean offenders who have very longstanding alcohol and drug issues. If someone is subject to an alcohol and drug order then they are not subject to the board.

THE CHAIR: Given the people who have come before you with that as an issue, it is to do with a parole application or an ICO review. Is that what you mean by "these"?

Ms Beacroft: What I mean is people with very complex alcohol and drug issues. A good proportion of the people appearing before the board fit that categorisation—

THE CHAIR: In other words, for their parole—

Ms Beacroft: and, for whatever reason, are before the board.

THE CHAIR: Correct.

Ms Beacroft: But only a small number, for various reasons, can be subject to the alcohol and drug orders, partly because the eligibility criteria, as I understand them, are quite narrow. That is a matter for government, but I just make the comment that they are quite narrow.

THE CHAIR: That has been raised with us as well.

Ms Beacroft: I think it is widely accepted that they are quite narrow. All of these things are trade-offs, I know. It just means that there is a relatively small number that can be subject to those orders. I think I saw that it was 23 people at 30 June 2021.

THE CHAIR: Sure. I was really leading into clarifying your language in the line: "The board's experience is that rehabilitation services are not at a scale or tailored adequately to support these offenders." We have heard this many times in different forums. What concrete steps could be taken to close that gap, in your opinion?

Ms Beacroft: If I could first start with the Drug and Alcohol Court, which I am very supportive of. I think that when we introduce innovations of this sort we have to be very careful that we do not rob Peter to pay Paul. What I mean by that is that the people who are subject to alcohol and drug orders may not necessarily be the people who are at highest risk to the community with alcohol and drug problems. That is not how criteria work. The board has people who have very high needs in alcohol and drug care who may be higher risk than those subject to the orders.

We just have to be careful that the limited resources available for intensive alcohol and drug support and treatment do not automatically go to those on those orders when, in fact, we may have people before the board or just in the community, quite frankly—not even in the criminal justice system—who still might have higher risk for the community. That is one point I would like to make. There are limited resources. There just has to be an understanding of that. I know that the ACT government has really tried hard and has done various things to try to fund more places in residential rehabilitation establishments. That is very important.

This comes back to the Australian Law Reform Commission's point about complex needs. In my experience, people with the most entrenched alcohol and drug issues often have very complex needs. They have trauma, they have probably been doing drugs for quite a while, they have perhaps very little support and they may have disability and mental illness on top. Having places that can cater for people like that is really important. They are probably the hardest people to work with. I am seeing some progress. At one point there were even eligibility criteria that knocked people out. I think NDIS is also contributing here. There is not meant to be overlap but sometimes there can be some supports in their packages. It is a slow process and it is a hard area.

DR PATERSON: We had Professor Bartels here before, and her submission was focused on electronic monitoring. I am interested to know what your position on that would be and if you would view that as a useful tool? Do you see that there are potential negative or positive outcomes of that?

Ms Beacroft: I did read Professor Bartels's submission. She would know better than I

the evidence around whether it works or not. I think it is a little bit like auto parole; it depends a little on what you are talking about and what context it would be applied to. My understanding of electronic monitoring is that it is meant to be a deterrent but, like any deterrent, it is not perfect. If you have a very wilful offender, they can take it off or they can even commit a crime while they have got it on, as happened, as we know, in Darwin with that terrible offence.

It could be quite expensive. I noticed in Professor Bartels's submission that she was saying, "This has to be done in conjunction with all those other things that you would do, like alcohol and drug treatment, and whatever else you are doing." I think the danger is that if it turns out to be quite expensive it will take the focus off some of those people-oriented strategies that are very important. I can see there is some evidence that it can work in some contexts. I think the devil is in the detail with it.

DR PATERSON: Thank you.
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MR BRADDOCK: I am interested in the experience of offenders who might have young children that they are responsible for. How does the board handle those situations or cases?

Ms Beacroft: That is a very difficult issue. Are you talking about a scenario where they might be cancelled and they have got young children in their care?

THE CHAIR: It could be that, it could be someone who is coming out of detention and needs to take up their care and responsibilities again or it could be someone who is on an ICO who has young kids but might be breaching orders—that sort of thing.

Ms Beacroft: The community corrections officer, when they provide us with the report, will cover that. They go to child and protection services and that will be provided to us, sometimes in an in-confidence submission or sometimes in the report that is shared with the offender. We do look at that, yes. Under the act, community safety and the public interest are our primary concern. Obviously, we have to make sure that children are looked after. In relation to cancelling, we have had situations where we were sitting at the courthouse when someone attended with children. That is a very difficult situation. The community corrections officer assists us and they contact the relevant authorities, but it is obviously a distressing situation. It is something that is covered in the reports; we discuss it with the offender and it is a consideration.

THE CHAIR: For a sole parent carer—it is usually the mother, or it could be a father—would you consider, in a parole application, for example, or even a breach of an ICO, that the best interests of the children might be served with the parent out of incarceration?

Ms Beacroft: That is one of the considerations we take into account. If there is any submission from child and protection services we would take that into account. We would ask the offender. In cases like that, it is always helpful if there is another relative who might also be participating, so they know what is happening. The board is weighing up a lot of factors. Obviously, the board is very reluctant to remove a sole carer from children but, on the other hand, we have to weigh that up with the other

factors we are required to look at.

DR PATERSON: We spoke to the Victims of Crime Commissioner this morning. There is a lot of research and there is a lot of investment in domestic and family violence. This is very much a different type of offending. Specialist risk factors and all that kind of thing come into play. As the board, do you feel you have adequate training and awareness of the differences? And what are the challenges in working with family violence offenders?

Ms Beacroft: Any entity, including the board, could have more training. There is more and more information becoming available. I personally have quite a strong background in that, so I am aware that it is regarded as specialist offending. It is a very difficult area. There are very few people who are experiencing a life sentence in custody. So what you are really looking at with parole, and even a reinstatement of an ICO, is timing, when a person gets released. I think the processes we have to seek input from the victim are very important. We take what the victim says very seriously. We have got access to any orders, past or current, in relation to personal protection and family violence. We have got the national system now, so we can see national orders. It is considered a serious offence and so the bar is high for release.

THE CHAIR: Your opening words were almost: "We do not have a fabulous data system." It would probably not be difficult to find any head of a government agency saying the same. What would be your top two things to fix and what are the implications, at the current stage, of you fulfilling your statutory responsibilities?

Ms Beacroft: This has been a topic that I have personally discussed quite a bit with ACT Corrective Services. What I hope will happen, and what I think will happen, is that in the next little while we will look at how we might move to a more paperless system, because at the moment the board works very much on a paper-based system. That would give us tremendous efficiency gains, but it would also mean that dropping out of that would be a reporting system.

That is the obvious way forward. I think that is what has got to happen. I do not think what I have just said is rocket science. It is just a matter of making sure that it is prioritised. The importance of the board within the whole criminal justice system is becoming better understood, I think. The data, if nothing else—the anonymised data, obviously—can help reviews and that sort of thing. I guess at another level it is also an efficiency gain, if we come back to the question about timeliness. The staff are tremendous, but obviously if we had a more efficient system it would take less time to just get ready for hearings.

THE CHAIR: Ms Beacroft, would you like to take a couple of minutes to make a closing statement before we wind up this session? Only if you wish to. Otherwise, we will wind up a few minutes early.

Ms Beacroft: I did want to just draw your attention to a COVID measure that I have concerns about. I think I set it out fairly well in my submission.

THE CHAIR: What page is that?

Ms Beacroft: It is on page 10 under "Any other relevant matter". It is underneath where I talk about the lack of a face-to-face venue.

THE CHAIR: Yes.

Ms Beacroft: A COVID measure was brought in in 2020 which empowers community corrections officers to deal with breaches. The board would be supportive of that in principle but, in its current form, it allows community corrections officers to deal with any breach for any offender. That is not what the explanatory memorandum for that provision said. It said that it was minor breaches for minor offending.

THE CHAIR: Interesting.

Ms Beacroft: The other point I would like to make is that the explanatory memorandum also said that, in any case, the board has full supervision of what they do. That is not correct. We do not even know about some of the decisions that are made. We only know if a warning is raised, and there is a delay in us receiving that information. We work very cooperatively with ACT Corrective Services. I am not sure exactly what transpired for this COVID measure to occur without us even knowing it was being drafted. It was just one of those things that happened in the middle of COVID.

I personally think it should be repealed so that we can get something better in place, and it is of great concern to me. For example, I will just go back and look at the case studies of where a community corrections officer has exercised this discretion in the last little while. Since that COVID measure came in, we only know about the ones where the warning has been given; we do not know about the ones where no further action has been recommended by the community corrections officer. We have had 29 instances where a warning has been given. When the board gets a notification of that—but it is rather late in the piece—we can have a management hearing. In fact, it is slowing down the process of scrutiny; it is not speeding it up.

If I just look at some of the examples from the last little while, we had an offender who was on a very long parole period. That is because he had been convicted of seven acts of indecency against a young person—that is, a person between 10 and 16 years of age. He had travelled interstate without permission for some days, without the knowledge or permission of a community corrections officer. That might not sound like much, but for the board that is a big warning bell. We do not know why they are doing that. What are they doing there? The community corrections officer gave him a warning and the board, in that case, got notification of the warning, but rather late in the piece, and then called a management hearing. It might just be an innocent error but, from the board's point of view, we would not regard that as a minor breach by a minor offender. I am just coming back to the point that if the intention of the COVID measure is that, we would not regard it as that.

Another example: a person on parole for numerous driving offences, including drug driving. While he was on parole, he had a very long period of not reporting at all to his community corrections officer. He got a DG sanction; no further action. In other words, the board did not even get a notification of that, so we could not have a management hearing. Then followed another long period of not reporting and in that

period he committed more serious driving offences. Ultimately, when the board got notification of the longer period, the second longer period of not reporting, we cancelled his parole.

Again, I would not regard those as minor breaches for minor offending. I just make the simple point, really, that the board is supportive of a community corrections officer acquiring a power to deal with breaches, but to be consistent with the explanatory memorandum it should be genuine minor breaches for genuine minor offending. In order to do that, the legislation needs to be changed and the guidelines that are in place need to be changed. We have a process on foot to try to work this out with ACT Corrective Services, which we are grateful for, but the legislation, in my view, needs serious review.

THE CHAIR: We might close on that. Thank you for drawing that to our attention. On behalf of the committee, I would like to thank you for appearing today on behalf of the Sentence Administration Board. When available, a proof transcript will be forwarded to you to provide an opportunity to check the transcript and identify any errors in transcription. I believe you undertook to answer a few questions from the committee, and those answers would be appreciated within one week from today. Thank you again for coming before us and for your submission.

Ms Beacroft: Thank you.

RATTENBURY, MR SHANE, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction
McNEILL, MS JENNIFER, Deputy Director-General, Justice, Justice and Community Safety Directorate
GREENLAND, MS KAREN, Executive Branch Manager, Criminal Law, Justice and Community Safety Directorate
NG, MR DANIEL, Acting Executive Group Manager, Legislation, Policy and Programs, Justice and Community Safety Directorate

THE CHAIR: I welcome Minister Rattenbury, the Attorney-General, and accompanying officials. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that is before you on the table. Could you confirm for the record that you understand the privilege implications of the statement?

Mr Rattenbury: Yes.

Ms McNeill: Yes.

Ms Greenland: Yes.

Mr Ng: Yes.

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

Mr Rattenbury: No, thank you, Chair. I am happy to go straight to the matters that the committee would like to focus on.

THE CHAIR: Okay. Dr Paterson will lead off on this occasion.

DR PATERSON: We have just heard from the Sentence Administration Board. In their submission they talk about how it has been at least a couple of years since they have had a physical place, so they have been conducting their board hearings on Teams for a couple of years.

Mr Rattenbury: Yes.

DR PATERSON: That seems problematic, potentially, in terms of people with complex needs. With Teams, you must have technology and that kind of thing. Also, the board pointed out that people cannot be directly taken back into custody, so there are often people in the community, sometimes for days, who should be back in custody. Is this an urgent matter for the government and is it something that can be resolved fairly quickly?

Mr Rattenbury: This is a matter that I am deeply concerned about. It is not a matter that the government can immediately and directly resolve. The government has had considerable discussions with the judiciary about this matter. The judiciary, as the

operators of the court building, are the ones who can make a decision on the use of that building.

DR PATERSON: Is there alternative accommodation that could be provided, other than the court, urgently?

Mr Rattenbury: No; the court is the most suitable location. The court was designed to take the Sentence Administration Board, to have an appropriate facility for the Sentence Administration Board. In light of the issues you have raised about the potential for people who are appearing who might currently be in custody or are subsequently taken into custody, the provision of secure cells, safe cells, and the various mechanisms around that, is essential. We do not have any facilities for that in the ACT other than at the courts. Obviously, to construct a new facility like that would take both a number of years and be very expensive. We continue to raise that matter with the court and we hope to be able to resolve it in the coming months.

THE CHAIR: Apparently, it is possible in other jurisdictions for a sentence administration board or even another government agency to operate from within a court precinct. What is it that is peculiar about the ACT in denying what is a very obvious, secure premises for such an operation?

Mr Rattenbury: You are right, Mr Cain; my advice is that in other jurisdictions there are tribunals or other judicially similar organisations that do operate out of court buildings. There is nothing that prevents it, other than the way the court chooses to operate.

THE CHAIR: You have no influence on the Chief Justice's administration of the precinct?

Mr Rattenbury: I have asked the Chief Justice and I have attempted to persuade the Chief Justice to accommodate the Sentence Administration Board. At this point I have not been successful in those approaches.

THE CHAIR: Noting that there is a new Chief Justice being appointed shortly, I am assuming you will continue those endeavours.

Mr Rattenbury: Yes, it will be a matter that I will take up very quickly with the new Chief Justice.

MR BRADDOCK: In the ACTCOSS submission they suggested that the expansion of intensive correction orders could be leading to net widening of the justice system across the ACT. I want to clarify or understand whether that is something that you are seeing from your statistics. Are you aware of this as an issue?

Mr Rattenbury: I might ask Ms Greenland to add a further comment on this. The starting observation I would make is that I have some hesitation about that ACTCOSS analysis, in the sense that the data we have seen in recent years, the Australian Bureau of Statistics prisoners in Australia data, has shown a decline in the prison population in the ACT for the last three years.

That three years broadly coincides with the period since ICOs were introduced in the territory. I was surprised by the flagging of a net widening effect and an increase in the prison population. We need to do some further work to understand the basis on which they have drawn that conclusion. It does not match the understanding that I have of what has happened to ACT prison populations.

One thing I could add is that, clearly, however, it is not our intent for a net widening process. The idea behind the intensive correction orders was to create an alternative to custody for people that are suitable for that. That suitability goes to the assessment that is done for the intensive correction orders around the offending type, the likelihood of reoffending, rehabilitation, and all of those other matters.

THE CHAIR: I have a question on electronic monitoring. We had a very well researched and strong case presented this afternoon from Professor Lorana Bartels about how electronic monitoring in the territory would certainly improve the incorporation of offenders into the community. It seems from what Professor Bartels was saying that the ACT is the only jurisdiction not to have such an opportunity available. Is there a reason for that, and what plans does the government have for introducing electronic monitoring?

Mr Rattenbury: We have looked at electronic monitoring in the past. One of the challenges for the ACT has been a question of scale, in the sense that we have relatively small numbers. To put in place all of the infrastructure to create a system would potentially be disproportionately expensive, compared to New South Wales or Victoria. Nonetheless, there could also be possibilities that we could seek to, say, contract through the New South Wales system, to use their overarching infrastructure and have them provide that service for us on a fee-for-service basis.

Those are the grounds on which we looked at it previously. I am aware of this from my previous portfolio as corrections minister; we did look at it. Probably the last time that we seriously looked at this was in 2019. Do not quote me on the date, but that is roughly the time frame. At the time we were not convinced that it was the right way for the ACT to proceed. That said, it is the sort of thing that we should continue to look at. Potentially, with improvements in technology, there could be better options for us.

The other thing we need to think about is what the scope of that looks like. To come back to Mr Braddock's question, we want to make sure that we do not get a net widening outcome and, because of potential breaches arising from having electronic monitoring, you end up with people getting more justice procedure offences, which is not what we want to do because that simply drives people further into the system. I think the flip side of it will be the potential for improved behaviour and better compliance, obviously, because of the constant monitoring.

THE CHAIR: You mentioned scale, yet Tasmania is able to operate this scheme, or is planning to. I would invite your response on that. Also, given that there was a scheme in the territory, can you fill me in on the background to that and why that was withdrawn?

Mr Rattenbury: I am not aware of the Tasmanian scheme, but you have prompted

me to go and have a look at it.

THE CHAIR: I refer you to Professor Bartels' submission.

Mr Rattenbury: I will look at that, yes. Can anyone in the public service help me with the history of the ACT scheme? I am not familiar with it.

THE CHAIR: Happy for you to take it on notice.

Mr Rattenbury: Sure. Ms Greenland, do you have any background on that one?

Ms Greenland: No, I cannot assist with that. We would need to get some additional information from corrections, where it was operating.

Mr Rattenbury: We will take that on notice.

THE CHAIR: Take that on notice. Thank you.

DR PATERSON: I guess you are in a unique position, as you were previously the corrections minister and are now Attorney-General, and that is very relevant to this inquiry in terms of where we go next. Were there lessons learnt when you were corrections minister that you feel are things that should be implemented now or where there are gaps in the system between the court system and corrections, particularly with community corrections orders, that could be improved?

Mr Rattenbury: I will start by saying that previously I was Minister for Corrections and Minister for Justice, where I had policy responsibility for a range of the justice policy areas as well. We set this agenda of justice reinvestment as a sort of driving agenda for the ACT government. The idea that we should invest our money in services up front that seek to either prevent offending or improve rehabilitation so that people do not end up in jail is the broad description of justice reinvestment. We also have our reducing recidivism strategy.

I can go into some of the details of what is in those, but the intention there goes to the heart of your question, which is, I think, about the future direction, in the sense that across Australia for the last couple of decades we have simply seen increasing prison numbers and every jurisdiction has had to expand their jails—build new jails, expand existing ones et cetera. That is an extremely expensive way to operate, and I think it ignores the fact that people only have a limited prison sentence. They go away for two years, five years or whatever, and they come back into the community. If they have not had strong rehabilitation or do not have the supports through the system, we see people then in that cycle where they just keep offending.

What I am trying to draw to, in answering your question, is that the view we have formed, and the area I think we need to continue to improve, is in that justice reinvestment space, where we make the investment in those interventions that mean that people do not keep cycling through the system. In fact, ideally, we put them on a better life trajectory so that they break out of the criminal justice system. That is the sort of broad principle answer. Within that, there are a lot of details, which I am happy to go to, but that is the broad direction.

DR PATERSON: Sure. I have a supplementary question to that. We had Mr Taylor give evidence earlier today. He was previously a police officer who was assaulted and went through the courts. He is a very strong advocate for victims and for sentences that reflect the crime and the impact. I asked this of the Justice Reform Initiative group as well. What is the balance between sentences that reflect the crime and, yes, rehabilitating people? What kind of balance is in our system, and do you think we have the balance right?

Mr Rattenbury: It is hard to answer that question from the individual case examples. We have done quite a lot of work in the ACT to improve the circumstances for victims. The victims of crime charter, which we introduced last term, has put a range of new obligations on justice agencies to better support victims, which for many victims are things like having better access to information and being updated about the progress of the matter. Those sorts of things are very important for victims to feel empowered. Particularly, violent crimes are very disempowering processes for victims. That is a theme you will often hear them talk about. So a lot of the focus in the victims' charter is to empower victims to feel like they have a better role in the process.

We have also, of course, implemented measures such as restorative justice in the ACT. The feedback from that is extremely positive. People who go through the process say that it is a very difficult process; it is confronting for both victims and offenders, I think, but ultimately very therapeutic. Late last term we expanded the restorative justice process to include sexual offences and family violence offences, where deemed suitable, and I think that reflects on the fact that the feedback on that process has been positive and that at the end of it many victims feel better.

I tell you all of those examples to highlight that we have had a good focus on trying to improve the circumstances for victims, but there will be cases where people feel that the sentence does not reflect the impact that it has had on them. As you know, we have a system where, ultimately, the judiciary decides the penalty. The judiciary tries to weigh up all of the circumstances before it, including the victim impact statement, which is why in the new family violence bill brought forward last week, for example, we have created that ability to adjourn a hearing so that the victim impact statement can be brought to the court in a case where a defendant might have pleaded guilty. Otherwise, it could go quite quickly and the victim would not have a chance to put that information before the court.

DR PATERSON: Thank you.

MR BRADDOCK: Talking further about victims, we had the victims commissioner here, discussing how there are actually three victims registers across the ACT government, none of which actually sit with the victims commissioner. This is something I am interested in. Why do we have three when one could suffice in this space?

Mr Rattenbury: We will have to take that on notice. It is sitting within Minister Cheyne's portfolio. We have done work to consolidate that, and I just cannot remember the details at the moment, so we will take that on notice and provide some

detail to the committee.

MR BRADDOCK: Thank you.

THE CHAIR: And supplementary to that—and I understand that you may take this on notice as well—not only are there three different registers but apparently they are sitting under three different management structures within government. I am not quite sure exactly where those are, but this is again from the Victims of Crime Commissioner. You can obviously follow her recording.

We also heard from the Sentence Administration Board that currently there is a victim liaison officer who works with the Sentence Administration Board. It seems that there is an agreement to transfer the registers and the VLO to the Victims of Crime Commissioner in 2021-22. Given that we are a fair way into that financial year, can you give us a specific time when those things will be accomplished?

Mr Rattenbury: Again, I will check on that. I am glad you added that last bit, because I was reluctant to contradict the Victims of Crime Commissioner. I know she works on this very closely, but I was sure we had done some work to consolidate that. Your last point comes to that. I will check the details on the timing of that and provide the answer to the committee in due course.

THE CHAIR: Thank you. I have a new substantive question.

Mr Rattenbury: Yes, sure.

THE CHAIR: We have heard several times over the last two days that the eligibility for drug and alcohol treatment orders is too narrow. I think there was even a submission from the Law Society that it is difficult to understand why it is not available from the Magistrates Court proceedings. I draw those criticisms to your attention and wonder if you have any plans to broaden the eligibility for what is a very worthy program.

Mr Rattenbury: Yes, it is. I am very supportive of the Drug and Alcohol Court, and the sentencing list is an important way to seek to make those interventions in peoples' lives and put them on a better track, which I was flagging earlier. As you may be aware, we are still in what might be called the pilot phase of the court. It was set up, on an initial basis, with a restricted number of participants to get established in the ACT.

The Drug and Alcohol Court is undergoing an evaluation process as part of that initial phase of funded work, and because of the impact of COVID we had a lesser number of people flowing through the system. We did defer the evaluation a little bit to have an adequate number of participants to be able to make a useful evaluation. So we are a little behind.

Those criticisms, I think, are exactly the sorts of things we want to flush out in the evaluation. Should the criteria be broader? Should we have more people eligible to enter into the sentencing list? Your question was about whether it should be available in the Magistrates Court. That was a design question right at the beginning of the

process. It is a quite intensive process—a sentencing list—and the discussion at the time was about what level of offender should be subject to a treatment order. They are quite intensive, and potentially in the Magistrates Court you have people who are quite early in the system. Applying a full drug and alcohol treatment order on them could be described as overdoing it because of the intensity of the order.

THE CHAIR: Well, what better time to get them but early on?

Mr Rattenbury: That is exactly the alternative argument, Mr Cain, and that will be something that we will be looking at in the evaluation process. That is why it went into the Supreme Court. The view amongst the range of academics and experts who worked on setting it up was that we should emphasise our resources in some of those more difficult cases, where the intensive treatment could really have an impact on someone who needed the more intensive consideration.

THE CHAIR: I do draw attention to the joint submission from you and the Minister for Corrections. There were only, at June 2020, six offenders serving a DATO, which seems way too low.

Mr Rattenbury: At that time.

THE CHAIR: At that time. That is the last figure we have.

Mr Rattenbury: But there are people going through on a constant basis, so, yes, the—

Ms McNeill: If it would assist, I have the current figures for people who are going through on the list. As of 2 February 2022, there were 29 active orders. To date, 51 treatment orders have been imposed, with 15 of those having been cancelled. Also, 104 candidates have been assessed for participation and there are 13 further matters going through an assessment process at the moment.

DR PATERSON: And what is the gender breakdown?

Ms McNeill: To date, there have been seven female participants and another two are being assessed for their suitability at the moment.

DR PATERSON: Okay, so it is very gendered, in that male offenders—

Ms McNeill: It is gendered in that regard, but you would see that the prison population is gendered as well. I do not know that anything should be necessarily read into that split.

DR PATERSON: I guess that, because it is not offered for lesser offences in the Magistrates Court, women may not fall into eligibility for it.

Mr Rattenbury: Potentially.

DR PATERSON: Potentially, yes.

Mr Rattenbury: Again, they are the sorts of questions I would want to see considered in the evaluation process.

DR PATERSON: I am not 100 per cent across the legal issue here. It was one that was raised by the Law Society, and it is about combination sentences. The Law Society witness was saying that there is an immensely problematic issue around intensive correction orders. It seems that the court may order an ICO if the sentence for imprisonment is not more than two years. For a sentence of imprisonment between two to four years, the court must have regard to factors set out in another part of the act.

The use of ICOs has been identified by one of the chief justices to be limited by section 29 of the act, which provides that in the case of a combination sentence, an ICO must not be used in combination with a sentence of full-time imprisonment. The society highlights that. The court works around it, but the implication is that to the public it looks as if the offender is getting a lighter sentence than they should, when actually they have spent time in custody prior to that ICO. So I am wondering if anyone can speak to that. It is in their submission.

Mr Rattenbury: We will see if Ms Greenland can assist us on that one.

Ms Greenland: Yes. That was an issue that arose in the review of intensive correction orders. One of the recommendations of the review report was that we look at whether there could be some change to sentencing to move to aggregate sentencing, because it makes it less complex to determine the totality of a person’s sentence, where they might have been sentenced on multiple matters at different times, to bring them all together under the one order.

It is a complex issue. It is certainly something that the report on that review indicated would be the subject of further consultation with stakeholders. That review report was tabled in February 2020, and while we have made some progress on a number of recommendations, that is one that is still the subject of potential discussion with stakeholders, because while it might be something that makes matters simpler in terms of ICO calculations or availability of ICOs, it also raises broader issues about changes to the ACT sentencing framework around the production of aggregate sentences.

DR PATERSON: Okay; thank you.

MR BRADDOCK: One thing we have been asking quite a lot about is sole parents with underage children and how they go through the justice system in terms of ensuring that family units are held together, if possible, or relationships can be maintained. I am just wondering what the government is doing to enable that to actually happen, where you are not splitting up families just to send someone into the AMC, for example.

Mr Rattenbury: Yes, thanks, Mr Braddock. It is a really interesting question and your point around trying to keep families together is an important one. Again, I think measures like intensive correction orders, which have been introduced, and a range of other alternatives to custody are an important part of that sort of response. If you have a single parent, that might be the basis on which they apply for an intensive correction

order, because then they can serve a range of other requirements and programs as part of their ICO but still potentially be in a position to be the parent to their children.

I was just reflecting on the observation Dr Paterson was making. I realise this was not your point, but I think one of the really significant things about ICOs is that they are certainly not a soft option. They are potentially very intensive processes that can require people to go through a range of treatments and the like. So in our design intent around intensive correction orders, we were quite clear to make sure that they were not the soft option, although they can certainly be a very useful option for perhaps the kinds of circumstances you are describing.

MR BRADDOCK: Thank you.

MR BRADDOCK: Maybe this question is more for the corrections minister. I am not sure. Are there options available in the AMC for sole parents with children?

Mr Rattenbury: Not on a long-term basis. I am using my memory here, rather than the current portfolio. There is a policy for the potential for women to have their children with them whilst in custody. This is generally targeted at infants, rather than six-year-olds or seven-year-olds. It is around the birthing process, but I cannot remember the details of that policy off the top of my head. I would be happy to work with the Minister for Corrections to provide the details of that on notice if you wish.

MR BRADDOCK: Thank you. Yes, I would.

THE CHAIR: I have a question about waiting times for parole applications. This was raised yesterday by the Law Society and Legal Aid. It was confirmed today that the average waiting time is 86 days for a parole application. So that is the background. Obviously, that could have a very deleterious effect on someone who is on a short sentence who may actually be eligible for parole for some of that time. Have you given consideration, as has been suggested by a few, to an automatic parole application process? We do not currently have that available in the ACT, but apparently New South Wales and Queensland have that as an option.

Mr Rattenbury: Did you discuss that with the Sentence Administration Board when they were here earlier?

THE CHAIR: We certainly did, yes.

Mr Rattenbury: I am afraid I did not see all of their evidence.

THE CHAIR: Yes.

Mr Rattenbury: Did they offer a commentary on that?

DR PATERSON: Yes.

THE CHAIR: Their commentary was about how beneficial it would be, because a lengthy waiting period for a parole application to be processed—

DR PATERSON: A sentence. For the auto parole, she was not—

THE CHAIR: Obviously it would deal with the category of parole applications that currently go to the process that ends up with a fairly high average waiting time.

DR PATERSON: But she said that they have a lot of scrutiny over parole applications—that, you know, people would be released into homelessness and that—

THE CHAIR: There are checks and balances that would be needed but obviously for non-serious offenders, perhaps on short incarceration periods, with checks and balances in place—like ensuring a residency is accompanied by the application—it would seem to be something meritorious to examine, at least.

Mr Rattenbury: We should have a look at it, Mr Cain. I have not had representations from the Law Society about that matter, so I will have to seek some advice on it. Of course, in the previous term we changed the parole arrangements around the clean street time. That was a situation where, if you went out on parole and you had an 18-month parole period and you got 15 months into your parole and then breached, you had the potential to have to serve the whole 18 months again. We changed the system to encourage people to apply for parole so that they would get credit for their 15 clean months. That is the notion of clean street time. That is the key parole reform we made in recent times. Unless my colleagues want to add any further commentary on this matter, I will take it as a matter to go and have a look at. I will read the Law Society's details on that and probably talk to them about it, because—

THE CHAIR: And the Sentence Administration Board as well, by the way.

Mr Rattenbury: Yes. If the committee would like to make a recommendation, I will then give you a more formal response through that process as well.

THE CHAIR: Thank you.

DR PATERSON: The Sentence Administration Board, in its submission, points to a problem within the COVID-19 Emergency Response Act. Apparently, community corrections officers can determine actions over breaches. There have been some very solid examples that the board brought to us. They were quite shocked about the way that they had been managed, and they found it really problematic, particularly in relation to sex offences. I was wondering if you had any comment on this particular COVID measure and if it would be something that could be repealed or should be repealed.

Mr Rattenbury: Just by way of the history of it, those measures were introduced in April 2020, at the first wave of lockdown in the ACT, when we were uncertain of both how long it would last for and how disruptive the lockdowns would be. So the intention behind it was to make sure that, if the SAB were unable to sit, they would have alternative ways of monitoring people. In terms of where it is up to, I will invite Mr Ng to make some additional comments.

Mr Ng: I would say that where that is up to is that the committee would be aware that last year the government introduced and passed a bill which kind of baked in and

made permanent a range of temporary COVID measures. That was an opportunity to survey what happened in the past and identify where the opportunities were to move a bit more efficiently. I think that has probably been one of the benefits of the COVID pandemic: it has encouraged different thinking about the best way of doing things. As part of that, we did engage with our colleagues across the territory on which of those measures we would like to be made permanent. There was a discussion with the Sentence Administration Board and our colleagues at ACT Corrective Services about whether that was one of the measures that should be made permanent.

Just be aware, the bill did not include that amendment and we are aware of the issues that the Sentence Administration Board have raised about how the measure was operating in practice. I think the chair indicated that there is a positive discussion going on at the moment with ACT Corrective Services. We hope that will continue, but obviously the position of government at that time was that it was not a measure that should be made permanent, and I think at least in part that was a reflection of the acknowledgement of the concerns that the board had raised.

DR PATERSON: The evidence we heard was that, apparently, the explanatory statement for that bill expresses that it should be for minor breaches, but what is actually happening is that it is being applied to all breaches.

Mr Ng: Yes. I think that is part of the discussion that is ongoing at the moment with ACT Corrective Services. But, yes, there is no kind of bill on foot, as you know, currently to repeal that bill. We hope these positive discussions with ACTCS continue. I guess we will give it ongoing consideration and there will be a point where further consideration has to go to whether the large tranche of COVID measures should be continued or ended.

DR PATERSON: Great. Thanks.

Mr Rattenbury: I think implicit in Mr Ng’s answer is that, while the public health emergency continues, we need those COVID provisions to remain. So while some have been made permanent, the ones that have not been still sit in place because of the ongoing public health emergency declaration, and those measures are all tied to the ending of that declaration.

DR PATERSON: Yes. Thank you.

MR BRADDOCK: Just on the government’s plan to reduce recidivism by 25 per cent by 2025, I am interested in whether we are on track for that. Are we likely to be able to succeed or do we need to adjust our approach?

Mr Rattenbury: There are a number of ways to tackle that. The first is, of course, the main indicator; and the traditional indicator as set out in the government’s submission is the simple ROGS measure of reoffending within two years, the standard definition of recidivism. For the last couple years we have made quite good progress. The baseline year was 2017-18, when we had an array of 44.2 per cent. We saw it decline over the next two years. In the most recent year it has gone down to 37.1; it got up to 38.5 when the ROGS data came out in the last few weeks. So it is an increase, which is obviously disappointing. We need to keep an eye on that. I think the measures that

have been put in place—the reducing recidivism strategies, the long-term measures—will gradually have an impact.

The other piece of work that we are doing, however, is thinking about what the best ways to measure recidivism are. The classic ROGS definition is "commit another offence within two years of being released". As a lot of the academic work and the thinking will show us, there can be other measures. For example, is it longer between people's offending or have they committed less serious offences? There are a range of other considerations. That is the partnership that we have with the ANU, who are looking at that and working with us on the datasets and looking at what are the appropriate measures. You might see that slight increase this year, but it might have been people committing lesser offences. We have made progress, even though one of the indicators has gone backwards. There is a complexity there that I do not want to use to confuse the primary indicator. But I think there are some secondary indicators that are also important for us to take into account.

MR BRADDOCK: I suppose the discussion I was having with the corrections minister yesterday was in terms of how we measure which activities make the biggest contribution or ensure that we achieve those targets. It was not a very clear picture coming out. It was sort of like, "We try them all and we hope it sticks."

Mr Rattenbury: We intend to be a little more rigorous than perhaps you have characterised it.

MR BRADDOCK: I am glad to hear it.

Mr Rattenbury: Again, the partnership with ANU has a strong evaluative component. Through the reducing recidivism strategy and a range of those justice reinvestments, there are programs that are being piloted, trialled and scaled up. They have various phases. We are keen to make sure that we are evaluating as we go. They are not set and forget exercises.

I have a very clear philosophy. This is a difficult area of policy and, if we are going to make a difference, we will have to do things. If we are bold at times, we will have to do things without having done them before. We have to be willing to both take those well-calculated risks to try new things and also be willing to completely scrap a program if it is not working or change it if it is not delivering the outcomes we anticipate. That is why the partnership with ANU, with those rolling evaluations, is a really important part of this overall program.

I know that in New Zealand they had a similar recidivism target. They made strong progress early, as we have, and then found that they were getting into cohorts of people who perhaps needed a different response. The programs they put in place did really well for the first cohort of people and were quite impactful, but then perhaps a more challenging cohort needed new ways to address them. Mr Ng, did you want to add anything on the evaluation program?

Mr Ng: I might just add to the answer the attorney has given. As has been said, there are various different measures of success in the reducing recidivism space. The government's submission identifies that there is the kind of binary one about people

that have returned to custody within two years of their initial offending. That is part of what the ANU valuation framework which ANU is developing is intended to produce, some of those secondary measures. I think the attorney mentioned some of them, but potentially a reduction in the rate of offending and seriousness of offending, a reduction in the frequency of offending and a range of other improved health and wellbeing and social connectiveness-type indicators. From there, I think the intention would be that that evaluation framework would be able to be applied to the range of programs that have not yet been evaluated. There is also this kind of program where a range of issues have already been evaluated. There are some that are currently under evaluation as we speak. There is that kind of short, medium and longer term proposition for measuring success in the initiative space.

DR PATERSON: I have a supplementary. We heard from someone that 100 per cent of those people in juvenile justice detention in the ACT have reoffended as adults or have very high rates of reoffending as adults. So, basically, going into a detention setting as a juvenile is not a great thing. Are we doing enough with that younger cohort to intensively manage, support or rehabilitate so that, when people become adults, they do not reoffend?

Mr Rattenbury: I cannot comment on the specific dataset. There is no doubt that there is a very high correlation between being involved with the justice system as a young person and progressing, if you like, into the adult correctional system. I think that is recognised broadly, but we see it very clearly in the ACT.

That is simply one of the reasons we are seeking to raise the minimum age of criminal responsibility. That reform very clearly is not simply changing the act to say, "If you're under 14, you're not responsible," but to make sure there is a service response that goes with that, which goes to your question about making sure that we have the therapeutic frameworks in place. Rather than a young person going into custody—many people describe it as a school of criminality, for want of a better term—we respond to them with those therapeutic interventions that, again, change their life trajectory.

You would perhaps be familiar with the work that we have done and the policy work from Morag McArthur, who has provided the government with advice on how to better design those systems. We are now costing some of the responses and evaluating against what we currently have. There are obviously systems in place at the moment in the ACT, but we are looking to improve those as part of the reform of raising the minimum age of criminal responsibility.

THE CHAIR: I have a supplementary on that. On restorative justice approaches, and obviously that goes towards lowering the recidivism rate, we heard from the Justice Reform Initiative that jailing is failing. That is what we heard, and the rationale behind that. I asked about the AMC as a place where restorative justice can happen, as opposed to, "You are either in jail or we are trying to fix you." What measures—and I know this may be more for the corrections minister—could the AMC have imbued in it to not make a sort of closed border of restorative justice practices?

Mr Rattenbury: That is a good question, Mr Cain. Obviously, the corrections minister can go to the details of the specific programs but, again, the broad policy

intent of the government would be that time in custody should not simply be time wasted. There is a prime opportunity for intervention, for the range of reasons that people end up in jail. We know that many people end up in jail because of drug and alcohol problems, mental health problems and related issues and, potentially, acquired brain injuries and the like. Prison can be an ideal time to work with them while they are in custody.

The other really important goal—and this goes back to our justice reinvestment agenda—is to make sure that we are investing in programs so that, when they come out, they are not just dumped back onto the street, but that the support networks are there so they do not relax back into offending or relax back into substance abuse and, therefore, into offending. In an ideal world, that is how we would operate. That should, over time, reduce the number of people going to jail.

THE CHAIR: Obviously, it would be interesting to see what proposals could be implemented in the AMC to avoid this picture of it as like: "You are a failure; here you are," as opposed to, "This is part of the process of getting you back to normal citizen behaviour."

Mr Rattenbury: I should be very clear. It is not that there is nothing happening in the AMC at the moment. The corrections minister will be able to provide you with a long list of the programs that operate at the AMC that cover a range of matters, including straight-out education. We have been building up the number of industries in the AMC, which is a very practical way of giving people life skills which they will bring out on the other side. There is a whole series of programs that are targeted at mental health, drug and alcohol abuse, life skills—all of those sorts of things—which should better empower the detainees to come out more skilled than when they went in or better prepared to face life in the outside world.

THE CHAIR: Perhaps jail is also an opportunity for reform as well. I will pass to Dr Paterson for a substantive.

DR PATERSON: One of the things that have not come out, or hardly at all, and that we have barely discussed is education and employment, particularly for people on intensive correction orders or good behaviour orders. What is the focus of the government in terms of getting people into meaningful work or meaningful activity in the community while they are on these orders?

Mr Rattenbury: In terms of the overall justice picture, I absolutely agree that both education and employment are really important. In terms of the jail, the AMC was built with a strong emphasis on education but without industries. In my time as corrections minister, I formed the view that it was not the right answer, that we also need industries. Having looked at prisons in other jurisdictions and the cohort of people that can find themselves in jail, many of them are not the type who want to sit down and study on the books.

DR PATERSON: Sure.

Mr Rattenbury: But they are excellent with their hands. They are great, whether in getting a food-related qualification in a bakery or in the kitchen or on various types of

tools, repair work and the like. I think it is important that we continue to build our industries at the AMC. When we first started, we only had 150 to 200 detainees and it was difficult from a scale point of view. But as the population sits more around that 350 to 400 mark, and potentially higher, there is more scope for that inside.

DR PATERSON: Yes. What about outside on these community orders?

Mr Rattenbury: That will go to what is put into the order. There are a range of options for the judges, members of the judiciary, for what can be in that program.

DR PATERSON: Should that be something that is considered more?

Mr Rattenbury: Ms Greenland might just help me with the details of the legislation. I do not think it is restricted, but I will just check that.

Ms Greenland: I guess one thing I can say about the intensive correction orders is that one of the intentions often is to enable people to remain in employment. The serving of a sentence of imprisonment in the community does enable people who may have employment to be able to continue in that.

The conditions of the orders themselves can include requirements to undergo rehabilitation programs, which could be conducive to people being able to re-engage in employment or take employment. Other conditions could include the requirement to undertake community-based work, which, again, in and of itself can on occasion be a pathway for someone to become more used to undertaking employment if they have been in a situation where they have been out of employment for some time. There are elements of the existing scheme that are supportive, I think, of people being able to maintain employment or potentially build up skills or deal with issues that have prevented them from seeking employment in the past.

DR PATERSON: Given that it is something that has really not come up over the two days, do you think that it is an area that we probably need to look at more?

Ms Greenland: If there are concerns that in any way the operation of the orders is prohibiting people from having employment, or seeking employment, that would certainly be something that would be useful to understand: what is barrier of the existing framework?

DR PATERSON: Thank you.

MR BRADDOCK: I have a substantive. Whilst I applaud the Justice Housing Program, part of me sort of goes, “The cost of the justice system to be able to support these people surely would probably outweigh the cost of, just in a public housing sense, making sure these people have a safe roof over their heads.” Has there been any consideration of more investment in housing in order to reduce recidivism and people going through the justice system?

Mr Rattenbury: I am not sure that I followed your question, so pull me up if I am not going in the right direction.

MR BRADDOCK: Yes.

Mr Rattenbury: The very point of having the Justice Housing Program is uniquely your point: if we provide accommodation, they potentially can get parole and they can get bail. Is that what you meant?

MR BRADDOCK: It applies in very few circumstances. I am thinking of the broader case, where there are a lot of these people who, with a safe and secure roof over their heads, would be less likely to commit offences or reoffend.

Mr Rattenbury: I see; thank you. We have a Justice Housing Program very specifically for that sort of bail and parole context. Your question is a broader social one which, to me, goes to the heart of the notion of justice reinvestment. I would rather spend money on providing more public and social housing than I would on expanding the jail, because if someone has got a safe and secure place to live, they are less likely to end up in the justice system. Therefore, in my view—and it is the government's policy position—that is a better spend of our resources.

MR BRADDOCK: Has the government been able to demonstrate the transfer at all, perhaps, from one function to another?

Mr Rattenbury: Probably not in the short term. We did a costing model that has helped us measure what it cost to put somebody through the justice system. Frankly, over time you can make considerable savings, which can be reinvested. There is not a linear measure, if you like. If you start with a basic premise that it costs at least $110,000 a year to keep somebody in custody, using the ROGS data at $300-odd a day—again, not having the portfolio, I do not quite have the figures in my head anymore—and if you multiply that $300-odd, it gets you to about $110,000 a year. You can very quickly see that investing in other things, rather than having somebody in custody, stacks up economically potentially quite quickly. That is without even measuring the impact of crime on the community, the impact on victims and all the other matters which do not have such an easy dollar figure on them.

MR BRADDOCK: Is that cost model being used by the government to decide where it is going to be investing in future?

Mr Rattenbury: It certainly has been, yes.

MR BRADDOCK: Thank you.

THE CHAIR: I note at the top of page 5 of the joint submission it states that there has been a steady increase in the use of ICOs. I posed this question to the Minister for Corrections: what are the reasons for that steady increase? Obviously, it is going in the right direction, as far as I am concerned. What are the factors that led to that increase of these orders?

Mr Rattenbury: My best answer to that would probably be that I expect the judges have become increasingly familiar with them and understand the scope of how they can be used and have become more confident that they are an appropriate response to a range of offending types. Regarding the undertaking of the suitability assessments, I

have more confidence that they are right. That would be my best suggestion as to why that is the case. At the beginning, people were wanting to see how the first few went. As they have seen that they have worked as intended and the judges also have confidence that in the orders they can give the service response is there behind it, I anticipate they feel it is a suitable sentencing option. I do not know whether my colleagues want to add anything else.

Mr Ng: Only to say that I think that correlates with the evidence of the Chair of the Sentence Administration Board, which is basically that, when the scheme was up and running, it took the court and participants in it a while to become acquainted with the process and know to apply for them and the like.

THE CHAIR: On behalf of the committee, I would like to thank the Attorney-General and the accompanying officials for appearing today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and identify any errors in transcription. If witnesses undertook to provide further information or took questions on notice during the hearing—I believe that was the case—

Mr Rattenbury: Yes, we have got a few.

THE CHAIR: answers to these questions would be appreciated within one week from today.

Hearing suspended from 3.15 to 4.20 pm.

MARTIN, MS DEBORAH, Chief Executive Officer, Tjillari Justice Aboriginal Corporation

THE CHAIR: Welcome back to the public hearing of the Standing Committee on Justice and Community Safety into the community corrections inquiry. Please be aware that the proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also broadcast and webstreamed live.

We move to our next and last witness today, Deborah (Evans) Martin from Tjillari Justice Aboriginal Corporation. On behalf of the committee, thank you for appearing today and for your written submission to the inquiry.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement presented to you. Ms Martin, can you confirm, for the record, that you understand the privilege implications of the statement?

Ms Martin: Yes, I have. I have read them and understand them.

THE CHAIR: Thank you. Now, would you like to go by Ms Martin or Ms Evans, because you are showing as Deborah Evans?

Ms Martin: Yes. That is because I have just recently changed my name to Martin. People get confused, so I have bracketed Evans for a short period of time until you get used to calling me Deborah Martin. But it is Deborah Martin, thank you.

THE CHAIR: We will call you Ms Martin, or Deborah Martin, as we proceed. Before we proceed to questions from the committee, given that we have only got 20 minutes, would you like to make a brief opening statement?

Ms Martin: I guess my concern is that the royal commission was held 30 years ago, yet the Productivity Commission's report last year showed that there has been no substantial change in the incarceration rate, or the integration rate of Aboriginal people leaving prison. That is of tremendous concern. What we are seeing is that there are no culturally appropriate services in the community. The community cannot get other agencies to define what "culturally appropriate" means because there are very few community services in the ACT that are being funded to deliver services.

We are very, very concerned about the issues with ICOs. If I can refer to the crimes and sentencing act, there is a clause in there that they can be referred for programs of a particular kind suitable for the offender, yet we are not seeing referrals for cultural programs. We are seeing an agency that is technically not Aboriginal listed in all the funding for Aboriginal services in the community, and everybody and everything is referred, through community corrections, to them. The smaller agencies, which are better placed and are fully staffed and run by Aboriginal people, are being totally ignored.

That is a real issue because there is a limited understanding of what we mean when we talk about trauma-informed practice. I have raised that in my submission, because

trauma-informed practice is a catchphrase; it has just become a catchphrase. Getting back to the issue of names, my name change is a perfect example of what I mean by trauma. I was removed at birth; I am stolen generation. My name was taken away from me and it has taken me this long to claim back my birthright.

THE CHAIR: I am sorry.

Ms Martin: I am sorry. It is emotional. I want to explain what I mean by trauma. What it means is your location of your kin and your country. I was not prepared for the trauma that it created for me. I thought I had survived, but I cried solidly for two weeks. It was so emotional. We are not addressing trauma at that level. It is very superficial: it is colonisation and invasion. I am sorry, but it is a hell of a lot more than that. Trauma-informed practice is not helping us. We need that deep understanding of Aboriginal psychology.

I am very concerned about the number of women in the AMC. That is growing at an alarming rate, and there are no services specifically for Aboriginal women in the community. They have specific needs. Most of those women are victims of family violence, but the family violence services here are not suitable for them. They really do not understand Aboriginal culture.

THE CHAIR: Ms Martin, I am certain that you will have the opportunity to give more specific details in response to questions. If it is okay by you, we might move to questions?

Ms Martin: Okay. Sure.

THE CHAIR: Thank you very much. Touching on something that you said is lacking—culturally appropriate services—what would such a service or program look like? What would be the key elements and ingredients of it? And is there something elsewhere in the country that resembles something that you think is adequate?

Ms Martin: There is a service, an Aboriginal legal service in WA, that is a family violence service that is totally run by Aboriginal lawyers, Aboriginal staff, and it has got social workers on board. It is totally Aboriginal controlled and managed, and the services are delivered like that.

What we find here is that we are told by JACS, "These are the services we want you to deliver," and they are not necessarily culturally appropriate. Culturally appropriate means that it is run by Aboriginal people who understand Aboriginal culture and who understand the importance of re-embedding our roles and responsibilities and teaching our people about their own culture—because a lot of them do not know it. If we can't approach reintegration and support from that perspective, once people leave prison, we are not delivering culturally appropriate services.

THE CHAIR: That is interesting. Thank you for that. I did ask that question about something that was working, at least in one area, so thank you for that reference to the WA program.

DR PATERSON: Thank you, Ms Martin, for sharing your story with us. I really

appreciate it. We hear a lot: “We have one Aboriginal staff member or one Aboriginal liaison officer.”

Ms Martin: Yes.

DR PATERSON: Those people are not working in a workplace that is culturally safe. I feel that, again, we are reimposing the system on people who are trying to support their kin in the corrections system but it is very, very challenging for them to work in that environment. Can you speak to how Aboriginal people can be better supported to work in corrections and work with the system?

Ms Martin: Do you mean work for Corrective Services or work for community? They are two different things.

DR PATERSON: I am interested in people who work for Corrective Services as well, because I feel that, working in community services, they might be more supported. No?

Ms Martin: No, not at all. In fact, it is very, very difficult for an Aboriginal person to work in a mainstream community organisation. They leave very quickly and there is a huge turnover of staff in the community.

I have actually worked in corrections here, as a community corrections officer. I found it quite difficult because there still was not that understanding. It was very legislative—and, yes, I know we have to work within a legislative framework, but there is leeway. As I said, in the crimes sentencing act there is leeway to be a little bit more culturally supportive, and that is just not occurring.

I sit on the Sentence Administration Board too, so I hear a lot of the CCOs appearing before that. They have no idea what is available for Aboriginal people in the community. Their own cultural knowledge is not expanded, and that makes it very difficult for anyone to work in that system.

I know that the ILOs in the AMC change regularly. That consistency has to be there, and it is not going to be there unless the other staff are culturally aware of the issues relating to Aboriginal people. It is just not happening. I spoke to someone on Friday who came to see me and had been in the position for three months and had to leave. They could not handle the discrimination and racism. Racism within JACS is huge. I am not sure if I have completely answered what you asked me.

THE CHAIR: Do you have a follow-up on that, Mr Braddock, or do you want to ask a substantive.

MR BRADDOCK: I have a substantive. I am interested in a line you included in your submission where you said “a more robust model of support” needs to replace Galambany Circle Sentencing Court.

Ms Martin: Yes.

MR BRADDOCK: I am wondering: what do you picture when you talk about a more

robust model? What do you think of?

Ms Martin: The problem is that it is one of those programs that was imposed upon us. That model has sat in place for years. There are far better models. I had the opportunity to visit one in San Antonio, Texas, a couple of years ago, that operates from a far more community supported model than the one we have got here.

Young people appearing before that, or anyone appearing before that, go before a panel of elders who then decide what is going to happen. One of those elders is appointed as the contact person, the support person, for them before they appear before sentencing. So they work with them to address a lot of their issues. That is not occurring here.

They sponsor them. Often they are given community service to do during that period of time, and particularly restorative justice. One young fellow had stolen from an elderly person, and his time was then spent helping that person with their gardening and making a really practical difference. When they then got back to appearing before the board, before sentencing, they had already been on the pathway to rehabilitation, significantly.

The way the model works here is that you have to plead guilty. You appear, and the elders say, "Yes, you are suitable. Yes, you can come back. Yes, you are sentenced." Then a community organisation picks up the support. That is shallow, and it has not worked for years. It needs to change. It needs to be more robust and to include community people supporting our people. That is the model I would like to see.

MR BRADDOCK: Thank you.

THE CHAIR: Ms Martin, you mentioned that you were a member of the Sentence Administration Board. We had quite a discussion this afternoon, both with the Sentence Administration Board and then the Attorney-General, about options to improve that process overall. What particular issues do you see the Sentence Administration Board role having in connection with Indigenous offenders?

Ms Martin: I sat in on a meeting with Laura Beacroft and with Tanya Keed from the Elected Body yesterday, and we discussed a lot of the issues I am discussing with you now. We came up with three things that we want the board to do and which Laura has agreed to do.

One of them is that we need cultural sensitivity training for all board members. It is very difficult, working on a board, when Aboriginal offenders are appearing and you are saying, "We need to consider this culturally," and the other people on the board do not understand what you are talking about. So making decisions is hard. We want cultural awareness training for the board members.

We want a mock sitting of the board so that we can invite community. I get asked lots of questions by community about how the process works. There is only so much that I can tell them. So Laura has agreed to a mock hearing. The other one is that we want to see more cultural sensitivity exhibited in the programs and referrals to programs. We want better program referrals.

THE CHAIR: Thank you for that. That sounds very meritorious. When you say "better program referrals", what are you referring to there?

Ms Martin: I have already mentioned one of the community organisations that is not recognised by the community as an Aboriginal organisation. They never appear to support offenders; they never provide written documentation as to what the offender has engaged with them to receive services for. We want more accountability, basically.

THE CHAIR: Thank you for those answers.

MR BRADDOCK: I am interested in the comments in your submission about drug and alcohol treatment orders, which basically seem to have totally failed, if no clients you have spoken to have completed them and remain drug free. What would you see as being a viable alternative to what is currently done under the drug and alcohol treatment orders?

Ms Martin: Firstly, I would like the Bush Healing Farm to be a drug and alcohol centre, to be very honest. I see that as a big step forward for us. I think the problem is that the programs that are put in place are not delivered in a wraparound process. We have multiple agencies, and I think that has really impacted on the Drug and Alcohol Court. We have multiple agencies in the community and each one of them develops its own management plan. If you do not comply with each of those management plans, you could be considered to have breached a community-based order, so it becomes really overwhelming and difficult.

I worked in Queensland and moved down from Queensland to work here. We had multidisciplinary teams, and all those agencies would get together once a month and discuss the way forward. There was one plan. That, I think, is the big thing that is impacting on the Drug and Alcohol Court. It is for a year, but there is no intensive support in between, if that makes sense. There is some, I know, through the Drug and Alcohol Court, but once again we get back to that issue of: how culturally appropriate is it? Our people listen to our people. It is as simple as that. I would really like to see that Bush Healing Farm targeted as a drug and alcohol rehab centre.

THE CHAIR: Thank you. That sounds very commendable, actually.

DR PATERSON: One of the things we have been asking a lot of other services who have appeared before us is about support for family members, particularly for those who have a household member with an intensive correction order. Do you feel that there needs to be more support for families out there if they have an offender living in the house?

Ms Martin: Absolutely. The program that JACS offers, Yarrabi Bamirr, is not the kind of support program it needs. I often hear from families, and we get very limited funding, so we operate on a wing and a prayer. But I get lots of calls from families. We ran a successful SOS program, Surviving Out Side, and that was attended mainly by families, family members who needed support. We were well aware of that. Unfortunately, once again, the funding ran out, so the program ended.

A classic example is one family where I have known the offender for a number of years, through various things that have occurred through the organisation. He has actually never appeared before SAB but he was released after the end of his sentence. Now his children do not live with him; they live with his mother. They are too afraid to live with their father because there are police patrols past his house regularly, checking on him, and curfews. They are afraid, every time they see a police officer, that they are going to take their father away. That is incredibly stressful for the children, and certainly for his mother, who rings me regularly for updates and support.

Those kinds of issues are not being addressed either for families. Families have a great need to be supported. It is not just the housing and the education and the employment that we go back to; it is all that emotional stuff. It is having a shoulder to cry on sometimes that is really important. It is not happening.

DR PATERSON: Thank you.

THE CHAIR: Thank you, Ms Martin. Our allocated time has come to a close. On behalf of the committee, I would like to thank you for appearing today. When available, a proof transcript will be forwarded to you, to provide an opportunity to check the transcript and identify any errors in transcription.

I do not believe you took any questions on notice during our questioning. The hearing is now adjourned. On behalf of the committee, I would like to thank all the witnesses who have appeared today. If members wish to lodge questions on notice, please provide them to the committee secretary within five hearing days of the hearing. Thank you, everyone—committee members and Ms Martin.

Ms Martin: Thank you very much for this opportunity.

The committee adjourned at 4.40 pm.