



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into Annual and Financial Reports 2021-2022](#))

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 8 NOVEMBER 2022

**Secretary to the committee:
Ms K de Kleuver (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.

APPEARANCES

Chief Minister, Treasury and Economic Development Directorate	74, 98
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Privilege statement

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Amended 20 May 2013

The committee met at 2.35 pm.

Appearances:

Rattenbury, Mr Shane, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction

Chief Minister, Treasury and Economic Development Directorate

Cubin, Ms Derise, Executive Branch Manager, Licensing and Registrations Branch, Access Canberra

Mangeruca, Mr Giuseppe, Acting Executive Branch Manager, Fair Trading and Compliance Branch, Access Canberra,

Chan, Ms Yu-Lan, Executive Branch Manager, Corporate Support and Capability Branch, Access Canberra

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Ng, Mr Daniel, Executive Branch Manager, Civil Law, Legislation, Policy and Programs Division

THE CHAIR: Good afternoon, and welcome to the public hearing into annual and financial reports 2021-22 by the Standing Committee on Justice and Community Safety. The proceedings today will examine the annual and financial reports of the Justice and Community Safety Directorate, the Chief Minister, Treasury and Economic Development Directorate, and the Environment, Planning and Sustainable Development Directorate.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution they make to the life of the city and this region. We would also like to acknowledge and welcome other Aboriginal and Torres Strait Islander people who may be attending today's event.

Please be aware that proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, please use the words: "I will take that as a question taken on notice."

In this first session we will hear from the Minister for Consumer Affairs and Minister for Gaming. I welcome Minister Rattenbury and officials. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you each confirm for the record that you understand the privilege implications of the statement?

Mr Rattenbury: I do.

THE CHAIR: Thank you. As we are not inviting opening statements, we will proceed to questions. Minister, in your capacity as fair trading minister, are you aware of a civil matter relating to the office of Fair Trading, specifically in relation to the

conduct of former commissioner David Snowden and director of investigations Rohan Connor?

Mr Rattenbury: I am trying to answer the question. I think there is one matter where the government has been engaged in civil proceedings, yes.

THE CHAIR: Can you confirm that the current commissioner, Ms Derise Cubin, is married to the former commissioner, Mr David Snowden?

Mr Rattenbury: Just one moment, Chair. I am hesitating, Mr Cain. I want to be quite transparent about this. I also want to be appropriate to the public service staff and understand the professional context in which you want to draw this matter out.

THE CHAIR: Firstly, is Ms Derise Cubin, the current commissioner, married to the former commissioner, Mr David Snowden?

Mr Rattenbury: I need to understand, Mr Cain.

THE CHAIR: That is a simple, factual question.

Mr Rattenbury: Yes, it is a simple, factual question. My point is that you appreciate—

THE CHAIR: I am sure Ms Cubin knows.

Mr Rattenbury: my hesitation in discussing the personal status of public servants, unclear of the context in which you want me to answer that question.

THE CHAIR: Well, it could go to many things, including conflict of interest—

Mr Rattenbury: It could. It could.

THE CHAIR: and declarations, so it is a simple factual question. What is the answer?

Mr Rattenbury: I can be clear to you that that is a matter that is understood in the public service and measures have been put in place to address any conflicts of interest.

THE CHAIR: So are Ms Cubin and Mr Snowden married?

Mr Rattenbury: I actually do not know their marital status. I know that they do know each other.

THE CHAIR: We could ask Ms Cubin.

Mr Rattenbury: Just one moment, Mr Cain. Mr Cain, perhaps you can think about the question you actually want to propose, rather than asking about the marital status of a public servant sans context. I understand where this line of questioning wants to go, to some extent—

THE CHAIR: It does not matter what the context is, surely?

Mr Rattenbury: but you can appreciate that if I came and asked that about somebody else, anybody in this place would be concerned by the line of questioning.

THE CHAIR: No—

DR PATERSON: I have a supplementary.

THE CHAIR: Yes. I will just go on a little bit, but then I will go to Dr Paterson.

Mr Rattenbury: Yes; of course.

THE CHAIR: Can you confirm that Ms Cubin attended a mediation meeting on 6 July 2021 in relation to a matter involving Mr Snowden, in attendance of ACT Government Solicitor representative Sarah Arthur, in the chambers of another barrister and solicitor?

Mr Rattenbury: I have received questions about this from a member of the public who is concerned by that, and I am currently seeking advice on those matters.

THE CHAIR: On 26 November last year Ms Cubin declared she had a conflict, by way of a declaration.

Mr Rattenbury: Yes.

THE CHAIR: What was the nature of that declaration?

Mr Rattenbury: I do not have the details of that declaration to hand, Mr Cain. I will have to take that question on notice.

THE CHAIR: Is Ms Cubin able to provide that answer?

Ms Cubin: I have read and acknowledge the privilege statement. The question that you ask is difficult for me to respond to at the moment, on the basis of some other factors. I am not at liberty to say anything at this point. I will take it on notice.

THE CHAIR: But your relationship—

Mr Rattenbury: No.

Mr Glenn: No.

THE CHAIR: to Mr Snowden?

Mr Rattenbury: Mr Cain, I do not believe it is appropriate to push that line of questioning now. What I can tell the committee is that a member of the public who is involved in a legal action against the government has written to me, raising concerns about matters in the ACT public service where there is considered to be a conflict of interest. I consider this to be a very serious allegation, but I am carefully working my

way through that. I have sought advice from the agency to ensure that this matter has been appropriately dealt with. I am also seeking advice from the Government Solicitor's office to assure myself, as the minister, that the agency has dealt with it appropriately and the staff involved have dealt with it appropriately.

THE CHAIR: Will you take these queries on notice and get back to this committee?

Mr Rattenbury: What specific queries would you like answers to?

THE CHAIR: Well, the questions that I have not had answered, which are: the marital relationship, the status of the declaration on 26 November and why that was done.

Mr Rattenbury: I will consider those questions and I will see what information I can provide to you. As that member of the public has instigated legal proceedings against the government, there are obviously some constraints about how we might deal with that, so I will seek advice on those matters. I wish to be transparent with the committee. I also wish to be respectful of people's personal lives and I wish to be mindful of legal matters that are now being prosecuted against the government. So it is a challenging space.

THE CHAIR: Obviously, there are people holding official positions involved.

DR PATERSON: Minister, I was just wondering if you could detail how conflicts of interest are dealt with broadly in your portfolios and how seriously you take these matters?

Mr Rattenbury: Those matters predominantly sit with the director-general, so I might ask him to make some comments on that. Thank you.

Mr Glenn: Thank you. I acknowledge the privilege statement. Dr Paterson, I can speak to how conflicts of interest are managed across the ACT public service and then within my directorate more specifically. It perhaps comes at a couple of levels. There is a standing process for executive level public servants to declare conflicts of interest. Part of that goes to their financial interests and to other issues that they may have in their lives. That is typically done on an annual basis, reporting through directors-general to the Head of Service. That process involves the identification of any potential conflicts of interest and, if there are management strategies that need to go around those, what those look like. That goes both, as I say, to directors-general and to the Head of Service.

In relation to particular projects or transactions or bodies of work, every public servant has an obligation to declare if they feel they have a potential conflict. That is generally declared to their manager and is sometimes escalated to directors-general and others to be able to manage through that process, be it putting particular constraints in place to make sure that there is transparency around the conflict and it can be dealt with or, if it is insoluble, which is very rarely the case but can happen, that a different public servant is deployed to conduct that particular piece of work.

DR PATERSON: Thank you.

THE CHAIR: Minister, before Ms Cubin made the declaration on 26 November last year did she provide any advice on this matter that you have alluded to?

Mr Rattenbury: Not that I recall, no.

THE CHAIR: Is Ms Cubin able to answer that question as well?

Mr Rattenbury: Do you have any comments?

Ms Cubin: No comment at this stage in the sense of the full context or the detail of the question that you are asking.

DR PATERSON: Minister, in the ACT Gambling and Racing Commission annual report I note that in 2021-22 a total of 34 inspections were undertaken of gaming machine venues to verify licence compliance with the different acts. This is in comparison to 222 inspections the year before. I am wondering why there has been such a decrease in inspections in the past year.

Mr Mangeruca: I have read and understood the privilege statement. There were actually four compliance programs that were undertaken as part of the Gambling and Racing Commission's functions, which encompassed 124 inspections. As a part of that there were the targeted inspections of gaming machine licensees that fell out from the previous compliance program that we had undertaken, which was broader and had more touchpoints. These were targeted aspects that we saw that fell out of the last financial year's inspections. We saw quite good compliance rates that fell out of those. It is not that there were necessarily fewer. There may have been fewer numerically, but because they were more targeted we were able to ensure that we were not increasing the regulatory burden by focusing on areas that did not really bear out in the last financial year.

DR PATERSON: Can you detail the four areas where you focused your compliance work?

Mr Mangeruca: Sure. There were four programs, related to inspections of the electronic gaming machines; the casino inspections; broadly, community contributions; and racing.

DR PATERSON: In terms of the gaming machines, how many actual inspections were undertaken at gaming machine venues for EGMs?

Mr Mangeruca: As outlined on page 27 of the annual report, 34 inspections of gaming machine licensees were undertaken.

DR PATERSON: But, again, that is a very significant decrease. In the annual report last year there were 222 inspections of gaming machines.

Mr Mangeruca: Last year we undertook a program called a multifocal program. It was intended to re-baseline after the COVID-19 shutdowns, so we had a broader ranging program that looked at a lot more and focused on all licensees. The reason

that there were fewer inspections was that they were more targeted, and we did see good compliance rates post those inspections. It is really as a result of us re-baselining to make sure that we were in the best position, following the COVID shutdowns.

DR PATERSON: Of those 34 inspections, were there areas of interest that were highlighted that will be a focus of next year's inspections?

Mr Mangeruca: There was no significant non-compliance found, but as part of that there are certain things that we will always look at, such as ensuring that signage is accurate and that the appropriate training is available. Those are areas that we will always focus on, but, again, we would be looking at a targeted program.

DR PATERSON: There were 34 inspections of EGM venues. I think there are only 31 venues, so does that mean that each venue would have been inspected once in a year?

Mr Mangeruca: I do not have that level of detail with me. I am happy to take that aspect on notice. What I can say is that when we undertake these inspection programs there is an initial inspection, where we see if there are any issues. Then we give the licensees time, given the nature of the potential contravention, to remedy that and we recheck that. So it could be that some licensees will be visited multiple times.

DR PATERSON: Okay. So potentially there are some venues that were not inspected in the last year?

Mr Mangeruca: I do not have that level of detail with me. I will have to take that on notice.

DR PATERSON: Thank you.

MR PARTON: Mr Mangeruca, how would you summarise the outcomes, broadly, of those inspections? You went looking for stuff. Did you find it? Did they pass?

Mr Mangeruca: Scoping that to the particular program of the 34 inspections that were undertaken, we found that, following the initial inspection and following the follow-up inspections, there were quite good compliance rates. Where there was non-compliance found, it may have been that certain signage that was required was not on machines or that we needed certain evidence of training or we wanted material available on the floor. I would class it as low level.

MR PARTON: So, by and large, it was indicative that industry-wide compliance is pretty good in this city, in this space?

Mr Mangeruca: I would say that, for the particular things that we are looking at in this program, we found good compliance rates.

MR PARTON: All right. Thank you.

MR BRADDOCK: There were some media articles last week about a rental application website charging potential tenants a fee for a background check. I notice

that a number of other states have said that they are investigating this particular matter. I wanted to check if the ACT is also examining the question?

Mr Rattenbury: I am not aware that we have received any reports about that in the ACT at this point in time. I am just looking. There is nothing from consumer affairs. No, we have not received any reports of that.

MR BRADDOCK: So will the ACT be seeking out the other states and territories who are investigating this matter to see if there is a potential for alignment there?

Mr Rattenbury: Yes, certainly. A practice like that I would consider to be quite an unfair burden on tenants. I would not expect them to have to pay that sort of additional fee. We will certainly seek to monitor that. There are constantly new practices being evolved, so we need to keep an eye on them and think about what is appropriate, and think about getting the balance right between the parties. We certainly will have a look at that one.

MR BRADDOCK: Does the regulation also look at the security of the information that tenants have been required to provide, which, given recent data leaks, could have quite a large impact on tenants? Should that private information be made public?

Mr Rattenbury: Across the ACT government, in light of the increased threat environment that I think is generally in Australia now, we are examining the risk of cybercrime and those sorts of related activities. We do need to look at this. We have seen an interesting discussion emerge in the media in the last week or so about whether companies should be obliged to discard data they no longer need. I do not think that would be restricted to the tenancy space, but that would be an obvious space where this would be a relevant consideration.

As part of a broader, whole-of-government conversation, this is something we need to look at, in partnership with the federal government. It is clear that this is emerging as a national issue. I think this question of how long should an organisation be able to hold your data for and therefore increase the risk is a good question that is really coming on to the landscape quite quickly.

MR BRADDOCK: Thank you.

MR PARTON: Minister, your government is pushing forward with introducing \$5 bet limits, \$100 load-up limits and a central monitoring system in the club gaming space. Standing on the outside looking in, it appears that this process has stalled. Legislation that was going to be presented has been withdrawn. There has been a lot of noise from the sector, and much of the criticism seems to have some merit. Can I ask, first up: are you absolutely, definitely proceeding, as originally planned, with rolling out \$5 bet limits, \$100 load-up limits and running with a central monitoring system? If so, when can we expect to see the next piece of relevant legislation?

Mr Rattenbury: Once a journalist, always a journalist, Mr Parton. That was a terrific introduction. Thank you for that. As we discussed just a few weeks ago in estimates hearings, the government went out, in April this year I think it was, with a discussion paper. Our commitment in the parliamentary and governing agreement to introduce

bet limits and load-up limits is very clear. We identified a potential pathway forward.

We put that out to the community, particularly to the industry but to the community more broadly, to seek their feedback. We have had that feedback now. We are working through that feedback. As I think I flagged at estimates hearings, the progress we have made since then is that the group is now up and running. A technical working group has been formed, with a range of industry players, to work through the really detailed feedback we have had.

As I also flagged at estimates hearings, if I recall correctly, the centralised monitoring system was not part of the parliamentary and governing agreement. It was identified in the government's research, and through the independent consultant we engaged, as an effective way to go forward. The industry has expressed particular concern with a centralised monitoring system, particularly over cost. That is not in the parliamentary agreement; it was seen more as a delivery mechanism and as one of the specific commitments.

MR PARTON: So do I sense that you are distancing yourself somewhat from that final conclusion? It is the first time that I have heard you talk about a central monitoring system in the last 12 months and not absolutely tie yourself to it like you might tie yourself to a bulldozer at an environmental protest.

Mr Rattenbury: No. I feel we have tried to take a fairly respectful approach to all the players involved in being very clear on the government's commitment to a harm minimisation agenda whilst at the same time—and I am sure I have said this to you, Mr Parton—we have been very clear that there is some flexibility in how that is delivered. I have said this very openly to all of the stakeholders involved: I want to find the most efficient way to get to the objective we have.

MR PARTON: Is it possible that that most efficient way will not involve a central monitoring system?

Mr Rattenbury: Yes. In trying to be as frank as I have been with some of the industry, I have said we have openness to the delivery mechanism. That is up for consultation. The end point is not. We are determined to implement harm minimisation measures but we have flexibility in how we get there. I have said that to anybody who has asked me through the course of this last few months.

MR PARTON: All right. Are the government and cabinet rock steady on this push or are you getting a bit of pressure from Labor members, Mr Rattenbury?

Mr Rattenbury: That would be better asked to them, Mr Parton. What I do know is that the clubs actively are seeking meetings with all members of the Assembly to put their view, and I would expect them to do that. They are well known for actively campaigning on the issues they care about, so I would be surprised if members of the assembly were not receiving representations from the industry. That is the nature of how they do their business. That is fair enough. That is living in a democracy.

MR PARTON: Thank you.

THE CHAIR: Attorney, I refer to the passing of the Fair Trading and Other Justice Legislation Amendment Bill 2022 earlier this year, and the amendments that it made to the Agents Act 2003 and the Agents Regulation 2003.

Mr Rattenbury: Yes.

THE CHAIR: At the time, I received plenty of feedback from concerned industry professionals about these amendments. What impact have the amendments to the licensing of agents had on the real estate industry in Canberra?

Mr Rattenbury: I have not received any representation since the passage of the legislation, Mr Cain, but I will see if officials have had any feedback. Mr Ng is online. I know he was working on these matters. Perhaps he has further comments.

Mr Ng: Thanks, Minister. Mr Cain, in relation to the relative impact on the industry, there is an ongoing discussion with industry, in the transitional arrangements, about the instruction of the new training requirements. The national real estate training package, which the reforms deliver, was released some time ago, in 2019. The industry has had fair warning of the expectations and content of that package. But, as always, there is an ongoing discussion about how the transitional arrangements roll out. Certainly, on our side there have been education materials and engagement that both my office and Access Canberra have engaged in with the real estate industry. It is part of a package, the content of which was released some time ago. We are going through the implementation stage now with that package.

THE CHAIR: Okay. Thank you. What percentage of existing agents have successfully transitioned to the new licensing framework since the legislation commenced?

Mr Ng: Mr Cain, I do not have that disaggregated information available to me. I am not sure if colleagues from Access Canberra, in the room, might have that information. Otherwise I would be happy to take that on notice and work with colleagues on a response.

Mr Rattenbury: We will take that on notice.

THE CHAIR: Take that on notice. Do you know of any issues, attorney, where existing agents have been unable to adjust to the new licensing framework within the provided time frame and have left the industry?

Mr Rattenbury: I am not aware of any, Mr Cain. The work that the Justice and Community Safety Directorate were engaging in with the real estate industry was to make sure that there was an adequate transition period. There were adjustments made as we worked through the development of the legislation to accommodate those concerns about transitional issues. If you are aware of anybody, or anybody has a point that they have been unable to navigate, I would very keen to hear about that. Our intent is to ensure that—and a number of provisions were put in place to make sure—people can transition effectively whilst meeting the new national requirements. But if you are aware of any circumstances, I would be very pleased to receive those details.

THE CHAIR: Thank you.

DR PATERSON: Minister, I have brought this up a few times over the past couple of years, but I am concerned about money laundering through poker machines. Since the last hearings we have seen the New South Wales Crime Commission Project Islington report being delivered, which outlines billions of dollars of money being laundered through poker machines in New South Wales, and also expenditure of the proceeds of crime—criminals spending their money through pokies. Firstly, what are we doing to ensure that money is not being laundered or that the proceeds of crime are not being spent in venues in the ACT?

Mr Rattenbury: The first thing I can say is that you are right to be concerned about these matters. I think the inquiries in New South Wales and other jurisdictions have been saying that. We have been watching very closely and certainly looking at the recommendations arising from those to see whether any lessons or regulatory changes should be implemented in the ACT as a result. I do not want to wait to have a royal commission here to take on board what colleagues in other jurisdictions have already identified and learned from. So that is the first thing.

Sorry; what was the second half of your question?

DR PATERSON: What are we doing to be proactive in addressing money laundering in the ACT?

MR RATTENBURY: Yes. Aside from looking at those inquiries in other jurisdictions, the various enforcement mechanisms in the ACT are designed to do that. For example, we obviously do not have poker machines in the casino here, but the casino is very heavily regulated, as you would expect, including on probity issues around potential purchases by the casino and those sorts of matters. In terms of day-to-day issues of money laundering through poker machines in the ACT, I have made inquiries on a number of occasions. At this point we do not have any active evidence of that being the case on a substantial scale. We continue to monitor that. The ACT has partnerships with a range of law enforcement agencies, and if issues were being identified we would be able to either intervene or think about regulatory changes we would need to make.

DR PATERSON: Those law enforcement agencies also operate in New South Wales, and they have not picked up the extent of the problem there. From all the briefings and information that I have sought, it sounds like we do not have the capacity. We do not really know what is going on through the machines in the clubs, and monitoring those transactions is highly costly and labour intensive. I am just wondering if there are other ways we could be approaching this issue of organised crime and money laundering?

Mr Rattenbury: Our indications are that measures such as bet limits, load-up limits, will be a disincentive to money laundering. Whilst those policy initiatives come from a harm minimisation perspective, they do offer the additional benefit of making money laundering a less attractive proposition. Similarly, I am led to believe that the features that flow from having a centralised monitoring system can also help to

identify trends and datasets that may be useful in that space.

DR PATERSON: Recommendation 1 of that report was to move to a mandatory cashless gaming system. They actually did say that the central monitoring system was not picking up the money laundering, as opposed to a cashless gaming system, which now the New South Wales government is under a lot of pressure to implement. In terms of being in front of the problem, is that something that we should pursue in the ACT?

Mr Rattenbury: It is certainly on the table. In talking to industry about how we move through some of the reforms we have made, there have been broad discussions about cashless gaming. As you may recall, New South Wales indicated they were going to undertake a trial of cashless gaming. It was due to start, what, two years ago now? Through the vagaries of the pandemic it has not taken off. We were looking to New South Wales to see how that trial went in the first instance. We are obviously looking at the changes that have been made in Tasmania now and looking at how their rollout goes around cashless gaming.

It is certainly on the radar. One of the things I have said to the industry and to other stakeholders in the ACT is that these are options that are on the table as we look to introduce the harm minimisation steps that we are working on. Potentially, it is worth taking that next technological step so that we do not take one step now and another step in a few years time.

DR PATERSON: Yes. Okay.

MR PARTON: It is probably something that I should know, but what is the current maximum that you can physically load up a poker machine in a club in the ACT? Is anyone able to answer that?

Mr Rattenbury: Having not used one since 1980-something, I cannot recall, Mr Parton. Want to remind me, anyone?

MR PARTON: I am just trying to get my head around what change there will be. I am assuming there will be a dramatic change once we get to the \$100 load-up—that it will be quite a dramatic change from what you could physically technically load up a machine with now.

Mr Rattenbury: Yes. As you know, Mr Parton, we have note limiters, so you can only load \$20 and \$50 notes. I actually think there is no limit in the ACT at the moment, but I will need to double-check.

MR PARTON: Yes; all right. Excellent.

Mr Rattenbury: I have had this discussion with venues at times and I just have a mental blank on the answer at the moment.

MR PARTON: So, Minister, are you taking that question on notice?

Mr Rattenbury: I am happy to, yes.

MR PARTON: All right. Excellent. Thank you.

MR BRADDOCK: I am interested in the Retirement Villages Act 2012 and the dispute resolution processes that apply under that act. Are they still fit for purpose and working here in the ACT or is that something that we need to look at, particularly as more of the ACT population will be looking to move into retirement villages?

Mr Rattenbury: The Retirement Villages Act only came into effect in the ACT in 2012, if I remember rightly—or thereabouts.

MR BRADDOCK: Yes.

Mr Rattenbury: At the time we had seen quite a significant change for the industry. We had one round of amendments in 2016, where out of that first phase there were some learnings. Do not quote me on the dates, but there has been one round of amendments subsequently.

At this point in time we have quite an active discussion with retirement villages, both the villages themselves and representative groups of residents. The various reforms we work through, I think, addressed a lot of concerns about them. We have not had feedback recently of ongoing issues. There are individual issues in villages from time to time, but we have not identified systemic problems at this stage.

MR BRADDOCK: Okay. I have correspondence from a constituent who has mentioned that, apparently, only three complaints have ever been made under the act. They make the assertion that it is because it is just too difficult to go through the processes—

Mr Rattenbury: Okay.

MR BRADDOCK: Maybe what I will do is forward that correspondence to your office—although I believe you might already have it—as something that we might need to examine in the future to be able to settle disputes in a retirement village setting, particularly as this will become a housing choice that is picked up more and more.

Mr Rattenbury: I think the essential point is right, and that is where moving to have a Retirement Villages Act is a really important reform. There are more of them. It is a substantial investment for somebody to move into a retirement village, so we do need to have better regulation of the space. I think it has gone quite well. Your point around dispute mechanisms is quite important too, because I think many residents feel there is a strong power imbalance between the owner and the residents. There are a number of mechanisms in the act to seek to resolve disputes. But if there are concerns, I am happy to have a look at them.

MR BRADDOCK: Yes. To clarify: there are no plans to conduct another review or a reform of the act in the near future?

Mr Rattenbury: Not at this point in time. Under the previous round there were a few

leftover matters—in particular, the ability for people to rent in retirement villages. That was the main outstanding policy question, if I recall rightly. Mr Ng, who also worked on this, might remind me what else was on that list.

Mr Ng: Thanks, Minister. I should say that I have read and acknowledge the privilege statement. Mr Braddock, I just want to make a contribution in relation to the relative dispute resolution pathways. There are three substantive streams that are provided for in the act. One is that they can put a complaint through what is called a disputes committee, under the Retirement Villages Act. There are also more formal pathways through the tribunal. Where the dispute is not capable of resolution at a more local level, in a similar way to other legislative frameworks and other contractual-type disputes there is a pathway to the tribunal for consideration of that.

In the most recent round of reforms, which I believe was 2018 or 2019, we also introduced a pathway for the Human Rights Commission, particularly the Discrimination Commissioner, to conduct conciliations in relation to disputes under the Retirement Villages Act. I just thought I would make that contribution in the context of your interest in the dispute resolution pathways.

MR BRADDOCK: How do those pathways address that power imbalance that the Attorney-General was referring to earlier?

Mr Ng: I might particularly highlight the most recent addition to that dispute resolution family, which is the Human Rights Commission pathway. That was seen as a worthwhile exercise, in that the commission is quite well skilled and experienced at conducting conciliations and dispute resolution activities in the context of inherent power imbalances. They have good and quite sophisticated, I would say, processes for managing the relevant interests and allowing different parties to disputes to have their say. So I particularly mention that.

I should say as well that, even for a more formal pathway into the tribunal, the objectives of the tribunal legislation are to provide informal access to justice, quickly and efficiently. Even with that kind of more formal pathway, the tribunal does have intermediate dispute resolution processes, whereby they might send disputes which might ultimately get to a formal hearing to mediation at earlier stages of the process as well.

MR BRADDOCK: Thank you.

MR PARTON: Minister, can I ask: what movement has occurred in the self-exclusion space? I note that you were pretty quick to reject a face recognition trial that one of our club groups was keen to explore. There seems to have been a lot of talking going about self-exclusion, but nothing much has changed in the space for a long time. I just want to know why it is that we cannot seem to get this right.

Mr Rattenbury: Mr Parton, we have an active working group on self-exclusion, as a sub-group of the Community Clubs Ministerial Advisory Council. They have been seeking out people with lived experience to seek their advice on how the self-exclusion regime might work more effectively. Talking to people who have actually lived that is a really important way of understanding how it might work better.

I think everybody has some concerns about how the system currently works. It does rely on a lot of human recognition.

My comments around facial recognition technology were specifically about the fact that—and I have said this very openly to the clubs—I am not convinced their members are going to be thrilled at the prospect of having facial recognition technology used in the venues. We saw the public reaction to Kmart and Bunnings revealing that they were using facial recognition technology. The public reaction was so strong that they had to come out within a week and say they had turned it off. So my comment to clubs has been, “You might want to consider how welcoming your members would be of that technology.”

MR PARTON: Minister, if you are making that statement on a privacy basis, at the moment we have a situation where front desk staff at clubs, hundreds and hundreds of them, have to go through a process of attempting to identify individuals who have self-excluded. Surely, the current system involves hundreds, if not thousands, of eyes of individuals scanning through personal information or at least names and faces, whereas under a facial recognition scheme that would be done automatically? That private information would, in theory, under that system, be exposed to fewer people than the current system. That is the bit that I struggle to understand when privacy is given as a reason for discarding the current system and going to something which is automatic.

Mr Rattenbury: I think you have identified the problems with the current system very well, Mr Parton. What you did not take into account in your analysis is that that facial recognition technology will be scanning people who have not signed up to a self-exclusion scheme. If you sign up to a self-exclusion scheme, you have consented to go into that process. If you have not signed up to that scheme but you are being scanned by the technology, you have not necessarily consented to that process. So that is one of the issues that sits there. My comments to the clubs were: “You may want to talk to your members about this so that members may agree with your view of the world—that this is an appropriate solution.” I would encourage the clubs to have that conversation with their members.

MR PARTON: But, Minister, don’t you think it is a little ironic to be in the one sentence talking about the invasion of privacy of facial recognition and in the next sentence talking about a big brother style central monitoring system that would monitor even those who were not using the poker machines, in every transaction that they make at every club, and that links back to their ID?

Mr Rattenbury: You are putting judgements into my comments that I have not made, Mr Parton.

MR PARTON: So you do not think that that is ironic?

Mr Rattenbury: I think there are differences. A centralised monitoring system does not monitor individuals.

MR PARTON: Well, it is monitoring individuals, Minister.

Mr Rattenbury: It monitors machine data.

MR PARTON: I do not know that that is a—

Mr Rattenbury: It depends on how you design it.

MR PARTON: Yes. All right. Thank you.

Mr Rattenbury: I welcome any comments you have on how we might improve the self-exclusion regime, Mr Parton. Questions are easy; answers are harder.

MR PARTON: I understand. Thank you.

DR PATERSON: There has been a rollout of the new self-exclusion computer system. There is a new self-exclusion database.

Mr Rattenbury: Yes; sorry. Yes, I am with you now.

DR PATERSON: Thank you. I think that went live fairly recently. How have people adjusted to the new system?

Mr Rattenbury: I will invite Ms Chan to talk to you about the details of that.

Ms Chan: Thank you for the question. I have read and understood the privilege statement. Yes, the new ACT gamblers exclusion database went live in late July this year, so it is quite recent. We did spend a lot of time making sure that venue staff understood how to use the new system, because it is quite different from the previous system. It was designed to be a lot more intuitive and easy to use. We did get a lot of feedback, which we took into the design process, to make sure that it would better meet the needs of the staff in the clubs that have to use it.

I am pleased to report that, yes, data has been going in. It is early days yet, obviously, with a few months worth of data. We have not had any complaints from people saying it is hard to use or that they could not work out how to use it. We have also had a follow-up engagement program to visit every licensee, just to check if they have any questions about the system, any barriers to using it or any bugs that have come up. There has not been anything significant that has been raised in that.

DR PATERSON: Are you able to give us the numbers of self-excluded people in the last annual reporting period and also the gender breakdown of that?

Ms Chan: Yes. Thank you. At the moment there are currently 614 active exclusions. The majority of those are self-exclusions, so people who have chosen to self-exclude. There are also a number of licensee exclusions, where the licensee has excluded those. I do not have the exact breakdown by financial year available yet. What I do know is that, for the majority of age breakdowns, it tends to be men who are excluding at a higher rate, until the age group of about 50-plus, and then it equalises a bit more. But we are doing further analysis on that.

DR PATERSON: Thank you.

THE CHAIR: I have a few questions about the fuel price check app announced last Thursday. It is a six-month pilot program. The government has adopted an opt-in system. Does that mean that the penalties that apply to the required lodgers in New South Wales would apply in the ACT as well, even though it is an opt-in system?

Ms Cubin: Thank you, Mr Cain, for your question. At this point in time the New South Wales penalties will not apply in the ACT.

THE CHAIR: Okay. Thank you. What kind of training do you provide and what kind of compliance are you undertaking to ensure that the information is up to date?

Mr Mangeruca: In terms of training, in order to sign up for the scheme, it is done through the New South Wales system. In terms of Access Canberra's stance on compliance we are taking a proactive compliance response, driven by complaints. But we will also be having ongoing engagement with fuel retailers to ensure that they have the information that they require.

Mr Rattenbury: At the last report I had, Mr Cain, 61 of the 62 ACT fuel stations had indicated their intention to join the scheme. I believe that high uptake rate is because the retailers consider it desirable to be in a scheme that provides them with a degree of promotion—the publicity—and they are able to be part of the system. So we have detected a reasonably positive attitude towards the rollout of this in the ACT from the retailers.

THE CHAIR: Okay. Thank you. It is a pilot program.

Mr Rattenbury: Yes.

THE CHAIR: So what criteria are you using to determine if it is a successful program, and hence worth rolling out?

Mr Mangeruca: This is a joint initiative between the ACT government and New South Wales, largely run out of Treasury, with Access Canberra operationalising certain aspects of it. In relation to success, one key measurement of success is people signing up to it. As the minister has outlined, 61 out of 62 stations have signed up. In relation to the policy aspects of it, it would fall outside Access Canberra's remit in assessing that.

THE CHAIR: What are the costs of the pilot? Again, what will determine whether it continues as a standing program?

Mr Rattenbury: We will provide you with those details on notice, Mr Cain.

THE CHAIR: Thank you.

DR PATERSON: In the Gambling and Racing Commission's annual report, under priority areas pursued under the strategy in 2021-22, one of the priority areas is research. This was also a priority area in last year's annual report, but no research was reported. I understand that we have a much smaller regulatory body than Liquor &

Gaming NSW or the RGF in Victoria, but what research are we commissioning and in what areas of focus?

Ms Chan: Thank you, Dr Paterson. We published in 2021, I think, research priorities for the commission. These included looking at, for example, online gaming, which is something that we were interested in, seeing what the actual evidence is about what the effects might be. There is also interesting research in harm prevention—what is effective and what other new initiatives might be useful?—and treatment and support. We are also interested in different modes of gaming. We published those, I think, at least one or two years ago.

In terms of research, I am pleased to announce that in the last year or so we have received a couple of proposals for research. Some have come from the ANU, the Centre for Gambling Research, which are under consideration. There are some from the University of Canberra. These look at, for example, in the digital age now, when there are so many different modes available to people, what do people actually understand gambling harm to look like? There is one about looking at young people and the effects of gambling on them, and what they understand. So there are a range of research projects that we are looking at. We also welcome any new applications for research through the gambling harm prevention and mitigation fund. But those are a couple of the key projects that I am aware of.

DR PATERSON: So those are projects that are actually underway?

Ms Chan: That is right.

DR PATERSON: Okay. When will the reporting for those projects be?

Ms Chan: I believe two of them are in 2024. I will just try and find the details of the other ones.

Mr Rattenbury: Why don't we send you those dates on notice?

DR PATERSON: Yes; great.

Mr Rattenbury: If we find them in the next little while, we will let you know. Otherwise we will send them on notice.

DR PATERSON: Thank you.

MR BRADDOCK: I am interested in competitive neutrality for crematoria, because we currently have two crematoria here in the ACT but proposals for a couple more. How would that work if there were potentially an oversupply of crematoria spaces, that competitive neutrality policy that the ACT government has?

Mr Rattenbury: Responsibility for cemeteries and crematoria sits with Minister Steel, as the Minister for Transport Canberra and City Services. It is not a policy area for which I currently have responsibility. I have opinions, but they are not in my portfolio area, so it is probably best to shoot it somewhere else.

MR BRADDOCK: Including the competitive neutrality policy?

Mr Rattenbury: Yes. That is not an area that my agencies have responsibility for.

MR BRADDOCK: My apologies.

Mr Rattenbury: Broadly, the neutrality policy would sit with Treasury. Sorry about that. I would be happy to give you my dissertation on these things, but I do not think that is appropriate for this committee.

THE CHAIR: Not when there are other questions. Regarding the Zero Emissions Vehicle Strategy, the ACT government has secured contracts with JOLT EV networks and ev.energy to provide EV charging stations for construction, beginning this year. That is my understanding.

Mr Rattenbury: Yes; this calendar year.

THE CHAIR: This calendar year. How long will the contracts with JOLT and ev.energy run for in each case?

Mr Rattenbury: I actually do not know, Mr Cain. The staff who are responsible for those contracts are working in EPSDD, in the energy division. I think I will have to take that on notice and get that information from those agencies.

THE CHAIR: Perhaps this will have a similar response: what is the nature of each of these contracts and are you able to provide the contracts for these delivery partnerships to this committee?

Mr Rattenbury: I will seek advice on that. Obviously, there will be some degree of commercial-in-confidence in relation to those contracts, but I am happy to provide the details that I can.

THE CHAIR: There are estimates that, as the full Zero Emissions Vehicle Strategy is rolled out, demand for charging stations will continue, obviously.

Mr Rattenbury: Yes.

THE CHAIR: Do you have ongoing contracts for this demand or is this something you have estimated to deliver?

Mr Rattenbury: As you might have seen, we released recently—I think it was late last year—a document that outlined the ACT government’s projections on how much charging capability we would need in the territory. That sought to model where it was needed. We did that to guide the procurement process that then led to the contracts to which you are referring.

The ACT government have a range of modelling, and we have targets on how many chargers we will need. These contracts you are referring to now are the first phase of building that capacity. We have gone out and actively sought to increase the number of chargers in the ACT, and we have got goals on how many chargers we will need

each year, over the coming years. It is obviously a very new industry. I expect this industry to evolve quite rapidly between government-driven procurement and the potential for more private providers to come into the space as a business prospect.

DR PATERSON: With respect to GCO training, I guess workers who are working in gambling venues are exposed to poker machines and what goes on there much more than the general population. Research in other jurisdictions suggests that the rates of problem gambling may be a lot higher in people who work in that industry. I am interested to know if there is any sort of harm minimisation work involved in the GCO, or club training?

Ms Chan: Thank you, Dr Paterson. We work very closely with the ACT Gambling Support Service. Part of the remit when we procured the service was to ensure that they have community outreach, but also outreach to industry—a lot of engagement with industry. We do know that in the last year or so particularly they have changed their staffing model. They now have a peer support worker and somebody who is very actively engaged in getting out to venues and other groups, and community sector organisations, to help people understand what harm can look like, and also to set up some referral pathways and provide information.

In the last year there have been some improvements in strengthening those relationships, including with industry. One of the things we are interested in doing particularly is setting up sessions for all staff, not just the gambling contact officer specifically but more broadly, about what harm can look like. Because it could be any staff member in the venue who might be approached or might recognise the signs of gambling harm in a patron and be in a position to offer them information or a telephone or that kind of support. So that is certainly something we are very, very, interested in. We are doing that via the Gambling Support Service.

DR PATERSON: Okay. Is there recognition that staff may not want to disclose a gambling problem because they are employed in that sector and it might impact their job? Are there other ways that the gambling service is communicating with employees?

Ms Chan: Certainly. The counselling services are completely confidential. The Gambling Support Service is 24/7 via telephone chat, or face to face. There are a number of channels that people can choose. That is all completely confidential. The ACT government also supports Gambling Help Online, which is a website that is funded by all the jurisdictions of Australia. That is also a confidential, free, 24/7 service. They also offer SMS support. So there are a number of ways that people can seek the support that is all confidential. Those materials are widely made available around venues as well, including to the staff.

DR PATERSON: Thanks.

MR BRADDOCK: I have a question, Ms Chan, about the availability of gambling harm materials and information in languages other than English. Can you please provide me with an update?

Ms Chan: Certainly. I am very pleased to announce that we revamped some of our

materials recently. Gambling Harm Awareness Week was held very recently, in October. This year we put a lot of attention on what that education campaign would look like. We very much wanted to raise awareness of what forms it can take. Harm is not necessarily only financial harm, and harm is not necessarily only experienced by the person who is gambling. So we put a lot of effort into developing a campaign that was based on lived experience, real stories, with real people, and what they had gone through. The theme this year was “Every story matters” and we very much based that on pictures of real people and their experiences.

We have created a new URL, a new website, which is everystorymatters.act.gov.au, which was launched during Gambling Harm Awareness Week. Right on the front page of that there is a new section that says, “Help in other languages.” If you click on that link it takes you through to information in 17 different languages, which then leads you through to the right page for the relevant language that says how to seek support. Again, it talks about free and confidential support and how to seek it.

We have also made sure that the telephone interpreter service contact details are on our website. Interpreters can provide support either by translating the information that is on our website or they can help with telephone counselling or making appointments. That information is on our website. The ACT Gambling Support Service can also help to arrange an interpreter for somebody.

MR BRADDOCK: Do you keep a record of how often an interpreter service is required?

Ms Chan: We have not. I can check. I do not believe I have seen statistics on that, to date. That is something we could discuss with the Gambling Support Service and see if that is something they can collect.

MR BRADDOCK: Thank you.

THE CHAIR: Any supplementaries?

Mr Rattenbury: Mr Cain, just while there is a break, perhaps I can answer a couple of questions that came up earlier, for which I now have the details.

THE CHAIR: No; I have got a substantive. We are due to go to a quarter to, I believe.

Mr Rattenbury: Yes. Sure. I was just going to try and answer some earlier questions, but that is all right. If you want to keep going, fire away.

THE CHAIR: Perhaps if we can wait until the end—

Mr Rattenbury: Yes, sure.

THE CHAIR: There might be something that comes up from other questions. But we should have time for that too, I suspect.

Mr Rattenbury: No problem. Okay.

THE CHAIR: I want to go to hawker licensing in the ACT, Attorney. My understanding is that the ACT has scrapped the licensing fee associated with applying for a hawker's license. Is that the case?

Ms Cubin: Mr Cain, thanks for your question. Yes, that is correct.

THE CHAIR: Thank you. Are there any other fees specifically aimed at hawkers in the ACT?

Ms Cubin: Not from the perspective of Access Canberra. Obviously, we were just administering that particular fee, which has been abolished since 1 July this year.

THE CHAIR: Okay. The Access Canberra website currently lists 59 businesses on the hawkers permits public register. Could you confirm that that is the actual total number of businesses currently allowed to trade as hawkers in the territory?

Ms Cubin: Recognising that the public register is fluid, because obviously there are permits being issued at a point in time and the information fluctuates, yes, that is my understanding.

THE CHAIR: Okay. And what paths exist for bricks and mortar businesses to object or complain about hawkers who turn up in their area?

Ms Cubin: There are restrictions within the legislation. A hawker has to be located within a certain meterage away from the bricks and mortar premises. They also have to not be selling something that is a similar type of product. So there is not an objection per se, from my understanding; however, there are controls within the law to support hawkers and also bricks and mortar businesses.

THE CHAIR: And what penalties exist for hawkers who break the rules by either overstaying their allocated time or trading in a location not approved?

Ms Cubin: I do not believe I have the penalty information. I will have to take that question on notice, just from the penalty perspective.

THE CHAIR: Thank you. And perhaps similarly: how many penalties were issued to hawkers in the last 12 months?

Ms Cubin: I will have to take that on notice, although I believe none, recognising the impacts of the pandemic and seeking to help businesses establish. I will check.

THE CHAIR: Okay. Thank you. Any questions, Mr Braddock?

MR BRADDOCK: No. I will give the Attorney-General a chance to provide his answers.

THE CHAIR: So you are passing your substantive to the Attorney-General?

MR BRADDOCK: Yes.

THE CHAIR: I am not sure that can be done! Attorney.

Mr Rattenbury: Thank you. I did not mean to interrupt you just before, Mr Cain. I was just trying to be helpful to the committee.

THE CHAIR: Trying to cut my flow—

Mr Rattenbury: Mr Parton earlier asked me about the current load-up limits on poker machines in the ACT. The answer is that we do not have a load-up limit set in the territory. But in practice the limit has moved in line with the limit in New South Wales, and that is because we rely on interstate technical evaluations and have common technology in the ACT. In New South Wales the limit has moved from \$10,000 to \$7,500 to \$5,000, and you will see a similar application in the territory. So the answer to Mr Parton's question was: there is currently no load-up limit and, as part of the proposed changes, we intend to introduce one.

In terms of reporting dates for Gambling and Racing Commission areas of priority, the University of Canberra is delivering *Understanding Gambling Harms in the Digital Age* by February 2024. The University of Canberra is doing a scoping review by June 2024. The ANU is delivering a report on young people and online gambling in the ACT by February 2024, and the ANU is also delivering *Harm Profiles Related to Low-Risk Gambling: Longitudinal analysis of three datasets* by September 2023.

I also have confirmation, Mr Cain, that there are currently 59 active hawker permits.

THE CHAIR: Thank you. Any update on the connection between the current Commissioner for Fair Trading and litigation involving that?

Mr Rattenbury: No. I am going to take advice on that matter.

THE CHAIR: Thank you. I have another question on hawkers. When a business in place complains about a hawker being in their area, and perhaps the business is concerned about how they are operating, whether they are operating in their approved time or in their approved location, how does your office respond to such a complaint? How quickly? What actions do you take if a business rings up and says, "Someone is where they should not be, selling whatever"?

Ms Cubin: Thanks for the question, Mr Cain. For context, the inspectors that we have at Access Canberra are usually deployed doing certain things, so they cannot generally stop and drop everything to respond to a particular complaint. However, in saying that, as with any complaint that Access Canberra receives, we need to substantiate some of the information provided. We do follow up on matters such as that, if a business has a concern about a hawker or a person operating unlicensed, potentially hawking, near their premises. So those are aspects that we will look at.

THE CHAIR: So is there a policy on complaints about hawkers?

Ms Cubin: Access Canberra does not have a specific complaints policy on hawkers. But under our accountability commitment, which is on the Access Canberra website, we do have a complaint investigation policy. We have a compliance and enforcement

policy. So there are a range of guidelines there for the community on how to make a complaint and the type of action that Access Canberra will take, depending on the nature of the conduct.

THE CHAIR: And is there a complaints register that is available, either publicly or to this committee?

Ms Cubin: With regard to hawkers or in a general context?

THE CHAIR: About hawkers, yes.

Ms Cubin: I will take on notice as to whether we have received any complaints about hawkers in the last 12 months.

THE CHAIR: Okay. You have not?

Ms Cubin: I will take that on notice and check.

THE CHAIR: Okay. Thank you. You might be able to take this on notice too, or answer now: how do you classify something as a complaint? Every time someone rings up and says, "I do not like this hawker there," is that a complaint? How do you classify a complaint?

Ms Cubin: Our complaints assessment team has an assessment process. As you can appreciate, Access Canberra receives a lot of feedback or complaints around a range of different areas that we regulate. That team will record the information. If it is indicating that the conduct is suggesting a contravention of the law then that will be referred to our compliance team, which is either from an inspection perspective or the investigations team.

THE CHAIR: Could you just confirm whether your current position is an acting position or whether you are in your substantive commissioner position?

Ms Cubin: I am in my substantive Executive Branch Manager, Licensing and Registrations position, with the appointment of the Commissioner for Fair Trading.

THE CHAIR: Are you in an acting Fair Trading commissioner position for anything?

Ms Cubin: I am not in an acting appointed position.

THE CHAIR: So in terms of actual performance of duties, are you standing aside for any of your otherwise normal functions?

Ms Cubin: My normal function is Executive Branch Manager, Licensing and Registrations.

THE CHAIR: Okay. Any further updates, Attorney?

Mr Rattenbury: No, Mr Cain.

THE CHAIR: Okay. Thank you. We will now draw this session to a close. I thank Minister Rattenbury and officials for your attendance today. If witnesses have taken questions on notice—there were quite a few—could you provide answers to the committee secretary within five working days. The committee will now suspend for a short break and reconvene at 4.00 pm.

Hearing suspended from 3.43 to 4.00 pm.

Appearances:

Rattenbury, Mr Shane, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Nuttall, Ms Amanda, Principal Registrar & CEO, ACT Courts and Tribunal

Denning, Mr Richard, Senior Director, Restorative Justice Unit, Legislation, Policy and Programs Division

Beacroft, Ms Laura, Chair, Sentence Administration Board

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

Johnson, Ms Kathryn, Executive Branch Manager, Justice Reform, Legislation, Policy and Programs Division

Kimber, Ms Bianca, Parliamentary Counsel, Parliamentary Counsel's Office

Chief Minister, Treasury and Economic Development Directorate

Arugay, Mr Fred, Acting Senior Director, Customer Coordination Branch, Access Canberra

THE CHAIR: Welcome back to the public hearings of the Standing Committee on Justice and Community Safety for the inquiry into the Annual Reports and Financial Reports for 2021-22. In this session we will be speaking with the Attorney-General and I welcome Minister Rattenbury and officials. As there are new officials present, can I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw each of your attention to the privilege statement? Could you each confirm, for the record, that you understand the privilege implications of the statement?

As we are not taking opening statements, we will proceed to questions. I will start. Attorney, following the recent media reports that the JACS directorate and Legal Aid ACT were targeted by a cyberattack, can you please outline the extent of the hack and if any sensitive data, client data in particular, was compromised?

Mr Rattenbury: Certainly, Mr Cain. What I can start by letting you know is that it was specifically Legal Aid, not the broader Justice and Community Safety Directorate. I do not want to nit-pick but it was very specifically the Legal Aid agency. I will ask Mr Glenn who has been leading the response on this matter to go into the details of your question.

Mr Glenn: Thank you, Attorney. I acknowledge the privilege statement. Mr Cain, yes, the intrusion to the Legal Aid computer system resulted in some client information being accessed. There is a body of work going on now which is some forensic data analysis to determine the exact extent of that. That work will be ongoing for the next several days, I expect.

THE CHAIR: Could you talk about the character of this client information?

Mr Glenn: To the extent that we know, it goes to essentially Legal Aid files across its different practice areas. The precise details of the information is not clear as yet but

certainly there is client information and there are other things that are on the client file in relation to Legal Aid matters.

THE CHAIR: Are you saying that client files are potentially being hacked and—

Mr Glenn: Some client information has been accessed, yes.

THE CHAIR: Including the client files with any advices and litigation that might be involved with that client?

Mr Glenn: I cannot tell you exactly what has been, but that is the—

THE CHAIR: Are you happy to take it on notice and just provide whatever information you can come up with at this stage.

Mr Glenn: Mr Cain, we do not know as yet and that is the work that is being done.

THE CHAIR: What actions have Legal Aid taken in the last few days to increase protections of client data?

Mr Glenn: Mr Cain there are a couple of steps that are being taken. The first is around security of the Legal Aid computer systems. Legal Aid systems were taken offline for a period of time. They have been working with their ICT provider with the assistance of a cybersecurity firm and the ACT government to re-establish those systems. Legal Aid has actually moved forward an existing program of work to move its ICT systems into the cloud. That work has been done and that provides an added layer of security in relation to external intrusions into their systems. So they are now up and running and there will be some further security work done to verify the security posture of the system is as it should be.

THE CHAIR: What impact has this breach had on Legal Aid performing its usual functions?

Mr Glenn: Fortunately, it has had relatively limited impact in terms of the service that it is delivering to its clients. Legal Aid was able to create work arounds for its phone system at the end of last week and to still be able to maintain most court matters. Now the ICT systems are stood back up, effectively, it is business as usual. Although, as you would appreciate, there is a lot of activity and a lot of resources being applied to managing the cyber incident and dealing with clients who may be affected.

DR PATERSON: Minister, in the last sitting or maybe the one before it, three petitions were tabled by Mr McLuckie in respect to dangerous driving and ACT judiciary and appointment processes. I was wondering if you can provide an update on any work that JACS has done since they were tabled in response to those petitions?

Mr Rattenbury: Yes, I guess there is a couple of angles to that, Dr Paterson. The first is obviously the government will formally respond to the petitions per the Assembly rules. That matter has not yet gone to cabinet, so the formal government response has not been finalised. That will come to the Assembly within the required timeframes.

However, as I have, I think, discussed with you previously, we are not standing still on these matters and there are a number of pieces of work going on. The first is the committee you are also involved in. I think it is this committee that is conducting a separate inquiry. I think that probably has been under-sold in some of the public discourse. I think that is a really important inquiry. I am appearing next week. We are obviously looking very closely to see what the inquiry determines because we are trying not to pre-empt some of the work the inquiry is doing. At the same time, we are proceeding on a number of other matters, including the work that is being done, as I talked about publicly, on examining concerns around are the right matters being considered?

With bail applications, does the legislation reflect community expectations around the matters the judiciary is required to take into account? We are also establishing the law and sentencing advisory council. Work is underway to get that established, to set up the right governance mechanisms around it and to think through the right membership of that committee. There are a range of other pieces of work going on, I think related to those petitions, if not, exactly in the terms of which the petitions have sought.

I have found some of the public discourse on this unfortunate in the sense that it really sought to polarise. It is either this way or this way. When in fact I think these are matters in which there are details and we are seeking to deliver some of the same outcomes that are being called for but perhaps in a somewhat different way in some areas.

THE CHAIR: Have you decided who will compose this law and sentencing advisory council?

Mr Rattenbury: I have not finalised the exact list yet, Mr Cain, but as I indicated at the time of putting it out there, I am seeking input from various people. I have said legal stakeholders so my expectation would be you would see representatives of the Law Society and the Bar Association, and legal academics would be of that nature. I hope ACT Policing would accept a role in the group and then there would be a range of community representatives. For those community representatives, we are looking for some diversity and we would be running an open invitation process for people to put themselves forward. It might be we encourage some people to apply as well, as sometimes people who would be great at these things do not think to put themselves forward. So we might actively encourage but it will certainly be an open process and members of this committee and members of the Assembly would be welcome to encourage people to apply as well so that we get a good community representation. I expect about 10 to 12 people. We are learning some lessons from a previous law reform advisory council in the ACT. There were some issues with that and we are seeking some advice on why that was considered to not be as effective as it might be, and also looking at what other jurisdictions are doing.

THE CHAIR: What assurances can you give that this council will meet community expectations for review and reform on sentencing and judicial reform?

Mr Rattenbury: I can assure the committee we are seeking to make sure it is adequately resourced, it has strong governance mechanisms and it has a good diverse

representation of perspectives in the community. I think those are key ingredients to ensuring it works effectively and is giving advice to government that is independent of the advice government receives from our agencies. Obviously, Justice and Community Safety Directorate advises the government but we want to make sure there is a forum where other voices have an opportunity to put their views forward as well. That is one of the key reasons for having a council along these lines.

THE CHAIR: Will the council include someone from outside the ACT jurisdiction? Perhaps a retired supreme court justice or are you going to just allow ACT stakeholders and/or community groups to be involved?

Mr Rattenbury: That has not been determined. I am interested, do you have a particular view that we need somebody from outside the ACT?

THE CHAIR: Well, it was a question to you, Attorney.

Mr Rattenbury: Well, as I have described the proposed list of membership, I guess, somebody from outside the ACT would be welcome to apply as a community representative. One of the criteria would be that we would expect community representatives to represent the views of the community. If they were to come from outside the ACT, I would need to be convinced they would be representative of ACT community views.

MR BRADDOCK: Just going further on the issue, the Australian Federal Police Association and other commentators have claimed that the ACT is heading for the highest number of bail breaches. I am wondering if you could provide what data the courts have in terms of a number of breaches on bail?

Mr Rattenbury: Yes, certainly, Mr Braddock. I will ask Ms Nuttall to provide some details in a moment but I think this committee had the ACT Policing appear last week who had to take that question on notice. So Ms Nuttall, are you able to provide any further information?

Ms Nuttall: I have read and acknowledge the privilege statement. Mr Braddock, I would like to give you some background about what is being termed as convictions for breach of bail that has been put out by the ACT Police Association.

Under the Bail Act, there is only one criminal offence under that act for failing to appear on an undertaking to attend court. That criminal offence comes under section 49 of the Bail Act.

There are a whole range of things that will happen if somebody is alleged to have breached their bail and it depends on how that comes to the attention of the police. I am sure the CPO will talk to this and I will not try and go too much into the details of what the police might do. But there would be some level of discretion, firstly at the policing level to determine whether a breach of bail is dealt with without it returning to court. Section 56A of the Bail Act provides power for the police to arrest somebody who has breached a condition of bail. If somebody is arrested for breaching a condition of bail they are then put before the courts. It is not a criminal offence to breach a condition of bail. It is only a criminal offence to fail to appear before

the court.

So we do not keep data on when somebody is arrested and put before the court on an alleged breach of a condition of bail. The matter comes before the court and there are a number of things that can occur. An application may be made by either party for bail to be varied or bail to be revoked, or there may be no application for bail to be varied and the court will simply continue bail. The court may or may not make a finding as to whether the condition of bail was in fact found, because there is no contest. Generally it does not go to a hearing on whether somebody breached their bail condition. It really just comes back to whether somebody's bail would be continued, revoked or varied.

So the statistics that we have on breach of bail really only go to that provision in relation to section 49 of the Bail Act, where there is a criminal offence to fail to appear before the court in answering your bail. The figures are going down across the years. So we have seen a reduction in convictions for that section 49 offence from 2018 to 2019 where it sat at 293 convictions for that year. Last year in the 2021-22 year, that reduced down to 204 convictions for a breach of that section.

MR BRADDOCK: So we have no further data for example if someone has breached a condition in terms of, I do not know, late for an appointment or—

Ms Nuttall: Well, as I said, it does not always come to the court's attention, Mr Braddock. There may be quite a number of circumstances where the police will deal with that alleged breach at that level without arresting. The power the police have to arrest may not necessarily be exercised for an alleged breach of a condition. It will only come to the court for an alleged breach of a condition of bail in circumstances where the police have arrested under section 56A of the Bail Act. Not where they may have dealt with the breach of bail by way of caution or a whole range of other mechanisms that may be open to them.

Mr Rattenbury: So if we go back to your original question, the source of that data used by the Australian Federal Police Association is unclear to the Justice and Community Safety Directorate. We are unable to answer where that data has come from. I know the Chief Police Officer last week also took that on notice so at this point it remains unclear, the source of that data.

DR PATERSON: Is there any data in respect to breaches either on the conditions of bail or on the particular part of the Bail Act in respect of what the original offence was? The fact that we have heard through other hearings last week around the recidivism rates for the dangerous driving offences, are these offences stand outs in terms of the people actually breaching bail?

Ms Nuttall: I do not have any data on that Dr Paterson. I will have to take that on notice as to whether we have any data in relation to that particular issue.

THE CHAIR: Attorney, I note the ACT Auditor-General released a report on data security in 2020. Now that may seem a while ago, but it is very relevant, which found that key mandatory requirements of the ACT government's ICT security policy were lacking. Attorney, what action had Legal Aid taken to implement the

recommendations of this Auditor-General report issued in 2020?

Mr Rattenbury: Can I just clarify with you, Chair. I understand Legal Aid is appearing before this committee tomorrow morning. Are these matters you want to take up directly with the Legal Aid Commission at that point in time?

THE CHAIR: I certainly can.

Mr Rattenbury: Because we will end up saying to you, “We will have to take some of that on notice and we will have to go and ask Legal Aid,” or you can ask them directly tomorrow morning. I am happy to be guided by your preference.

THE CHAIR: Legal Aid, yes they are colleagues tomorrow. Well, we are in your hands, Attorney, Legal Aid is appearing tomorrow.

Mr Rattenbury: Yes, so—

THE CHAIR: Do you have an answer to that question?

Mr Rattenbury: Sorry.

THE CHAIR: It may well be asked tomorrow as well.

Mr Rattenbury: As well? All right. In which case I will take the question on notice and seek advice from Legal Aid.

THE CHAIR: Thank you. But what actions more broadly have your directorate and other agencies reporting to you taken to implement this Auditor-General’s recommendation from 2020?

Mr Glenn: Thank you Mr Cain. I do not have all of those recommendations in front of me but I can speak generally about the work that the ACT public service is doing in relation to data security. There has been a range of efforts to improve the ACT government’s security posture. DDTS, the—I cannot explain that acronym.

Mr Rattenbury: Digital Data Technology Service.

Mr Glenn: Thank you. At a whole-of-government level, they have been working through the various initiatives that need to be taken in terms of data security. Within JACS we have had some analysis of our systems as to which ones are fully supported, where there are security plans in place and whether there is any remedial action that needs to be taken and that is an ongoing body of work. Indeed, it is always an ongoing body of work as we need to maintain our systems in a contemporary way to be able to address an evolving threat over time.

THE CHAIR: And that ongoing work does that include protection from cyberattacks as we have seen with Legal Aid and obviously some other well-known national institutions?

Mr Glenn: Indeed and that goes to a range of things including personnel security,

ICT hygiene issues, security settings and the disaster recovery plans that go along with those sorts of systems. So yes there is a gamut of activity, but it is designed around how we keep our systems secure from all of the vicissitudes of life, one of which includes the malicious actions of others.

THE CHAIR: Thank you.

DR PATERSON: Minister, my question is in respect of restorative justice. It says that in the last year the restorative justice unit received 162 referrals; but, in terms of the number of conferences convened, there were 52. I understand all of the ins and outs of how people get to conference, but do you think that a lot of people are missing out on restorative justice because, for whatever reason, we are not able to either support them or the scope for being applicable for it is too narrow?

Mr Rattenbury: Mr Dening, who heads up our restorative justice unit, is online. I will pass to him to answer that in the first instance, and we can come back to it.

Mr Dening: I acknowledge the privilege statement. Thanks for your question, Dr Paterson. With our conferences, these can only proceed where people are willing to participate, where both parties are willing to participate, and where we can initiate and maintain contact with people. It is the latter that is mostly the difficulty for us, which is interesting. I have been here for about 18 months to two years, having come from another jurisdiction where we were providing similar restorative justice services. My experience here in the ACT is that officers do go above and beyond to try and track people down, to the point of dropping off letters at people's addresses. If it is a business, they drop by the business. There are many attempts to try and stay in touch with people. From my experience, I think they go above and beyond.

Unfortunately, the result still is that many matters do not proceed to conference. There are a few matters where we will assess that the matter should not go ahead. I think that is important, as part of ensuring that we are providing a safe service, particularly in matters involving things like domestic and family violence, and sexual violence. Those are still a minority of cases. As much as possible, we are trying to give people feedback about the things that might be making things unsuitable, so that they can go away and do some work, and they can be part of a safe and meaningful process.

We do a lot to track people down, which is our biggest issue, in terms of things not proceeding to conference; otherwise we very much try not to stand in the way of a conference. We try to shape a conference that is safe and meaningful. Does that adequately address your question, Dr Paterson?

DR PATERSON: Yes. Further to that, where it says that ACT courts and ACT Policing remain the strongest providers of restorative justice opportunity, are they identifying these people for restorative justice? Are they just not appropriate in the first place?

Mr Dening: No, I do not think that is our experience. The terminology in the act of "suitable" can give a certain impression about the sorts of assessments we are making, because someone might be unsuitable just because we cannot track them down. They might be unsuitable because they decide, early, that they are not interested in

participating, or, going some way into the process, they think, “Actually, this isn’t the right process for me; this isn’t the one that’s going to help me to meet my justice needs.”

With potentially labelling people as unsuitable, whilst that is the terminology in the legislation, it is not always helpful in trying to typify what is really going on and why matters are not proceeding from a referral to a conference. There is always the possibility that, because parties need to consent for a referral to occur, particularly at that police stage, there might be an opportunity for more engagement with people around the idea of what is actually involved, rather than getting further down the path with us and then making a decision.

We encourage referrers to let people contact us and speak to us before they provide their consent for the referral. That is not always taken up. We do provide education to police, particularly, quite regularly, around the service that we offer and the information that we think it would be helpful to provide to victims and offenders, so that they are helping them to properly anticipate what might be involved in a process.

Those are the strategies we have in place, but there might be a range of ways in which that does not necessarily completely address the issues.

DR PATERSON: This might be more of a question for the minister: do you think that we need broader scope of the legislation? That is what some academics are calling for—more flexibility and a more dynamic nature of restorative justice than what we currently have. Also, given that we have heard a lot from victims of crime lately who are very disempowered by the criminal justice system, if we had a broader scope in the legislation for restorative justice, we might be able to resolve some of these things for people in other ways.

Mr Rattenbury: Certainly, I think it is worth considering. I consider restorative justice to be very powerful. As you have alluded to in your question, a lot of victims find it very empowering. They find the court process quite alienating at times, because it is very formal; there are lawyers involved. Often the victims are very much to one side in a court proceeding. Despite the opportunity for victim impact statements and the like, I think a lot of people find it quite alienating.

I was very encouraged by the stages of expansion of the restorative justice system, including now to sexual and family violence offences. We have seen a reasonable uptake in that space. I was uncertain as to whether people would want to; obviously, it is very different to have, perhaps, a vandalism matter versus a family violence matter or a sexual assault matter. But it has been well received in the broad sense. I certainly think there is more scope.

MR BRADDOCK: I am not sure whether you have the Sentence Administration Board online.

Mr Rattenbury: The chair of the board is sitting in the gallery, so I will ask her to come forward.

MR BRADDOCK: I am seeking an update in terms of the movement of the Sentence

Administration Board back into the courts precinct, whether that has occurred and the outcomes from that move.

Mr Rattenbury: I am happy to let you know that the Sentence Administration Board is now operating from the ACT courts precinct. That has been the case since around the middle of September.

Ms Beacroft: 20 September.

Mr Rattenbury: 20 September. I am very pleased with the cooperation between the courts and the Sentence Administration board to make that possible.

MR BRADDOCK: I seem to recall from a previous hearing that there were some offenders—however you would describe them—who, due to the fact that the Sentence Administration Board could not meet in the courts precinct, were still free at that time, and who needed to be taken into custody. Can you provide me with an update on the status of those people?

Ms Beacroft: I acknowledge the privilege statement. With respect to all of the warrants we have issued due to a teleconference hearing—that is, the offender was present but joining remotely, and that was because we did not have a venue—those numbers, in total, are reported in our various annual reports. As of 31 October, there are only six outstanding warrants that have not been executed. Two of those are not of great concern, because we know the offender is in New South Wales custody. They are not in ACT custody but they are in custody. With the other four, yes, they are outstanding. Those warrants were issued quite a while ago, so they have been somewhere—we do not know whether they are in the ACT—for quite some time. We have a meeting in the near future with the police commissioner. We will be talking about what can be done about warrants generally, but those in particular. Obviously, the police are doing their best endeavours to find these people.

MR BRADDOCK: Thank you; that is exactly what I was after.

THE CHAIR: What brought about this change? Previously, you were not meeting in the court precinct, but now you are. Obviously, this committee had an interest in this, during its community corrections inquiry. How was this change brought about and what new factor brought it into being?

Mr Rattenbury: The situation previously was that the former Chief Justice did not support the role of having what she considered to be an executive body operating from the court premises. In discussions with the new Chief Justice, we have been able to develop a memorandum of understanding that acknowledges the value of using the facilities of the court, with the secure cells available, and which does not interfere with the needs of the courts in using the building.

THE CHAIR: Is it the case that the Sentence Administration Board is still considered to be a part of the executive?

Mr Rattenbury: As a tribunal, yes, they are considered to be so.

THE CHAIR: Attorney, do the policies in relation to registration of land titles include identifying, for further scrutiny, transactions with zero consideration? Sometimes they would be called “love and affection” on the transfer form.

Mr Rattenbury: I will bring forward colleagues from Access Canberra who deal specifically with this area.

Mr Arugay: I acknowledge that I have read and understand the privilege statement.

THE CHAIR: My question is about registration of transfers with zero consideration. Does Land Titles have a policy to scrutinise those?

Mr Arugay: Under the transfer form requirements, there are also requirements for the ACT Revenue Office to provide not just the consideration price, but market value or higher. The Land Titles Office has a process where the figure cannot be zero, or an amount that might be seen as not accurate, because it will not be able to be assessed for stamp duty. Even those such as family law, or love and affection, still must have the market value price or an estimation of market value.

THE CHAIR: Even though the consideration would still be zero, or under a court order, or love and affection?

Mr Arugay: Yes, that is correct.

THE CHAIR: Does Land Titles scrutinise transactions where the settlement date and the exchange date are the same?

Mr Arugay: That could potentially be a simultaneous settlement. The key performance for the delegates of the registrar-general is to ensure that the form is in registrable form. Under the legislation from 2020, all documents must be certified either by a legal practitioner or by the party themselves. Potentially, that could be on the same date. The assessment is around a registrable form.

THE CHAIR: How many of these would occur—zero consideration, same date, exchange settlement? How many of each of those would occur in each financial year, going as far back as you can?

Mr Arugay: We will need to take that one on notice, to get those statistics.

THE CHAIR: If it helps, I will put a ceiling of 10 years. Again, you can take that on notice and advise on the timing.

Mr Arugay: Yes.

THE CHAIR: And the data that you have to access.

DR PATERSON: My question is around the Sentence Administration Board. My question is around breaches. I am interested to note that there have been reductions in breaches, which the annual report notes are probably due to COVID-19 emergency factors. I am interested to know whether there are any other factors that are being

potentially attributed to a reduction in breaches of parole or intensive corrections orders.

Ms Beacroft: No. I think that is very probable, the cause. If you look at the long-term trend, breaches are going up because they match the population in the community corrections system. The population in the community corrections system decreased a little bit, which is against all prior trends, and then what that does is that fewer breaches flow on. As well as that, because of the COVID restrictions, community corrections officers were not able to supervise in the same way. In particular, it was very difficult to do drug testing. So I think the answer to your question is that it is very likely to do with COVID. You see that trend across the nation—it is just not in the ACT—for the COVID period.

DR PATERSON: My second question is with respect to the community corrections orders. You note that of concern is that the rate of Aboriginal and Torres Strait Islander people sentenced to such orders is lower than that of non-Indigenous people. Can you explain why this is concerning?

Ms Beacroft: Why it is concerning?

DR PATERSON: Yes.

Ms Beacroft: It is a further reflection of the disproportion that Aboriginal people experience right through the justice system. Generally speaking, it is better if someone can get an intensive corrections order because then they are in the community, rather than in custody. We know that when people are put into prison, all the evidence shows us that that increases their risk of recidivism, contrary to what people might think. Obviously, there is an assessment to be gone through, and the merits of whether someone should get an ICO need to be applied across the board, but it suggests that there are some systemic issues working here which need to be looked at carefully, which indeed they are. There are a lot of strategies within the ACT.

One of the difficulties with many young Indigenous offenders in particular is that there are layers of complex needs. That means that their risk level can be very high. There need to be wraparound, intensive rehabilitation services available to them, as well as perhaps a short stint in a supervised context to ensure that that risk is properly managed. If they are lacking in the therapeutic services, it is very difficult for some of those young Indigenous offenders to get assessed for an ICO.

I know that there are many strategies in place. It takes a while to work these things up, because with a really good service it takes a while to get it to scale. That is, I think, the challenge here: how to get some of these terrific services to scale in order to bring those numbers down, but also to work with those very complex layered needs that young Indigenous offenders in particular have.

DR PATERSON: Minister, given that, what is being done to ensure that the criminal justice system is equitable, is fair and also does not increase the level of incarceration of Aboriginal and Torres Strait Islander people in our community?

Mr Rattenbury: There are a range of responses to that. We go right from the

high-level goal the government has, which is to ensure that by 2031—this is under the Closing the Gap goals—the rate of incarceration of Indigenous people is equal to non-Indigenous people in the ACT, which is an extremely ambitious goal, given the significant over-representation we see at the moment. At that highest level the government set some very clear ambitions.

To then deliver on that we need to provide a series of programs. That goes from, at the other end of the scale, making sure that we have got the right data so that we are distinguishing between Indigenous and non-Indigenous people, so that we can see where these trends are and where these pressure points are, through to the provision of specific services to target that over-representation and make sure that we are providing culturally appropriate services and the right services.

For me, that also includes trying to strengthen Aboriginal and Torres Strait Islander service providers. That cultural sensitivity comes from having Indigenous-led organisations. We are certainly seeking to make sure that, through grant processes and tender processes, those organisations are given a good opportunity to receive government funding but then run the appropriate services. I can go into a whole list of the specific services that are there around bail support programs, but, in a broad sense, that is what we are trying to do.

DR PATERSON: This is a pretty clearly identified issue—that Aboriginal and Torres Strait Islander people are being sentenced differently from non-Indigenous people. So do we need to look more at the courts and the sentencing in these cases?

Mr Rattenbury: Yes. I think an interesting example of that is the recent evaluation of the drug and alcohol court, the drug and alcohol sentencing list, that was publicly released. It identified that, whilst overall that court was quite successful, it was not seeing the same rate of success for Aboriginal and Torres Strait Islander people in the system. It made recommendations about that, and we have seen already that the Chief Justice has embraced those recommendations. The court hosted a dedicated workshop recently with a whole series of stakeholders to try and address that. So work is continuing and I think there is an explicit acknowledgement, both in the government and in the courts, that we have got more work to do.

MR BRADDOCK: I am hoping for an update on coronial reform and what we have achieved in that space.

Mr Rattenbury: Yes; certainly. There are probably two key things I can share, Mr Braddock, and then if you have other questions we can touch on them. We have of course had a dedicated coroner since 15 March this year. Mr Ken Archer was appointed as the ACT's first dedicated coroner. He has taken on that role with gusto. I think that is the right way to describe it. I know he is seeking to both get through matters more quickly but also put in place changes. He has been consulting with a lot of families, meeting with families directly in the coronial system, and getting their feedback on how to improve it. I know he has already made a number of adjustments.

Also, separately to that, the government is conducting a policy reform process. We have been in the process of recruiting an independent facilitator to lead that process. That independent facilitator is being recruited by the ACT Human Rights Commission,

and I was recently given an update that that facilitator has been identified and they will be getting underway with that work shortly.

MR BRADDOCK: Thank you. I have raised in previous hearings concerns about death certificates, particularly for those who have died by suicide, containing traumatic information and means as well. Is that something that will be looked at as part of that policy reform?

Mr Rattenbury: I know the coroner has looked at that. He told me he was looking at it, but I cannot remember specifically what he was doing in that space, so let me take that question on notice and if I have any update I will provide it to you.

MR BRADDOCK: Thank you.

THE CHAIR: Attorney, I am aware of concerns from members of the legal community regarding the very public presence of the Victims of Crime Commissioner throughout the ongoing R v Lehrmann case. In what capacity was Ms Yates appearing at this trial and in public appearances?

Mr Rattenbury: Ms Yates was there as the Victims of Crime Commissioner. In the ACT all victims of crime are able to avail themselves of the support services of the commissioner. Before you go on, Mr Cain, I am happy to answer the questions as best I can, but the Human Rights Commission, and specifically the Victims of Crime Commissioner, sits within the ministerial responsibilities of Minister Cheyne. I am happy to keep trying to answer your questions. We will see how we go.

THE CHAIR: From a legal point of view the case is ongoing and the trier of fact, the jury in this case, has not concluded that there was an offence under the criminal law.

Mr Rattenbury: Yes.

THE CHAIR: If that is the outcome then there is a victim of a crime, whereas at the moment that decision is still pending. So could you confirm your understanding of Ms Yates appearing when there is not a legal outcome at this stage?

Mr Rattenbury: I have seen that analysis from a number of commentators who have said that that is the case. If we took the approach that is being suggested in some of those commentaries, nobody would get any support until after the court case had finished, and that is clearly not the intent of having victim support in the ACT.

THE CHAIR: How frequently does Ms Yates appear at other matters of either sexual assault or domestic violence in this manner?

Mr Rattenbury: A whole range of staff of the Victims of Crime Commissioner support people through court processes. I do not know how often Ms Yates personally does it, but staff of the Victims of Crime Commissioner frequently support members of the public in court proceedings. I think it would be fair to say that there are not many matters in which as many media turn up. I think Ms Yates has probably had a higher profile in this matter because the media are filming the arrival of Ms Higgins, in this case, far more frequently than you might see in a regular matter before the

ACT courts.

THE CHAIR: As attorney and senior legal officer in the territory, do you have any concerns that this might taint the presumption of innocence that is currently sitting in this case?

Mr Rattenbury: Mr Cain, I think the Chief Justice has worked extremely hard in this matter to be very clear with the jury about the matters they are to consider and not to consider. The jury received clear instructions. Clearly, that jury has been dismissed. As we are aware from media reporting, the Director of Public Prosecutions intends to bring that matter back for a further trial next year.

THE CHAIR: The community may not have the same understanding about the Victims of Crime Commissioner appearing in such a frequent and obvious manner, so there may be a public perception that she is supporting a guilty finding.

Mr Rattenbury: Well, that is certainly not the intention. It is the ACT government's position that we seek to support people who are allegedly victims of crime, because the court process can be extremely difficult. My view is that it is appropriate to support people through the court process. The nature of that commentary suggests that people should not be given support until after the conclusion of the court process. If that is your view, you are welcome to hold that view. It is not a view I share.

THE CHAIR: That is certainly not my view and it is not for you to question.

Mr Rattenbury: Okay.

DR PATERSON: This is a debate. This is a debate, Chair.

THE CHAIR: It is the manner that Ms Yates is currently providing support—

DR PATERSON: Chair, a question.

THE CHAIR: I wonder if you have seen that happen in the past and how frequently?

Mr Rattenbury: What do you mean? I am unclear about the question. Is your question that there is an inappropriate element in Ms Yates's conduct?

THE CHAIR: No. I am asking you: has Ms Yates appeared in such a manner in previous cases—in such a public and open media manner?

Mr Rattenbury: I think your question is—

THE CHAIR: It is a question to you. I can ask that of the commissioner.

Mr Rattenbury: I cannot think of another matter which has had so much press coverage.

DR PATERSON: Attorney, in the annual report, community service total hours worked has decreased substantially over the past five years. I am assuming that is

COVID related, given the last two years, but what is being done to support people in supervised community work?

Mr Rattenbury: I am just trying to think. Ms Doran might be the best person to help us with that question.

Ms Doran: Thank you for the question, Dr Paterson. I acknowledge the privilege statement. It is a matter that goes to the corrections minister, but I am happy to attempt an answer. We do not have all of the relevant officials here today. You are correct in your first assumption. It was an impact of COVID which reduced the hours there and made it difficult to have people participating in community work arrangements. As we are coming out of COVID, obviously, there is an emphasis on re-establishing those arrangements and re-supporting people back through those arrangements. We are also working actively to identify different forms of working opportunities, so that there are more options to be availed of by people.

MR BRADDOCK: I have a question about the recidivism rate, which was 37.2 per cent. Are we on track to achieve the government target to reduce recidivism to 25 per cent by 2025?

Mr Rattenbury: I am pleased that that rate is a nine per cent decrease since the start of the period; 2018-19 was the base year for starting to measure that 2025 target. We have seen a reduction. Clearly, nine per cent is short of 25 per cent, so we still have some distance to go. The investments we are making in a range of programs are designed to continue to reduce that.

We get that data each year, as part of the *Report on government services*, so we will get an update in two months time. That data comes at the end of January, and is publicly available. That will be the next opportunity to see that. I think we are making progress but we have some work to do.

DR PATERSON: Do we look at a breakdown of different crimes where we are seeing recidivism, and see whether there are any particular areas that we need to be targeting?

Mr Rattenbury: It is certainly part of the consideration. In the original Reducing Recidivism strategy, there were seven priority target areas. Going back to your earlier line of questioning, one of those was specifically Aboriginal and Torres Strait Islander people. In some ways that work has been done in setting the strategy. In setting that strategy, we looked at the data and asked, "What are the areas in which we can make a material impact?" Some of those other areas were, for example, women, and looking at the specific reasons why women are ending up in custody. That work has been done in establishing that strategy, and the ongoing monitoring will look at how we are performing against those seven pillars.

DR PATERSON: Is there any further analysis of the particular crimes by recidivist offenders? We are seeing Operation Toric come through, and clearly highlighting a systemic recidivism problem in respect of criminals who commit those crimes. Is there any analysis done of the particular crimes that may target those particular types of offenders?

Mr Rattenbury: I will ask Ms Johnson to comment on that one.

Ms Johnson: I acknowledge the privilege statement. The attorney has referred to the Reducing Recidivism plan and the evaluation measures that are in that. We have a collaborative agreement with the ANU in relation to this particular plan. We have agreed an evaluation framework with them.

One of the aspects on which ANU are about to give us more data is in relation to the seriousness of offending, the rate of offending and the frequency of offending. We are not certain that we would be able to break it down into the specific types of offences at this stage, but we will get that data from ANU, hopefully, in the new year under this new evaluation framework.

Today, no. As you know, the data for this has a two-year lag; you have to wait two years because of whether or not they are coming back. We have had a very significant impact on that data because of COVID and the mere fact that there have been reductions in the numbers of people that have returned to prison. This is the third year, or fourth year now, when the number of people in prison is reducing. That suggests the numbers, and we are seeing that in the 37.2 per cent figure.

I will say that that 37.2 per cent figure will be the same data that we see in January. That is when it will be put publicly in the ROGS data. It is just in our annual report, that 37.2 per cent figure, because the corrections people have that data and provide it to ROGS, which is where that data will come from, just to clarify that.

THE CHAIR: Attorney, in relation to the exposure draft on the discrimination amendment bill, when will the bill be finalised and presented to the Assembly?

Mr Rattenbury: That bill is under the portfolio responsibility of Minister Cheyne.

THE CHAIR: You have no involvement, as attorney, in the—

Mr Rattenbury: Obviously, I take an interest in it. Through the cabinet process, I have examined the document. I do not have the management of that bill, so I am unable to answer your question.

MR BRADDOCK: I am interested in the residential tenancies reforms that we are undertaking. Where are we at with that? New South Wales Labor have suggested the transferability of rental bonds as a potential future reform. Have we also considered ideas like that?

Mr Rattenbury: Certainly, Mr Braddock. The primary reforms we have been undertaking in the ACT have been to remove the prospect of no cause evictions, also to look at regulating rent bidding, and changes to support the introduction of the minimum standard. So there have been a range of reforms going on. In terms of where we are currently up to, the government recently released an exposure draft of the bill to make these reforms. Consultation on the public exposure draft bill was open from 25 July to 26 August.

That is a couple of months ago now. The directorate has been going through that feedback. We received 44 submissions to that exposure draft bill, and over 200 quick comments on it. That is in addition to all of the work that had been done before that, but I have formed the view that we should release the exposure draft to the bill because it is quite technical, and the exact wording is quite important in this space. So rather than just having a consultation and coming in with a bill, we decided to release an exposure draft. I anticipate having a final version ready to bring to the Assembly quite soon. But, certainly, removing no cause terminations is the main reform there, and I think this is a very important reform in terms of giving tenants a greater sense of security.

The feedback that we have had is that tenants do not feel they can raise concerns with their landlord because they fear the prospect of what is colloquially referred to as a retaliatory eviction. So I think this is a really important reform and one that we are just finalising the details of at the moment.

MR BRADDOCK: Thank you.

THE CHAIR: Regarding the Drugs of Dependence (Personal Use) Amendment Act, which was passed recently, of course, what issues does your directorate foresee will impact the ACT justice system once the legislation comes into effect in October 2023?

Mr Rattenbury: I think the best reflection I can offer at this stage is that obviously JACS has broad responsibilities, from the courts to the police and the corrections system. Minister Gentleman is responsible for a number of those areas so I will not seek to speak for him. As was discussed in the Assembly, the purpose of the policy is to minimise the number of people coming into contact with the criminal justice system as a result of personal drug use. So I guess the broad expectation is that we will see the Justice and Community Safety Directorate less involved in this, and we will see more people being referred to the health system and to other support services such as mental health.

THE CHAIR: Does the directorate expect an increase in drug related criminal law offence as a result of decriminalisation?

Mr Rattenbury: No; the purpose of the bill is to reduce that number, so that is our expectation.

THE CHAIR: What lessons, in the administration of justice, reducing recidivism and the application of criminal law, is the directorate planning to take from experiences in suitable jurisdictions? I do mention, in particular, Portland, Oregon

Mr Rattenbury: I think these matters have been canvassed through the debate on the bill. As I said, our expectation is that this should lead to a reduction in direct contact with the criminal justice system. We believe that it will make the community safer, because we know that many people who have drug problems—drug addiction issues—are involved in other criminal activity in order to support those habits. So the purpose in working with people to go into the health system and address their addiction is not only to improve their lives but to make our community safer by

having less crime committed in support of those drug habits.

DR PATERSON: I refer to the Children's Court and implementation of the care and protection intensive list of care and protection matters. I am just wondering if you can speak to what work has been happening there in the last financial year.

Ms Nuttall: In the 2021-22 financial year, there have been two matters commenced in that court. One matter was finalised, with restoration of the children to their family of origin. Two further families, at the moment, are going through the assessment program, and that is a matter where there is a contest between parents in relation to the custody of the children as well as care and protection issues, so that is a matter that is ongoing at the moment.

DR PATERSON: Okay, thank you.

MR BRADDOCK: My question goes to page 59 of the JACS annual report, which is about the Parliamentary Counsel's Office back capture.

Mr Rattenbury: This is the first time, in several days of hearings, I have been referenced an actual page in an annual report.

MR BRADDOCK: I shall endeavour to do so more in the future. I have set everyone scrambling to find the relevant page.

Mr Rattenbury: I am happy to take the question now, Mr Braddock; thank you.

MR BRADDOCK: The question basically is: what is the backlog we are facing and how long, at the current rate of progress, will it take to actually address that backlog?

Ms Kimber: I have read and acknowledge the privilege statement. I will have to take that question on notice, Mr Braddock, because it is a project that has been running for many years. I believe that, while it is ongoing, it is a very comprehensive statute book at the moment, but I can take that question on notice.

MR BRADDOCK: Thank you.

THE CHAIR: That is the committee's hearing for today, unless there is any further—

Mr Rattenbury: I think we have a few questions on notice, Chair. We will get those back to the committee in as timely a manner as possible.

THE CHAIR: Thank you. The committee's hearing for today is now adjourned. On behalf of the committee, I would like to thank the minister and officials who have appeared throughout the day. There have been questions taken on notice. Could these be provided to the committee's secretary within five working days of receipt of the uncorrected proof. If members wish to lodge questions on notice, please get those to the committee's support within five working days of this hearing. Thank you, everyone.

The committee adjourned at 5.03 pm.