

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON COMMUNITY SERVICES AND
SOCIAL EQUITY**

**(Reference: Inquiry into the rights, interests and wellbeing of children and young
people)**

Members:

**MR J HARGREAVES (The Chair)
MRS H CROSS
MS R DUNDAS
MR G CORNWELL**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 27 FEBRUARY 2003

**Secretary to the committee:
Ms J Carmody (Ph: 6205 0129)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 2.15 pm.

THE CHAIR: We will open the committee hearings into the inquiry into the rights, interests and wellbeing of children and young people. Mrs Cross sends her apologies.

You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. This gives you certain protections but also certain responsibilities. It means you are protected from certain legal actions, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

A committee shall have power to authorise publication of any evidence given before it and any document presented to it.

Resolved:

That, pursuant to standing order 243, the committee authorises the publication of evidence and submissions received by the committee during this hearing, together with any supplementary material arising from the public hearing.

THE CHAIR: That matter will be referred to later on. Thank you, Ms McGregor and Mr Roy, for sparing us the time. We realise it is not easy finding a spot for us.

We would first like you to make an opening statement, and then we will ask some questions and see where that leads us. Before you make the statement, could you please identify yourselves and the area you represent—into the microphone for the purposes of Hansard. You should be aware that proceedings will be broadcast throughout this empty building, for certain members of the media and also in certain public service offices.

HEATHER McGREGOR and

ALASDAIR ROY

were called.

Ms McGregor: I am Heather McGregor. I am the Community Advocate.

Mr Roy: I am Alasdair Roy, Acting Deputy Community Advocate.

Ms McGregor: By way of introduction, we need to make an inquiry—of the kind you people are making—in an overall context, into where children and young people sit in our community with respect to their overall status. It is my submission to you that their status is not very high. A lot of the complaints we hear, and a lot of the conclusions you may reach, from a systemic point of view, and a big picture point of view, relate back to the status that children and young people are afforded in a general, societal sense.

An issue that I have raised over the years, and still raise, with no level of success at all is that we condone assaults on children in the name of physical punishment and that, if those assaults were committed on anyone else, they would be regarded as criminal offences. We have not progressed very far at all with respect to that issue, and for me that is symbolic of whose rights and entitlements are paramount and whose interests are paramount.

Some countries in the world have come to terms with this issue better than we have in Australia. In my mind it is symbolic of how much we truly listen to the interests of children and young people and really give them paramount consideration when we inquire into what it is we need to be doing as statutory authorities, child protection agencies, youth groups and schools—what we really need to be doing. That is my opening statement to you.

THE CHAIR: One of the things you mentioned was wellbeing, and you are saying that seems to be a secondary consideration. We asked this question of Family Services and I, personally, was not happy with the response—I do not know what my colleagues feel. In section 12 of the Children and Young People Act it says that all attempts should be made to ensure that kids stay with their natural parents, and in the following one it says that the protection and safety of the child should also be regarded.

It seems to me that they are at conflict occasionally, and there does not seem to be anything in the act indicating primacy. We are hearing concerns that too great an accent is placed on having kids with their natural parent, jeopardising sometimes the safety of the child. Do you want to comment on that?

Ms McGregor: Certainly. The best interest principle is quite a comprehensive mechanism by which professionals may work their way through decision-making processes. It was enshrined in the Commonwealth Family Law Act long before it was enshrined in the legislation in the ACT governing care and protection.

The results of research that has been done on the wellbeing of children who have been removed from their families are very disturbing. It is reasonable to say that it really is far better if a child can remain with their parents. Where we, as a concerned community, draw the line between leaving children with their parents and removing them for safety is an incredibly complicated and vexed issue. It is a judgment that needs to be formed according to very rigorous and comprehensive standards and decision-making principles, and it is of course an area where people will make a judgment that will, in hindsight, be open to criticism.

It is not the case that children who are removed from their families reliably do well in alternative care. We cannot say that removing children and putting them in alternative care has been a good thing to do. I am generalising, but we cannot say that.

MR CORNWELL: Is that because there is no evidence or is it just as a general rule?

Ms McGregor: I am saying that the evidence indicates that the children—

MR CORNWELL: Right, so there is evidence that indicates that?

Ms McGregor: Yes. The research has consistently shown, not only in Australia but in other countries, that children who are removed with a view to achieving their safety generally do not do very well. I acknowledge that it is not a very satisfactory thing to quote research, because lots of variables are always involved. For example, it could be the case that a child is left in a very harmful and damaging environment for too long so that, by the time the decision to remove the child is made, the damage has already been done and is not going to be “repaired”.

Even controlling for those kinds of circumstances, my understanding of the research is that we cannot feel very confident about removing children and placing them in alternative care and hoping that their lives will get better.

THE CHAIR: In that case, the way it stands at the moment is that in alternative care there is a greater risk that kids will go into the juvenile justice system, that their education will suffer and that their social skills will not be developed. So what we should really be looking at is keeping kids with their parents but having regimes which more closely monitor the wellbeing of the child in that environment.

Ms McGregor: Yes. There are very close connections between the ongoing failure to meet the needs of children who are in unhealthy or damaging environments and those children becoming troubled and ending up in the mental health system or the justice system. We see it clearly from where we sit, and it has been one of our concerns for a very long time.

Two things need to go hand in hand: one is very careful assessment and judgement of the safety and interests of the child, and the other is the provision of assistance and support to the families. One of the things that I think has happened over the years is that, with the reduction in resources that are available to care and protection agencies and the poor record that care and protection agencies have had—in Australia and overseas countries—care and protection systems have narrowed their focus and not become so involved in preventative work as might well have been the case.

We have seen the same thing happen with mental health systems: we used to have a focus on prevention, and we do not hear prevention talked about so much these days. The idea seems to be that the less the state gets involved in family life, the better it is. And we do not have a lot of resources going into prevention programs.

MR CORNWELL: I would like to follow up on that point about the state not getting involved. I do not know if you have read it, but there is a very interesting editorial in this morning’s *Canberra Times*.

Ms McGregor: Yes.

MR CORNWELL: What is the solution in that case? The solution seems to me that you take the child away and put the two parents into some sort of drug rehab arrangement. What are the alternatives, how far do you allow the involvement of the state to happen

before it becomes Big Brother and—the third part of the question—if the evidence is there to indicate that children do not do well when they are taken away, why do we do it?

Ms McGregor: That is probably a good question to ask the Executive Director of Family Services, being the person responsible for the removal of children. I think the removal of children from their families is a last resort intervention these days, and it is done when there is really no alternative available. It is not done at an early point; it is not done because people happen to be drug users; it is not done because a child has been bruised.

MS DUNDAS: Are we making the situation worse if we are only taking children away as a situation of last resort but not doing any preventative work, so that we are actually ending up with more cases of last resort because we have not been targeting earlier on?

Ms McGregor: That is a fair comment, and that is what makes the system look like it has failed so miserably. When a child dies, all of the non-intervention starts to look like negligence—

MR CORNWELL: when, in fact, it might just have been that people did not want to be Big Brother.

Ms McGregor: Yes, and it might just have been that people have been acting according to the law.

THE CHAIR: That brings me to the point I mentioned before the lights went off. The most tragic case we have around this issue has broken in the press in recent days. I would like to know whether the result of that issue was caused by systemic failure and, if it was, I would like to know what systems failed so that we can point the pencil at that and say, “This is where the game has to be lifted.” Or are we talking about an individual decision made within the context of a culture, which means the systems are okay but we need to have more education on the part of the operatives within that system.

Ms McGregor: I would like to respond to you—

THE CHAIR: Any way you like.

Ms McGregor: I just want you to know that I am going to respond but it may seem at first like I am not. Recently there was an inquest into the death of a young child. That coroner has not handed down her findings yet, but the inquest is finished and awaiting the coroner’s findings. That inquest did a very thorough examination of the systemic failures that led to the death of the child. I was party to that inquest, and there were some notable failings, if you like, that I can summarise.

One thing that was really obvious was that there were a whole range of professionals in that case—I think, seven—who had responded to the child. There was an ambulance officer, an emergency department nurse, an emergency department doctor, a paediatric nurse, a paediatrician, a radiologist and another paediatrician. I may have missed out a couple of professional people. These people are all mandated under the act, and not one of those people made a mandatory report.

Yet, having watched these people in the witness box and heard their evidence, I would want to assure you that every single one of them was a highly professional, deeply concerned, compassionate person who believed they were doing the right thing. They would be totally mortified if it were ever said that they had not done the right thing. But not one of them reported. That is one issue.

The other issue is the collection of information. There was information about the injuries and the risk to that child in a range of different places, including the notes of all the professionals I have just told you about. But there was no comprehensive collation of that information; there was no comprehensive overview of it; it was not all in the one file. Had it been, and had the information that was available been properly managed and properly responded to, I feel quite confident that the decision would not have been taken for that child to return home. The environment in which she had been living would have been seen to be far too dangerous to her. Without understanding what it was about that environment, nevertheless, from a child protection perspective, one would have to conclude that it was a dangerous environment.

The other major issue that came out of that inquest for me was the lack of clarity about roles and responsibilities, which are the matters of concern that Family Services had to investigate: the role that the police—SACAT, the Sexual Assault and Child Abuse Team—have in investigating injuries; the role that the Child at Risk Assessment Unit have, from a medical perspective, in investigating injuries and coming to medical conclusions; and how all of those roles interact. There was a very serious breakdown in the understanding of those roles, and the protocol that existed was not a protocol that was according to law.

At the end of that inquest Ms Baikie was called to make a response, and she did. She produced for that inquest a document that outlines her reform agenda, her strategy for change and her commitment to change certain things. I had a great deal of confidence, and have maintained confidence ever since, that she is committed to change. She has also acknowledged that things need to change. I am very impressed with the proposals she has put in that document. I imagine the inquiry has it.

Coming back to your question, my view is that this reform agenda developed by Barbara Baikie is a very commendable one and, if the commitment remains, if the resources are there and if her individual expert oversight is there, then I would have confidence that the reforms that are needed will occur. I also have some belief that there are probably very similar issues in the Daisy Osborne inquest. Although I do not have personal knowledge and I did not participate in that inquest, I have a belief that the issues are very relevant and very similar.

That is where I am at here today. I am telling you I feel hopeful.

THE CHAIR: That is encouraging. We will see if we can get a copy of that strategy. I am disappointed that it is the first we have heard about it. We might mention that.

One of the things I would not mind you following up for us is the significant staff turnover within the Family Services area. They could not tell us what the rate is, but we

will pursue that. At the end of the day, they will tell us what that rate is, or we will calculate it ourselves. Nonetheless, there seemed to be a difficulty in coming up with a holistic picture of what happens to a child from, say, three to 15 years of age, where the kid has gone in and out of care or lives in a troubled environment or has gone out of care and stayed that way. Nobody seems to be able to pick up one document and say: this is this child's life history.

It was put to us that, when there is a significant staff turnover, the new person starts from scratch again and mistakes automatically ensue. That approach is what you were just telling us about, wasn't it?

Ms McGregor: Clearly, that is just not good enough. That is about record keeping and management of systems. I am hesitating because I want to respond to the two things you just said. I will respond to staffing first, and then I will come back. There has been a high staff turnover. The other point is that there has been a lot of difficulty filling positions.

Again, Ms Baikie has addressed this quite promptly—and it is already coming into effect—by broadening the acceptable range of qualifications for people to apply for jobs that had previously been reserved for people with social work qualifications. I have held the view for a long time that a team that has multidisciplinary background and expertise attached to it is a far better, far more innovative and far more successful team than one that is qualified by the same qualification. I think that is a commendable change she has made to recruitment practices in Family Services and one that will have an impact on staff turnover as well. I also think her leadership will have an impact on staff turnover.

THE CHAIR: That is heartening. The other thing you talked about was having a “protocol according to the law”.

Ms McGregor: Yes.

THE CHAIR: From my own public service experience you can have as many protocols as you like, but people do not do them or are not made to do them, and they are good for the garbage bin and not much else.

Ms McGregor: Yes.

THE CHAIR: How would you get such a protocol and make it mandatory? Would you stick it in regulation? Would you put it into the Children and Young People Act?

Ms McGregor: With respect to mandatory reporting, it is all very clear in the law. It is there. It makes it plain to professionals working with children that they are mandated.

MR CORNWELL: But you said that seven people did not follow it.

Ms McGregor: That is correct.

THE CHAIR: What follow-up action was taken?

MR CORNWELL: Yes, what disciplinary action is planned?

Ms McGregor: That is a matter for the coroner. But I believe that, since this was revealed, Ms Baikie has addressed the issues of the protocol and the issues of mandatory reporting among professionals and has been working with the Child at Risk Assessment Unit and the Sexual Assault and Child Abuse Team to clarify the confusion that existed about who was responsible for what.

MS DUNDAS: Following on from that, in your submission you noted the difference between reports and notifications and raised that as a major issue. Then you go on to list the things that you have done about it, which stopped in 2001. How has the distinction progressed between the actual reporting and a less statutory consultation? That is the word you use in your submission.

Ms McGregor: That is right. A distinction was drawn by Family Services in the past between what they received as a report and what they received as a consultation. That is the issue that we took up with Family Services. We disagreed with them very strongly about their practices around that, and we have been assured that Family Services have now adopted the policy that a report is a report.

THE CHAIR: So the 40-odd cases that you said they should have reported on to you but did not—will that have an impact on that?

Mr Roy: That figure might refer to abuse in care. The chief executive is obliged under the act to notify the Community Advocate if a notification, a report, is made on a child for whom the chief executive has parental responsibility, which is at section 162(2). I can't think of any that have satisfied that requirement over the last two years. It is in a sense a separate issue, too.

THE CHAIR: Is there a tie-up where, if you have a choice of definition, people naturally opt for the easier one of two?

Ms McGregor: No, I think they are separate issues. One relates to people who are mandated or who voluntarily wish to make reports of concern to Family Services and the way they are handled by Family Services. We took issue with the distinction between a report and a consultation. We say there is no legislative provision for anything other than a report to be received as a report. The other relates to the responsibility under the act that Family Services has to report to us when there are reports of abuse in care.

MR CORNWELL: I am surprised that nothing has happened about the protocol you mentioned—I still think the chairman's question remains valid. There is plenty of documentary evidence around the world, particularly in the UK, of children falling straight through the cracks. We either do one of two things: we laugh at it and say what a bunch of dorks or we tut-tut and feel very sorry.

But I find it difficult to imagine that the protocols here now have to be re-examined, in spite of all that evidence, at least from overseas—I don't know if there is any in Australia. But even those well-documented examples from overseas would surely have sent anybody who is involved in this sort of thing back to their own rules and regulations

to check them out. Or did we all sit back complacently and say that it can't happen here? It just seems strange that this hasn't happened. Would you like to comment on that?

Ms McGregor: Yes, it is a matter that I feel quite strongly about as well. In my position as Community Advocate many years ago, I pushed very strongly for the introduction of mandatory reporting in the ACT. I am not sure if you are aware, but we had the provision sitting there in the act for a very long time before it was enacted.

It was my view that people are loath to make reports and that they would only make reports if they were mandated. Now a situation has been revealed where people who are mandated either have not known that they were mandated or were placing the responsibility of the report-making with someone else in their organisation—which is what happened. In my view that is not good enough. You do not pass on your responsibility to your colleague; you do it yourself. You are the mandated person; you are the person who has seen the bruises; you are the person who has had concern arise within you; you do it.

A lot of the procedural mechanisms around mandatory reporting could be quite streamlined. For example, an ambulance officer's report, which they fill out when they do the job, could be duplicated if it contains concern about a child. We have to have procedures that do not mean professionals have to spend extra time when they have another emergency or someone else waiting in the emergency department room. That is not what we want. We want streamlined procedures, which means it is easier for people to do it rather than rely on someone else to do it, because the risk is that it is not going to get done.

Mr Roy: I will just add something at this point with regard to reports. The response to the reports is an issue as well in the sense that the system tends to work with the aim of substantiating or not substantiating the allegations raised in the report. Too frequently non-substantiation is equated by the system with no further intervention. There are incidents where children will be the subject of—no exaggeration—10 or 15 reports over 10, five or sometimes two years. In many of those incidents it has been “Report unsubstantiated: no action.”

So the goal of the system is to substantiate and not substantiate rather than look at the information and ask, “How does that information change my perception of the safety and wellbeing of that child? How can we as a system work to protect that child?” That does not necessarily mean in the court arena—because the act goes way beyond just obtaining court orders for children—but within the family prior to removal, and that can be done even with an unsubstantiated report.

THE CHAIR: That is a good point.

Ms McGregor: I can add to that something that has been a concern of mine for a very long time. Ultimately, the Family Services case is going to end up in court and the court will be looking for evidence that there are these serious risks to this child, and what we now have is an arena where parents are legally represented and there is a fight going on. It is not just a matter of the interests of the child; you also have the rights of the parents being upheld by legal representatives.

Because of that context—this is my observation; I cannot back it up with evidence—what I think happens is that way back here when workers receive reports, they can sometimes be distracted by a concern about the need for evidence that this bruise or this injury is a result of an action by a parent or family member. Are they going to be able to prove that in a criminal court?

If you have in your mind, “Is this going to stand up in court or not?” you take very little to court because you know how clever some lawyers are at getting offenders off. If you have that in your mind, you will take a very different approach to a worker over here who has in their mind, “Is this child safe or not?” They are two different questions, and a concern about whether something is going to hold up in court can act as a fatal distraction to child protection decision making.

THE CHAIR: So the poor person is stuck with a decision, and people naturally go down the decision line of least damage to themselves.

Ms McGregor: Yes.

THE CHAIR: Do I hear you saying that what we need to do is make the procedure so tight that you do not have a decision but just have to do it?

Ms McGregor: No, I am saying that we need processes that allow for a focus on the best interests of the child and for the interests of the child to remain paramount, as distinct from a process that ends up with a battle between who has the best lawyer and who can win the argument in a highly adversarial process.

THE CHAIR: That leads me quite nicely to one of the larger things we will be looking into: whether we should be having a commissioner for children and young people. From what I see of your submission—and I congratulate you on the submission, firstly.

Ms McGregor: Mr Roy wrote it.

THE CHAIR: Mr Roy, congratulations from the committee. Without doubt it is the best submission we have received by a country mile, and I am grateful for the education you are giving us and its contents.

If I understand it correctly, you are saying that, yes, we do need a commission for children and young people because of the need for advocacy—the sort of thing that takes the interests of the child out of the bunfight between two lawyers and says, “Right, we will advocate the best interests of that child in a slightly removed sense.”

We may not need a statutory position to do that. We could quite happily put such a commission within the umbrella of your office, with its own act, I would imagine, or perhaps beef up the Children and Young People Act to include the existence of a commission.

How would it go if you were a statutory office in your own right, with that independence, but you have a commission sitting there as well? Is there a conflict?

Ms McGregor: It is not quite what I am saying. I think that, if there were to be a commissioner for children, it would need to be a statutory office. We think we are an agency with our feet on the ground, and we are fairly aware of the harsh realities of budgetary restraint, and the suggestion is merely to point out that there is a compatibility with the broader responsibilities that the Community Advocate has—that is, to represent the interests of people who are not in a position to represent their own interests. The suggestion is also to point out to your committee that a lot of the responsibilities that the Community Advocate has are actually very similar to the responsibilities where other jurisdictions have commissioners.

So we have not gone so far as to make submissions to you about resources or position levels or any of those kinds of things. We are merely pointing out to you that we do a lot of this, and we do not do it as broadly or as comprehensively as a commissioner of children should. That is about: what sort of priority is this, and how many resources are you prepared to put in it?

In a place the size of Canberra we tend to do things like give the Community Advocate the role of youth advocate and the role of mental health advocate and the role of the forensic advocate because it would not make sense to set up a whole lot of different agencies. That is the point I am making to you in the submission.

THE CHAIR: It is not our role to recommend a level of resourcing, either. On the systemic issues, is it obligatory to tell you X? One of the desired roles of commissioners for children and young people is an auditor's role on the services provided by people such as Family Services and non-government organisations that provide services to young people. The concern I would like you to address is: if they won't now obey the law, as it were, what good will it do creating another position or furthering your power to do it? For the record, what other accent would you see that role taking on?

Ms McGregor: Again, I want to answer that from a slightly different beginning point. I have a view that it is not desirable for a statutory office to have an advocacy role combined with a complaints body mechanism. I have always held, publicly and everywhere, although not many people get the message, that the Office of the Community Advocate is not a complaints body.

The way I see that is that it is really plain that we are there to be on the side of our clients. We are not like the Ombudsman or the health complaints commissioner or the discrimination commissioner where matters are weighed up and an impartial investigation is conducted and an impartial conclusion is reached. That is not how the law is telling us to operate. So I have a bit of a problem with a set of arrangements whereby a statutory office is being asked to do both those things.

I think complaints are best handled by complaints bodies so that you do not get confusion about roles, and I think that an office like mine is best at representing the interests of our clients in a single-minded way.

THE CHAIR: With no apologies for bias on behalf of the client.

Ms McGregor: Yes—because our clients need strong voices. Many children and, certainly, young people have voices of their own, yet a lot of our other clients are not able to represent their own interests and need strong representation. Not everybody agrees with this. In fact, there are some examples in other jurisdictions where the two things sit together. But for me it is not a desirable role combination to give a statutory office.

MS DUNDAS: In regard to expanding the role of the Community Advocate and looking at the position of a commissioner for children and young people, you specifically deal with people at the moment at the crisis end of the situation, when they need an advocate to step in on their behalf to argue a case in court—or they are in the care and protection system.

There is a model of a commissioner for children and young people that also then has the broader role of bringing young people in for consultation, playing an education role out in the community and doing the things that you first addressed, which is raising the status of young people in the community. Would you see that role as very distinct from looking after the children who are in the care and protection and youth justice systems?

Mr Roy: That has given our office a great amount to think about, particularly over the last year or so. As you will have noticed from the submission, there has been an emphasis historically on individual advocacies, where we would be going to the court to case conferences, meetings and forums to advocate directly for the best interests of children. I refer in the submission to about 600-650 children per year over the last five years, and we certainly achieved commendable outcomes for those individuals.

We hoped that, in doing so, the system itself might adopt some of these best interest principles, practices, policies and procedures for themselves and so allow us to step back so that Family Services or youth justice and mental health would start acting in the best interests of children—learning, if you want, from how we undertook our individual advocacy. Unfortunately, that has not been the case across the board, so our office has decided to move towards a more systemic advocacy approach. That raises the question of who will be doing the direct advocacy of the children.

We are aware that there is probably going to be a gap for a while in direct advocacy. However, part of the focus of the Community Advocate over the next year or so is to address those issues systemically.

For example, instead of having the Community Advocate go to court all the time for a care and protection matter or a youth justice matter, we would work with the Law Society, Legal Aid and so on and private practitioners to encourage solicitors to take on more of a best interest role and to encourage the registrars of a court to take on more of a best interest role, particularly in protection orders in which, historically, we have a role.

MS DUNDAS: Are you saying that our departments are not learning from experience through the cases that are going through?

Mr Roy: Not as quickly as we would like. So, as I said, we have made the decision to focus on systemic issues.

MS DUNDAS: That is still systemic issues addressing child protection and injustice?

Mr Roy: Certainly. I have singled that out.

MS DUNDAS: My question was going to the broader range of a young person who is not in care and protection, is just average but is still being discriminated against on the basis of age.

Ms McGregor: One of the things I might have pointed out to you earlier and did not, I am sorry, is that we have responsibilities in the Community Advocate Act for children and young people who are at risk of exploitation, neglect or abuse. We do not have responsibility for all children, so your point is important in terms of exploring the difference between the role of the Community Advocate and the possible role of a commissioner for children, who would have responsibility for all children and all children's matters, and that is much broader.

MS DUNDAS: I am asking whether that broader role would sit comfortably within the Office of the Community Advocate.

Ms McGregor: I think it would, with respect to a systemic approach. I think it would be ideal to comprehensively look at all the functions and responsibilities and do a sensible review. But it seems to me that it is an expansion rather than a contradiction of the existing role. It is quite compatible.

Mr Roy: In a sense, the principles are the same: giving a voice to children, respecting the views and wishes of children and focussing on the best interests of children. To some extent it does not matter whether it is a child in the care and protection system or a child in the general community. It is the same principles.

MS DUNDAS: They are quite broader roles?

Mr Roy: It certainly is a broader role.

MS DUNDAS: Within that, the first point you raised about systemic discrimination against children is that the Community Advocate Act refers specifically to persons who have a disability, and you have footnoted that that includes people under the age of 18. Do you think we need to change that definition—to not view children as having a disability?

Ms McGregor: Yes, it is offensive. The legislation refers to a legal disability due to age, and we would like that to be scrubbed. There are other ways of more respectfully including children and other people, but I do not think that is a respectful inclusion.

THE CHAIR: Do you have an idea of how you would like that wording changed?

Ms McGregor: Children and young people.

THE CHAIR: Full stop?

Ms McGregor: Yes.

MS DUNDAS: The definition of children and young people under the Children and Young People Act is up to 18.

Ms McGregor: Yes. We do not need to talk about a legal disability. One of the things that needs to occur is that greater recognition needs to be given to the capacity of young people to represent themselves and have their own voice. This has been established in the Gillick principle, for example. We should not just look at all children and young people as having a legal disability.

THE CHAIR: I think we have run out of time. I could sit here and chat with you all afternoon. I thank you very much for giving us the time; it has been most helpful. I would like to reiterate that the quality of the report is something a lot of people could learn some lessons from. If people provided you with the sort of report you have provided us, we probably wouldn't be here talking.

Ms McGregor: Thank you for your time.

Short adjournment

THE CHAIR: We will continue with this hearing into the rights, interests and wellbeing of children and young people. I am obliged to read this card out, so I shall.

You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. This gives you certain protections, but also certain responsibilities. It means you are protected from certain legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Thank you very much, Minister, for sparing the time. Ms Lambert, thanks also to you and your officers for sparing us the time. It is a particularly serious inquiry and it is taking on an even more serious character, given the publicity in recent days regarding that young child about whom the Coroner has issued a report.

I should also point out to the officers that the hearings are being recorded and broadcast throughout the building and to senior officers in other buildings and, of course, into the media offices in the other end of this building. We invite you to make an opening statement. Please identify yourselves for the Hansard recording when you first speak.

BILL WOOD was called.

Mr Wood: Thanks, John, I have a fairly long speech here, but it is pretty much the same as the response contained in a letter I wrote to you, so I don't think I will read it to you, but I will certainly table it. I think your committee, the department and I are properly concerned about important issues. If you want to go straight into questions it might be the more productive way to go.

THE CHAIR: One of the issues that has come up in our discussions with young people and with people concerned with the wellbeing part of the inquiry has been the acute shortage of accommodation—housing—particularly crisis accommodation, such as is provided at Marlow Cottage, Quamby and other similar places. Another issue is the difficulty that young people have in accessing accommodation when they have run away from a dysfunctional family. There seems to be a bit of a shortage of places for kids to go. The refuge situation is not very satisfactory in this town for these young people.

I might ask you to comment on what you see the situation being in respect of that. How do we stop the kids from sleeping rough, sleeping under culverts and things like that? How do we actually get information about those opportunities out to them? I want to congratulate your department on the initiative of the Canberra Emergency Accommodation Service information referral line. It is a terrific initiative. I was pleased to see it.

One of the things that the young people who came to us said was, “Yes, we know there are things out there, but we don't know where to go.” How do we get that information to not only kids in crisis who go to youth centres and things like that, because they have the most incredible network—they know where to go—but to ordinary kids in the main stream who have crises, are on the street and wouldn't know where to go.

Mr Wood: Yes, there is a problem out there and I have certainly been talking about it in and out of government. Sandra, Sarah or Bronwen can talk to you about the details and the numbers. I think you have those figures in the response we made, indicating just what is available at the moment. That launch yesterday was very important. If it had happened when I was in opposition, it would have saved me a lot of time getting information out to people. There are other things under way, too. Sandra, you might discuss the details.

SANDRA LAMBERT was called.

Ms Lambert: I am Sandra Lambert, Chief Executive, Department of Disability, Housing and Community Services. Your comments raise a diversity of issues. It is actually a very complex matter.

I will start with the last question if you like, about how you actually engage young people in processes. I have just come from a meeting of the homelessness advisory group which followed on from the needs analysis that we did last year. This group has broad community sector representation on it, as well as government representation. We were talking about the issue of doing things with young people, rather than to and for them, and how we actually engage them when they are, if you like, not yet at risk but have the potential for being at risk. It can be that they are sleeping in someone else's home, or something like that, but in fact they need some sort of service.

We think there is a range of things we need to do. There are definitely gaps and I will have Sarah talk a little bit more about that. We know that, but we need to plug them in the most effective way. You would be aware—and I think we told you about this in our response—of the model of the boarding house at Lowanna, which I think is a very interesting model and one I am keen to look at closely as it develops. That is one where the service is actually doing things with young people, so they have a lot of autonomy in that setting, which is one of the critical things.

Then there are outreach worker models, which we need to look at. We are looking at that with the sector as well—how to actually reach out, rather than waiting for people to come to us. We are also looking at, when we are aware of people who need assistance, what the interventions are that we have to make to keep them in the setting they're in, rather than have them somewhere else.

We are well aware of the complexity of the issues. We are aware that there are things that need to be done. Dealing with this subject involves having a range of responses and trying to build those responses as much as possible. I wasn't at the meeting, but Sarah had a long conversation last week with the SAAP sector about some of the issues that are important to that sector, so I will hand over to her to talk about that.

SARAH KING was called.

THE CHAIR: The boarding house pilot project that is being run under the auspices of the Lowanna young women's service, is that just for young females or males as well?

Ms King: No, both. I am Sarah King, Manager, Community Services, in the Department of Disability, Housing and Community Services.

THE CHAIR: Is a greater proportion of either sex at risk of being homeless?

Ms King: The needs analysis did confirm that young men were particularly vulnerable to homelessness and to a greater complexity of support needs the longer they are homeless.

For that particular service, I think the split is pretty well fifty-fifty at the moment. Regarding youth SAAP and how we are approaching what we understand to be a fairly difficult time for homeless young people, I suppose there are two approaches that we need to take. First, we are working very closely with youth SAAP as a sector to ensure that it is well resourced to meet the challenges that it faces. That does not necessarily mean providing more money, but managing as they currently are, so ensuring that they understand and are able to accept no more people than they can manage, and making sure they are getting appropriate training.

One of the things that came out of the meeting we had last week was the need for them to have in the unit a good strong network, so that they are able to support each other in working with what are the increasingly complex needs of the young people.

The interface between that sector and a range of other sectors is also very important. That is where we are actively helping and working with the youth SAAP providers, so that there is a good understanding between the range of government agencies and SAAP about the different responsibilities and roles of each party.

The other area we have to look at in the longer term is where we need to grow the sector and how we do that. That has to be planned in the broader context and that will be outlined in the work that the homelessness advisory group is doing. We have to look at alternative models for young people, particularly for those young people who are coming out of home for the first time. The answer may not be that it is most appropriate that they are accommodated in a refuge. We need to find other ways of doing it, such as what the Reconnect program is doing.

It is important to discover how we can support people to either maintain their connections with their families or to regain those connections. There are also models that have been proposed in relation to whether we accommodate young people in a host family type setting? So that is something we want to be able to look at, as well.

THE CHAIR: As opposed to a foster family?

Ms King: No, as opposed to a refuge. We must also acknowledge that there are different levels of need. There are young people who have been homeless for quite a long time or have a range of other support needs, so the kinds of interventions they would need on site are going to be more intensive than those other people need. We have to make sure that we are not compounding people's problems with the response we are using.

MS DUNDAS: Can I ask about the youth night shelter? The response to our questions, Minister, indicated that a lot more work needs to be done and it looks as though it is all a bit too hard.

The report you got in June 2002 put a model forward. Can you please further outline why that was not accepted by the department and the stakeholder agencies you were talking to, and how it is progressing? Is there an identified need? If that model is not appropriate then which model is, especially with regard to the demand for a time-out facility more than a refuge or long-term accommodation?

Ms King: Yes, there is certainly some expectation that there is a need for a night shelter for young people. The report provided a model which was too all-encompassing and would compound the issues for any of the young people in its target groups.

MS DUNDAS: So maybe we need about five youth shelters?

Ms King: No. I think we really need to go back and have another look at the matter across government agencies. What we are doing at this stage is going back to that report, taking out everything in it that is sensible and finding out whether we are addressing it. If we're not, we're finding out why not and how we go about doing it.

There are some things in that report that need to be addressed in other ways, for example, breaching from SAAP services. That is something we need to look at in youth SAAP. I don't think the answer to that is another facility, it is to ask what is happening within the SAAP service that means that the organisation is feeling that it can't meet the needs of the young person at that time. There is a model there that is providing an answer, but that is not necessarily the best or only answer.

Certainly, more work needs to be done to determine whether we need a night shelter, what for, for whom, how it looks and where it fits in. We can really only do that in the broader context of the needs of homeless young people in general, across the board. Before we look at something that is potentially so clinical and intensive, we have to ask what we are doing that is going to be less intrusive and less damaging to young people.

MS DUNDAS: Is it being looked at in terms of a time-out facility, for those who are not necessarily the long-term homeless, but just looking for a night to cool heads before they return home?

Ms King: Yes, that has to be taken in account as a potential model. At the moment, youth centres are needing to have time-out from the refuge. We don't need another service, we need time-out from a service. If we are talking about young people within their family homes, then we need a range of strategies in place. We were talking earlier about young people's access to services, what they want, what they actually need—outreach or inreach support to the home as an option. Yes, it could be that in some circumstances what we need is a refuge model for young people. I wouldn't be convinced of that at this point.

I would really like to see, through the homeless advisory group, more discussion about what we have and where the gaps really are. It is expensive to establish a service like that so maybe there are other ways we can do it. We have a range of priorities. I don't think we are well enough informed yet about where we would direct additional service models and how they would look.

Ms Lambert: I came very late to the report and my perspective is that the report didn't target enough. It had much too much of a mix, so the notion of the target group was very broad. It is really difficult. When you have a group of young people who have had critical incidents in one venue, that then poses a problem in management. It can also escalate problems, although not necessarily. For people who are having their first episode of being away from home, that mix is not necessarily desirable either.

So really, from my perspective, it was just too broad a model. That may have some benefits, as Sarah is saying, but we would need to do some more work on that as a model.

MS DUNDAS: The last question then is what is the timeframe for that work and fitting it into the broader needs analysis?

Ms King: It will occur over the next few months. The draft strategy is due in September so, particularly through May, intensive work will be happening looking at all the recommendations of the needs analysis. It is not just doing that, though. It will look at other sources of evidence and data in terms of demand and need, come up with some fairly concrete strategies for the way ahead over the next year or two, and review mechanisms for the period after that.

Ms Lambert: We have been working very hard to build data. You mentioned that service. There is a very strong data component to the contract with that, and we are looking at the way that is being constructed to make sure it is robust. We are looking at our services and trying to pull data together as much as we can to inform decisions about what we need to do. I don't think we have a big enough picture.

THE CHAIR: One of the things you have mentioned is that list of the sorts of crises that kids would go through, which would produce that need. Presumably, the access would be achieved by presenting the crisis to someone to fix, such as the police or some other agency. The service you are looking into would be available as a resource to those people.

The access issue is not really important because, as soon as the kids come to the attention of someone who is going to help them out, then away you go. I am interested to know how you would look at those kids—the mainstream kids—who, as I mentioned before, have had a massive blue and then, with the time-out, would probably reconcile with their families. We hope that such situations are only episodic and that there is nothing more serious than that. Nonetheless, they could be, at the moment, spending two or three nights under bridges and things like that, as did the child in one case that came to my office.

I do not know how you would ever get the data to work out how many of those cases there are. I think that would be an impossible task. However, when you are looking into this sort of thing, will you be paying attention to how the message about that source of relief, that source of time-out, will be made available to people? How are you going to get the message out to the kids who, for the moment, don't have a problem?

Ms King: It is about prevention. What we have to do is make sure we have a response across the continuum from prevention to intervention, and then respond at a tertiary level when we do get to crisis. We don't want to wait until that point in time, as you say.

When you are talking about young people, the best place for prevention to be happening, apart from in the home, is in the school. We have on the homeless advisory group representation from the Department of Education, Youth and Family Services. We provide information through the Family Services program, through education and in the school curriculum. The needs analysis recommended that as a good way of providing information about living skills, community resources and where to go if you leave school.

We work closely with the youth section in the Department of Education which is responsible for the young people's framework. The work that the youth centres are doing in providing information is getting material into schools as well. Also, we are not just targeting children who are already identified as being at risk, but we are working across the board at that preventative function. As long as we are maintaining those connections and making sure that we have that focus on prevention, I think at this point we will cover that end without necessarily having to put a service in place just in case, or to inform ourselves through an enormous data collection.

MR CORNWELL: How many people are we talking about—10, 100, 1,000 or 10,000?

Ms King: I think that is the point. It is certainly not 10,000 but potentially you could be talking about every young person in Canberra or you could be talking about, next week, no-one. We don't know. The point is that, rather than putting in place a service for an indeterminate number of people who we are responding—

MR CORNWELL: Yes, but what about the night shelter? How many people need that?

Ms King: The young people's night shelter? It would depend on the terms of reference of the night shelter.

MR CORNWELL: The thing that worries me about this is that we must know some figures. We have to have some idea, Minister. I am not suggesting it be perfect, but we can't be sitting there setting up services in anticipation that they might sometime be used. Somebody has a blue with their mother because they don't do their homework and we have to have beds available. We must have more information, it seems to me, before we start spending taxpayers' money on things that may not even be necessary or, more likely, in as much demand as perhaps we—

Mr Wood: The report indicates that the existing agencies, the ones that provide support now, have trouble meeting all the demands, but I am not sure of the extent to which that has been quantified at any time.

MR CORNWELL: Exactly, yes. I would certainly like to see some figures on that, too. I agree with you.

Ms Lambert: I think it is very important to build as much evidence as we can, but it is quite clear that just being young produces issues that can result in homelessness for short periods of time. I think that Sarah mentioned the schools, and one very effective network for gathering information is the counsellors' network. That is often a good point of contact to get information, because counsellors do deal with young people and have more information about when young people are likely to be at risk. Giving them information such as this is an important part of dealing with the problem as well.

MS DUNDAS: In terms of actual raw figures, you have provided figures in relation to evictions from ACT Housing. There have been, over the 2001-2002 financial year, 89 young people removed from ACT Housing, either with their parent or parents or individually. What happens to them?

Mr Wood: They tend to be itinerant. It is hard to get a handle on it. A very large proportion of those evictions are of young people on their own and they do move around. They move occasionally into SAAP accommodation, but only occasionally, not on every event, and they find friends and someone's bed or lounge floor to sleep on, and so on. Sometimes, and not infrequently, they leave town and wander on somewhere else.

MS DUNDAS: How much is the impact on children whose parents are moved out of ACT Housing considered? You have given us the whole list of the lengths that ACT Housing goes to, to keep people in ACT Housing. There was a recent court case about this. How is that being factored into the department's decision making and the need of children to have a house? It is not their fault that their parents are not paying rent.

Mr Wood: It is a matter that is keenly in our minds, when we are aware that a family is being evicted. It does become a bit of a process where that eviction goes ahead because, by that time, it is a court matter. After that, as with a couple of families recently, other arrangements are made. We are very conscious of not putting families out in the street. We have seen pictures of that.

MS DUNDAS: What other arrangements are made?

Mr Wood: There was a recent event where, through an alternate source—ACT Housing and an alternate provider—we still provided accommodation and the people are now living in another house somewhere else.

BRONWEN OVERTON-CLARKE was called.

Ms Overton-Clarke: I am Bronwen Overton-Clarke, Director, Strategic Policy and Organisational Services in the Department of Disability, Housing and Community Services. It was a head lease arrangement with a community organisation.

Mr Wood: Do you have something to say, Mr Hutchison?

BOB HUTCHISON was called.

Mr Hutchison: I am Bob Hutchison, the Executive Director of ACT Housing. We are very sensitive to families that find themselves facing eviction, and we go to extraordinary lengths to maintain the tenancy. If those lengths fail we, as a matter of course, contact our colleagues in other government departments and say that this family may be imminently homeless and ask what assistance they can offer. We provide the family with referrals to other agencies and refuges, but that is only after we have tried everything we can to retain the tenancy.

THE CHAIR: I have a question on this issue of public housing for young people. One of the points put to us was the difficulty that people have, if they are under 18 but over, say, 14. If they have left home—and been waved goodbye at the door by parents, so there is no significant dysfunction in the family, they are just out of there—they cannot sign leases can they? What happens to them?

Mr Hutchison: If they come to our applicant service centre, we try to put them in touch with the agencies who can assist them.

THE CHAIR: Which would they be, Bob?

Mr Hutchison: Community Services. Sometimes we refer them to refuges and the like. They often present with needs other than just housing, and we have housing specialists in our applicant service centre who would assess their needs and refer them wherever is appropriate.

THE CHAIR: Do you ever get somebody just turning up and saying, “I want some public housing. I’m not in any other sort of crisis, but I can’t go to the private rental market because nobody will rent me a house because I’m only 17.”

MS DUNDAS: Even when they are 19 they cannot find a rental house.

THE CHAIR: Supposing there is a group of them and they cannot get rental accommodation in the private market. Do you have any experience of that? Is this something that just does not happen?

Mr Hutchison: On the current waiting list, there are 761 under-25 single applicants. Clearly, it is an issue for us.

THE CHAIR: Do you have any breakdown below the under 25s, in terms of age grouping?

Mr Hutchison: No, I'm sorry, I didn't bring that with me.

THE CHAIR: I do not mean on your person. I don't expect you to carry it with you. Would you be able to break that down by age group for us?

Mr Hutchison: Yes, we can provide that information to you.

THE CHAIR: That would be terrific.

MR CORNWELL: What are the legal consequences, though, if they are under 18 and they don't pay their rent?

Mr Hutchison: If they can't sign the lease, it is impossible for them to get public housing. If they are able to sign the lease, they are adults in the eyes of the law and we can—

MR CORNWELL: Obviously. You have answered the question: if they are under 18, they cannot sign the lease.

MS DUNDAS: So does somebody sign for them?

Ms Lambert: Yes, we do have at least two organisations that I am aware of—Barnardos and Canberra Community Housing for Young People—who provide accommodation for young people in those circumstances. It is actually those people, again, who we work with to try to do exactly what you were saying about quantifying the numbers, who are demanding that service that we've been trying to get working.

MR CORNWELL: Are those two organisations then liable for any arrears if the tenants decide to do a flit?

Ms King: If they are holding the lease arrangement with Housing, yes. It is independent property, so it is for just those young people who don't necessarily have a raft of other support needs.

MR CORNWELL: So the two organisations have their own property?

Ms King: Numbers of properties, leased from Housing.

MR CORNWELL: Okay, so any arrears are going to be worn by those organisations, is that right?

Ms King: Presumably, yes.

THE CHAIR: Could you give us any idea of how many houses are of that type and who these agencies are? You mentioned Barnardos. Was that an example?

Ms King: That is one. The other is Canberra Community Housing for Young People and there are approximately 30 properties.

THE CHAIR: So basically it is a group house created under the supervision of Barnardos or someone like that?

Ms King: No, they are not group houses. They are generally individual dwellings. For example, at Kanangra Court, CCHYP, which is a Canberra youth housing service, had a number of flats in a whole block. They've created what they call a stairwell program so that the young people accommodated in all of the units in that block are getting some support. They have the support of the others around them and it means that it is a safer environment.

THE CHAIR: Are they one-bedroomed flats?

Ms King: They are bedsits in that area but there would be a variety of different properties throughout Canberra.

Mr Hutchison: There is a stairwell in Bega Flats. I hope you would like to visit it.

THE CHAIR: I would be happy to do that at your invitation.

Mr Hutchison: We have invested quite a lot of money in beautifying those flats and making them more pleasant.

Ms Lambert: The boarding house is also available for people in that age group. That is why we are looking at that idea very closely to see if it is actually a model that is going to work well for that age group. At the moment, it seems to be working well, but it is actually a matter of tracking. It was opened, when, in about July last year?

MR CORNWELL: You have set out here the debt recovery process for ACT Housing. One of the points says, "if an account falls into arrears by more than three times the weekly rent": approximately what is the weekly rent?

Mr Wood: The weekly rent varies.

MR CORNWELL: Yes, I appreciate that.

Mr Hutchison: Most of the people who fall into arrears are on rebates. A rebate is calculated on 25 per cent of their income, so it depends on the nature of their income, but it can be as low as \$40 per week.

MR CORNWELL: Right, that is the minimum. If the rent is \$40, they are \$120 in arrears. I am just wondering if that is not too far into it, that's all.

Mr Hutchison: That is where we start the process. That is considerably shorter than it used to be. We are now advocates of early intervention, to try to recover arrears situations before they get too bad. Immediately people come into arrears we write them a

letter and say to them, “You are in arrears.” We follow that up with client service visits and then it continues, depending on the response we get from each client. It is not unusual for our clients to enter into arrangements with us under which they will pay off those arrears in addition to their normal rent, because the crisis that forced them into arrears is past.

MR CORNWELL: Going down to the point about the Residential Tenancy Tribunal process, how long have we taken then, from the process beginning to that point? A month?

Mr Hutchison: It could easily be a month. It depends on the response we get from the client. We usually enter into arrangements with our clients before we enter into Residential Tenancy Tribunal action. The action we take in the tribunal is because either they have breached those arrangements, or they failed to negotiate any agreement with us. We try desperately to avoid taking action in the tribunal and to negotiate a suitable outcome.

MR CORNWELL: My worry is—and I am sure you can recognise it—that, the longer you take on these things, the more the debt increases. For many of these people you might as well be talking about half a million dollars, if you are talking of \$200. It is just beyond them and it is a problem.

Mr Hutchison: My response to that is that we do seek to have early intervention and thus intervene and take it to the tribunal when there is three, four or five weeks worth of arrears. It is a lot of money to those people but we don’t seek the full amount in repayment. Our principle is that we will not take more than 30 per cent of people’s income, which is 25 per cent—their normal rent—plus five per cent in arrears.

If you are looking at \$200 or \$300, which is admittedly a lot of money, we would be saying, “Could you come to an agreement where you pay somewhere between \$5 and \$10 a fortnight?” It is difficult when it gets out to \$2,000 and amounts like that, because it is hard to accept an arrangement that means you will be paying it off for four years, but that is why we seek early intervention.

MR CORNWELL: As Ms Dundas pointed out, there is a list here of people who were evicted for a breach. Forget those. We are dealing with the arrears at the moment. There are some fairly considerable numbers here. Families with one child, and two and three children and it seems to me that some of those debts have obviously run for some time. Even in the most recent year, 2002, there were 16 people with two children evicted in that year. How long does it run? Sixteen seems to me to be a very high number.

I do remember the minister’s comments about those people recently. I was amused to see that one of them was waving a mobile around, but it still raises some serious questions.

Getting back to Ms Dundas’s comment about how you protect the children from their irresponsible parents, my final point is, is there any consideration given to taking them into care?

Ms Lambert: That is not our agency's responsibility but, as Bob said, we would be in contact with the relevant people immediately.

MR CORNWELL: Has that been done in the past?

Mr Wood: Yes, it happened recently with one tenant that I am aware of.

Mr Hutchison: I share your concern about families. I often have to make the ultimate decision to proceed with evictions. The decision to evict someone, of course, rests with the tribunal but I am obliged to take that action.

I have been exploring an option which is perhaps a lateral approach to this, but which we cannot use at the moment. That is, where families are at risk of losing their ACT Housing accommodation because of arrears—and the vast majority of them are on statutory incomes—seeking a court order that we get an obligatory deduction from their income to maintain the tenancy, because quite often the children are the innocents that suffer because of this.

It is not available currently under the social security legislation and it would require some support from the major and minor parties in the senate to get it through, but I think it is a viable option because all of my colleagues believe that the home is the base at which we can deliver support and provide for those people. Once they are homeless, the capacity to deliver support to them is diminished. I am hopeful.

THE CHAIR: Let's see how you go. We wish you the best of luck.

MS DUNDAS: We have had a lot of reports about children and homelessness, and so on, over the last 12 months that have said that young people are from 28 to 43 per cent of people accessing SAAP services. One of the responses from the government to these reports said that, "the ACT government seeks to ensure that future service delivery matches identified community need" and will consider service mix and geographic coverage, as well as service performance, in funding arrangements for 2002-2003.

The needs analysis on housing won't be coming out until September, which is after the budget. What are we expecting in the middle term or short term in the way of extra services for these young people needing housing?

Mr Wood: This is separate to the announcement yesterday that John was talking about. You can expect the best we can do with the existing resources. We will be managing that way. I will be taking some proposals to the budget cabinet in tight budgetary circumstances and I will see how they go.

Ms Lambert: The boarding house project is one of those models and another, as we were saying before, is the work of the specialist housing managers in dealing with people at the intervention stage. The program that the YWCA runs in two of our flats has also been helpful. There is a variety of things happening through, particularly, programs such as the community linkages program and so on, which are about early intervention and prevention. They encompass young people as well.

MS DUNDAS: The government response to the provision of adequate emergency housing noted that there will be a protocol developed between youth SAAP and Family Services to better address the needs of at-risk young people. This was handed down in May 2002. It is now almost a year after that. How is that progressing?

Ms King: We are working closely with Family Services and the youth SAAP to make sure that we do have effective protocols in place. We met recently with the youth SAAP sector to get all the issues on the table. As I said earlier, there is a range of things that we need to look at in terms of SAAP itself and how it is managing, and how it is interacting with a range of different agencies.

Regarding the Family Services protocol, there is a draft protocol, as you would be aware. What we need to do now is make that reflect the act. We hope we will be working with Family Services and youth SAAP to get that back on the table and get it working again.

MS DUNDAS: I have one last question and it is about the Karinya mothers' and babies service that provides long-term supported accommodation for up to three mothers and their babies. I am going to take a stab in the dark and say we have more young mums than that. What is the turn-away rate from that service and what is being done to provide housing options for mothers themselves?

Ms King: The service also provides a great deal of outreach support to mothers and babies so, while only three are accommodated on site, on any given day there could be a number of mothers and babies there getting support from the service.

MS DUNDAS: Do you have any figures?

Ms King: It could have up to six mothers there at a time. Regarding the turn-away rate, I don't know how many people they are not able to assist within their accommodation service.

MS DUNDAS: Are we meeting the demand for service to mothers who themselves are young people?

Ms Lambert: The demand has not been raised with me as a significant issue. That is not to say it has not been raised with me. I do know that the schools have worked harder, particularly in the college sector, to help young mothers with children finish their schooling. Once that support works, it seems that other support systems follow. In my experience, that often helps to prevent them getting into crisis accommodation.

MS DUNDAS: So they are staying with their parents?

Ms Lambert: I cannot say. That is my experience. It is a bit anecdotal as it is the result of the work I did in the school sector, but we may be able to provide more information about that. It is not one of the areas raised as a big issue with me by the sector.

The point I would make is that, with the homelessness advisory group, we are working very closely with the sector. It is working with us on protocols, case management and so

on, so we are actually doing a lot of work directly with the people on the ground providing the service. We hope that we will get a lot better information than we have at the moment to answer the questions that you are asking about data, in particular, and pressures.

THE CHAIR: Thank you very much for that. Thank you for your time, Minister, and that of your officers.

(Evidence was then taken in camera.)

THE CHAIR: We will reconvene the public hearing. Thank you very much, Minister, and officials for coming back.

We did have the Community Advocate, Heather McGregor, in here earlier on. She was particularly positive about the work that Barbara has been doing in identifying systemic problems and coming up with strategies to address them. I thought I might pass that on. She was also very anxious to get on the public record, which is really good.

Last time we were here, we talked about youth with intensive support needs and therapeutic protection orders. Did you have a review into that?

KATY GALLAGHER was called.

Ms Gallagher: There are two separate reviews.

THE CHAIR: Are they internal reviews or are they going to be for public consumption?

Ms Gallagher: I am Katy Gallagher, Minister for Education, Youth and Family Services. The intensive youth support review wasn't internal. That was conducted by some consultants. I will just give you an update about what stage that has reached.

In the transfer from Simon to me there have been some inevitable delays in getting briefings about where things are. I have been given a briefing on the intensive youth support. I know there is some anticipation regarding the results of that review and I was briefed about it early last week. My intention is to get it out. I think people have been waiting long enough.

I am taking some advice about whether I have to take that to cabinet first, because it does raise some whole-of-government issues. On my initial examination of it, I wondered if I should do this first. I am a new minister so I want to make sure I am doing the right thing.

I want to get it out there and also to put together an implementation committee which would be made up of representatives of various stakeholders in the area, to look at how we progress the issues that have been raised in the review and how we can best work together to implement the recommendations.

THE CHAIR: And the therapeutic protection orders review?

Ms Gallagher: I was just reading about this today, so Barbara would be better to give you the run-down on it. It is fairly straight forward.

BARBARA BAIKIE was called.

THE CHAIR: One of the things you talked about in your response was that further consultation was needed.

Ms Baikie: I am Barbara Baikie, Executive Director, Children's, Youth and Family Services. For the therapeutic protection order? That would be part of the review of the act and that was what the consultation was referring to.

THE CHAIR: That consultation would be with whom?

Ms Baikie: It will be with all stakeholders. At the moment an issues paper has been developed by the department and one has also been developed by JACS. The minister has written to the Chief Minister to suggest that the reviews be drawn together and that will then be presented to the Assembly in May. After that, there will be a public consultation process where people will be able to comment on it, so it will actually pick up all stakeholders. Shall I discuss the therapeutic protection order review as well?

THE CHAIR: Yes.

Ms Baikie: There was a review that was completed in July 2001 and there have been no cases where therapeutic protection orders have actually been implemented.

It has been found that, in all cases, individual support packages have been developed and put together that actually admit the needs, rather than going down that track. The review found that the therapeutic orders would not make any significant difference to the young person, and that confinement to residential facilities was often countertherapeutic and did not provide better outcomes for the children.

THE CHAIR: It must be a real juggling act to work out which is the best potential outcome for kids once you have decided that they are at risk, while keeping them in a situation where you have to walk on eggshells to get that family over its dysfunction, or taking the children out knowing, as we do, the chances of success for those children are minimised because of the way the outcomes have been achieved. It is almost inevitable that they will be in the juvenile justice system at some stage or another.

Ms Baikie: No, it is not almost inevitable. A percentage of young people do go on to the juvenile justice system, but certainly not all.

THE CHAIR: Do you have numbers on that?

Ms Baikie: No, not here.

THE CHAIR: Do you have them back at the office?

Ms Baikie: We certainly could look at some numbers, but we don't have them here.

THE CHAIR: Would you have a look and see if you have those numbers, please, because I know we were given percentages?

Ms Gallagher: So you want to know the number of children known—

THE CHAIR: I will give you the description. When we went to Tasmania we actually talked about the whole of the life of children who came to their notice fairly early. We were able to get an idea of what percentage of children who came to the attention of family services in that state ended up going into the juvenile justice system. We could see, first, what that percentage was, and I would be interested in doing a comparison between the two jurisdictions on that basis.

The other thing it did was give an indication of the amount of risk to be adjudged by the person in charge of the case when considering whether to take children out—and because of the reasons for taking them out—and whether there is a likelihood of them being worse off having come out, even though it is a nasty situation being in. It gives us a perspective on that.

SUZANNE BIRTLES was called.

Ms Birtles: I am Sue Birtles, Executive Director, Community Support Group, ACT Bushfire Recovery Taskforce. I think it is also worth noting that, in all these matters where it is incredibly complex and the judgments are so important, the judgments and the views of the key players change from time to time. For example, going back to the therapeutic protection order, when that became part of the legislation, part of the debate in the Assembly was that there needed to be a review in a year's time to see how that was going.

When the review commenced—and it was being done by some external consultants—the magistrate was very keen to invoke the therapeutic protection order. By the time that study had been completed, he had some more experience with children and young people and the range of support mechanisms that could be put in place, and he formed the view that invoking a therapeutic protection order was not something that he would have done at that stage, or was inclined to do.

That is confirming the incredible complexity of this issue, and the information that you need at hand, in relation to both the individual child or young person and the family structures around them.

THE CHAIR: Because this has been a very long inquiry, we have a fairly clear idea of the complexity. I have to say that predominantly we have a great admiration for those people who are actually charged with these decisions. If we have any concerns it would be about systemic and cultural issues and not about the personal qualities of people involved in the process. I think they are saints, quite frankly.

Ms Birtles: In that case, the Children's Magistrate at the time had one view and then, over a period of months, changed his view.

THE CHAIR: She was rather lucky it was the same magistrate, given the rotational nature of our children's magistracy.

Ms Birtles: I want to go back a step in relation to some of the outcomes for some of the young people. For us to do the sort of analysis you would want would be quite

painstaking in that, while we have a CCHYP system now, a new integrated data system, it has only been in for a couple of years. To do that analysis would require going through each file.

THE CHAIR: Suffice it to say that the department does not have the information, but you are now working on it so it's going to be there.

Ms Birtles: Could I just give a couple of examples of successes to show that sometimes the systems do deliver some successes. There are two young people at the moment, one of whom is over in England as part of the GAP. As you would know, nice middle-class young people often do that. This young person had been in care for probably eight or nine years, certainly quite a long time. When she came to the end of being in foster care, she said, "Of course, I'll never be able to do that", and because of the good will and the incredible energy of both our staff and a range of other people at the school she attended, she is now doing that GAP year.

She is one of the high achieving young women. I think her score was about 90 something, well above anything that I ever achieved, and she had been in the system a long time. That is why I raise that particular example.

THE CHAIR: That is a very good point and it is something which inquiries like this often miss. I made the point that we don't have the database. We have the information in raw terms but it is not in a form which is extractable rather quickly, when awkward people like me ask awkward questions of people like you. However, I am aware, and I hope I am right, that this is the sort of information we need to test the efficacy of what we are doing. You are heading down that track and I think that is great.

Can I also encourage you, while you are doing this, to make sure you have a database on the success stories as well, because it actually gives us the other side of the story. We didn't hear that in Tasmania. We heard about how many kids were going to the juvenile justice system, and therefore you can do an arithmetical subtraction and say, "Okay, therefore these people did not", but what we don't have is the numbers of those people who, because of the intervention of Family Services, actually benefited from the process, not those who were stabilised by it, but those who actually benefited from it. It would be handy if we could tailor your database to show that as well.

Ms Baikie: I have quite a lot of experience in Tasmania, because I was in Tasmania before I came here. I was actually running child, youth and family services down there, so I am well aware of the differences between the ACT and Tasmania, and the similarities. One of the differences is obviously in the legislation, and the incarceration rates there are much higher in Tasmania than they are in the ACT. That is because of a whole range of things.

It can rely on police activity. I know that they had a blitz on stealing cars down there and the incarceration rate went sky high. There are particular pressures in Tasmania, as opposed to Canberra, and I am not sure that such a comparison would actually yield worthwhile information. It is very complex.

THE CHAIR: I appreciate what you say, Barbara, but what I would be interested in seeing is the raw numbers, not because I want to make a judgment on the numbers, per se, but rather because those figures will then raise questions. They would be a pointer, if you want. We would say, “Why is this so”, and then the inquiry might wander off down another track altogether. I think those comparisons are useful. If, for example, we are going to recommend, or not, a children’s and young persons’ commissioner for the ACT and we are going to base it on our comparison with Tasmania, let’s be fair about this. We do need to have those sorts of comparisons.

MR CORNWELL: Can I ask a question about the painstaking work? Let me ask a very direct question. Did Daisy Osborne come to your attention?

Ms Birtles: I can say yes.

MR CORNWELL: The problem I have is that you have just reorganised the protocols and I welcome that.

Ms Gallagher: We are in the process of continuous improvement, yes.

MR CORNWELL: I understand. I am asking, though, why the hell weren’t the original protocols that you are now revising followed in the first place. This type of thing has happened overseas in the past, as you are well aware, where children have fallen through the gaps.

I am simply gobsmacked, I suppose, that these things could have occurred here. I am not saying under your regime. Please don’t misunderstand me: you are looking at the protocols. However, I am very concerned that these circumstances have occurred and I want to know if Daisy Osborne came to the department’s attention.

Ms Baikie: I think it is very difficult to make comment about individual cases for a whole range of reasons, including confidentiality and considerations about where the information goes.

MR CORNWELL: We are dealing with a dead child.

Ms Baikie: We are, yes.

Ms Birtles: These are public hearings. I think we need to be conscious of that.

THE CHAIR: I will just intervene here and use my prerogative as chair. I appreciate both positions, however, the possibility of another inquiry has been raised in the media by another member of the Assembly. That will be addressed by the Assembly in due course. With respect to the individual case, we have heard details of individual cases but during in-camera hearings. Mr Cornwell, if we were to go down that track, I would prefer to do that in camera.

MR CORNWELL: Could I ask another question?

THE CHAIR: I am also concerned that, if the inquiry is to be positive in its recommendations, we will have to ask some awkward questions. I make no apologies for that, but we need to restrict ourselves to systemic issues, unless there is something glaringly obvious we wish to take up. I can't see that happening at the moment. I think we need to be conscious that it is our role to be systemic in the way we approach this matter also. We should watch the thinness of the ice.

MR CORNWELL: Let me put another question. There was an editorial in the *Canberra Times* this morning on the subject, and it was suggested there that one of two things could have happened—do nothing or take the child into care. Would you see any other alternative? Do you treat the parents for, in this case, the drug addiction? I don't know. Where does Family Services stand in a situation like this? Was the child at risk? That is the big question and you don't really know the answer to that.

THE CHAIR: I think we will have an answer to that.

Ms Baikie: Yes, I think there is a range of things we can do and I am not talking about that specific case.

MR CORNWELL: No, I am being very general here.

Ms Baikie: Yes. For parents with drug abuse problems there is a range of things that we can do. Obviously, whether you are taking the child into care or leaving the child there, there is a range of ways you can do such things too. In terms of supporting the families, we have a range of agencies that provide support to us. We have specific drug and alcohol services, at Karinya House, which is a residential-based service to support the parents, where the mother and child can go. There are other services such as the Queen Elizabeth II.

MR CORNWELL: Will you do it, though?

Ms Baikie: Yes. We have and we do.

MR CORNWELL: Under what circumstances? This is the problem.

Ms Baikie: Can I just say that we were not involved at the time.

THE CHAIR: On a systemic basis. The alternatives that there appear to be to interventions seem to be to extract the child and do something else with the child, and to leave the child there and try to provide support to address the dysfunction in the family.

During the course, however, of that particular option there are such problems as access. Say, for example, the child has been taken away and is in kinship or foster care, then there is the access. Do you have protocols which govern whether there will be supervised access or non-supervised access?

Ms Baikie: Yes.

THE CHAIR: You actually tick the box and, if it does not work, bad luck, you don't get it?

Ms Baikie: In all Family Services work, there is always a risk assessment done to identify the risk factors. There have been cases where we considered that there were very high risk factors if a child was to be left alone with the family, and I can give you an instance, speaking broadly. There was another case where there was considerable concern. We put someone with that family on a 24-hour basis to provide that level of care. We do a range of things, but always with a risk assessment. We identify the risk and we will put in the necessary supports.

MR CORNWELL: Is your mandatory reporting always carried out? It is all very well to have these protocols in place, but what happens if people ignore them and don't report, even though they are obliged to?

Ms Baikie: We are currently undergoing training, and we have ongoing training for mandatory reporters. People can come and undertake the training so that they are aware of their obligations. In a range of agencies, it is implied and enforced that mandatory reporting is necessary. We are also going to send out 15,000 letters to people to ensure that they are aware of their obligations. We're currently having booklets printed and those will be sent out in the very near future.

THE CHAIR: I would like to switch tack at this point. I think this is an emotive issue and that this committee will have to consider its position regarding its terms of reference and the Coroner's report. Given our deadline of reporting in May, the probability is that we won't actually take it on as a specific issue, but we will discuss that in a deliberative meeting.

I want to ask one question and then throw to Ms Dundas. One of the kids came forward at a previous hearing—we were talking about the consultation process with kids and that sort of thing—and said—

Ms Birtles: Was this a child in care?

THE CHAIR: No. This was basically a kid off the street. We were talking about whether or not we actually talk to young people and ask them to tell us what they think they need. They were saying that people don't do it. What this person would like to have is optional voting at 16, because some people are mature 16s and some people are not. So I thought we might throw that at you, Minister. What do you think about optional voting at 16+?

Ms Gallagher: You might be able to confirm this, John, but I do not know that the government has a position on it. My understanding is that we don't.

THE CHAIR: We have a position on compulsory voting. I think the test is whether or not a person could cope with it.

Ms Gallagher: I would be interested in following the debate on it. The party would need to have a view on it as well. Also, I believe that Simon Corbell raised this with the ministerial youth council last year and that hasn't reported back to me with advice on the matter. I'm certainly interested in hearing about it.

THE CHAIR: The young person who told me—I can't remember her name—was not only on a council, the interesting thing was this person was involved in the constitutional convention. That is where the impetus came from for the young person to do these things. That is not divulging evidence that was taken in camera.

MS DUNDAS: The submission which you gave us in September, which I understand was produced under the former minister, Minister, listed a number of future directions and those kinds of things. I am on page 51. Under future directions it says,

The government is committed to ensuring that representative bodies and forums have diverse representation.

We have reached 50 per cent of women on board. It is possibly a different question, but is there anything being done to include young people in decision-making committees and boards that exist in the ACT structure?

Ms Gallagher: I actually met with the ministerial youth council last night and they, to their credit, are doing a lot of work in this regard, in forming relationships with existing boards and committees, particularly in areas of interest to them. The ministerial youth council has formed—I would have to check the number—specific issues groups into which they have divided themselves. Those groups are meeting with a range of relevant committees, working parties and community sector people.

One thing I spoke to them about last night was how they were managing the workload. I am conscious of the fact that, while there are 21 and they are from a diverse range of backgrounds and ages, I do not want to overburden them. Many of them have jobs or are in school, and have everything else to do. I raised the workload with the council last night, because they are enthusiastic, but I don't think the ministerial youth council can be the one thing that we rely on to provide advice.

I am interested in looking at ways of improving the representation of young people on boards and committee. I will speak to the ministerial youth council about it again. They are keen to do that work at the moment but I think it might be stretching them a little too far if you took the idea to its potential, and had them participating on boards and committees as representatives of the ministerial youth council. That is the way I see it heading at the moment. Maybe we should look at it another way. I know there was a lot of interest in seeking those positions on the youth council, so maybe that is something we can look at. We certainly do have the women's register.

MS DUNDAS: Yes, are there plans for a youth register? There was one running through Pogo a while ago.

Ms Gallagher: Exactly. Certainly, from my discussions last night with the youth council, it seems that this is something on which they are keen on doing some more work. Frank was there and he has been working with them as well.

Yes, I am very interested in that and I think there is a lot of value in having young people participating on those boards. I guess there are the same issues about women's representation. We may have to make sure that their contributions are recognised and, again, that we don't overburden people with responsibility.

FRANK DUGGAN was called.

Mr Duggan: I am Frank Duggan of the Department of Education, Youth and Family Services. There are seven distinct issues-based groups that they have developed and they cover health, alcohol and drugs, employment, housing, education, law and the environment. They have some interest groups and each of those groups is a subset of the main group.

I think last night we had 20 of the possible 21 council members attended the meeting. It would be significant for any council to get that number of participants. They did say that you had actually posed a number of questions to them and they apologised that their workloads were high. They've really been a very enthusiastic, very articulate group of young people. I was conscious that one was on our high school development group. She is actually representing the council on that.

The other answer to a question is that, yes, there is a consultation register and we are working hard to get more young people involved in that.

MS DUNDAS: Is it being accessed at the other end? The women's register was for outside boards and committees to access. Is it being promoted through the boards and committees network that exists now?

Mr Duggan: Yes, I think there has been a move by government to promote it very strongly. My recollection is that there has been advice sent out that they should use that. We are waiting for more work to come in, in that area. We are also trying to redevelop Pogo to make it more user friendly for people, to engage them.

MS DUNDAS: What are the future strategies for involving children and young people in consultation, discussion and leading mechanisms? Will it just rest with the council and the annual youth forum or will there be broader consultation and communication happening?

Ms Gallagher: I think that is still to be determined in some ways. This is where I'm conscious, certainly as a result of meeting the ministerial youth council, that for me it is becoming a bit of a one-stop shop and that maybe that is going to be too much for the councillors, because they are initiating a lot of ideas. In fact, they provided me with a budget submission, yesterday, about areas that they saw as priorities. Part of it is about access to information, access to decision-making bodies and things like that.

They are doing that work. They are identifying a way in which would like to see that go. I think it will grow out of what it is now. The stage they are at now is working very much on the issues that came out of the conference last year. They have formed these subgroups to pursue those mini action plans for those areas, and then they're coming back to me. Those working plans are in various stages of development. Some groups have done a lot of work on it, and some are very much in the embryonic stage.

MS DUNDAS: The conclusion of the submission in September, which is now six months ago, listed 11 future directions on page 52, including coordination of programs,

avenues for consultation, participation in decision making, and avenues for enhancing children and young people's understanding of their rights in law. I am interested to know, six months down the track, how many, if any, of those future directions have progressed, because they obviously overlap with our terms of reference a great deal.

Ms Gallagher: Work has certainly started on the development of the children's strategy.

MS DUNDAS: Is that the children's action plan?

Ms Gallagher: No, it is the children's strategy.

MS DUNDAS: Is it the same thing? Yes.

Ms Gallagher: Yes. More work would have been done had it not been for the department's role in bushfire recovery, but my understanding is that it is almost at a stage where I can look at the suggestion for the working party. Some of those issues that you have here will be picked up in that strategy, and my understanding is that it is to be developed and out there this year.

MS DUNDAS: How does the children's strategy relate to the other page I have flagged in my submission which discusses the youth framework?

Mr Duggan: We've started to undertake joint meetings about that process.

MS DUNDAS: How do the children's strategy and the youth framework relate to each other?

Ms Baikie: The children's plan goes from before birth to age 12 and the young people's framework goes from 12 upwards, but all the plans must link together. There have to be linkages so they flow on, and they all sit under the Canberra plan, so they are all connected. That is one thing that we are very conscious of with the children's plan, that we do build in those connections to the existing plans, so that it doesn't sit out in isolation on one side.

Mr Duggan: With the young people's framework, we also undertook locally, as late as this week, to talk about transition, because we were conscious of the transitional arrangements between the children's plan and the young people's framework. So we decided to have a subgroup looking at that so we could get the transition right.

MS DUNDAS: Subgroups of the department?

Mr Duggan: No, there were representatives there, young people on that group, who were the Canberra young citizen of the year and a representative of the ministerial youth council.

MS DUNDAS: On the working group that is doing the—

Mr Duggan: Yes. One of them volunteered to be part of that to look at the transitional arrangements between those plans.

MS DUNDAS: Who is developing the children's plan and who is developing the youth framework? Is it the same group?

Mr Duggan: No.

Ms Baikie: With the children's plan, our agency has the lead role, but it takes in every government agency right across Canberra, and there is a steering committee.

MS DUNDAS: Of departmental officials?

Ms Baikie: Yes. We are currently getting a broader group of people who are community representatives. We have called for submissions for that and the minister will be appointing people.

MS DUNDAS: That is the community reference group?

Ms Baikie: Yes. We are also responsible for chairing the young people's framework, and that has government and non-government people on it.

Mr Duggan: And young people.

MS DUNDAS: Two young people?

Ms Baikie: Yes. So it crosses all services provided to young people in Canberra. That is what Frank was saying.

MS DUNDAS: So the subcommittee has come out of the young people's framework group.

Mr Duggan: Transition is a point you have raised. Coincidentally, we were looking at that this week. Although we said it was two young people, actually a few other people from the non-government sector would also fall into that age bracket, so there were probably four or five from the non-government sector representing young people on those groups.

Ms Baikie: Just going back to the children's plan, one of the things that we were aware of when we called for submissions was that we would get them from a range of people, but we didn't actually get them from young people. We think it would be really good to have a couple of young people on the children's plan reference group. We will be working towards identifying young people to participate in that.

THE CHAIR: I am going to invoke my chair's prerogative again and say thank you very much. We would like to say first, Minister, we appreciate the help that your department has given, particularly to our committee secretary recently, and to a tight deadline. We are aware that we have not had as much time with you as we would have liked, so what we will try to do, having regard to the amount of time available and the difficulty of answering questions, is put the rest of the questions in writing for you.

I do want to get the report of the committee tabled in May. I suspect that the form the report will take will be a series of recommendations on things that we have something concrete on. However, along the way, we have met with matters that should be examined, and this will probably be helpful for the future, so we will list those in the report, rather than wandering off in those directions. We can do that. Every time we speak to someone we open another door. If we could prevail on your good offices yet again, we can knock this over fairly quickly.

MS DUNDAS: Can you just quickly tell me when the working children volunteering policy that was being redrafted at the beginning of the year is due for release?

Ms Birtles: I am not sure.

THE CHAIR: You might take that on notice.

Ms Birtles: Yes, it went out and there was a revision. I'm not quite sure exactly where it has gone.

THE CHAIR: Thank you very much, Minister and officials.

The committee adjourned at 5.34 pm.