

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

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

(Reference: annual and financial reports 2002-2003)

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 4 DECEMBER 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 3.06 pm.

Appearances:

Mr J Stanhope, Chief Minister, Attorney-General, Minister for Environment and
Minister for Community Affairs
Department of Justice and Community Safety

Mr T Keady

Office of Community Advocate

Ms H McGregor, Community Advocate

Mr B McLeod, Deputy Community Advocate (Adults)

Mr A Roy, Deputy Community Advocate (Children)

Ms M Coleman, Chair, Management Assessment Panel

Mr V Martin, Executive Officer, Management Assessment Panel

THE CHAIR: Welcome. I convene this public hearing into annual reports and thank you very much, Chief Minister, for attending and giving us your time and that of your officers.

You should understand that these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that 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.

It would be appreciated, if questions are taken on notice, if we could have the responses within, say, seven working days; that would be helpful. Also, the Secretary will email the transcript of the *Hansard* of this public hearing to those people who appear before the committee, but it will be the responsibility of witnesses to check the transcript for accuracy and let the Secretary know of any changes that may need to be made.

Chief Minister, I'll invite you to make an opening statement if you'd like to do so.

Mr Stanhope: Thank you very much, Chair. I'm more than happy, as are officers of the department and of the Office of the Community Advocate, to take questions and respond to issues in relation to the Office of the Community Advocate's annual report. I might just say that the Office of the Community Advocate is a vital office with, at times, a very difficult and testing function and range of responsibilities which I believe are always discharged in the most professional way and indeed in an exemplary way. Some of the more difficult issues that any government faces are those that are dealt with by this office and by the Community Advocate; it's a trying, testing and extremely difficult area of public service in which to be involved. I'm sure it has a range of satisfying moments and outcomes for the Community Advocate and the staff. Nevertheless, I acknowledge that it's one of the most difficult and testing and, in a way, important areas of public service, given the client group and the range of services and protections provided by the Community Advocate. Mr Keady, as head of the Department of Justice, and Ms McGregor are more than happy to take your questions on the annual report.

THE CHAIR: Thank you, Chief Minister. Ms McGregor, any casual reading of the first 12 pages of this report would show that you have had a testing year. I'm not convinced that that is the vehicle in which to express those views, but they've been expressed and that's that. You've mentioned in the annual report that you've been in limbo a fair bit. Your explanation seems to indicate a fair bit of limbo; purgatory might be a better way of describing it than limbo.

I'm interested to explore with you the review of the relationships with some of the agencies. I notice that you've got quite a number of memoranda of understanding, either in the pipeline or just signed off, with a number of agencies, and that at one point you congratulate them for their collegiality in all of this. Would you like to give us a comment on how successful you think that has been and whether it's going to make a difference? We've had discussions in the past about concerns about Family Services and the welfare of kids, and we've picked up on a number of things you've had in other annual reports. Could you give us your feeling on how that's coming on?

Ms McGregor: In a general sense it has always been my approach in this job to as far as possible work with agencies side by side and to be on the same side to achieve outcomes for the client group. That's the aim: to establish understandings between us and other agencies about who will deal with what, who is responsible for what and so on. In particular, I will get away from Family Services and use as an example the Older Persons Mental Health Service. We work very, very closely with that agency in responding to people who are quite exceptionally vulnerable, and the work towards an understanding with that agency has proven to be very, very useful.

From our perspective, referrals get made at the exact right moment and for the right kind of purpose. We work very successfully with that agency, which is prepared to take on a case management service provision role. When there's a need for a substitute decision-maker, I take on the emergency guardianship role. Also, we have an understanding with that agency about reporting cases of abuse of the elderly. We think it's a worthwhile exercise to keep these understandings under review, because personnel change, practices change and situations change. We think it's a useful way to go about working with other agencies.

THE CHAIR: Yes, in the past in one of your annual reports you were quite critical of Family Services. My understanding is they have a statutory obligation to notify you of reports of abuse of children in care.

Ms McGregor: That's correct.

THE CHAIR: I thought I detected in your report this year that they haven't been doing any of that again; is that so?

Ms McGregor: That's correct.

THE CHAIR: I don't know how they can be brought to do that. Do you think an MOU with that agency will make any difference?

Ms McGregor: I'm not sure that that's the right approach with that agency. We have regular meetings at all sorts of different levels. I meet with Ms Baikie on a regular basis.

Family Services has been under enormous pressure. It was one of the lead agencies involved for a large part of this year in responding to bushfire recovery. That had an impact not only on workers on the ground, because they were out there, but also in the change of personnel. Ms Baikie left the position and went and worked in a more senior position because Ms Birtles went and worked on the task force. As appropriate as that was from the point of view of the furthering of the reforms that Ms Baikie was wanting to achieve in Family Services, it was a really unfortunate period of time to be taken out of the plan for reform.

I've talked to you on other occasions, in your inquiry into children's interests, about the Refocus agenda that Family Services has developed. We've had ongoing discussions with them, we've agreed to give them some breathing space, and it's our intention to review aspects of that Refocus agenda in February, so we will select some of the items that have been listed as intended to be achieved, we will in fact examine whether they have been or not and we will make a report on our findings of that review of the Refocus Process.

THE CHAIR: Do you have the sense for how that refocusing review is travelling?

Ms McGregor: There's a lot of indication that quite a number of significant things have been achieved. There's also an indication that there's still a lot to be achieved. We see the plan as being three to five years worth of hard, solid work. There's still a long way to go but I'll be in a better position to respond to you after February; we will scrutinise what's going on at that stage.

THE CHAIR: We might have a chat in 12 months time.

Ms McGregor: Yes.

MS DUNDAS: You've noted again and again that what has been going on in Family Services is a major issue, and it's a major component of your annual report. But to a certain extent it's missing in the Department of Education, Youth and Family Services annual report. So does that give you any confidence that, come February, things might have changed? Might there be room to do a review if there is no public acknowledgment within Family Services of the issues?

Ms McGregor: I would have confidence in the review that my office is going to conduct. To be honest, I haven't seen the department of education's annual report. Are you saying that the Refocus Process is not in the annual report; is that your comment?

MS DUNDAS: Yes, that's my comment.

Ms McGregor: I can't comment on that; I didn't know it. Certainly, we have the document; as you know, we've committed a lot to that process. It was on the basis of that Refocus Process being established and us having confidence in it that I took certain decisions to move some of our resources away from individual advocacy in the children and young people area into systemic advocacy work, and this is part of what we will be revealing when we conduct our review in February.

THE CHAIR: Is the review into services for young people with mild or moderate behavioural problems part of that refocusing or is that something that you understand to be quite different?

Ms McGregor: No, that's quite different.

THE CHAIR: Okay. I read the Conway report; is that the same thing?

Ms McGregor: I don't know; I have not read the Conway report, Mr Hargreaves, but I understand it is about proposals to establish alternative educational options for children.

THE CHAIR: My curiosity is more to do with the future of the adolescent day unit, focusing more on services to kids who are marginalised because of a behavioural issue. One of the concerns that I have is that we have services in our system that prevent them coming to the attention of the Management Assessment Panel. You have read the Conway report?

Ms McGregor: No, I haven't.

THE CHAIR: Okay. I might ask you to have a look at that, if you wouldn't mind, particularly in relation to the adolescent day unit, and we might talk again in a year's time.

Ms McGregor: Certainly.

MRS CROSS: In your report, on page 7, you also talk about the Inquiries Act 1991 and the Gallop report and the amendments to the Inquiries Act 1991 this year. Can you explain the negative effect that the Gallop report had on the OCA and more specifically how it impacted upon those undertaking inquiries under the Inquiries Act 1991? Can you explain how the amendments passed this year will change this?

Ms McGregor: It will be difficult for me to be brief about this. One of my major criticisms about the conduct of the inquiry was that people were being asked to respond to allegations and accusations without being given proper notice that that would occur. My word for it was it was that it was an "ambush". The way that the process worked was that people made submissions and the inquiry, unfortunately, took everything that was said in the submissions as being factual and took that as the base on which they made their inquiries. People were then asked to respond. I was one of those, I suppose, more seriously affected by that. I was put in a position of having to respond to allegations that were false. That process was very unfair, very unjust and it made me realise, for the first time personally, the great value of the justice system. It is my view that the inquiry was not conducted in accordance with fundamental principles of natural justice.

MR CORNWELL: I am a bit concerned to hear that Family Services have had a difficult year which may have impeded the review. I think last year, in an earlier inquiry here, Family Services indicated that the review was taking place. I don't recall any concerns being expressed that they wouldn't be able to complete it. I'm particularly concerned about child deaths and the fact that this review has been strangely delayed—my words—because I understood, from when Family Services were last with us, that it wasn't going to be. I guess what I'm asking you is: are you satisfied to the best of your

ability that there are sufficient controls in place to avoid any further child deaths before February when the report comes down? I think you mentioned February; was it?

Ms McGregor: Mr Cornwell, I just need to clarify some aspects of what you've just said, so that we're clear. I call the reform process that Family Services are undertaking the Refocus Process, and what I've said is that as an office we will review the progress that has been made on that reform agenda in February. So are we clear on that?

MR CORNWELL: Yes, I understand it; that's fine.

Ms McGregor: I can never be confident that there won't be another child death, Mr Cornwell. I don't know how anyone could be. Children who have been notified to Family Services, children who are under protection and children who have come to the attention of the system are one thing; but there's another group of children out there who are at risk, who are vulnerable and who haven't come to the notice of the system, and I don't think we can ever be confident about those. We can have confidence that the system is responsive, it is responsible, it is innovative and it is well resourced, so that when reports are made of children being at risk they are responded to appropriately. That's what I would be looking to have confidence in.

MR CORNWELL: Are you confident that they are being responded to? I have some problems about mandatory reporting. Are you confident?

Ms McGregor: I'm more confident now than I was at the time of the child death about which we've spoken before.

MRS CROSS: Confident about what?

Ms McGregor: I'm more confident that the system is responsive and in a position to respond in a more professional and a more adequate way than—

MRS CROSS: So what you're saying is that, due to the death, it has been addressed and the system has been improved, tightened up?

THE CHAIR: You are more confident.

Ms McGregor: Yes, I am more confident. But I'm not saying that we're anywhere near where a child protection system needs to be. Can I also say that child protection is just one of your nightmare areas, and it is a nightmare for every state in this country. I don't think that what happens in the ACT is any better or any worse than in some other states. States go through bad times over child protection, sometimes they go through good times, and they go through reforms, but it's never an area that people can kind of sleep easy around.

THE CHAIR: Against that backdrop, can you tell us or update us on what you think is happening with the establishment of the Child Death Review Team? Is that anywhere near done yet?

Ms McGregor: Mr Keady may want to make a comment on this. My understanding is that Mr Roy in my office is on a committee. My understanding is that it has stalled; I'm

not exactly sure why it has stalled. I understand that it has the support of the Minister for Health, but I can't do better than that. It has certainly stalled.

THE CHAIR: My discomfort comes from an understanding that I have that, in answer to a question about the coronial inquest relating to the death of one of those children, I think the CEO of the department of education said—I might not have the words exactly right, because the transcript hasn't been done—something along the lines of that the outcome did not impact on the department. I have a bit of concern about that sort of attitude. Are you aware of those comments?

Ms McGregor: No, I'm not aware of those comments, and I certainly can't comment on what Ms Hinton might have said to you. But I can say that it is my very firm belief that the outcome of the inquest into the death that I have spoken to your committee about has indeed been very great. For example, I have had many personal discussions with Ms Baikie and I in fact gave her my own summary, if you like, of what I saw as the failures of the system that led to the death of that child. So I can tell you that at that level it has had a very significant impact. There is also a small group that meets, and again Mr Roy is on this group. It includes key people in Family Services, my office, the police and Health and they meet and discuss serious cases; it's a case review group. I think I may have spoken to you about this before and how pleased I was because—

MRS CROSS: You can share information.

Ms McGregor: That's correct, and the reports to me from my officer are that that is a very frank and hard-hitting analysis of difficult cases. What I like about it is that it's preventative; key people are looking in a very tough way at what has gone wrong in this case and what needs to occur in this case. So that's something else that has occurred as a result of the deaths of those two children.

MR CORNWELL: Providing the information is being reported, of course, I think the committee is an excellent idea.

Ms McGregor: Yes. I think your question refers right back to the very beginning of when a report may be made to Family Services. There are a number of factors: (a) the reports have to be made; (b) they have to be responded to appropriately; (c) they have to be assessed professionally; and (d) they have to be responded to adequately.

MR CORNWELL: Do your office have any views on that?

Ms McGregor: We still hear that people are very concerned that on some occasions those reports are not being responded to adequately.

MRS CROSS: I refer to pages 10 to 12 specifically and the inquest into the death of Ms Pearl Ghobrial?

Ms McGregor: Yes.

MRS CROSS: You raised the issue of the threat to the life of the Community Advocate. I want to find out from you: how common are threats like these, how do you deal with

them and how have you changed the way that you deal with things since the inquest into the death of Ms Pearl Ghobrial? I've got to say that I was alarmed when I read this.

Ms McGregor: If I forget bits of your question, I apologise, but the first part of your question is—

MRS CROSS: How common are they?

Ms McGregor: It's really common for someone to make a threat. That doesn't unnerve me terribly much. You know how people do. Generally speaking, what I do is not very popular, and what I'm responsible for is not welcomed by a number of people. And I can also say that this case—not only the threat to kill aspect but my guardianship of Pearl Ghobrial—was extreme. This threat to me was extreme and it was the worst that I have ever experienced in my over 11 years of being Community Advocate.

What did I do about it? One of the reasons that it was seriously unnerving was that the police were seriously unnerved. The fact that they took it as seriously as they did should have been reassuring, but in fact it made me very concerned. The police were marvellous; they provided personal training to me about how to manage my vehicle, my parking and my private life and my home. They briefed my partner and they came to the office and gave advice.

Also, I got a lot of assistance from the security people at the court. Every time I had to go to court, certain precautions were taken; I didn't go in the front door kind of thing. We had a security guard at the office. The ultimate threat was to kill me, which led to his being charged. But on a previous occasion, because I was dealing with Family Court matters as well, he had threatened two of my staff. We did the best we could.

MRS CROSS: How has it changed the way you handle threats? Has it changed the way you handle other threats, or was this an isolated threat in terms of the serious nature?

Ms McGregor: Yes.

MRS CROSS: Have you changed the processes in your office? Do you do things differently?

Ms McGregor: I don't think so, because I think we've always been very alert to—

MRS CROSS: Okay, so this was handled specially. In relation to the same matter, you're critical of Justice Connolly and his decision.

Ms McGregor: Yes.

MRS CROSS: How does such unpunished treatment affect the way that community advocates do their work?

Ms McGregor: I'm not quite sure what you mean.

THE CHAIR: Before we go down that track too far, I'm not so sure I want to have this explored a bit. I'm uncomfortable with the nature of an expression in relation to the

judge. I don't think that's appropriate here. I'd rather you didn't answer that to the committee, if I can be bold enough, Mrs Cross.

MRS CROSS: Okay, can I then rephrase it? What message do you feel the outcome of that case sends to the community when it is allowed to occur?

Ms McGregor: One of the things that we as an office try to do is to raise the consciousness of the community about the role of the guardian and the significance of the role of the guardian. I might say that sometimes no matter how hard we try we feel a bit frustrated that there isn't a better understanding about guardianship law and the role of the guardian. It certainly continues to frustrate me that my role as guardian of last resort is not well understood. The other aspect of this is that people can very easily believe one side of the story without making enquiries about what might be the facts of a case. So we try to do the best we can to raise the profile of guardianship, to raise community awareness of guardianship and—

THE CHAIR: I want to get off this subject fairly quickly. This is the last one, Mrs Cross.

MRS CROSS: Attorney, do you have an opinion on the outcome of this particular case?

THE CHAIR: I would prefer, Chief Minister, if you were not obliged to answer that one.

Mr Stanhope: Thank you, Chair. My response would be, Mrs Cross, that I'm a great respecter of the sub judice rule and of the separation of powers, and I don't propose to comment on how justices of the Supreme Court discharge their duties in individual cases and whether I think they did or did not do the right thing. As a politician, I will not lecture judges of our Supreme Court on how they undertake their duty.

MS DUNDAS: At page 56, you talk about your visits to Marlow Cottage and Quamby. Do you see that as a doubling up of the role of the Official Visitor? Can you explain further how you work in concert with the Official Visitor?

Ms McGregor: We meet very regularly with the Official Visitor. We believe that it's a collaborative effort and we see our role as distinctly different from that of the Official Visitor.

MS DUNDAS: Can you explain how you see your role as distinctly different from that of the Official Visitor? The report of the Official Visitor also lists the quality of food as one of the major issues at Quamby. That flags to us that something needs to be done about the food, but it also flags that you're hearing the same things. How do you see your role as being different?

Ms McGregor: Certainly, that list of reports is of the kinds of things that young people have raised with us, but I think that our role in relation to young people is an advocacy/best interests role. We are there to take on an advocacy role on that young person's behalf. The Official Visitor's role is to go into the facility and examine the facility and the young person's life in the facility. It's a role that could be put together very comfortably. We have certain responsibilities to young people in Quamby. We do

the best we can to make sure that what we're doing is not duplicating what the official visitors are doing. Certainly, we meet with them regularly to ensure that and we receive referrals from them and make referrals to them.

MS DUNDAS: You picked up on another part of the interest that I have out of the annual report, that is, the change this year from doing individual advocacy for young people to looking at systemic advocacy. You have mentioned that part of your role in going into Quamby is to advocate for the best interests of individual young people. The annual report seems to indicate you're still doing some individual work.

Ms McGregor: That's correct.

MS DUNDAS: Is that mainly for people in Quamby?

Ms McGregor: No.

MS DUNDAS: How are you determining the cases for individual advocacy?

Ms McGregor: Our determination is based on when there is unacceptable risk. A matter is referred to us and we try all other avenues to have the appropriate response made for that young person. If we determine that there is an unacceptable risk to the young person, we will take on that case. The other cases that we will take on are those matters that are referred to us by a magistrate.

MS DUNDAS: As to that initial assessment of unacceptable risk, what does that process include?

Ms McGregor: If we've been provided with assessment reports, information from the court—

MS DUNDAS: So it's an individual literature review in a sense?

Ms McGregor: Generally speaking, yes, and also an inquiry. We would make inquiries of the people who are involved in the young person's life or services which are involved and we would make a determination on whether there is unacceptable risk.

MS DUNDAS: How long does that process usually take?

Ms McGregor: It could take a matter of minutes or it could take a matter of days before we realised that there was unacceptable risk. That would depend on the availability of material and it's not something that I can generalise about. It would be different on a case-by-case basis.

MS DUNDAS: In terms of the shift from individual to systemic advocacy, I was disappointed that you didn't include financial statements in your annual report and that they were things that had to be picked upon in the JACS annual report. In terms of how you see the management of the office's resources being balanced between individual advocacy and systemic advocacy, how has the change shifted the balance of resources across the office? Has it benefited?

Ms McGregor: The resources haven't shifted. My office is divided into three sections—adults is one; MAP and care coordination is one; and children and young people is one. The same amount of resources is in the children and young people section. The history of my taking this decision is that we have provided individual advocacy to children and young people and we have achieved very beneficial outcomes for children and young people through doing that. However, if you draw on the systems theory, what I became concerned about was that we were, in fact, colluding with a system that was not adequately responding to children and young people.

MS DUNDAS: It was just another cog in the system.

Ms McGregor: That's correct, that we were, in fact, covering up for defects, inefficiencies and failings in the system, and that's why I took the decision that we would do this for a period. It was certainly encouraged by Barbara Baikie's refocus process. I'm not suggesting that the office will continue in the way that it has, but I am suggesting that the systemic work that we are currently undertaking is incredibly valuable work. It is very targeted and very focused. It is well planned. You people have been provided with a copy of our work plan in that section. We are moving towards working at the level that we think has the potential to change systemic failings.

MS DUNDAS: You mentioned the work plan, but can you elaborate on specifically what you're doing in terms of systemic advocacy that is different now that you have more time and resources to focus on systemic advocacy than you were doing before? Over the last two years we have received a number of reports and picked up a number of the reports that you've written, such as the one on the 1999 review of Quamby. I guess what I'm trying to get my head around is what is different now in terms of that systemic overview of staff.

Ms McGregor: It's basically a matter of balance and it is that we are putting more resources into the systemic work and they're all listed on the work plan from that section that we've provided to the committee. For example, one piece of work has been on the development of standards for restraint, something that we've been concerned about—children and young people being restrained. We think there should be standards. There haven't been standards. We have been centrally involved in drafting those standards and working with Family Services to the point of having them approved as a restraint policy.

MS DUNDAS: Basically, you are doing more reviews and you are doing more reports that are feeding into Family Services; that's where the systemic work is being done.

Ms McGregor: Yes. Might I say that there are some services in town which are quite seriously disappointed in us making that change, so I'm keeping it under careful review. Following the review of the refocus process, we review our own work and our own performance on an annual basis and we will look to see what has happened.

THE CHAIR: I would like to speak to you about the Management Assessment Panel. Perhaps Ms Coleman would like to join us at the table. It won't take long. It will take a lot less time than we usually spend on these things. When I looked through the report I couldn't get a feel for whether more people were coming to the attention of the panel. I'd be interested in your comments on that.

Ms Coleman: Sure.

THE CHAIR: Also, I'm aware of the coordinating responsibility of the panel with respect to an interagency and holistic response to these people with difficulties. I'm also aware that a lot of the people who come to the attention of the panel don't fit neatly into one of the other pieces of legislation. I'd be interested in your view as chair of the panel on whether we need to be looking at some sort of legislative cover for those people.

Ms Coleman: Turning to your question about trends in numbers, it's not as clear in the current report that you have just what the numbers have been, but there was a slowing down of referrals during the year under review which I think we could say in terms of the current year has been changed and we seem to be going back to a more normal pattern in terms of numbers. There was a slowdown this year. The numbers are picking up again.

THE CHAIR: For the benefit of the committee, could you tell us the sorts of numbers we are talking about?

Ms Coleman: In the year for which this report is appropriate—it's on page 27—there were 23 inquiries, nine of which resulted in a referral. As you know, we don't accept every inquiry. In terms of those nine, the intervention of the executive officer was sufficient to resolve the matter, with only one new matter needing to come to the full panel. Overall, during the year we were involved with 17 people—one of those was new—and we convened 20 panel meetings. That was during that year. This year we've already received 16 referrals, so the numbers so far have been trending back to what they were in the preceding 12 months. I've made some comments in the report as to what I think is some of the reasoning for that.

I have a document here, Mr Chair, if it's helpful to you, containing data which I prepared for a conference that I recently attended in Melbourne, run by an outfit called the Health Leadership Network, an entity created by Commonwealth and state health ministers. There's a bit more statistical trend data in the back of it and I'd be happy to leave copies of that for the committee.

THE CHAIR: Thank you; we're very grateful for it.

Ms Coleman: You're correct in saying that trying to achieve some kind of interagency coordination is the key thing. That meeting I went to in Melbourne was extremely interesting, because we looked at what Victoria and a number of other jurisdictions were doing with these clients who, typically, don't fit anywhere into ordinary categories and who, typically, are very, very intensive in the demands that they place on services. I think it's fair to say that not all but a great many of them are people who, in general personality type, don't prove tremendously rewarding for many of the people who spend long, hard hours working with them. They can burn out staff very quickly.

I'm not sure whether trying to change legislative definitions is necessarily the way to go. That doesn't mean I'm opposed to change. I'm just saying that I'm really not sure. In fact, one of the things about the recent changes to the Mental Health Act which led us to have a definition of mental dysfunction is that really, I think, it's a fancy way of saying that we don't quite know what's wrong, rather than something that is tremendously technical, and we don't have a means of managing it. Whether the new approach is the

way to go, I'd be interested to have a debate about, rather than saying that I have a firm view.

THE CHAIR: Supported accommodation is probably not quite the right way to put it, but it's as close as I can come. Is that still one of the major issues surrounding the problems for these people?

Ms Coleman: It certain is for a small number of people who come through the panel process, whether it's MAP or the care coordination panel process. I noted with interest that when the Victorians did their major report on responding to people with multiple and complex needs, they finished up deciding that one thing they had to do was to develop an alternative form of accommodation which was secure, which was supported and which involved rehabilitative options in terms of socialisation and so forth, but wasn't a jail. I noted with great interest when I was down there talking with them that, although they'd just introduced new legislation to create a panel process not totally 100 miles from what we do, they ducked it on the question of the accommodation option. They said that they thought it was going to be so hard. I guess that's one of those off-the-record comments that bureaucrats make to each other.

THE CHAIR: From your conversations with them down there, does it come down to the fact that society doesn't have a right to put people forcibly into an accommodation unless they've actually broken the law, that it's an infringement of their liberty?

Ms Coleman: That's right. Our difficulty is that for some people for whom there isn't some kind of ongoing security, you may find that they finish up having repeat offences which are dangerous but not the end of the world; so, between the time they spend in remand and maybe go to jail and then are back out again, because there isn't anywhere which gives them the support and security, they're going to become revolving door people. That's one particular group. There is another small number which we're aware of in every jurisdiction that I've spoken with where we're dealing with people who are a very, very grave danger to the community and I find great ethical problems in waiting for them to commit an offence.

MRS CROSS: Which group? Can you tell us who they are?

Ms Coleman: They're usually very poorly socialised individuals who, if we were talking in the language of 30 years ago, we might have called psychopaths. We don't call them that any more; we say they have a borderline personality disorder.

THE CHAIR: In terms of your panel's support for these people—we've spoken about individual cases before, but this is really generic—the interagency response towards these people might be one thing, but what's your feeling about the support for the immediate families of these people? Are they getting any support at all?

Ms Coleman: It's very variable. I had a panel quite recently where a young person came to us just before he turned 18 and moved during the period the panel became involved from being with Family Services and the juvenile court justice system through to being an adult. The mother in that particular instance made the comment to the panel that she felt that she and her partner were people who, in her words, had a very high level of social capital and social skills and they had found the way agencies just melted away in

the face of this young man's problems unbelievably difficult to manage. She wondered how people who didn't have their skills coped in these situations.

It is a wonder sometimes. When you have parents who are concerned and who are dealing with a problem which is perhaps not at all of their making, life can be extremely hard. There are also quite a number of our clients who have not had anything in the way of appropriate parenting and we are unable to talk about how the parents can be supported or how they can be involved. There is this classic intergenerational problem, unfortunately.

THE CHAIR: Are there any questions of Ms Coleman? If not, thank you very much. We will accept that extra information, thank you.

MRS CROSS: Ms McGregor, on page 13 you list the highlights of the year, but there is no corresponding list of lowlights. Isn't it the job of an annual report to provide the full picture; in other words, not just the positives but the negatives?

Ms McGregor: I thought that my introduction had highlighted the negatives of the year. In fact, the number of negatives that spring to mind are reflected in my introduction. In the table where we have used the new format for our annual report, which we decided to do to make our compliance with the Chief Minister's directions somewhat more crisp, you'll find areas where we say that we've had a plan and we haven't achieved it and you'll see a couple of places where the number of matters that we dealt with went down, like elder abuse.

MRS CROSS: You mean they failed.

Ms McGregor: No, I'm saying the number of elder abuse cases that we responded to went down. I can say to you with respect to the statutory obligations that are on my office that we answered every requirement that came into my office in a timely manner.

THE CHAIR: You have just mentioned statutory obligations and you mention them in your report, but I don't know what they are and I couldn't find them. Would you be able to give us a list of them?

Ms McGregor: They're at the heading of the table, Mr Hargreaves. Starting on page 26, section 13 is reproduced and they are what I call my statutory functions, statutory obligations. The performance of the office has been listed according to those functions.

THE CHAIR: Page 89 of the annual report for JACS talks about timeliness and then it refers to compliance with statutory standards and statutory requirements. Are those the ones you're talking about?

Ms McGregor: Yes, that's correct.

MS DUNDAS: I want to ask about something else altogether, that is, the emergency orders and the emergency financial management program. There has been a halving of the number of people dealt with and a considerable drop in the number of orders that were made. The report talks about having a more stringent test, as requested by the Public Trustee. Can you explain briefly what that more stringent test is and how it's

impacting on people who would have once been able to access that emergency management assistance but now cannot?

Ms McGregor: Not necessarily the emergency financial management orders, but financial management orders are one of the ways that we can assist people with impaired decision-making in the most useful way. They really are very helpful in terms of making sure that the person has a roof over their head, the rent is paid, there is an account at the shop where they can get food and so on. However, because emergency financial management and emergency guardianship are such a proactive intervention for us to make, I think we need to be really stringent in our approach to requests for these orders because they ought to be interventions of last resort, they ought not to be something that we do without a great deal of consideration about whether every other possible solution to this problem has been tried and whether this order is actually absolutely necessary.

When a person is on an emergency guardianship order it is possible for me to investigate the matter, make a decision and resolve the matter. Some matters can be resolved within a reasonable time frame. With financial management, it is very difficult for the Public Trustee to take over the management of very complex financial situations on an order that lasts for 10 days and that has to be renewed every 10 days. The Public Trustee, understandably, is reluctant, for example, to sell someone's house on an emergency order. People in my office do an assessment of whether to apply to the tribunal for the order to be made. We would say, "Is this something that needs an intervention now or can it wait for the making of a permanent order?" We have moved more and more towards being stringent about that question.

MS DUNDAS: So that the people who are, in a sense, missing out on emergency financial management orders are actually getting long-term financial management orders after 10 or 20 days.

Ms McGregor: No.

MS DUNDAS: Whatever the time frame is.

Ms McGregor: It can be 10 to 12 weeks before a matter is heard by the guardianship tribunal, but I can assure you that there would not be a person who would come to the attention of my office and meets the criteria—that is, they have impaired decision making—who would not have an application made for a financial management order if that were necessary and in their best interests. All that I'm saying here is that we are less inclined to make the emergency application unless it is truly an emergency, unless we are truly stopping someone from being ripped off or unless there is absolutely an urgent matter to be addressed.

MR CORNWELL: I wish to raise two points concerning pages 28 and 29. The first concerns the child death review team. ACT Health indicated that the proposal would be further progressed by September 2003. Has it been? I'm not sure what is meant by "further progressed", but I'd be interested to know.

THE CHAIR: We had some comments on that earlier.

MR CORNWELL: The other relates to page 29. I will check the transcript, Mr Chair. Have the objectives on the memorandums of understanding concerning children and young people who sexually offend and the ACT Magistrates Court been met?

Ms McGregor: The MOU with respect to the first one, young people who sexually offend, has been signed. That was quite a mammoth effort, with nine agencies involved. The Chief Magistrate asked that we develop a memorandum of understanding with the court system and the tribunal system. We did that. We provided that to the Chief Magistrate a long time ago.

MR CORNWELL: On time?

Ms McGregor: Absolutely. It still remains with him; it hasn't been signed.

MRS CROSS: I have a quick question concerning page 29 and the OCA website. I think it's a great initiative to have a website. Are you able to determine how many hits you have a day?

Ms McGregor: Yes, we are, but I can't tell you, I'm sorry.

MRS CROSS: That's okay; take it on notice.

Ms McGregor: I know that the facility is there. I think I've just said something incorrect, Mr Cornwell. Could I have a moment, please?

MR CORNWELL: Certainly.

Ms McGregor: As to the MOU concerning young people who sexually offend, there has been agreement of all the agencies to sign. However, some minor amendments are occurring at the moment and it will be signed, so what I said before is not quite correct.

THE CHAIR: The final question from me concerns adults with disabilities. In your report you talk about attendance at the Guardianship and Management of Property Tribunal and advocacy for adults with disabilities. Your report notes an 81 per cent increase and a 11 per cent increase in the number of adults with a disability. Your office experienced a 27 per cent increase in appearances at the tribunal in 2001. They are substantial percentage increases. Would you like to comment on why it is so? Is it a question of resources? Also, have you spoken to the Department of Disability, Housing and Community Services on the issue? They have a role to play, I would think.

Ms McGregor: No.

THE CHAIR: Could you throw some light on it, please?

Ms McGregor: We are party to all proceedings before the guardianship tribunal and we attend every hearing of the guardianship tribunal. We're the only public guardian in the whole of Australia to do that. As I said before, we have met every single one of the statutory demands that have been placed on my office.

THE CHAIR: An 81 per cent increase overall is huge. How do you cope with an increase of that size?

Ms McGregor: We streamline our procedures. For example, with reviews, we've introduced a system with the tribunal where we don't provide review reports to the tribunal every time. We provide a report only in a matter where there has been a change in circumstances or where we're notified by the tribunal of a concern about a person.

THE CHAIR: So you're doing better for less, in that case?

Ms McGregor: We do the best we can. You commented about the disability—

THE CHAIR: I wasn't sure of the relationship in terms of whether there was a resource implication for your office and whether there was any role for that department to play in assisting in that. If the answer is no, fine.

Ms McGregor: No, the guardianship jurisdiction operates very, very separately from that department and the matters that come before the tribunal are matters that you or your neighbours might want to bring before the tribunal, where there's an identified need for the appointment of a guardian or a manager. May I point something out to the committee, Mr Hargreaves? I think this is of interest to this committee. It is that there's a misunderstanding in this town about who are the clients of the Office of the Community Advocate and, in particular, who are the people who come before the guardianship tribunal. The client group which represents the greatest number of people who are our clients in the adult section of the office and who come before the guardianship tribunal are, in fact, not people with intellectual disability.

I'm just trying to find the page. If you look at page 47 under the section about the primary disability of people you will see that, for example, acquired brain injury is a high percentage and dementia is, in fact, the highest percentage. Ageing people with dementia represent the largest group of people who are my clients in that area. If you look at the emergency guardianship orders section on page 44 you will find the same thing. Intellectual disability represented 4 per cent of the people for whom I was the emergency guardian, whereas the percentages for people with a mental illness and dementia are much higher. That's not understood by many people. The number of people that the disability department and we would have in common is not big at all.

MS DUNDAS: Is the 81 per cent increase in the number of people you're advocating for on individual disability cases, which Mr Hargreaves raised a question about, because of an ageing population, so that statistically there are more people who are likely to have dementia, or do you have another explanation for why you have had such a stark increase?

Ms McGregor: Certainly, we are noticing the increase in the ageing of the population and the impact on the work of the office, but I also think that we've made a huge effort to provide individual advocacy responses in the adult section of the office during the same period.

THE CHAIR: Thank you very much for that. There are some other questions. If we had a couple of weeks to talk to you, we'd use it. We will try to get the questions on notice to

you some time tomorrow. If you could respond to them within seven days it would be terrific.

Ms McGregor: Certainly.

THE CHAIR: Thank you very much, Chief Minister, Mr Keady, Ms McGregor, Ms Coleman and officers for your time. I really appreciate it.

Mr Stanhope: Just before we conclude, Mr Chair. I'm aware of the level of interest around the circumstances of the death of a young girl that was the subject of a coronial inquest. If it were felt by the committee to be useful in its deliberations on the matter, and for fullness of the circumstances surrounding that, I'd be happy to provide to the committee the full transcript of the decision that the coroner handed down in relation to the matter, an explanation and statement provided in relation to decisions taken by the Director of Public Prosecutions and a copy of a statement provided to Mr Stefaniak in response to a question that he asked me in the chamber, which you might recall, in relation to steps taken by the ACT government subsequent to the handing down by the coroner of her findings in relation to the matter.

In relation to discussion around that issue, I think it is important at all times to be mindful of the fact that the coroner made an open finding, that she felt that she did not have the capacity on the basis of all the evidence provided to her to come to a decision or conclusion around the cause of death. For fullness of discussion on this issue, it may be of use to the committee to have all of that documentation, if you would like it.

THE CHAIR: I would appreciate it very much, Chief Minister. Thank you very much for that. With that, I'll now adjourn the public hearing part of the inquiry.

The committee adjourned at 4.13 pm.