



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON LEGAL AFFAIRS**

**(Reference: Annual and financial reports 2005-2006)**

**Members:**

**MR Z SESELJA (The Chair)**  
**MS K MacDONALD (The Deputy Chair)**  
**DR D FOSKEY**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 3 NOVEMBER 2006**

**Secretary to the committee:**  
**Ms R Jaffray (Ph: 6205 0199)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

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

## **APPEARANCES**

<b>ACT Policing</b> .....	<b>64</b>
<b>Department of Justice and Community Safety</b> .....	<b>64</b>
<b>Director of Public Prosecutions</b> .....	<b>64</b>
<b>Emergency Services Agency</b> .....	<b>64</b>

## **The committee met at 9.29 am.**

### Appearances:

Corbell, Mr Simon, Attorney-General, Minister for Police and Emergency Services  
and Minister for Planning

### Emergency Services Agency

Clement, Mr Trevor, Acting Commissioner  
Paulsen, Mr Ken, Chief Officer, ACT Ambulance Service  
Maguire, Mr Chris, Acting Chief Officer, ACT Fire Brigade  
Ross, Mr Michael, Chief Officer, ACT Rural Fire Service  
Graham, Tony, Chief Officer, ACT State Emergency Service  
Harper, Mr Matthew, Director, Emergency Management Operations  
Crowhurst, Ms Moira, Acting Chief Finance Officer  
Rixon, Ms Sue, Manager, Human Resources

### ACT Policing

Fagan, Ms Audrey, ACT Chief Police Officer  
Williams, Mr Paul, Director Corporate Services

### Director of Public Prosecutions

Refshauge, Mr Richard, Director of Public Prosecutions

### Department of Justice and Community Safety

Leon, Ms Renee, Chief Executive

**THE CHAIR:** We will commence. Welcome, minister, and welcome officials. I will read the special statement.

The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

I remind people that mobile phones should be switched off or in silent mode. Witnesses should speak directly into the microphones for the purposes of Hansard. Only one person should speak at a time. When witnesses come to the table, or when they first speak, they need to state their name and the capacity in which they appear. Minister, would you like to make an opening statement?

**Mr Corbell:** No, thank you. I am happy to answer questions from you and the committee.

**THE CHAIR:** On page 17 of the annual report it says that operational testing of FireLink was undertaken with the installation of the HQ system at Fairbairn. Minister, when will FireLink be fully operational, and when will it move past the testing phase?

**Mr Corbell:** I am advised that it is now fully operational.

**THE CHAIR:** When was the testing completed?

**Mr Corbell:** I will need to ask Mr Clement to answer that.

**Mr Clement:** FireLink as an IT communications system is in constant development. It went fully operational, I think, a couple of months ago. Its first trial was frustrated by the failure of a piece of equipment. That meant we had to roll it out over a different period. It is fully operational now and working very effectively. I think the greatest benefit of FireLink from a headquarters perspective is that we can see exactly where all of the field units are at any one time and see them moving. That is something that was more difficult to do previously. It is a very effective system.

**THE CHAIR:** What has been the total cost of implementing the FireLink system?

**Mr Clement:** I do not have those figures.

**Mr Corbell:** We will have to take the question on notice.

**THE CHAIR:** Thank you.

**DR FOSKEY:** Following up on FireLink, it says on page 17 that the operational testing of FireLink provided critical information necessary for the full delivery of FireLink as an operational tool. Has that full operability been reached? Were you able to establish communications with all vehicles in the operational testing exercise?

**Mr Clement:** I would like to defer to rural fire for the most accurate answer.

**Ms Leon:** In a general way, yes, FireLink is fully operational. It is not a communications system in the sense of a radio connection. It is a tracking device to enable us to track the location of all the vehicles. I will bring Michael Ross, the Chief Officer of the Rural Fire Service, to the table. He will be able to answer your questions in more detail.

**THE CHAIR:** I, and other members, am not particularly familiar with FireLink.

When you say it allows you to track, are you able to elaborate on that a touch more? Are you talking about a screen with a map where you can plot, or are there little signals that show where a unit is at any particular time? How would that work in practice at HQ?

**Mr Corbell:** FireLink is a vehicle location and short text messaging system, primarily.

**THE CHAIR:** It sends signals.

**Mr Corbell:** It can send short text messages, similar to a mobile phone. It also has a GPS system within it, which allows RFS headquarters, SES headquarters or the comcen to know where vehicles are physically located. It also provides the ability for vehicles to respond to messages sent to them through predesignated settings. You can indicate that the vehicle is responding, that the vehicle is at a location, that the vehicle is mobile or that the vehicle is standing by.

**THE CHAIR:** That can be done by the push of a button?

**Mr Corbell:** Just by pressing a button. It is not—and this is where I think some of the confusion in public debate about the system has been—the primary communication method for any of our services. The primary methodology for both SES and RFS is voice. The VHF or the TRN is the primary voice channel, depending on what the incident is.

**DR FOSKEY:** What is TRN, please?

**Mr Corbell:** TRN is the digital radio network—the trunked radio network—which is due to replace VHF as the primary voice channel once we get adequate coverage. FireLink is designed to supplement voice communications and provide short text messaging for particular types of information which are less critical, and also to provide for vehicle location. In terms of operability and how it has been going, Mr Ross, who is the Chief Officer of the RFS, can give you some more information.

**Mr Ross:** In relation to the operability, we have done a series of operational testing since FireLink started some years back, or over 12 months back. The principal problem we had initially with FireLink was to do with coverage. There were some essentially flat spots in the ACT where we could not get any coverage from the FireLink system.

**THE CHAIR:** What does it require to get coverage? Does it work in the same way as a mobile phone?

**Mr Ross:** It is a VHF-based system. If you go behind a rather large hill, or if you go into a heavy clump of trees, sometimes that signal can drop out. What we have been developing over the last 12 months is some hardware around the ACT that can relay that system so it is simply on masts or towers. Where we still cannot get that coverage, we have a system of relay units that we put into that area. If we have operations in a particular area, we will have several vehicles on high points that can relay that message.

The beauty of FireLink is that it is a vehicle-to-vehicle system. You do not necessarily need the hardware as a tower. As long as you have another vehicle that has it, it will relay it back through the system. That is what we have been working on. The reason we were reluctant 12 months ago to have it as a fully operational system is that we did not have the confidence in the total coverage across the ACT which we now have.

**Mr Corbell:** One of the real strengths of FireLink, as Mr Ross says, is that each vehicle can be a transmitter or repeater in its own right.

**THE CHAIR:** When there are a lot of vehicles deployed, you should not have much problem with coverage.

**Mr Corbell:** That is right. If you have vehicles down in a steep valley or gully where there is no coverage, as in parts of Namadgi, you just need another vehicle up on the hill. As long as those vehicles are in line of sight, you can communicate through that other vehicle. That is one of the advantages. Mr Ross, how did the FireLink system perform during the Namadgi fire?

**Mr Ross:** You do not get further away from the centre of Canberra than Namadgi, where the fire was. It worked perfectly because we had the hardware up at Tennant, which was one of the key cornerstones of making sure we had that relay. With that hardware up at Tennant, it relayed beautifully. We did not have a problem at all with FireLink.

**DR FOSKEY:** Can I go back to that question—the one that started all this. Were you able to establish communications with all the vehicles in that exercise? It is a simple one.

**Mr Ross:** The answer is yes. To clarify that, it is not communicational. We can locate where they are. It is not a radio system.

**DR FOSKEY:** It is about location.

**Mr Ross:** It is about location. Simply what we were trying to achieve with FireLink, and what the ACT never had before 2003, was to have all the resources in front of us on the same screen—a common picture of all resources.

**DR FOSKEY:** For strategic planning.

**Mr Ross:** That is right. Previously in the ACT you would have had the fire brigade on a screen and the Rural Fire Service and the SES on a magnetic board. Now you have a common picture with all resources on the one screen. That is the beauty of FireLink.

**MR PRATT:** Forgive me if I missed it coming down the stairs, but what happened with FireLink on the night that we had the SES responding to storm damage some weeks ago? Is it true that FireLink failed to track all of the SES units with the multiple number of storm damage incidents—I think in excess of 130—they had to respond to? How did FireLink perform that night?

**Mr Corbell:** I will ask Mr Graham, who is chief officer of the SES, to assist you.

**Mr Graham:** It certainly has not been brought to my attention that there was any failure of FireLink in the storms of three or four weeks ago. I am assuming you are talking about the storms of Sunday, 19 September. The 29th or thereabouts rings a bell. It was not brought to my attention that there was any failure of FireLink on that evening.

**MR PRATT:** To the best of your knowledge, FireLink did its job. Your SES units were well tracked and able to respond to all of those incidents, with each of those incidents being tracked.

**Mr Graham:** So far as I am aware. Certainly my staff have not advised me of anything different.

**MR PRATT:** Is FireLink now fully operational? Has it been fully commissioned?

**Mr Corbell:** Yes. We answered that question in your absence.

**THE CHAIR:** That was one, I think, when you were coming down the stairs.

**MR PRATT:** Forgive me. I pre-empted my question.

**THE CHAIR:** That is okay. We have been told that there has been an update since this annual report when it was still, to a degree, being tested. We are told that it is fully operational now. That has been answered.

**MR PRATT:** There is not likely to be any more money spent on that project, apart from perhaps a bit of polishing?

**Mr Corbell:** No. The project has been delivered within the budget and is operating within its budget.

**THE CHAIR:** You touched on the voice network and the TRN. My recollection is that there was some discussion—I think questions—in the house in the last sitting about difficulty with coverage in certain areas. Where are we up to in terms of getting full radio coverage in some of the remote parts of the ACT?

**Mr Clement:** The last two bits of infrastructure are necessary to give us a broader coverage at Mount Tennant, which is a strategic high spot in the ACT, and Mount Clear, which is much further south. Because of the geography of the ACT, a lot of the valleys and ridge lines run from south-east to north-west.

Where the towers are located at the moment, a number of black spots are created. We are overcoming that at the moment by putting relay vehicles out. When the hardware is completely rolled out, the way the system has been designed we will have towers active on Mount Tennant and Mount Clear. Establishing a fully operational tower at Tennant is going to be difficult because we need to get 240-volt power to that site. There has been a lot of consideration of the most economic way to do that, but that is progressing this year. Our plan is to have both Tennant and Clear functional this financial year.

**THE CHAIR:** Obviously not this bushfire season, but in time for the next bushfire season.

**Mr Clement:** No. The use of the relay vehicles is giving us the coverage we need. In the Namadgi fires a month or so ago—that is quite a remote area for the ACT—the towering worked very well through the use of a relay vehicle which we positioned at Mount Clear.

**THE CHAIR:** You are confident that the relay vehicles will essentially do the same job, although not in a permanent way. That will eventually be done by the towers that are put at Mount Clear and Mount Tennant.

**Mr Clement:** That is as I am advised. Yes, the system does have coverage. I would not be game to say that we have 100 per cent of the ACT covered. I am sure we would be able to find a hole somewhere if we drove behind into a particularly deep gully or something. The coverage will be as extensive as we can get it.

**Mr Corbell:** In the same way that VHF does not give us 100 per cent coverage now.

**THE CHAIR:** With TRN, will VHF be still there as a back up?

**Mr Corbell:** VHF remains the primary channel for this season. Consideration will be given in following seasons to whether or not it should no longer be the primary channel when TRN is adequate. Once TRN is adequate, my understanding is that VHF will be decommissioned. It is extremely old technology. It is difficult to continue to maintain.

**DR FOSKEY:** I am interested in the ability of emergency services to cross-communicate with the AFP. I have anecdotal information about a recent tragic siege. We all know that ended up with a young man shooting himself. It was reported that the police special operations group could not communicate with the regular ACT policing network. That is obviously a problem within that area, but it is important for emergency services to be able to communicate with the police in times of emergency. I am interested in the ability for that to happen and also in the ability for communications across the border in case of fire which requires cross-border cooperation.

**Mr Corbell:** Perhaps I can deal with the policing issue first. I think it may be worth your asking this when we have the chief police officer with us later this morning. I am certainly not aware of any difficulties with different elements of the police communicating with each other. It is the first I have ever heard of such a suggestion. I would be very surprised if that were the case. Can I suggest that you clarify that with the chief police officer when she is with us later this morning. In relation to communication between ESA services and the police, perhaps Trevor can assist there.

**Mr Clement:** I would seek advice from the operating chief officers—either fire or ambulance—that would have the greatest day-to-day interaction.

**Mr Corbell:** I will ask Chris Maguire, who is the acting chief officer of the fire



brigade, to assist you on this.

**Mr Maguire:** Within the TRN system we have a variety of code plugs which allow us to have interoperability with a wide variety of agencies. My understanding is that there is a channel which allows us to plug into the AFP network. However, we do not have normal day-to-day communications with the AFP. Clearly they have their own role and responsibility, which is entirely separate from us. We do not have direct access into their network.

However, when we have incidents we have a number of set procedures which are always in place. Those include the establishment of a forward command post, where we place our lead people in the field who would be running the tactical side of the operation. They stand side by side to ensure that, rather than just radio communications, they work together and plan together to get the right operational outcome.

If an incident management team has been established, the AFP will always provide us with a liaison officer. That liaison officer is in direct communication at headquarters at Curtin. In the incident room we have a direct telephone link which takes us into the police operations centre or their communications centre as necessary. Should the POC—the police operations centre—be operating, the ESA will provide the relevant liaison officers into the AFP.

We have a very well-established and well-practised network of communication between the agencies. At operational level it works very well in the field and then again from a support perspective where we are running large incidents. We have practised these recently as part of the latest counterterrorism operations to make sure that the liaison network and the linkages, which are I guess both hard through communications and soft through the people, work as effectively as we can make them.

**DR FOSKEY:** Could you give me some examples of incidents where you have seen this communication between AFP and emergency services working well?

**Mr Maguire:** The Yarralumla fires last summer were a very good example of that. ACT Fire Brigade established a forward command post. The RFS had a relevant person, who is one of the leaders in the field, working with our forward commander. The AFP had a senior sergeant or an inspector available at the time—I cannot recall which—who came and stood with the fire brigade, working with our command post. We ensured that the traffic diversions to the area were appropriate and that any kind of evacuation that needed to be undertaken with the public was done. The media management from a multiagency perspective was very effective.

**DR FOSKEY:** That is the last time you have had to really pull all the stops out on this.

**Mr Maguire:** There were the large storms in December. Again we had AFP liaison officers coming and working with us on that occasion. They did not have a lead role in that. However, again, traffic diversions and matters of public safety were of importance to them. The incident needs to be of significant operational deployment

for that command post to be established forward. Everyday operations on the street really work in the same fashion where the lead officer, whether they be from RFS, fire brigade or ambulance, always works with the lead police officer one-on-one at that incident. It occurs every day on the street.

**DR FOSKEY:** That is on weekends as well.

**Mr Maguire:** On weekends as well, yes.

**DR FOSKEY:** I thought so.

**Mr Maguire:** And at night.

**DR FOSKEY:** What about ACT-New South Wales communications?

**Mr Maguire:** I believe there is a channel which allows us to plug into their TRN. They have a government network as well. I think there is one channel for access, but I would need to take advice on that.

**DR FOSKEY:** We are about to hear about that.

**Mr Corbell:** I will ask Michael Ross to come back. This is most relevant for the RFS, given liaison during the fire season.

**Mr Maguire:** I was just going to say that, again, we also have standard procedures for incoming task forces. If it is the New South Wales Fire Brigade or New South Wales RFS, we provide them with an LO to go into the field so they have on-ground knowledge working with them. We provide them with radios that are compatible—our radio network radios. They will have their own communications themselves. We supplement them when they come into the field. We certainly do not leave them alone out there.

**Mr Ross:** From an ACT perspective, all the ACT units can now go across borders and communicate with all surrounding services on our current radio system. The way we have set up our towering system on our vehicles is such that we can communicate. We have the correct code plugs. That is the technological term used.

Conversely, however, it is not the same. When New South Wales vehicles come across into the ACT, they do not have that same technology. As Chris has already alluded to, our communications plan is that, for any time that those people come across to our side, we have either a system of radios that we give out or a communications technique. We are never at a stage in any incident that we attend now in the ACT on the border sections where we do not have communication across the fire.

**MR PRATT:** If you give out radios, are our New South Wales cousins suitably trained and experienced to be able to just grab those units and use them?

**Mr Ross:** Yes, certainly. They are hand-held radios.

**MR PRATT:** Going back to the Yarralumla fire last year, that was a sizable fire brigade deployment of the magnitude we were talking about earlier. When the AFP deployed alongside the forward control element, did they bring a simple police car or did they have their command network available? How did that work?

**Mr Maguire:** On that particular occasion there were a significant number of AFP officers in the field. They deployed a senior person in a ute to that particular point. As far as managing the incident was concerned, there was enough fire brigade infrastructure there to provide the resources for all the available agencies.

**MR PRATT:** Returning to the question of TRN, you were saying earlier that the truck radio network tower on Mount Tennant is still yet to be mobilised. We have been waiting for a number of years for that 240-volt power to be established. It has been a long time coming. Do you have a forecast on when that tower is going to be fully operational?

**Mr Corbell:** Mr Clement advised earlier—before you arrived—that that is due to occur this financial year.

**MR PRATT:** It looks like I am going to be in trouble asking dud questions.

**THE CHAIR:** I do not think there are many more. That is about most of what was covered while you were away.

**MR PRATT:** Yes. How many towers have been erected now for TRN?

**Mr Ross:** I would have to take it on notice. I do not have the technical data with me.

**Mr Corbell:** From my recollection it is three or four.

**Mr Ross:** Just be careful to distinguish between towers that need to be erected and those that have been refurbished. I do not know that we have had any towers up. I would have to take on notice exactly how many.

**Mr Corbell:** We will take that on notice.

**MR PRATT:** All right. Against that background, I think there was an appropriation made in 2003-04 for a minimum of 11, and perhaps 14, towers either refurbished or rebuilt. My question really is whether those objectives have been achieved by now. If not, how much more time is needed to get those up? Is the funding still available to complete all of those?

**Mr Corbell:** There has been no change to the appropriation for this project. The project is being delivered within its appropriation. The government has not reduced funding for this project, nor has it provided additional funding in the last budget. The project has continued to be rolled out in accordance with its budget. In terms of the physical number of locations, it is best if we take that on notice. We will provide you with an accurate answer.

**MR PRATT:** With respect to the south Namadgi fire and the performance of TRN, I

presume VHF was the primary means used in that particular fire. Mr Clement, you said that TRN worked extremely well there. Can somebody describe, please, what the role of TRN and what the role of VHF were in that particular operation?

**Mr Clement:** I might defer to Michael Ross to answer that.

**Mr Ross:** In very simple speak on the roll-out of TRN, it is essentially a system that encapsulates the urban fringe. Until we get the hardware rolled out further, we will rely primarily on VHF. With the south Namadgi fire, the fact that we had some hardware up at Tennant at the time provided us a relay link into that area. That provided us with good communication into that fire. We were using the TRN channel on that particular fire.

**MR PRATT:** How many relay vehicles did you need in that operation?

**Mr Ross:** From memory, only one. At the staging area we had one relay vehicle which the SES helped us set up. That relayed straight onto Tennant, which came back into town.

**MR PRATT:** How many commander control vehicles are now on your establishment that you would use in a radio relay role like that?

**Mr Ross:** With the TRN, you can use any of the vehicles that have TRN in them as a relay vehicle.

**MR PRATT:** You have the flexibility to deploy anything. You do not have to tie down the same type of vehicle?

**Mr Ross:** No. But with the SES we have specifically set up radio communications vehicles that can be used on a larger event for that purpose, rather than tie up a vehicle that we might use for some other purpose.

**DR FOSKEY:** Can I ask some questions and get onto the tricky question of money?

**THE CHAIR:** Which area are you looking at?

**DR FOSKEY:** I am looking at the ESA budget. I am going back into those cost overruns, which I think are fairly relevant to the financial reports. I refer to the section on risk management on page 53, where the authority's audit committee identified some potential risks that could be salient in the future financial position of the authority.

I note in particular the first dot point—that current capacity is not sufficient to deliver all required outputs and financial management practices do not ensure agreed outputs are delivered within approved budgets. That talks about future risks, but we have seen that occur in the past with an overspend of a little over \$14 million in the last two financial years. That is a significant amount, given the context of budget cuts other services—and probably the ESA also—are experiencing this year. I would like to know what specifically contributed to those cost overruns—the share to staffing and costs of capital and equipment. I would then like to ask some follow-up questions.

**Mr Corbell:** Can I first of all indicate that the government has not reduced its overall appropriation to the ESA. We have asked the ESA to ensure that its operations are paid for within its budget allocation. The ESA is subject to a number of whole-of-government savings for a range of measures, but there has been no specific reduction to the ESA's budget over and above that. The government's requirement is simply that the ESA work within its budget allocation, which is significant, of the order of \$60 million plus.

The issues that you raise in the risk management section of the annual report are an assessment of possible or potential risks that need to be factored into planning. They are not an indication of current issues but they are, as you will see now in all the annual reports, an indication of potential risks that need to be factored into decision making and planning, and contingency planning in particular. That is why they are there.

**DR FOSKEY:** But that point says that current capacity is not sufficient. I am not sure what is meant by "current capacity". Perhaps that could be expanded upon, whether it is financial capacity, staffing capacity or systems capacity?

**Mr Corbell:** It is identified as a potential scenario that needs to be taken account of in future planning.

**DR FOSKEY:** "Current capacity"?

**Mr Corbell:** I ask Ms Leon to answer your question in a bit more detail.

**Ms Leon:** To finish the point concerning the identification of risk, as the minister has indicated, the first sentence in each of those dot points is not a statement of the current situation; it is a statement of a potential risk. The process of risk management which all agencies now undertake is to detail the risks that the agency could face and ought to plan for. An agency such as emergency services would be remiss if it did not identify as a potential risk the possibility that at any time its capacity might not be sufficient. That would be a risk for an agency that has to deliver operational services. But the first statement in each of those dot points is a statement as to the identified potential risk.

**DR FOSKEY:** It says "current", though.

**Ms Leon:** Yes, but the risk that one faces is that at any time the capacity current at that time might not be sufficient. The first statement in each of those dot points is an identification of the risk; it is not a statement of the situation that is in place. The risk that is identified is that at some point during the year ahead the current capacity might not be sufficient to deliver all the required outputs.

**DR FOSKEY:** It says "is not". I am sorry, we could go on about tenses forever, I guess.

**Mr Corbell:** I draw your attention to the preceding paragraph that introduces those two dot points:

The Authority's senior management through the Business Risk Assessment has identified the following potential risks that may influence the future financial position of the Authority.

Potential risks is what those are.

**DR FOSKEY:** It is probably a bit of a problem with the way that first sentence is expressed.

**Mr Corbell:** No, it is only the problem with the way you are interpreting it.

**Ms Leon:** In any event, the sentences that follow after the statement of the risk are the sentences that summarise the response to those risks. As you would be aware, the normal risk management process is that first we identify a risk and then we identify strategies to mitigate that risk. In the ordinary course of business, that is what agencies, including the ESA, do to plan for and manage their affairs.

**DR FOSKEY:** I guess the question is: as it is a risk assessment, what is the organisation doing about this particular potential risk? Which areas do you think are being focused on, as I asked before? Is it financial capacity, staffing capacity or systems capacity?

**Ms Leon:** There are a number of strategies in place to address the risk identified in that first dot point, which is ensuring that we deliver an appropriate level of operational service without exceeding the budget allocation. I list the key ones of those.

As you would be aware from the recent successful completion of the fire brigade recruitment college, fire brigade numbers have been increased by an additional series of recruits that were funded in the current budget. The introduction of more staff into the operational service enables the fire brigade to reduce its overtime and still maintain minimum crewing levels.

The Emergency Services Agency is also putting in place a range of other overtime management strategies, including the deployment of an electronic rostering system to manage overtime more efficiently and keep overtime costs down. There were unfunded costs for fire brigade work value that have now been funded in the budget, so that costs that were not in last year's budget because they had not at that stage been incurred are now rolled into the future budget.

The arrangements for on-call allowance are also being reviewed, to ensure that is being managed efficiently. We are also reviewing the staffing structure of emergency services to ensure that we do not have areas of either duplication or lower priority that are capable of being restructured and that will deliver savings over this year. We have undertaken a review of all the information and communication technology costs and are rationalising all of the ICT assets to ensure that we are not paying for unnecessary assets or assets that are not deployed as efficiently as they should be.

We are improving our logistics purchasing arrangements so that they are centralised

and, therefore, can generate greater purchasing power. We have also, at the more micro level, had a budget working group go through all of the areas of supplies and services expenditure to ensure that there are not any areas of unnecessary spend and that we are spending in the most efficient way—for example, centralised contracts for cleaning services and so on. There are a range of activities being undertaken that will address the causes of overspend.

**DR FOSKEY:** I have to ask: in this cost-cutting exercise, where there is a trade-off to be made between saving money and effectiveness of the services, what criteria are used to ensure the effectiveness of the services to deliver everything that is required, including ambulance, fire fighting and everything else? I am very concerned that there might be a compromise of those things because of the emphasis on cost saving after the functional review.

**Mr Corbell:** These issues are very significant in the government's mind. I guess it is important to put this in some context. Since 2003, funding for emergency services has grown by over 40 per cent. The level of resourcing available to our emergency services compared to three years ago is significantly larger. The level of expenditure that we now incur in terms of community safety through the ESA is, the government believes, overall a pretty significant level of funding and one that should be adequate to meet the needs of the community through the provision of services by the emergency services.

We are wanting, though, to do more work to understand how effectively and efficiently that money is spent. The ESA is undertaking a series of projects to do that, including assessment against how other services perform in other jurisdictions to see how effective we are in terms of cost. The focus is always on not compromising delivery of services to the community and not impacting, wherever possible, on the operational capability of our emergency services. I have put in place a range of measures to make sure that I, as the minister, am well informed on these issues.

Since the ceasing of the authority and the creation of the agency, I have arranged for a regular convening—and we have had one meeting to date—of an ESA-government committee. That regular meeting includes me, the commissioner, Ms Leon and the four chief officers. That allows me to hear from the chief officers directly on issues of concern or issues that they have about their operational capability or operational issues where government needs to be aware. It certainly assists with budget planning. I found that a very useful forum because I can hear from the chief officers directly what it is they feel they need to do their work.

**DR FOSKEY:** I am appreciative of that.

**Mr Corbell:** These are some of the mechanisms that I have put in place to ensure that government is properly informed, as we go into a new budget process from next year, where we have to make assessments about what is and is not funded. These are not easy calls at the end of the day, and there are always areas of grey. The important thing is that government is informed of all of the issues and then judgments can be made. We now have some very good mechanisms to allow us to do that.

**DR FOSKEY:** I agree. That sounds like an excellent arrangement. I am aware, from

everything you said this morning, that you are very clearly on top of this portfolio, on which I commend you. I am interested in pursuing this a little further. I have not had an answer yet to my first question, which was: what has been identified as contributing to the cost overruns in the first place, whether they were seen as staffing, cost of capital equipment, and the measures that have been taken to contain them?

**Mr Corbell:** I beg your pardon. I will get Ms Leon to answer that.

**Ms Leon:** The question as to what contributed to the costs overruns, in one sense, depends very much on what one considers the core functions of ESA are and what one considers are additional matters that have been added on. The question as to what contributes to the cost overruns is very much tied up with the exercise that we are undertaking to make sure that in all areas of ESA activity we are operating at a level that is efficient and that has resources directed to the highest priority areas.

Having said that, there are a number of components that were specifically identified as the items that required supplementation in the last financial year by way of the Treasurer's Advance. I can detail those for you. Some of them were high operational needs expenses over and above normal expenses. They are the kinds of expenses that ordinarily would be able to be sought from the Treasurer's Advance. Others of them I have dealt with in relation to overtime.

To give you the detail of them, there was an amount of \$68,000 driven by extraordinary storm costs; an amount of \$224,000 driven by the extended bushfire season last year; a \$200,000 amount for a Snowy Hydro SouthCare contract; a similar amount for additional fuel costs due to higher than normal activity levels; \$1.3 million for increased consumables in the fire brigade and ambulance; \$2 million in additional overtime, which, as I have mentioned, is expected to be largely eliminated by the new recruits into the fire brigade that were funded in this year's budget; an amount of funding for InTact ICT costs, \$1.7 million; and some additional revenue adjustments that were to do with the previous year's billing arrangements that are only an accounting principle.

Those added up to the amounts that were identified for the Treasurer's Advance, but I would say, in relation to the underlying causes of the cost overruns, that we are taking a holistic approach to those and not seeing all of the items that are in the Treasurer's Advance as areas of what we would call cost overrun because clearly consumables for the fire brigade or the ambulance are not discretionary items; they are essential operational items for which, in the work that is being done to structure a future budget, the intention is to ensure that all of those essential operational—both supplies and staffing—levels are built into the core budget and that, where we identify areas for reduction, they are not in those core areas. It is important that the non-discretionary components of ESA activity are funded first and that it is only in the discretionary areas that we look for different ways of doing business and that we use less resource.

**DR FOSKEY:** Finally from me on this financial area: the ICRC undertook a review of fees and charges associated with the provision of ambulance services. I believe the final report was out in August. I was wondering whether that would be made available to the committee.



**Mr Corbell:** I need to get some clarification on that. There have been some changes to the ICRC's decision-making powers following the budget. I am advised, however, that that report is still in draft form.

**DR FOSKEY:** There is no indication of what that report might be about to say?

**Ms Leon:** While it is still in draft, it is not really appropriate for us to venture into speculation about what the ICRC might eventually recommend.

**DR FOSKEY:** Will it get beyond draft, given the changes to the ICRC?

**Ms Leon:** I do not think the changes to the ICRC affect its capacity to finish this report.

**Mr Corbell:** Chair, through you, if I may: Mr Pratt asked a question earlier about TRN assets. I have some further advice for him. There are seven towers for the TRN network and two relay sites. Do not ask me the difference between those, but that is the differentiation. There are two future sites which Mr Clement indicated to you earlier, Mr Pratt, to be constructed—Mount Tennant and Mount Clear.

**MR PRATT:** I noticed, on page 16 of the annual report, you talk about the delivery of the three CAFS, the three foam tankers. Was the final introduction to service of these at the expense of upgrades to or replacements of front-line, first-response vehicles?

**Mr Corbell:** These were decisions taken prior to my time in the portfolio, but the then commissioner of the ESA, along with the services involved, took the decision that that capability was important. It was a recommendation of the McLeod inquiry; so it was given priority in accordance with the recommendations of the McLeod inquiry.

**MR PRATT:** We have canvassed in other places what is happening with the RFS and the SES unit first-response vehicle fleet. There are a number of claims that there are some very, very significant unserviceable rates here. Can you bring us up to date on what you think the serviceability rate of our first-line responding vehicles is now for both RFS and SES brigades and units?

**Mr Corbell:** What do you mean by “serviceability rate”?

**MR PRATT:** What percentage of the RFS's and the SES's first-response vehicles would be serviceable today, able to respond to emergencies?

**Mr Corbell:** If they are first response, they are all serviceable. Are you asking me how many are first response and how many are second response?

**MR PRATT:** Perhaps I can re-categorise that. What number of your front-line vehicles are now first response capable or clarified or have the serviceable status?

**Mr Corbell:** I understand what you are asking. I need to ask Mr Ross and Mr Graham to advise you on that. The last advice I had on that was that the fleets were still being

assessed.

**Mr Ross:** Because of the ageing fleet that we had, we were concerned that there were some issues on serviceability and, indeed, on front-line fire-fighting capacity. We highlighted about three or four weeks ago 14 vehicles that we had some concerns over. Over the last couple of weeks, along with the routine preseason servicing and preseason checks that we run, we ran some additional checks based on the needs of those vehicles on the front line.

Of the 14 vehicles that we highlighted, only one vehicle could be ruled out as a front-line fire-fighting vehicle, and that is a command vehicle. It is not a fire-fighting vehicle; it is a command vehicle. Of the other 13 vehicles, there is certainly work that has to be done—a range of repairs—but they are serviceable vehicles. They will be serviced over the coming weeks and we will have only one fewer vehicle in our fleet for front-line fire-fighting duty this year than we had last year.

**MR PRATT:** What appeared to be 25 per cent down on the unserviceable rate of those front-line vehicles—that gap has been bridged?

**Mr Ross:** In the short term, it has been bridged. We took a duty-of-care as well as a risk-management approach to that in making sure that the front-line fire-fighting safety of our crews will always be first and foremost. That is why we undertook that level of scrutiny that we might not have otherwise taken on vehicles in the past. The front-line fire-fighting capacity should not be breached this year.

**THE CHAIR:** How old are these 14 vehicles that we are talking about? There has been a lot of talk about an ageing fleet. Are we talking about 10-year-old vehicles, 20-year-old vehicles?

**Mr Ross:** Some of our oldest vehicles exceed 25 years old—two of the older tankers. The one that we are talking about that we won't be able to put on the front fire line is 14 years old. If you drove it, you would not take it to the front fire line. The nationally accepted standard used by a number of other fire agencies across Australia is 15 years for large tankers, 10 years for what they call slip-on or light units, and five years for command vehicles.

**THE CHAIR:** How many are past that standard?

**Mr Ross:** We have a fleet where 40 per cent exceed that standard. But do not forget age is only one indicator. It would be frivolous of us to say to you, "Just because something turns five years old or 10 years old, it is no longer a serviceable or a front-line fire-fighting vehicle." Age is an indicator and it is up to us, as a service, to then make that assessment, based on other factors. That is what we did.

**THE CHAIR:** Have you made an assessment of how many of those vehicles will need to be replaced in the coming years and what costs are going to be associated with that?

**Mr Ross:** Yes. Through the minister, we have presented a strategic asset plan for our vehicle fleet, what is required to bring it up to a national standard, and the costs, and

to keep it there.

**THE CHAIR:** What are those costs? What are we looking at?

**Mr Corbell:** Those are subject to the budget process and will be considered in the budget process.

**MR PRATT:** Can you clarify the number of vehicles that you have listed to the minister that need to be replaced in the next year?

**Mr Corbell:** Again, that is subject to a budget bid and will be considered in the budget process.

**THE CHAIR:** Going back, you talked about the 40 per cent increase in the past three years in the overall spend on the ESA. How much of that has been devoted to bringing the vehicle fleet up to scratch?

**Mr Corbell:** In this financial year that we are in now, in the last budget, there was \$1½ million allocated for general ESA fleet replacement. There was also some specific allocation made for the replacement of the fire brigade's aerial fire-fighting appliance, the Bronto vehicle.

**THE CHAIR:** So \$1.5 million out of a total ESA budget of?

**Mr Corbell:** The operational budget is of the order of \$60 million, but capital is different. The capital is certainly much larger than \$1½ million. There is capital allocated for a whole range of things within the ESA.

**MR PRATT:** What was the capital allocation for the routine turnover of out-of-life vehicles?

**Mr Corbell:** It was \$1½ million.

**MR PRATT:** You were talking earlier about the life of vehicles. Life-of-type is only one indicator in any decision you make about this. What Australian benchmark do you work against to determine when a vehicle is “out of its life”?

**Mr Ross:** As I said, we use the standards that are applied. Age is the indicator.

**MR PRATT:** The Australian standard, right.

**Mr Ross:** It is probably not called the Australian standard, but it certainly is. Because it is used by the majority of like fire services, you could consider it a standard. As to the other benchmarks we use—and I have to add that I maintain the responsibility for the safety on the fire ground—we use other factors such as the history of the vehicle, its service history, whether it has been used in a lot of rough terrain, whether it has had an easy life, the reports back from the people who have used the vehicle itself. There are a whole lot of other indicators.

**MR PRATT:** You do not get scared by the fact that a vehicle does not have four

airbags; it has only got two because it happens to be an older vehicle? You do not have those bureaucratic impediments that take vehicles off the fire ground?

**Mr Ross:** No, I would not say that we do. A lot has got to come down to risk management in relation to that. Having said that, that 14-year-old vehicle that we spoke about does not have those features. That is one of a number of reasons why we took that vehicle off the front line.

**Mr Corbell:** The fact is that, even with the age of some of our vehicles, the assessment has shown that they are all, with the exception of one vehicle, still capable of being available for first response in the RFS. I will come to the SES in a moment and ask Mr Graham to tell you the situation in the SES as well.

It indicates that it is not just some hard and fast, black and white, letter of the guideline type approach. The assessment is made on a case-by-case basis. Is the vehicle reliable? Is it doing its job? Is it safe? If it is, regardless of its age, it should be available. That is the view that people in the services would have. If it does its job, if it is safe and if it is reliable, it should be available. That is certainly the approach that we have adopted with this.

But that does not preclude the need to ensure that we have an ongoing fleet replacement strategy. I have asked the ESA for advice on its fleet replacement overall. I have received that advice. We will be taking that forward in the budget process. I ask Mr Graham to give you an update on the SES fleet as well.

**Mr Graham:** I have 18 vehicles in my fleet. Of those, two vehicles are older than four years of age. All of the others are less than that. I do not use the term “first response” in the business of the State Emergency Service. Having said that, each of those 18 vehicles is available for immediate response as we speak, and that has always been the case.

**MR PRATT:** You do not have to categorise any of those vehicles as only being capable for rear echelon duties?

**Mr Graham:** No, not at all.

**MR PRATT:** Is that the case with you, Mr Ross? You are not categorising vehicles as only capable for rear echelon duties?

**Mr Corbell:** As Mr Ross has indicated to you, there is one vehicle that is not available for first response.

**MR PRATT:** Yes, but you are not classifying, as a rule of thumb, that some vehicles can only be made available for service as long as they are constrained to, shall we say, mopping-up operations rather than initial fire ground operations?

**Mr Ross:** Mopping up usually accounts for about 90 per cent of the operations on the fire ground, which I am sure you appreciate. It is a fairly important task. There is only the one vehicle that we have been highlighting at the moment. The only other ones that at the moment are in abeyance are the CAFS units. That is purely a technical

issue of making sure that the crews have been using those. The three newer vehicles, which only came out a few months ago, are new to some of the volunteer brigades. We have to ensure that they have the technical understanding to use the CAFS units before we make them front-line fire-fighting vehicles.

**MR PRATT:** In regard to the truck that I understand has got stress fractures—I think it was Gungahlin 01, but you can correct me if I am wrong there—what is the time frame to get that repaired? Has that been back-loaded to Sydney?

**Mr Ross:** Yes, that was done a couple of weeks ago. I think it came up then.

**MR PRATT:** It is done, is it?

**Mr Ross:** Yes, a couple of weeks ago. But there were two trucks that had bad springs. Stress fractures were caused by one of them. They were fixed up and were brought back two weeks ago. They are back on front-line fire-fighting duty again.

**MR PRATT:** When were those problems identified?

**Mr Ross:** One problem was identified probably at the service, which would have been July or August this year. The other one was identified on the fire ground at the Namadgi fires.

**MR PRATT:** Why the four-month delay to take action on those? Was that budgetary or simply nobody got around to it?

**Mr Ross:** There were some issues revolving around getting the truck to Sydney and how to get it there. As a volunteer service, sometimes we have trouble getting transport. We do not like to rely on our volunteers to take it to Sydney. It is a matter of waiting for when the workshop is available before we get it down there. Because of the constraints we had with other business, we put it on a float and took it down there without imposing on anybody.

**MR PRATT:** But clearly the problem was that it took something like four or five months to repair a couple of quite key vehicles, identified in winter, that were still not serviceable when the fire season started. Is not that a problem?

**Mr Ross:** To clarify, there was only the one vehicle that was identified during the winter. It was not really a problem so much as that we knew it had to be done and it was a matter of time to get around to doing it.

**DR FOSKEY:** I would like to pursue some issues under the heading on page 50 “Sustainability and environment”. I put on the record that I feel this is not really an adequate treatment of the issue. I want to explore the relationship in fire management between preventing fire and ecological aspects. They are so intertwined that I would like to see this section of the report improved next year. Firstly, I do not think it deals with the topic as such. To me, that indicates that there has perhaps been a lack of expertise or consultation of fire ecologists, for instance. I know of a number of fire ecologists in the ACT. I am sure they would be very prepared to talk, and probably voluntarily, to the relevant people. The section starts:

The 2003 Commissioner for the Environment's Report recommended the ACT Government extend existing policy and management plans to include extreme event scenarios. The establishment of the Authority ... has provided the institutional architecture ...

for just that. The report goes on to say:

The ACT Emergency Plan is under review and will be re-issued in late 2006 ...

But it does not say how it will do probably what the commissioner wanted, which is to start including ecological aspects in this. That is not just the impact of fire and fire prevention strategies; it is also the way that fire works in our current environment. There is lots and lots of work on that. I am sorry about the long prelude. I felt it was important to put the case. I am used to people saying, "Greens cause fires." It is a very simple one. It is absolutely not true.

That environmental knowledge and expertise would probably assist in the prevention and fighting of fires. I would like to know whether fire ecologists or other expertise related to ecological understanding have been consulted in the strategy. What is it called?

**Ms Leon:** The strategic bushfire management plan.

**DR FOSKEY:** Yes, that, and whether day-to-day operations such as burn-offs and the laying of fire trails also include such consultation, because you would be aware that there has been concern about some of the fire trails being planned to be laid in areas that have previously been untracked. There are other issues around that, of course, such as the capacity of Environment ACT and the rangers and their jobs. So there is the issue of consultation with Environment ACT, particularly the way the rangers with expertise in fire prevention are used and consulted, and, secondly, whether experts in fire ecology and other ecological aspects are consulted.

**Mr Corbell:** Dr Foskey, there is a range of sources of advice and expertise for these issues. Perhaps I can just give a bit of a general overview and someone from ESA—I am not quite sure who—can provide a bit more advice to you. We have a range of experts available to assist us in developing our fire management regime. The role of land managers is absolutely crucial and the advice of land managers is a very important input in developing the fire management regime.

Given that a large part of the ACT is national park, the role of Environment ACT is very important and their advice is regularly sought and used in making assessments about the fire management regime. The bushfire council also has a role to play and it has on it a range of experts from a range of backgrounds to assist in making decisions about the fire management regime as well, and that includes people with significant environmental expertise. That advice is drawn upon and used in making these assessments. I might leave my comments at that, but perhaps Mr Ross can provide some further detail as to how the plan is formulated and what types of advice are drawn upon, in particular the issue of fire ecology.

**Mr Ross:** Dr Foskey, in all of the planning that we do in relation to the strategic

bushfire management plan, which are the bushfire operational plans that each of the agencies develop, we work very closely with all those agencies. So, in the development of those plans, all consideration is given to the environmental aspects of those actions. If it is a road that is to go somewhere, then, as per their act ensures that they do, they must undertake all the appropriate environmental safeguards for that.

A good example is the tower that we are putting up at Tennent. We are going through a full EIS, as well as an archaeological survey before that tower is put in, before any work is put up there. The roadside burns last year are a good example. Before we undertook those roadside burns last year in the ACT, we made sure that we dealt with all the associated land management agencies to get their various JS layers for rare and endangered species, rare and endangered vegetation, to ensure that the burns that we did took into consideration anything that might be present. In every aspect of our bushfire management planning and our bushfire management works across the ACT we consistently make sure that it links back to all aspects that we have to cover in relation to environmental protection.

**DR FOSKEY:** If there is a trade-off to be made, what happens?

**Mr Ross:** A trade-off in respect of?

**DR FOSKEY:** In respect of perhaps a species that is endemic to a particular area or a clump of red gums that have to be sacrificed in terms of fire management, a trade-off between environmental values and what is seen as imperative for bushfire prevention. What happens then?

**Mr Ross:** The only trade-off that I can think of would be in respect of an emergency situation where you have a major catastrophe or a major bushfire burning and you would need to make a very quick decision on the spot as to whether, as a back-burning exercise, you are going to take out an area that had some significant species issues. But, from the point of view of hazard reduction burning, that trade-off does not necessarily have to be. We can actually work with a best win solution. At the extreme, we might not burn that area at all. You might leave it totally untouched. You might put a very low intensity burn through that does not affect it. You would certainly take into account on every issue the requirements that are needed for the species specific area. I do not think “trade-off” is the right word in relation to most of our hazard reduction activities.

**DR FOSKEY:** Have you done any forward planning in relation to the predicted impacts of climate change in this region? Has there been any sort of plotting and planning, taking into account the kinds of things that are said by CSIRO scientists, for instance, about the likely impacts of climate change in this region?

**Mr Ross:** In the broader aspect, anything specific?

**DR FOSKEY:** I do not have the detail. It would seem to me that it would be imperative for it to be done just for planning in general, but predicted drought, more and more trees dying and being affected, and so on. I am not one of the scientists, so I cannot give you the report.

**Ms Leon:** Dr Foskey, the ESA and the department are a sponsor of the bushfire cooperative research council and contribute to the work of that CRC in undertaking Australia-wide and regional research into a whole range of bushfire planning and management scenarios. The issue of climate change, I understand, is something that is on their agenda and is being developed. In addition, I understand that there is a national approach to planning for some aspects of climate change, including the impact on emergencies, and Emergency Services Australia is being consulted in that process.

**MR PRATT:** I have a supplementary question for Mr Ross before he departs from the bench for the 14th time. It is on the question of coordinating with ACT environmental authorities when you look at these sorts of things. Now that we are in summer, of course, we are beyond most of the preventative burning opportunities.

**Mr Ross:** Correct.

**MR PRATT:** Given the heath country risk that I have heard you talking about—the new phenomenon that we have as a consequence of the 2003 destruction of the terrible stuff that is growing and that I think your people are very concerned about in terms of its fuel risk—if you wanted to put in a fire break now with plant and perhaps knock some of that out, how quickly could you get these coordinated ecological assessments done?

**Mr Ross:** I think that it would take a bit of time to do that. That is a very open-ended question simply because you are looking at a situation up there now where you have got a new fuel mosaic. Let me go back one step. The point that I am trying to make when I, and indeed others, have spoken about this new fuel mosaic that is up in the high country because of the 2003 fires is simply to bring to people's attention that we are going to require a fair bit more observational skills from our firefighters. "Don't think it is going to be the same sort of fire behaviour as you saw in 2003." That is the keynote from that for anybody. What I was saying to people there was, "Just make sure that you observe the fire behaviour before you start running in and think about putting it out." There is probably not much more of a take-home message than that.

In relation to running around and putting in fire breaks and fire trails, I think we could possibly be creating more problems than we need. In front of a major fire, I might be doing something about it, but, in respect of just a preventative measure at this stage, without knowing how the ecology is re-establishing—we don't; it's a three-year-old ecology, so we don't know enough about it; we don't know what has come back, what is the species composition; we don't know the diversity; we don't know how it is going to change over the years—I think it might be a little bit premature to start running around with large machinery and putting in breaks all over the place that may not achieve an objective that we want to achieve in the long run anyway. The whole thing about the fuel dynamic was simply flagged to all my firefighters to make sure that they are very aware, when they go to these areas, that they just treat them with caution, as they would normally, but just with a bit more caution than they might normally do.

**MR PRATT:** Yes, but I think that you have also made the point that in many cases firefighters will have to fall back to safe places to fight a fire in that sort of country; is



that correct?

**Mr Ross:** Yes.

**MR PRATT:** Rather than getting amongst the stuff.

**Mr Ross:** Yes.

**MR PRATT:** But doesn't that beg the question that in major bushfire-risk approaches to settlements on the urban edge where you have got that sort of country, you should be perhaps planning now to put in breaks along the edges of roads as a preventative measure?

**Mr Ross:** Certainly as part of the bushfire operational plans that we work with with all of the departments—in this case in particular, TAMS—it is part of that process that they look at those approaches, look at those risk areas, and they upgrade trails, redo trails or, where necessary, put in new trails. I am very confident in saying that I think that is fairly well in hand.

**MR PRATT:** And you can get that planning done quickly, you are not impeded by all of the other coordinated agency inputs. For example, we are right now in summer and, if you have got a forecast of a bad weekend coming soon and you need to get work done, you can get it done within days rather than weeks.

**Mr Ross:** There is a process that we have to go through and it is only reasonable, I think, that we go through that process, but I make the point again that, from the point of view of the Emergencies Act, I have that authority anyway, or we have that authority anyway.

**MR PRATT:** Okay. Are you happy with the authority that you have?

**Mr Ross:** Yes, absolutely.

**Ms Leon:** I would add to that that this planning is not left until there is an emergency. There has been an extensive process going on under the bushfire operational plans to identify these kinds of risks in advance and to plan for and deploy hazard reduction activities in advance, so it is not as though one waits until a major bushfire is approaching before these matters are considered.

**MR PRATT:** Has the ESA finalised a contract for the staffing of bushfire spotting and detection towers for the duration of the season?

**Mr Corbell:** Yes.

**MR PRATT:** So it is up and running.

**Mr Ross:** Up and running and in place.

**MR PRATT:** Fine. Minister, this question straddles two departments, but I think you can answer it. Is it true that ACT parks brigade is being disbanded?

**Mr Corbell:** No.

**MR PRATT:** Not at all.

**Mr Corbell:** No.

**MR PRATT:** So that firefighting capability will stay in place.

**Mr Corbell:** Yes, and I have written assurances from the Minister for Territory and Municipal Services to that effect.

**MR PRATT:** Excellent, so all those capabilities will continue. No transfers?

**Mr Corbell:** I understand there are some changes in personnel. As you would be aware, territory and municipal services are going through a fairly major restructure, so there are some changes in personnel—some older people are leaving, some newer people coming on—but the commitment has been given and made by territory and municipal services that the combined forests and parks brigades, which I understand is now the parks brigade, so all of the departmental bushfire fighting staff, are being maintained and are available.

**MR PRATT:** So you have not been invited to take on assets or personnel transferring across.

**Mr Corbell:** No.

**MR PRATT:** There has been no consolidation of those assets out of urban services into RFS.

**Mr Corbell:** I am not aware of any, no. Parks brigade is being maintained and parks brigade continues to play a very important role as the first response for many fires simply because it has people on the ground driving around in their vehicles day to day, whereas volunteers need to be called up and get to sheds and all of that sort of thing. So parks brigade is a very important part of the response and that capacity is being maintained.

**DR FOSKEY:** I have a supplementary question. With changes in personnel, can we be sure that the new people, for instance, will be trained, because parks brigade has been through some extensive training?

**Mr Corbell:** Everyone who gets on a fire truck is trained.

**DR FOSKEY:** Yes, but different kinds of training, probably.

**Mr Corbell:** They are all trained to a basic level. I think the issue you are raising is about levels of experience and knowledge. Everyone has to achieve certain levels of competency. Certainly it is the case that there are changes in personnel in the territory and municipal services department. Some people who are of long standing are making decisions that they are reaching the end of their working lives or their full-time

working lives and are making other decisions. That does mean we are losing some expertise and experience, but that is a normal management challenge which the management of the parks brigade and TAMS as a whole will address.

**MR PRATT:** I have a question about Fairbairn and the new ESA headquarters. How is the development of the new emergency call centre progressing?

**Mr Corbell:** The new comcen.

**MR PRATT:** No, I am talking about the fire brigade, ambulance, emergency—

**Mr Corbell:** The communications centre where they take the 000 phone calls.

**MR PRATT:** I thought the call centre was a component of the comcen.

**Mr Corbell:** I am sorry, I don't know what you are referring to.

**MR PRATT:** Okay. Can you perhaps just give us an update on how the comcen is progressing.

**Mr Corbell:** The government, as you know, indicated that it had made a decision to relocate headquarters to Fairbairn. Some elements of that move have been completed, notably the RFS. Other elements are still under negotiation with the owners of the facility, the Capital Airport Group, and that includes negotiations around the new headquarters building which would involve the comcen.

**DR FOSKEY:** Is the new headquarters going to be on airport land, not ACT land?

**Mr Corbell:** Yes. The government announced about 18 months ago that we would relocate the ESA headquarters to Fairbairn and that would be through a leasing arrangement of both some new buildings and existing buildings at the old RAAF base at Fairbairn.

**DR FOSKEY:** And the ownership of that land is—

**Mr Corbell:** Vested in the Capital Airport Group. We would be leasing the properties.

**MR PRATT:** What is the cost of the current leases that you have signed or are committed to?

**Mr Corbell:** I think I have answered that in a question on notice to you already, Mr Pratt.

**MR PRATT:** Okay, then that question rests. Have you had to downgrade the cost of new initiatives being taken with the comcen? I understand you have got new systems being put in now, particularly the emergency call centre aspects of it.

**Mr Corbell:** There has been no change to the overall budget allocation for the Fairbairn project. If you are asking whether there have been trade-offs in other areas as a result of the issues with the Fairbairn project, the answer is no.

**MR PRATT:** Is the program to shift other elements out to Fairbairn on track or have some of those movements been delayed?

**Mr Corbell:** There is a fairly extensive range of issues that need to be worked through in relation to the relocation to Fairbairn. A number of the buildings are quite old and we are still awaiting some information from the Capital Airport Group, the owners, as to the condition of those buildings that will allow us to make final decisions about the occupation of those buildings.

**Ms Leon:** There is also, as I indicated in answer to an earlier question, a process of examining the staffing profile across the whole of emergency services and assessing the best location and structure for all of the staff. Until that is determined, the final size and shape of the new headquarters building cannot be determined, so there is some delay while we finalise that staffing structure.

**MR PRATT:** So the programs which were announced last year have pretty much been put on hold until you carry out that rationalisation.

**Ms Leon:** The headquarters itself can't be fully blocked and stacked until we carry out that rationalisation. The other issues to do with the buildings that are for specific purposes, such as maintenance workshops and so on, are being progressed with the owners of the buildings and the land.

**MR PRATT:** Do you have a time frame on when this rationalisation will be completed?

**Ms Leon:** The staffing rationalisation depends on a number of factors, including staff consultation. I envisage that could take another couple of months.

**DR FOSKEY:** One of the things mentioned in the strategic bushfire management plan is the planning and building design and associated standards at the individual dwelling level to better protect communities exposed to potential fires. I suppose ACTPLA has to be involved in that kind of process. I am just wondering to what extent, how the relationship goes, and whether particularly the fire prevention part of emergency services is working with ACTPLA and has an input to the setting of those standards.

**Mr Corbell:** I have the advantage of wearing two hats on this, Dr Foskey. From my observation—perhaps Mr Ross or someone else can provide a bit more detail—there is constant exchange and dialogue between our planners and our emergency services on issues particularly around fire risk and managing fire risk. When it comes to the design of new estates, that is a very important discussion, particularly in areas that we know are prone to fire. For example, the work that has been undertaken in north Gungahlin which has led to the completion of the north Gungahlin structure plans and the work that is currently being undertaken in the Molonglo Valley is being well informed by assessments of bushfire risk in those proposed new suburbs and that translates into a range of measures to better protect homes on the urban interface.

That includes decisions, for example, to install edge roads along the edges of suburbs

where they are bushfire prone. That is a decision that some people are critical of because, from a financial perspective, people argue that you are not getting a good return on your asset because you are installing this road but you are only putting houses on one side of it, so it is costing you more and you are not getting a compensating return. But we have taken the decision that edge roads are an important part of the urban design of suburbs to provide for a safer interface between homes and a nature reserve or whatever else may be on the other side of the road.

ACTPLA have also put in place standards for higher levels of building construction for certain homes along the urban interface and new suburbs. Those are consistent with Australian standards to assist in preventing ember attack or ameliorating ember attack on homes. In terms of Molonglo, there have been very extensive discussions to date on understanding what the bushfire risks are for that proposed new urban development area and how that can be ameliorated. It is still at a macro level. We are not down to estate level-type planning, but at a macro level how the settlement pattern should be organised to ensure that bushfire issues can be properly addressed. I do not know if Mr Ross wants to add anything to that.

**Mr Ross:** Yes.

**Mr Corbell:** There is strong dialogue between the two organisations.

**THE CHAIR:** Minister, is ACTPLA still advising against the use of metal fences?

**Mr Corbell:** ACTPLA never advised against the use of metal fences. That is an urban myth.

**THE CHAIR:** They had it listed as a non-preferred material for a fence.

**Mr Corbell:** That is an urban myth.

**THE CHAIR:** It was listed on their web site as a non-preferred material. I don't know exactly what that means.

**Mr Corbell:** It was non-preferred, but didn't mean that it was not allowed.

**THE CHAIR:** No, but they were advising against it. It was non-preferred.

**Mr Corbell:** In certain circumstances.

**THE CHAIR:** I didn't say they banned it.

**Mr Corbell:** They were never banned. There was never any prohibition on metal fences.

**THE CHAIR:** No, they advised against it.

**Mr Corbell:** They advised against it in certain circumstances for a range of reasons, including most notably that they are great places for people to do graffiti. They simply were drawing to residents' attention that that was a factor they needed to be aware of,

but they were never at any time banned or prohibited. Mr Ross, do you want to elaborate at all on the relationship with the planners?

**Mr Ross:** On the previous question? Only just to echo your sentiments. We have worked very closely with ACTPLA in the last couple of years at both an officer to officer level and a broader strategic planning level to look at suburb development in fire-prone areas and also to advise on standards of construction for houses.

**Mr Corbell:** I have to say that that also involves the ACT Fire Brigade quite closely. The fire brigade has an important role to play as well in making assessments around individual development proposals in particular, and access into and out of those areas. A classic example is the new aged care facility at Bruce, backing onto part of Bruce ridge opposite Calvary Hospital. That is an area that has significant fire issues. I know that the fire brigade were closely involved in that—I think Environment ACT were as well—in making judgments about safety zones and those sorts of issues.

**DR FOSKEY:** I have a question about preparedness at the community level. We are all aware—we explored it in depth last year—of the community fire unit program not being rolled out as initially planned. When you are looking at your restructure and where resources should go, would you consider shifting some more resources into expanding that program? Is it on the cards?

**Mr Corbell:** The government will make decisions about all elements of emergency services, community preparation and so on in the budget context. Can I just say that there was never an explicit agreement or number on the part of government or the McLeod report in relation to CFUs. I think we have got some excellent coverage from the CFUs that are in place. There will always be a desire to extend those and the government will consider that in the context of other priorities within the emergency services budget.

**MR PRATT:** But you have still got 40 per cent of the urban edge still uncovered, haven't you?

**Mr Corbell:** I reject that. That ignores the fact that we have got the rural fire service and the ACT Fire Brigade. When you make an assertion that they are uncovered, it sounds like, you know, if you don't have a CFU you don't have anything, which is just absolute nonsense. You have got the fire brigade and you have got the rural fire service, both available to respond in the event of fire. Let us remember: community fire units are not about fire suppression; they are about asset protection. They play a very important role in asset protection, but they are not about putting out fires or suppressing fires. That is the role of the RFS and the fire brigade and my approach on this issue is, first and foremost, I want to make sure that our fire brigade and our rural fire service have the capacity and the resources they need to do their job, because they are the people who put out fires.

**MR PRATT:** But the intention was—

**THE CHAIR:** Mr Pratt, we need to wrap it up there. You can have a last line, but I do not want dialogue.

**MR PRATT:** All right. I have to dispute that, minister. The CFU program was designed to supplement the fire brigade and RFS response, so they were still required to cover the edge in accordance with McLeod's statements.

**Mr Corbell:** No, they are explicitly not for firefighting.

**MR PRATT:** No, to supplement the fire brigade, fire suppression, surely.

**THE CHAIR:** I think that both of you have put your points. We will return at about 20 past 11 with the police.

**Meeting adjourned from 11.01 to 11.19 am.**

**THE CHAIR:** I welcome Ms Fagan and other members of the police. I won't read the statement again but just quickly reiterate that, as you'd be aware, these proceedings are privileged and also recorded and broadcast.

I would like to begin with a bit of a positive question. Yesterday we had the Ombudsman appearing before us and one of the things in the Ombudsman's report was that the number of complaints against police has fallen quite significantly in the past year. I asked them to elaborate and they weren't able to give us a lot of reasons. I was wondering if you might be able to tell us what you think may have led to this reduction in complaints against police?

**Ms Fagan:** In relation to our complaints regime, there have been a number of policy changes within the Australian Federal Police, culminating with the Fisher review and legislative change in the commonwealth to introduce the Australian Commission for Law Enforcement Integrity, which is in the throes of being put in place. In a more practical sense in the ACT we've seen a decrease over the past eight years in the number of complaints and I think both the policy and the practical things we've put in place are having an effect. Some of the practical things that we've put in place include a mental health training two-day workshop for all ACT police officers and customer service training, which commenced last year and started with our communications area as a front-line call-taker.

With our continued focus on the resolution area, a number of our complaints, after the Ombudsman has the oversight, go to professional standards and they are given to authorised officers which are sergeants working in ACT Policing. As a result, they resolve, investigate, look at those matters and can implement within their teams very practical examples and preventative measures as they investigate those. So I think that flow-on, coupled with the policy change and the other practical measures that we have, is showing that decline.

**DR FOSKEY:** Complaints was an area that we looked into last year and this year we've done a bit of a follow-up. If you start looking for complaints in the index of the annual report you're told to go to page 24, and on page 24 you find that there are only two substantiated complaints against ACT Policing. But, in fact, if you read the document more thoroughly you find that there's a much larger section on complaints on page 94, where it states that 969 complaints and allegations were received by the professional standards section.

It has taken me and my staff some time to sort out what's what, especially with the crosschecking with the Ombudsman's report where it states that 243 complaints were resolved through conciliation processes, but these figures, or the manner in which they were resolved, aren't included in ACT Policing's annual report. So that leads me to ask: how accurately does the figure of two substantiated complaints reflect the number of occasions on which a person complained about the actions of ACT Policing personnel and those actions were judged by the AFP or an independent arbiter to have been improper or illegal or regrettable? "Substantiated" to me would mean that that process had been gone through. It just looks as though you've given that term—or the authors of the report have given that term—another meaning and I'm interested in exploring your meaning of "substantiated".

**Mr Corbell:** Which page is that on, Dr Foskey?

**DR FOSKEY:** Page 94 is a much more substantive suggestion.

**Mr Corbell:** I'm asking you about the one you're concerned about the way it's presented; which page is that?

**DR FOSKEY:** The report claims there are only two substantiated claims.

**Mr Corbell:** Yes. Could you just tell me which page that's on, please?

**DR FOSKEY:** That's on page 24. It says there are only two substantiated complaints, but page 94 says there were 969 complaints and allegations. The Ombudsman is involved in this. This is where I had problems last year with Mr Hargreaves; he wouldn't let me pursue this. You've got to crosscheck with the Ombudsman's report because of his role in dealing with the complaint mechanism. We did ask some questions yesterday. What we're trying to do is find out how many of the 969 complaints and allegations were found to have substance and involved an admission by ACT Policing that they'd got it wrong.

**Mr Corbell:** Dr Foskey, I am sorry to be pedantic. I am just trying to get the language in front of me.

**DR FOSKEY:** That is exactly the problem we had, Mr Corbell.

**Mr Corbell:** No, I am very happy for you to pursue this line of questioning; please don't get me wrong.

**DR FOSKEY:** No, but it is hard to work it out.

**Mr Corbell:** Can I just ask: where does it say only two complaints substantiated? I have looked at page 24. I can't see it there. Are you sure that is the right page?

**Ms Fagan:** The index says 21.

**DR FOSKEY:** It is page 21; I am sorry. It is page 21 at the bottom of that column there: "This target was achieved with only two substantiated complaint issues



recorded.”

**Mr Corbell:** I will ask the Chief Police Officer to answer your question about these different presentations.

**Ms Fagan:** The Complaints (Australian Federal Police) Act 1981 describes the difference between a complaint and an allegation. I don't have the complete detail before me and I am harking back to the mid-1980s when I worked in that area, but essentially complaints are oversighted and monitored by the commonwealth Ombudsman. Allegations are not necessarily oversighted and monitored by the commonwealth Ombudsman. I believe that the amendments that introduced the Australian Commission for Law Enforcement Integrity will have oversight of all of them with the Ombudsman. I will need to check that for you, but that's my belief at this point.

In relation to the complaints, you will note in the commonwealth Ombudsman's annual report that he talks of one substantiated complaint and in ours we talk of two substantiated complaints. The reason for that, I'm advised, is that it's one person with two complaints and I think between us there are two different types of reporting. So in fact we report against complaints rather than the person, and those two complaints are what we're required to report on for our key performance indicator in our purchase agreement.

**DR FOSKEY:** Good; that clears up that one. Now to the 969 complaints and allegations mentioned on page 94. I'm sorry this is a bit confusing, and I'm as confused as anyone, so if I'm not presenting things that clearly I'm sorry. It is handy to sort of crosscheck with the Ombudsman's report.

**Ms Fagan:** Perhaps I can help. Complaint and allegation are two different methods of investigation. An allegation can be raised by a member internally. For example, our confidant network may raise a matter that requires investigation, and that's an allegation—it's not a complaint—and that's an internal matter that would be looked at. A complaint is when a person external to the AFP lodges a complaint. I would be very happy to provide and get information to the committee that describes that from the complaints act I'm operating from. I'm sure we can have that done within the next hour or two. I can get somebody to get me that information in the next half an hour.

**DR FOSKEY:** So that sort of deals with my concern that there were different meanings.

**Ms Fagan:** There are different meanings—correct.

**DR FOSKEY:** And it should be noted that the Ombudsman reports a 20 per cent reduction in complaints about ACT Policing. It would seem to be something to advertise in your report. That's good but it's not there in the report.

**THE CHAIR:** Just on this, Ms Fagan, of the 969 complaint or allegation referrals—I'm not sure if Dr Foskey asked this; I apologise—do you have a breakdown of complaints versus allegations?

**Ms Fagan:** I don't have that before me. I'm endeavouring to get that before the committee finishes our hearing today, so we'll get somebody to get an act description of the difference between a complaint and an allegation. I've given my recollection of that, which I believe is relatively accurate. Then we can articulate to you the number of complaints and number of allegations in a breakdown.

**DR FOSKEY:** Thanks for clarifying that.

**MR PRATT:** On page 15 of the report there's a mention of knife offences. Certainly in the media there is speculation that knife offences are on the increase. Can you tell us what you see to be the case now? Is there a growing trend in the carrying of knives, particularly after hours, at nightspots in Civic and the town centres or is that just a media myth?

**Mr Corbell:** Or even a Steve Pratt myth.

**MR PRATT:** Well, shall I—

**THE CHAIR:** Let's not get into a discussion.

**Mr Corbell:** Sorry; I apologise for being partisan.

**MR PRATT:** I'll just ignore that, minister.

**Ms Fagan:** Offences reported in the ACT where a knife or sharp instrument was used have decreased between 1990-2000 and 2005-06. However, for the past three years they have remained relatively stable, so there was a decreasing trend but remained stable from 2003-04 at approximately 70 offences per year. We are seeing this financial year an increase in the number of offences involving knives, with 56 reports up to 10 September, which is higher than in the past three years when it was 70 offences per year. These consist of 51 assault offences, three sexual assault offences and two homicide-related offences. Of those 51 offences where a knife was used to 10 September, 63 per cent were in a private location and in 59 per cent of those offences the knife was used as a threat only.

**MR PRATT:** When they were operating in this reporting period, did your Operation Cobalt teams and your Operation City Safe teams find an increase in the carriage of knives? As they carried out their city beats did they find this to be a growing trend or not?

**Ms Fagan:** It has remained steady at 70 offences per year.

**MR PRATT:** That's in terms of the offences, but what about perhaps police finding people carrying knives where charges weren't necessarily laid?

**Ms Fagan:** A knife can be carried in our society is a starting point, and knife-carrying is not necessarily illegal, so it depends on the type of knife we're discussing.

**MR PRATT:** And the circumstances.

**Ms Fagan:** Police officers would need to have a legitimate reason to search someone for that knife because that's another threshold question. It's not a measure that I have particular metrics around, so it would be a judgment call. The fact that we're seeing increased offences in this last quarter would suggest that there are potentially more knives available and being used. However, I did point out that 63 per cent of those current increased offences were in a private location. Operation Cobalt hasn't commenced for this year and I would need to do some analysis to answer that accurately for you.

**MR PRATT:** Yes, so it wasn't entirely a myth, was it, minister?

**Mr Corbell:** Well, Mr Pratt, we've seen an increase over the last couple of months. But I'm always very cautious about making policy based on short-term trends; I think it's more important to make policy and judgments based on the longer-term pattern of behaviour. If we'd seen a growing incidence of the use of knives over the past three to four years I would share your concern, but the fact is that we've seen the reverse. We've seen a decreasing incidence of the use of knives. Whether or not what's occurred in the last couple of months is a blip or whether it is a change in behaviour that will follow through in the longer term I think is too early to judge. The point I've made is that, just because we have seen an increase in the short term, it does not indicate necessarily that this is going to be an ongoing trend. We need to be cautious about that, rather than rush to hysteria, which, unfortunately, is what you and your colleagues tend to do whenever any incident is reported in the media.

**MR PRATT:** I refute that and simply say that, in terms of the flattening out of the trend, which had been going down, and the information that you surely must be privy to about trends across the nation, I presume you will continue to look at this matter seriously—

**Mr Corbell:** I look at all policing matters seriously, Mr Pratt.

**MR PRATT:** rather than labelling these things as hysteria.

**Mr Corbell:** I certainly avoid hysteria, Mr Pratt.

**THE CHAIR:** I'm glad, minister, you've moved away from being partisan.

**DR FOSKEY:** I just want to go back to the complaints issue. It's sort of expanding on what you've been saying, but one of the recommendations of the Fisher review was that the Ombudsman have oversight of internal complaints. I understand that the number of internal allegations far outweighs the number of substantiated public complaints but it's only the public complaints that are independently overseen. Is that right?

**Ms Fagan:** I think I said that earlier, yes. The proposed changes to the Complaints (Australian Federal Police) Act and the Australian Federal Police (Discipline) Regulations, which are being repealed, are due for implementation in December 2006, with the new provisions in the Australian Federal Police Act 1979. That will mean that complaints and allegations will be treated alike by the same process. If you like, I can give you some of the categories that describe that.

**DR FOSKEY:** Yes.

**Ms Fagan:** Complaints will be categorised into three categories, with a fourth category being allocated for corruption matters. Level 1 and level 2 complaints, which will be all complaints and allegations, as I've just said, can be managed by a local area while overseen by a complaint management team or the commonwealth Ombudsman. Level 3 and 4 complaints will be managed by professional reporting standards or the Australian Commission for Law Enforcement Integrity.

Level 1 complaints can be resolved immediately via management action and are no longer required to be formally reported on. Discretion exists to not proceed with complaints that are serial, false or malicious, and the amended process will increase the accountability of line managers, which is where we started, where they will be able to put remedial action in place to address concerns and resolve those on the ground.

**DR FOSKEY:** So are you able to give us a breakdown of what constitutes levels 1, 2, 3 and 4?

**Ms Fagan:** Category 1 are minor management matters. They can be resolved by managers or supervisors, so they're minor managerial matters I guess is the simplest way to put that.

**THE CHAIR:** What would be an example of that? Are you able to put that into some context for us?

**Ms Fagan:** My view would be an attitude or a customer service issue, which is where we were very keen to ensure our customer service training was in place. Category 2 is non-reviewable action similar to category 1 but has wider application and may include minor misconduct or inappropriate conduct, an example being unauthorised absence from duty and failure to adhere to AFP practical guidelines. Prescribed outcomes there would be re-education of the person, behavioural improvement through performance management monitoring, change of employment potentially and recordings of those adverse findings.

Category 3 are conduct matters. While managerial resolutions may be appropriate for some complaints these would be serious matters that would be handled by way of professional standards investigation. Matters may include breach of criminal law, serious abuse of power, serious neglect of duty or consideration of employment suitability that the commissioner has powers under the Australian Federal Police Act. Potential outcomes may include training and development or remedial action, which may be termination and/or criminal charges.

Category 4, corruption matters, relates to any staff member engaged in corrupt conduct in accordance with sections 6 and 7 of the Law Enforcement Integrity Commissioner Act 2006. Examples there would be abuse of office, pervert or attempt to pervert the course of justice or engage in any corrupt activity. All corruption matters will be referred to the Commissioner of the Australian Commission for Law Enforcement Integrity and the Ombudsman will have oversight of them all too, as I

said earlier.

**THE CHAIR:** Thank you, Ms Fagan.

**MS MacDONALD:** On pages 17 to 18 you refer to a decrease in the number of drug offences, and you report specifically about heroin. Given that it has been widely reported and there has been a statement made by the police about the increase in the use of crystal methamphetamine, or ice, can you address that and are you likely to start looking at that as a separate issue, given that it's possibly being considered to be more of an issue than heroin has been in the past? That could be wrong, that last statement, I have to say, so—

**Ms Fagan:** We certainly are seeing an increase in amphetamine-type substances and that has been widely reported on; similarly, a decrease in heroin for various strategies. Our drug investigation teams and our Territory Investigations Group, coupled with our intelligence services, do target and move to the appropriate areas for investigation. So we've already put that in train as far as amphetamine-type substance investigations. I think the increased seizures and the increased weights are showing that that focus has taken place in that we're interdicting and stopping that supply in increased levels. Probably the highest indicator for the reduction in heroin supply is the reduced number of deaths, which clearly is reported in our key performance indicators as well, which is much lower and has continued to trend down.

**MS MacDONALD:** I'm thinking about something that occurred to me a second ago and I just want to go back to it with that as an issue. The issue with ice and amphetamines is not so much an issue of deaths; it's more an issue of violence associated with the amphetamines. Would that be a true statement to make?

**Ms Fagan:** Yes, that's accurate. We can and do observe potential for increased violence with the use of, particularly, crystal methamphetamine, which is known as ice.

**MS MacDONALD:** Are there incidences where the police are being called to the hospital to deal with people who appear to have taken amphetamines or—

**Ms Fagan:** We do get calls to many jobs and to distil exactly that particular information. I would, in my professional judgment, say there have been cases but I don't have particular numbers before me of those. It's very difficult to distil attending at a particular place and consequential actions with it, but in my judgment there would be matters that we are seeing an increase in the use of crystal methamphetamine.

**THE CHAIR:** Is it possible on those to distil some of that to give the committee a picture as to whether or not you are being called out to hospitals more to deal with these sort of incidences? Would those figures be available?

**Ms Fagan:** I can have a look at that and see what we can do and present that to the committee.

**THE CHAIR:** Just following on from that, with the apparent increase in use of methamphetamines and the antisocial violent behaviour that often goes with that, how

is that changing the challenge for police? I guess if we don't have reliable figures it's difficult to say there are many more violent people out there now or there are fewer, but, if anecdotally at least you're seeing more of that type of behaviour as a result of drug use, do alternative methods of restraint and the like become more important for police in responding or is that sort of unchanged in recent years?

**Ms Fagan:** I'm satisfied that the training that our officers are receiving and the refresher training that they do on their individual training days address the needs. There are obviously adjustments of time but I think the training is okay. It might be important to point out that cannabis remains our most prevalent drug, reflected by both number and seizure that we obtain. Amphetamines constitute the next highest seizure; we had a 321 per cent increase in amphetamine seizures last year. It is interesting that the aggregate number of drug offences for the financial year 2005-06 decreased by 34 per cent. So it just takes more analysis, I think. While we're seeing this trend in increased seizures of amphetamines and I can report on particular cases where we believe amphetamines have been involved, we don't have that analysis in place at this stage.

**MS MacDONALD:** I note on pages 17 and 18 that you talk about the development of the law enforcement national amphetamine type stimulants strategy 2006-10. Where is that at? Are you able to say where the development of that strategy is at and, if it has been finalised, what is involved with that?

**Ms Fagan:** I don't have a particular brief on where it's at. However, we participate in the relevant intergovernmental committees for that and I'd be able to get you a time line and take that on notice.

**Ms MacDONALD:** Yes, that would be great.

**DR FOSKEY:** In relation to that strategy, it is also said on page 18 that it will focus on supply, demand and harm reduction. I am interested in the harm reduction strategies that the AFP is pursuing.

**Ms Fagan:** The harm reduction goes particularly to our drug diversion program. We exceeded that key performance indicator last year in diverting people to programs within ACT Health. That is probably the key example of harm minimisation. That has to be something that is focused across government to work effectively both in an education sense, and it certainly is, and in our work with health in order to get newer drug users into diversion, where they are case managed and appropriate counselling is given to them, as coordinated by ACT Health.

**DR FOSKEY:** This one is probably more for the minister. To what extent are ACT Policing's policies on illegal drugs set by the ACT government and to what extent are they set by the federal Attorney-General's Department? One example, a small example, is the use of drug sniffer dogs at public events. Are they used at public events?

**Ms Fagan:** I am sorry, what was the question?

**DR FOSKEY:** I am asking you about the drug sniffer dogs, but it is a larger question

about the AFP's policies.

**Mr Corbell:** ACT Policing enforces ACT law. Clearly, there are areas where there is similarity between ACT law and commonwealth law. The AFP also have responsibilities, through AFP National, in terms of other issues which ACT Policing would cooperate with. But, in terms of issues around drug use locally, ACT Policing cooperate closely with ACT Health, for example, and the ACT Ambulance Service in the way they manage issues such as drug overdose and other matters. Whilst it is more complex than the simple answer, the simple answer is the AFP, through ACT Policing, are responsible for enforcing ACT law.

**DR FOSKEY:** It was announced a month or so ago that the AFP plans to enforce a crackdown on party drugs this summer.

**Mr Corbell:** Yes.

**DR FOSKEY:** I am just wondering how that will be implemented. Will sniffer dogs be part of it?

**Ms Fagan:** Operation Cobalt is one of our targeted operations but, as I explained earlier, through our operations committee and intelligence we may get from, for example, Crime Stoppers we may target other operations. Operation Cobalt is a particular operation that targets antisocial behaviour and we will utilise whatever resources we have, be it uniform, plain clothes or our canine capacity. I am just checking what level we have got. We have got general purpose dogs. You are asking about a drug detection capacity. I believe general purpose dogs can do that. If we can utilise those we would, if it is appropriate.

**DR FOSKEY:** Will that be by attendance at known parties to find people? How will it work?

**Ms Fagan:** It is intelligence-led, based on our operations, complaints from the community or anonymous information where we seek to remove illicit drugs from the community.

**THE CHAIR:** Minister, page 92 deals with the staffing profile. On my reading of it, and I might get you to clarify some of it, and a quick calculation of the sworn officers, there are about 621 full-time equivalents. How has that tracked from last year? Is that a figure that is taken at the end of the financial year or is that an average? If you could answer that for us and then I will have a couple of other questions on staffing.

**Mr Corbell:** The figures in the annual report are as at 30 June, at the end of the financial year.

**THE CHAIR:** How does the figure of 621-odd sworn officers compare with last year and the year before? Is it tracking up?

**Ms Fagan:** I do not have the previous figures before me, I'm afraid. What it did, though, is exceed the required FTE in the purchase agreement. I now have the figures for 2004-05 and operational was 678.4; so that is up.

**THE CHAIR:** When you say “operational”, do you mean sworn officers? What are we talking about there? I am looking at the staffing profile combining the sworn females and sworn males and that amounts to about 621.

**Ms Fagan:** Yes, they won’t necessarily be sworn in operational. That is my error. I will need to get you that data and we could go back the required period of time.

**THE CHAIR:** Thank you; I would appreciate that. I have a more general question. It is obviously a pretty difficult time for recruiting in all sorts of areas and I imagine the police aren’t immune from that. In terms of the experience levels of officers, do you have a breakdown of the figures as to how many would be of less than two years and less than five years?

**Ms Fagan:** Yes, I do. At 30 September 2006—just sworn officers—between zero and five years, 340; between six and 10 years, 130; and 11 years plus, 190, which I could further break down if you require.

**THE CHAIR:** I would be more interested in a breakdown of the zero to five group. Is there any further breakdown on that?

**Ms Fagan:** No, I don’t have that before me, but I can say as a trend, if that is helpful, that in the six to 10 years group, the more senior constables, we have had an 18 per cent increase from June 2005 and that was up 11 per cent from June 2004, where it was at 4.8 per cent in that bracket. We now have 18 per cent in the six to 10 years group, which is very pleasing.

**THE CHAIR:** If you could, on notice, give me a further breakdown of the zero to five and zero to two years groups.

**Mr Corbell:** If that information is available, we can provide it.

**THE CHAIR:** Thank you for that. Just looking at these figures, the role of the Chief Police Officer is shown as 0.9. I assume that is because some of your duties are not strictly ACT Policing, that they are broader federal police duties. What is the reason for that being 0.9?

**Ms Fagan:** Approximately 6.61 per cent of our budget is commonwealth work and it is an attribution through the purchase agreement. The proportion there is reflecting where, for example, I may be involved in a state visit and we are attributing costs to the commonwealth, not to the ACT, for example, so your statement is accurate.

**THE CHAIR:** That is what I figured. Thank you for clarifying that.

**Mr Corbell:** She is 100 per cent there, I assure you.

**THE CHAIR:** I assume it is not a part-time job. I would not have expected it to be. So we will take that one for granted. I would like to ask a broader question around the issue of police media and information to the public. Page 74 or 75 deals with media and marketing. We will start in the broad and then perhaps move into some specifics,



where possible. I get a lot of feedback from the community about policing and most of it is positive, especially when they are dealing with seizures and really difficult operations. What is the principle, though, in terms of information flow to the public? What are the parameters? For what reasons do you not give information to the public and for what reasons do you try to get information to the public? What is the general principle there? Is it about maximum information to the public, with certain constraints? If so, what are those main constraints that would prevent you giving out details?

**Ms Fagan:** In relation to our operational work?

**THE CHAIR:** Yes, operational work.

**Ms Fagan:** There are a number of matters that we are cognisant of and are on our mind when we make those decisions—the Privacy Act, the ACT Human Rights Act, the progress of an investigation—and they are weighed up and a professional judgment is made. For serious matters, they are cleared through either myself or the Deputy Chief Police Officer. We have a system in place within ACT Policing for more routine matters that can be cleared quickly through the operations sergeant or a superintendent—for example, where there has been a motor vehicle collision and getting that information out quickly. On some of our investigative work, we have to weigh up whether there is a continuation of offences, whether we are going to cause further harm if there is a series of offences, so there are some operational judgments that need to go into them. We do have a guideline that is issued in relation to media management.

**THE CHAIR:** You mentioned the Human Rights Act. What kinds of constraints does the Human Rights Act impose or what kind of consideration do you have to give in giving out information to the public in relation to the Human Rights Act?

**Ms Fagan:** What I am saying is that we would look at each piece of legislation and make a judgment on that. I would need then to have a case to say which one. But it is a matter of being cognisant of all legislation. By way of example, it would be the Privacy Act or the Human Rights Act. It may be that there is a juvenile involved. It may be the parents' wish. So there are other acts that come into play.

**THE CHAIR:** It is a more specific one that was reported in the *Canberra Times* on 14 September, the well-known case of David McLaughlin, that I am more interested in. I think it is acknowledged that it was a very difficult situation, but on the first day of reporting, on the 14th, there were a number of things on which the police were reported. For instance, the *Canberra Times* says, "Police would not say if the suspect was armed or considered dangerous. Police would not say if the individual had crashed the car." What would be the reason, if a suspect is considered armed and dangerous by the police, for not releasing that information to the public?

**Ms Fagan:** At that point it can go to an operational professional judgment and accuracy of information and what we have got reported. As the facts solidify, we can obviously then make further judgments about what is released, and that goes clearly to our key role of protection of life and property and prevention of crime. That is the higher part of the judgment. Generally in situations such as this, our media advisers

will be present assisting the operational, but in very early stages the operational tends to dominate and it is very important that we have got public affairs officers able to manage and assist with that communication where we get accurate information and can give that out as soon as possible.

**THE CHAIR:** I guess the concern there is that if it is not clear whether a suspect is armed and dangerous, the community might expect you to say that the suspect may be armed and dangerous or something so that, without causing alarm, people know not to go near this particular person if he is in their neighbourhood. That is where some concerns have been raised with me, that perhaps the information flow should err a little more on the side of giving some information to the public, even if it is a cautious assessment of what might be going on without knowing all of the facts.

**Ms Fagan:** We work very closely to put out what information we can. I am very conscious of the matter that you are referring to and, in my responses, I am giving answers in general policy terms on what is a matter for a coronial inquiry and I am conscious of respecting that process as well.

**THE CHAIR:** Sure. I understand that. As I said in the precursor, I think most people acknowledge the difficulty of dealing with it and getting information out at the same time. It is not a criticism, but I think it is something that we have an interest in seeing if we can improve procedures wherever possible so that the community does get the maximum information without compromising investigations. There is probably nothing more to ask on that without going into the specifics of that case.

**DR FOSKEY:** I do want to bring up a little bit later something on the issue I brought up in the earlier session and I want to go back to the complaints issue, hopefully, for one last time. In last year's annual report there was a listing and a breakdown of complaints under that heading. That was extremely useful and I believe that something like that would have been very helpful in this year's annual report. I am wondering why it was decided not to have a similar breakdown of complaints and how they were resolved, which was also in that list, in this year's annual report.

**Mr Corbell:** I think that is something that could be included in future annual reports. I think that is a reasonable comment, Dr Foskey.

**DR FOSKEY:** I think it probably would have saved us 15 minutes today.

**Mr Corbell:** Yes.

**DR FOSKEY:** In regard to the complaint allegation issue, could you please confirm that even if a complaint is found to have substance, and I note that a complaint having substance does not automatically make it one that is substantiated, and an apology is offered as part of the conciliation process, that complaint isn't then defined as substantiated? So the complaint has substance enough to go through a process and may end up with an apology as a resolution, but isn't included in the category of being substantiated.

**Ms Fagan:** I will need to take that on notice and get an explanation from the professional standards area because, if something is conciliated, that is a measure in

itself.

**DR FOSKEY:** Yes, it is. That is where I think that another category that captures that particular process for a complaint or an allegation, whereas a complaint is seen as having enough substance to go through a process, perhaps requires reporting as well.

**Ms Fagan:** I need to go to professional standards because we have through our act, through the ombudsman, a means of reporting in those areas that I spoke of earlier, with substantiated, not substantiated, incapable of determination. The Ombudsman has a discretion under the act. These are all enacted and I just need to get some advice before I can comment on that.

The other part I have got, if it is helpful to the committee, is the difference between a complaint and an allegation. I gave my belief, which I think was reasonably accurate, but I have got the statements on those, if that is useful. Complaints are made by members of the public against the actions of AFP employees in the exercise of powers or in the performance of functions given to them as AFP employees. Additionally, allegations reported directly to the Commonwealth Ombudsman by AFP employees concerning the actions of other AFP employees may also be classified as complaints. An allegation means a report made by a person concerning a breach of professional standards at any time by an AFP employee or special member, not being a matter to which the Complaints (Australian Federal Police) Act 1981 applies. The Commonwealth Ombudsman is not generally involved in the oversighting of allegation matters. As you can see from the description I give of streamlining that through the Australian Commission for Law Enforcement Integrity, that will be somewhat simplified come December 2006.

**DR FOSKEY:** Is that the integrity commission that the federal government is committed to setting up?

**Ms Fagan:** Correct.

**DR FOSKEY:** Could you please explain how that will work and how this commissioner will be involved in the complaints process?

**Ms Fagan:** The Law Enforcement Integrity Commissioner Bill 2006 and the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006 were introduced into the House of Representatives on 29 March 2006. The legislation will establish the Australian Commission for Law Enforcement Integrity and its statutory head, the Integrity Commissioner, and their powers and functions. The legislation will also create a federal parliamentary joint committee to oversee the operation of ACLEI, as it is called. ACLEI will initially exercise oversight of the Australian Federal Police and the Australian Crime Commission.

The Integrity Commissioner will have royal commission powers. These include the power to execute search warrants, to conduct public or private hearings, and to summons people to attend hearings to give evidence or produce documents. The Integrity Commissioner will have access to relevant official information irrespective of secrecy provisions. ACLEI investigators will have the full range of specialist police investigative powers, including telecommunications interception, to assist in the

Integrity Commissioner's investigations. The AFP commissioner and the CEO of the Australian Crime Commission will be required to report all suspected cases of corruption within their organisation to the Integrity Commissioner, who may also initiate an investigation on his or her own motion or in response to a referral from the federal minister, another agency or a public complaint.

**DR FOSKEY:** Does that apply to every level of the AFP from the top to the bottom?

**Ms Fagan:** Correct.

**DR FOSKEY:** Going back to page 96, it says there were 178 referrals to the confidant network.

**THE CHAIR:** Sorry, you are moving on to another area and I am mindful that Ms MacDonald has been waiting patiently, so perhaps we should come back to that later, Dr Foskey, and let Ms MacDonald go ahead.

**MS MacDONALD:** Chief Police Officer, I often get constituents writing to me about antisocial behaviour taking place in Tuggeranong, including vandalism, speeding, drag racing and trail bike riding on footpaths and nature reserves. I know that it is very difficult to catch people in the act, but could you talk about what is being done and what can be done to deter this behaviour? I realise that you can't have a police officer on every corner waiting for people to come out and do these things and that, if there are police officers around, people are not going to do it while they are there.

**Ms Fagan:** We rely very much on the community to help with any antisocial behaviour and, in that context, any particular crime. The sooner it is reported, particularly if alleged offenders or perpetrators are in place, and it is a priority 1 response, we will send our motor vehicles there, our patrol cars, as soon as possible. In the main, on priority 1, we meet those within eight minutes.

Sometimes observations take place where there is a pattern of behaviour. That is all recorded through our intelligence area, and our operations committee looks at and targets particular places. Recently, there has been some targeted work in various areas. I know Erindale was one. Weston, Cooleman Court, is another of recent times which comes to mind. The operations committee's members are the sergeants from the stations and the decision makers that help get the patrol cars to the right places. So there is a very disciplined process that sits behind where we deploy in a proactive sense, not just in a responsive sense, and I think that is very important to keep in mind.

In traffic solely, we have a suburban ownership program whereby our traffic officers place particular focus on areas and look at trends and commit to patrolling those areas at various times. Having said that, they also couple with other traffic officers and some of our technology, such as the number plate recognition, to target areas as a result of that operations committee I spoke of earlier.

We are in the throes of finalising a suburban policing strategy that essentially grows the traffic suburban ownership program to enable police teams to own either a group of suburbs or an area and again build those relationships to increase the information feed, because I think that will enable a greater flow and a greater connection between,

in particular, Neighbourhood Watch, community safety houses, schools and businesses in those areas.

**MS MacDONALD:** I appreciate that. I will certainly watch with interest the suburban ownership program as that is rolled out. That sounds like a good way to deal with it. I am appreciative of the difficulties that are faced. In the last year I have had incidences when I went out and spoke to a number of constituents who had got in contact with me about somebody who was riding their trail bike at quite high speeds. I had written to the minister on this issue.

I was saying, “You can report the number plate,” but there was a problem. The concern for the residents was that they were worried about retaliatory acts from this person, who lived in the same street as them. They were reluctant to report the person who did it. I think he was riding an unregistered trail bike too. They were concerned—it was a quiet street—about their kids getting injured, or an accident occurring in that street.

They were concerned to report him. They knew where the person lived, but they did not know his name or his actual address within that block. My concern is how do we get around that issue, because we are reliant upon people reporting others in order to take the prosecution up. If people are worried about retaliation because it is a small community, how do we deal with that?

**Ms Fagan:** The protection of complainants as victims is very important to us. We would do whatever in order to alleviate that. However, there is also the avenue, if a person felt uncomfortable, of ringing through to Crime Stoppers. You can be completely anonymous. Every piece of information we have that goes through the Crime Stoppers line is recorded and kept within our indices. Again, that builds that picture.

I spoke about the suburban ownership program for traffic. If there is a build-up, that can be looked at. It needs to be considered in the context of our other priority work, I might add. However, I would encourage people to always pass on information, even if it is anonymous.

**MR PRATT:** Minister, this follows on from Ms MacDonald’s question. I have written to you and of course to the chief police officer about a particular suburban neighbourhood vandalism concern, being Crichton Crescent in Kambah. I do not intend to go over that—there is no need to. Using that as an example in terms of how you are combating that antisocial neighbourhood vandalism behaviour, what is your program to build into the neighbourhood ownership program? Do you have an idea of what you are aiming to do in terms of police on the ground? What do you think you can do?

**Ms Fagan:** Through the last budget, with the additional 60 officers announced for this year and next year, we have put in place an additional beat team. That beat team can be utilised around the territory, again going through the operations committee in a proactive sense. The other part, too, of the suburban policing strategy, which we are still finalising with internal dialogue, is to build and garner those relationships.

We have already reasonable pockets of good work—for example, our high schools program in the south district. But what we are trying to do is move to a consistent approach of suburban policing across the territory, rather than just individual pockets. That is very close to finalisation. I am receiving a brief next week. I think we will be in a position in mid-November to be formally announcing the totality of that.

**MR PRATT:** What capacity do you think you will have? Are the ownership teams, for want of a better term, to be based on your district police stations and themselves dedicated to various suburbs? Is that your aim?

**Ms Fagan:** We have divided into sectors, because you may have one suburb that is not as populated as another. We are looking at sectors. I do not have the benefit of the detailed brief. I have the benefit of two earlier briefs of the sectors. I think we will need to monitor that over the course of the year and perhaps rebalance those again, depending on the work flow.

I think the idea and the concept—and I may point out that this was developed from patrol officers—will have a very good buy-in. It underscores partnerships, particularly those that are in the community on a regular basis, whether they be community safety houses or those that have taken the extra commitment to Neighbourhood Watch for their community. We want to see a combination of foot patrols and mobile patrols around the shops and schools where youth congregate, and clear relationships with the Neighbourhood Watch and the community safety houses in those areas and the businesses and schools.

**MR PRATT:** You have said before, and quite rightly, that a lot of the successful antisocial policing relies on community partnerships and the confidence of the community to get involved. What lessons have you drawn from the not quite famous but well known Giuliani broken windows theory relative to community policing?

**Ms Fagan:** For me, that is some time ago. We use our intelligence-led process here in the territory. It is about, within our resources, getting the responsive work done, coupled with some proactive work. That is where our focus is. A zero tolerance to one issue can create a move on to another place or another issue. I think we have to be reasonable in thinking about moving a safe and secure process across all crime types. Getting that balance right requires dialogue and discussion, not a one-answer policy.

**MR PRATT:** Yes, but my understanding is that a broken window does not really mean zero tolerance. The discretion is left with police to do whatever they think they have to do. Zero tolerance really, I think, means “do not ignore something that happens” but it relies heavily on the community policing interaction.

**THE DEPUTY CHAIR:** Mr Pratt, do you want to ask a question rather than making a statement?

**MR PRATT:** Yes. Are you perhaps basing your suburban ownership program on that integrated partnership between police and community groups and empowering the community to perhaps in some ways do some of its own policing? When I say “policing” I mean warning the police about something happening.

**Ms Fagan:** The suburban policing strategy is absolutely about partnerships. It is coordinating the effort across the territory in a consistent way. We have already had dialogue with Neighbourhood Watch in developing the strategy, and similarly with some of the school groups. It relies very much on partnerships.

**MR PRATT:** Could I ask another question?

**THE DEPUTY CHAIR:** In a minute. I am going to ask a question. Mr Seselja will be back soon. I have to go at 12.30 pm, so I am going to jump ahead of both you and Dr Foskey, Mr Pratt. I note that on page 7 you mention that there has been an overall reduction in the crime levels for the third year in a row. I also note that you reiterate that we cannot rest on our laurels, which is what has been said in previous years reports. Can you say what measures have been implemented to ensure that these reductions continue?

**Ms Fagan:** I can. We have had a further focus in relation to our clear up rates as well. That is one area that is a focus for us. I think the continued use of the operations committee to guide our work is paying dividends—and larger investment in our intelligence services. When we look at one particular investigation, we are looking for connectivity, or any potential series of offences that may have taken place and is reaching back.

You may have noted in the report that our Operation Halite has now been made a permanent team. We have moved that to the territory investigations group as a property crime reduction team. We see that as a continued investment. We are seeking to smooth the spikes of Operation Halite. There is good work and then the operation ends. We are looking at an enduring effort in that regard. What we are doing is trying to build some consistency. It is very similar to the suburban policing strategy, where we identify a best practice or a better practice and apply it.

**DR FOSKEY:** The confidant network is referred to on page 96. There were 178 referrals to the confidant network. I am assuming these could also be internal allegations. Could you please tell me, within ACT Policing or the greater AFP, how many of these internal allegations were either substantiated or, using different language, proven to have substance?

**Ms Fagan:** As with your other request, I do not have that before me. I will take it on notice. The confidant network does not necessarily mean that those 270, or the number you said, are necessarily allegations. The idea of the confidant network is to be able to report something that you are not comfortable with. It may be that that can be explained or it may be that it cannot, but it may not necessarily culminate into an allegation.

**DR FOSKEY:** Again, though, there is no detail here. The level of detail could be just the kinds of allegations and how many led to disciplinary action. It would seem to me that there could have been more detail there too. Is there any more detail that could be provided?

**Ms Fagan:** In relation to your earlier question about allegations, we will look to improve that. I will take that on notice.

**DR FOSKEY:** Is there any way that you could give the committee figures for this year in relation to the number of allegations that led anywhere—disciplinary actions or whatever?

**Ms Fagan:** I believe I undertook to do that.

**THE CHAIR:** I think we are getting those from that earlier question.

**Mr Corbell:** We will take that on notice.

**DR FOSKEY:** This is the confidant network.

**THE CHAIR:** I might be misreading this, but it seems to me that the confidant network is not so much necessarily about the numbers of allegations but it is a support network. The figures we will get from that first question will cover it. Some of those people would be switched into this confidant network, I assume.

**Mr Corbell:** Or the other way around. Issues raised in the confidant network may result in allegations or complaints. They would then be dealt with more formally.

**DR FOSKEY:** I would be interested to know if some of them started in the confidant network process.

**Ms Fagan:** I can assure you that some of them do.

**DR FOSKEY:** Perhaps that could be indicated.

**MR PRATT:** I am looking at page 31, the high school liaison issue. How many police do you think are volunteering their time at this point? How many high schools are covered by this trial program? Or is this trial just looking at one or two high schools only at this point?

**Ms Fagan:** This was a trial. It is now incorporated into the suburban policing strategy, coordinated by a crime prevention area, so we get a consistent and realistic approach for what we do with the high schools. That is as much about working in partnership with the schools and the programs the schools have in place. That is where our philosophy sits with that. Obviously we have a very robust program in junior and primary schools with Constable Kenny Koala, but I think we can work better to garner relationships with the high schools.

**MR PRATT:** To clarify that, did you say that what was a volunteer trial in this reporting period is now formalised into something which is not necessarily volunteer?

**Ms Fagan:** No. It is being incorporated into the suburban policing strategy which we are finalising—defining what that will be and what we can consistently do within our high schools in the territory.

**MR PRATT:** Are you aiming to cover all high schools with a regular contribution or a regular presence?



**Ms Fagan:** The definition of that has not taken place. I receive a complete briefing next week. It is about a realistic definition of what we can do. The focus of the suburban policing strategy, to start with, is on community, Neighbourhood Watch and community safety houses. We want to have the high schools program involved in that in a defined way, not one pocket in one area. I think that undermines other places in the territory that may not get that level of service.

**MR PRATT:** The suburban ownership program which we have talked about a number of times—the teams that might be developed relative to suburban or, as you were saying earlier, regional beats—would simply incorporate the high school as part of that broader beat.

**Ms Fagan:** Not necessarily. If a high school has an issue that requires police attendance, police would attend and do that. That happens from time to time across many issues. What we seek to do is to have officers make themselves known, obviously, to the high school principals in their area and teachers and build a relationship there; where available, begin to interact with parent groups, where possible; promote existing programs to schools such as our Crime Stoppers, SupportLink and the police and citizens youth club programs; and conduct high visibility patrols of schools, which we do already. I mean particularly at times where schools are operating, out of school hours or indeed on school holidays. It is about coordinating that effort and articulating it in a better way.

**DR FOSKEY:** It is observable, comparing the 2004-05 and the 2005-06 annual reports, that there are a number of discrepancies between figures reported as results for 2004-05 and the sort of report referring back to last year in this year's report. It is probably coincidental that many of those are in the AFP's favour. One example of this is that the number of collisions reported for 2004-05 in last year's report was 10,944—if you have last year's report here, that is on page 55—yet in this year's report it states on page 46 that there were 11,209. That led the AFP to claim a reduction in collisions because of the change in the figures used.

I am interested in whether this is just an apparent discrepancy or there is some reason for it. If there is substance to my concern, why is there this discrepancy? Is there an explanation somewhere in the annual reports that I have not found?

**Ms Fagan:** I do not have the 2004-05 report before me. I can look at that and explain it. I do not have an answer for that at present. I can say that crime statistics, however, are regularly updated by ACT Policing based on latest available information. That is due to ongoing investigations and reports of a historical nature. Reports of crime over a period of time may change. What I am speaking about there is crime, not collisions. I do not have the explanation before me for collisions. I would be happy to take that on notice and reply to you.

**Mr Corbell:** We can reconcile those figures for you and give an explanation of that.

**DR FOSKEY:** Yes. I think that is an understandable query on my part.

**Mr Corbell:** Yes, it is.

**THE CHAIR:** Minister, what are the current hours of operation for the Gungahlin police station? Are we looking at any time in the future to make that a 24-hour operation?

**Mr Corbell:** You are right: at the moment it is not staffed 24 hours. The hours of operation are 7.00 am to 11.00 pm seven days a week, with front office public reception open between 10.00 am and 6.00 pm daily. Those are the arrangements at the moment. When that station is closed, north district patrols service the Gungahlin area. That arrangement seems to be working reasonably well at the moment. I had the opportunity to go out and talk to the officer in charge at Gungahlin and to meet part of his team. They have indicated to me that there are not any really significant differences in policing operations there compared to other parts of the city.

There are some issues with the population, in that they are dealing with a markedly younger population in some respects compared to other parts of the city. They work closely with the people at Gungahlin youth services and so on in developing links and relationships. At this stage there are no proposals to change that arrangement, but it is a matter that we keep under review.

**THE CHAIR:** To clarify, the north patrol covers Belconnen and Gungahlin. Does it also cover the inner north and the city area?

**Mr Corbell:** I should say north district. North district covers everything north of the lake. There are three patrols within that area—Gungahlin, Belconnen and Civic.

**MR PRATT:** Going back to page 31, the business owner and shopkeeper involvement program, what is your aim to increase the police patrolling in the shopping centres and to increase the cooperation between police and shopkeepers? What do you aim to cover with a police presence in the shopping centres?

**Ms Fagan:** We have in place a business liaison officer. We announced that at a recent chamber of commerce function. That person provides a link to all our intelligence services and dedicated officer for businesses. The suburban policing strategy is a way and a means of building those relationships. It will not be something that will occur rapidly.

Our focus is through Neighbourhood Watch, community safety houses and high schools initially, but the investment in our business liaison officer and intelligence area is a tangible conduit for information. We enjoy very good relationships through the chamber of commerce to enable the sharing of information. I suggested in a recent speech that they might want to think about a business watch approach similar to Neighbourhood Watch. I left that as a challenge for businesses.

Having said that, through our patrols and through operations such as Cobalt, we engage very closely with the relevant businesses in a proactive sense. Wherever a business has a problem, that crime is reported. Police have a responsibility to take that information report, assess it and do something about it.

**MR PRATT:** Operation Cobalt, though, rotates around Civic, the town centres and

maybe a couple of the larger shopping centres. Is Manuka incorporated in Cobalt, for example? When it ran in 2005-06, was that the case? What will be the future intention of Cobalt?

**Ms Fagan:** Operation Cobalt is a city-focused operation, but it goes back to our operations committee and our additional beat team that we can target to other areas as need is identified and they are required. That is what happens today. With the additional beat team, we have extra capacity to do that across the board. That beat team can be at a social evening event and, equally, it could be at a suburban shopping centre. It is about the greater need. We rely on our operations committee and our sergeants to develop and take those decisions for particular targeted hot spots.

**MR PRATT:** That is not the same beat time identified for operations in Civic, is it? You are talking about something which is more flexible.

**Ms Fagan:** This is an additional beat team as a result of the budget announcement of the extra 60 police. It supplements our existing city beats team.

**MR PRATT:** What strength is that team?

**Ms Fagan:** It is a team of 10—one sergeant with nine constables. I should add that all patrol vehicles do beats as well. At times we have other officers walk from the station and do beats. We can build that capacity—for example, as new recruits come out and begin their careers with AFP.

**MR PRATT:** The business liaison officer is identified here in terms of the south districts focus. Are we talking here of one business liaison officer per police district, north and south?

**Ms Fagan:** The business liaison officer works in our operations monitoring intelligence services area. It is a dedicated facility across the board of ACT Policing supported by district intelligence officers, but the businesses have a dedicated person that is looking at a particular business crime.

**MR PRATT:** Have you had a positive response from the business community regarding your question on business watch?

**Ms Fagan:** It was presented as an idea. These need to be implemented by the areas. It was listened to. I think perhaps we will watch that space.

**MR PRATT:** Clearly you still do not have the capacity to allow more regular proactive patrols to shopping centres. I am particularly concerned about that middle order of shopping centres outside the inner circle. Are you intending, as part of the ownership program, to increase that presence more regularly in all the shopping centres?

**Ms Fagan:** We have a capacity for proactive patrols. They are recorded on our system. Officers do that. We do that in concert with priority response calls. We have to keep that in balance. Police officers in patrol cars get out and about when time permits.

**Mr Corbell:** I should say that the allocation the government made in the last budget will significantly increase capacity, with additional patrol capacity in both districts as a result of the additional 60 police. That will assist with both priority and response and clearly, depending on workload in priority response, with proactive patrolling.

**MR PRATT:** I think you've said before that that entire group of 60 are going to that sort of community suburban program, haven't you? That's the intention?

**Mr Corbell:** Those are decisions that the Chief Police Officer will make about what the priority should be but she has indicated that the key pressure that needs to be addressed is the priority response and making sure that police are able to respond in a timely way to those lower-tier response categories.

**MR PRATT:** Right, but you've still got a long way to build that capacity, haven't you? We get feedback regularly that while the police have been able to do a lot more with the Red Hill problems that were quite public a year ago, and there are more regular patrols there, in a number of other shopping centres business owners complain that they're not seeing police coming as often as they would like to see them.

**Mr Corbell:** The issue is: are police being told that there are issues that require their assistance or attendance, both proactively and response? That's why it's so important that members of the public, business owners and others advise police of incidents. I know there has been a range of incidents that you've raised, Mr Pratt, in correspondence to me and when I've seen the police response to that it's been quite clear that on occasions the history of the concerns is just not known to the police. When the history of concerns is known it's more likely that police are able to take effective action.

**MR PRATT:** In response to that concern, which you've raised with me in writing, you're going to get some information back shortly—if, in fact, you haven't already got it—that will indicate that reports have been made on 131 444, and some PROMIS numbers have been identified too, which community people are saying haven't been followed up, minister. There's a communication breakdown there somewhere.

**Mr Corbell:** I'm always happy to look at those issues if you bring them to my attention.

**MR PRATT:** Good. That will do for now, minister.

**DR FOSKEY:** I'll just go back to the matter that I raised with emergency services this morning and it's probably one that you can clear up very simply. It refers to an article by Jack Waterford published in the *Canberra Times* on 25 September. This is again in relation to the David McLaughlin case. Waterford asserts that the special response unit's communication system is unable to communicate even with the ordinary ACT police system. Could you give me confirmation of whether or not he's barking up the wrong tree?

**Ms Fagan:** The special response area has a dedicated line to enable their communication in relation to situations where we call out that specialist response. That is separated from the normal communication line so that they can do their

tactical work in a protected way. They also—I just need to confirm this—have access to our police general communications line; I think that's accurate.

**Mr Williams:** I'm not sure; I'll have to take that on notice. There are a couple of issues associated with security and technical compatibility between police and the ESA and perhaps we can—

**Mr Corbell:** No, the issue is between SRS and police.

**DR FOSKEY:** I'm interested in that point too, but yes.

**Mr Corbell:** Can we just clarify the issue with SRS and police and general policing.

**Ms Fagan:** We'll take that on notice and explain.

**Mr Williams:** I don't have that information.

**DR FOSKEY:** And, just as a corollary, the ability of the ESA and the AFP to communicate freely with each other through the communication systems they both use.

**Ms Fagan:** They are separate systems and we, in situations, use liaison officers in our operations centre. We currently have command and control training that we have fire officers involved in as well to enable the information flow. We operate a number of police channels because when they get busy you need to be able to communicate to your patrol people on the front line. So, for example, there's a north district channel and a south district channel and those need to be in place in order to communicate with our police officers in a timely safety fashion.

**DR FOSKEY:** So how does it work on the ground, when there is a situation where police and ESA need to work together, to get that happening very fast?

**Ms Fagan:** It works very well through the process that I began to explain, through our forward command post where you will see decision makers from the relevant emergency services agency areas—be it fire, ambulance, for example—with the police commander and then we can coordinate our effort through our communication systems, not uncommon to other jurisdictions.

**Mr Corbell:** I was just advising Ms Fagan, because she wasn't here this morning, that that's pretty much the same answer the fire brigade gave you this morning as well.

**DR FOSKEY:** Yes, that's good. On page 13 it indicates that there has been a large increase in the number of offences against the person, from 743 in 2004-05 to 860 in 2005-06. This is worrying. What strategies does the AFP have in place to counteract this trend?

**Ms Fagan:** We have increased our Territory Investigations Group this year, with the Property Crime Team that I explained earlier but with an additional investigative capacity. We continue to use our committee processes that I explained earlier to target areas of harm and offences against the persons.

**DR FOSKEY:** Any idea why it's gone up? That is a significant rise.

**Ms Fagan:** Could you please point to the area that you raised?

**DR FOSKEY:** On page 13, under "offences against the person reporting or becoming known" the figure is 860. It's down as a target; it's being reported against a target.

**Ms Fagan:** Yes, I think it's a success. We're under by 9.9 per cent.

**DR FOSKEY:** I'm not saying anything about you not meeting your targets—you've done well there—but comparing that number against last year's number, which was in last year's annual report, there is an increase. It was 743 last year. I'm sorry, I don't have the page reference in last year's report but you don't have that report anyway.

**Ms Fagan:** If you look to the table across the next page, that shows offences against person and shows the rise. Is that helpful?

**DR FOSKEY:** Yes.

**Mr Corbell:** There has been a rise, but the numbers are still lower than they were in 2002-03. Any increase is clearly of concern. But, again, the overall increase is only around 250 to 300 offences. We'll have to monitor whether or not, again, that indicates a continuing trend, but you're right: it is of concern. It's difficult to say what can be done to prevent increases in these types of offences given that policing activity is predominantly focused on response rather than prevention. It's difficult to prevent an increase in these types of offences unless we understand what some of the factors are that are driving it.

**DR FOSKEY:** Yes, well, it's an issue of matching up data, I suppose, and then seeing if it's related to increased use of some drugs, where it's located et cetera. I suppose those figures are available.

**Ms Fagan:** I can report that homicide and other related offences show a 60 per cent decrease over the past two years. Sexual assault is down 27.9 per cent. The kidnapping and abduction area is down 100 per cent. Assault remains fairly steady with a slight increase; that is what statistically that's been reported to me as. Obviously, the more serious end, Operation Karri and our homicide investigations, will take absolute priority. However, the others don't go by the way; they continue to be active and we seek information and help to solve those. I think the targeted approach that we have, the additional investigators that we have in our Territory Investigations Group, can go some way to redressing offences against the person and that rise that you're seeing.

**Mr Corbell:** It's also worth highlighting the table on page 14, where both assault non-sexual and assault sexual are down from previous years, albeit very marginally; they are, nevertheless, lower than the previous year. The increase has been in other offences, which include a range of more minor offences including harassment and threatening behaviour.

**DR FOSKEY:** I want to ask one last question and that's about the persons taken into custody by indigenous status. The table on page 26 indicates again a pretty substantial increase in the number of indigenous people taken into custody and I was wondering if you had any explanation or any strategies to deal with that, because it continues to be, I guess, a self-fulfilling situation. Definitely those numbers are of concern given the percentage of indigenous people in our community.

**Ms Fagan:** We have got our indigenous liaison officer and we work very closely with the indigenous community. That is a crime prevention strategy that has been in place for some time in ACT Policing. Crime prevention is equally as important to us as the investigative area and our focus continues in that area to address these issues.

**THE CHAIR:** We will have one more question from Mr Pratt and then we'll have to wrap it up.

**MR PRATT:** Thanks. On page 16 the robbery rate indicates an increase of 12 per cent, with armed robberies seven per cent and others 15 per cent. Was that just a blip, Ms Fagan, or, anecdotally, are you getting the feeling that this continues to trend up in this current financial year?

**Ms Fagan:** I don't have the quarterly report for robbery before me to make an informed decision on that at this stage. I can look at that trend and the period you're asking now and take that on notice.

**MR PRATT:** Yes, all right. Do you have any feeling that that increase in that year was perhaps home grown or are we looking at offenders coming from out of state?

**Ms Fagan:** I've got lots of feelings but I don't have the facts before me so it's speculative to present to the committee.

**MR PRATT:** So there is no further comment you can make as to what that increase represents?

**Mr Corbell:** I think the best thing to do is to get that data for you, Mr Pratt, and you can see that for yourself.

**MR PRATT:** That's fine.

**Mr Corbell:** I come back to the question Dr Foskey raised about arrests involving indigenous people. It's probably worth putting those figures in some context. The overall number of arrests has also increased over the time frame and there has been a commensurate increase in the number of indigenous arrests, so if you look at the numbers there you'll see that the total number of people taken into custody has increased over the past five-odd years, so it's not necessarily that surprising to see an increase also in the number of indigenous people arrested as a proportion. I think it's worth putting that in some context.

**THE CHAIR:** All right. Thank you, Ms Fagan, for your time and we'll now move on to the Director of Public Prosecutions.

Welcome, Mr Refshauge. We'll start at page 1 of the report. You say:

There remain challenges in the Supreme Court where the work of the Office sometimes seem to be met with apparent antipathy. No litigant, especially a frequent litigant, is entitled to special or more favourable treatment but a fair trial is the mark of a civilised society and a fair trial means that all litigants are treated with equality and fairness.

Firstly, minister, is that a reasonable criticism—that the Supreme Court sometimes shows antipathy to the DPP?

**Mr Corbell:** I'm not going to enter into this discussion. I'm sure that Mr Refshauge can elaborate on his comments and put them in the context that he wants them to be in. I have no criticism of either the courts or the DPP in this process. I think it's entirely reasonable for the DPP to make observations about the way their business is conducted, in the same way as the courts also are free to and do make comments on issues that they believe are relevant to their business.

**THE CHAIR:** Mr Refshauge, maybe you might want to elaborate for us. It has obviously received a bit of coverage but it's a pretty serious claim. Are you able to elaborate for us?

**Mr Refshauge:** Yes, I'm happy to do so. I think it needs to be put into context. The words I chose to put in my report were chosen very carefully and what I said was that there is an appearance; that the challenge is that our work—not our individuals but our work—seems to be met with antipathy. I'm not one who feels sour grapes at decisions I don't like, but the issue of our relationship with the Supreme Court is a complex one, for a combination of a whole range of factors. As I'm sure the committee would know, the appeal process is not one that is—appropriately I say—as available to me as it is, for instance, to a defendant. I can't appeal against an acquittal. There are proper but quite limited strictures on the appeals against sentencing and so, of course, there are situations where decisions are taken with which I don't agree; but I have no capacity to test those.

One of the important marks of accountability that judges claim is the appeal process, and of course that's not one that's accessible in most circumstances. So there are occasions when I am left in a position where a decision that I think is wrong is one that I'm unable to challenge and to check whether my view of that is correct or not. I don't believe that my level of professionalism means that I'm always wrong. I might sometimes be wrong and no doubt I am.

**MR STEFANIAK:** What law changes are needed then, Mr Refshauge, to give the prosecution a fair go there? I understand that there are different situations in other states, but what would be desirable law changes that would assist you in having a superior court test these issues?

**Mr Refshauge:** One of the options would be a limited but expanded right of appeal from acquittals, for instance where there is an issue of law at stake, equivalent to, for instance, the appeal process that is available in Western Australia, in Tasmania, in Canada and a number of other countries, so that where there is a possibility of a decision at law that has been made that is wrong that can be reviewed. At the present



time there is a mechanism for such a review but it's one that doesn't have any consequence in terms of the decision being changed, and the difficulty with that, of course, is that then the community is left with the position where the law might have been seen to be wrong and yet nothing can be done about the actual circumstances.

**MR STEFANIAK:** Basically the guilty person walks free.

**Mr Refshauge:** The other issue is that I regularly get feedback from my prosecutors and they feel when they go to court often as though there is no enthusiasm for them being there, as though they're engaged in an undesirable dispute or a tolerated but unwelcome necessity. Again, whether they have accurately assessed the reception that they get, it is something that needs to be fed back and this is a mechanism for feeding it back. As a result of this, the chief justice and I have had an exchange of letters and correspondence. We've got a meeting next week and we will discuss the matter. I've raised it but I have a statutory obligation to report to the government and the community on the environment in which we operate. There have been challenges in my office, there have been challenges about obtaining and retaining staff, and there are challenges about the environment in which we work and it's important that the community understands what we see as part of that environment.

**Mr Corbell:** Can I just say, too, that I think it's entirely appropriate that the director raise any concerns that he believes are appropriate and needed in the context of the work that his office does, in the same way that it's entirely appropriate for judicial officers to use forums available to them to raise issues of concern to the operations of their courts. I think that's healthy in a democracy and healthy in our city to have those concerns aired.

**MR STEFANIAK:** This is my last question on this issue, Mr Refshauge, and the annual report. There aren't that many cases in the Supreme Court each year. Could you tell the committee how often you have these problems; in what percentage of cases during the 2005-06 period did you have these problems with the court?

**Mr Refshauge:** I don't keep what I think in political terms, so you will understand, is called a dirt file, because that is not what I am on about, but what I am talking about is a recognition that the work that we do is not easy work. We make decisions that have two aspects to them. One is a professional aspect and one is, in fact, a limiting aspect. For instance, when I choose to prosecute, I cannot put myself in the shoes of the jury. I have got to leave decisions, properly, for the jury and that means that I run cases which often are difficult cases. Sometimes they fail. It is difficult when they fail for the accused person on being acquitted to be told by a judicial officer, for example, that it was an outrageous case, that it should never have been brought.

The case is more complicated than that. The issues that I have to deal with include issues about victims who may seem very credible when they are interviewed in the office and when they get into court may prove not to be able in that foreign, difficult environment to sustain the credibility that they have shown in prior consideration. At the end of the day the case may collapse, and so be it. I don't want, as has been suggested, any innocent person to be convicted. That is the last thing that I would want. But in taking a case forward, we try the best we can to assess the strength and the validity of the case and we do not take cases which professionally we think should

not be taken.

And then to be told by the court, “It is outrageous that the case was taken and, on behalf of the community, I apologise for you ever having been prosecuted,” is something which fails to take into account a lot of hard work, a lot of professional and conscientious consideration as to whether the case should be taken or not. If we were wrong, so be it, but I think it is inappropriate to make decisions like that which cannot possibly know the background to the consideration to prosecute in the first place, cannot possibly have any understanding of the circumstances in which the decision was originally taken.

**MR STEFANIAK:** Clearly, you cannot really say, though, how often that actually happens, but it is disturbing.

**Mr Refshauge:** It happens often enough for me to consider that it was a matter that needed public airing.

**MR STEFANIAK:** How often are cases taken from a jury by the trial judge?

**Mr Refshauge:** In 2005-06, more often than I was comfortable with.

**MR STEFANIAK:** Do you have stats on that?

**Mr Refshauge:** We have managed to deal with that very substantially. The number of cases where there was a directed acquittal in the last financial year was quite small.

**MR STEFANIAK:** Do you have that number?

**Mr Refshauge:** I don't have the number. If you are interested, I can get the comparative number of directed acquittals for the last two financial years, say.

**MR STEFANIAK:** That would be great, thank you.

**THE CHAIR:** I have one other question on that before we move on to other questions. You also raise the issue of defendants electing higher courts and issues around that. You say that there are good public policy reasons why this should be exceptional rather than frequent, and then you go on to say that it warrants further study. Are you suggesting that there is potential for some sort of legislative change that would assist here or are we talking more about an attitudinal shift or something that is systemic in the courts?

**Mr Refshauge:** I think there are some considerations that can ameliorate this. One legislative change would be, for example, if the level at which the election for summary trial were changed. At the moment an indictable offence is one which carries a penalty of 12 months imprisonment or more. If that were changed to two years or more, then common assaults, which seem to be the major issue, would fall within the summary only category. This is an issue that has been raised with me by the Supreme Court.

Despite my comment, we do have constant relations and conversations and it is a

matter that, in a sense, I am a little ambivalent about. Small cases such as assault cases are quite good cases to give to more junior prosecutors to learn, so it is actually not bad for me, necessarily, to have that option. But, as I said in my report, there are good public policy reasons for not having minor cases dealt with, with all the cost and panoply, in the Supreme Court and being dealt with in the Magistrates Court. The difficulty is that there are perceptions in the community about whether you are going to get a better go in one court or the other.

I have been criticised for making that suggestion. I regret that people feel the need to run for cover. Those are comments that are well known and often made within the legal community and I can understand those. Defence lawyers are perfectly entitled to make an assessment of where they think they will get a better hearing for their client and to do that. I am not suggesting whether they are right or wrong. I am simply saying that that is a reality that the community is entitled to know about and it raises issues of important public policy that the Supreme Court is concerned about and is an issue that the legislature may wish to consider.

**THE CHAIR:** Just finally on that, you would make no comment as to whether those perceptions are reasonable, then.

**Mr Refshauge:** I would make no comment about that.

**MR STEFANIAK:** How many people, on taking that option of trial by jury, change their plea to guilty once they get to the Supreme Court? Have you got figures on that?

**Mr Refshauge:** I do not have any figures about that. It might be a little difficult to obtain that information, but I can see whether I can obtain it.

**MR STEFANIAK:** Is that an issue in relation to this particular question?

**Mr Refshauge:** The issue that the Supreme Court have raised with me is really that they are dealing with minor matters.

**MR STEFANIAK:** I appreciate that.

**Mr Refshauge:** What concerns them more than the issue of changing plea is that, not having elected for a summary trial and then proceeded to trial on indictment, the constitutional advantage of that that accused persons are entitled to is trial by jury, and what annoys the Supreme Court often that has been drawn to my attention is that some of those people then elect for trial by judge alone. If they are asking for a judicial officer alone and not a jury, which is their constitutional right, they could do that perfectly happily before a magistrate.

**MR STEFANIAK:** Indeed. That is forum shopping, in other words.

**Mr Refshauge:** I think the accusation of forum shopping can legitimately be made in those circumstances.

**DR FOSKEY:** I begin by congratulating you on you double-sided photocopy and printing policy.

**Mr Refshauge:** Thank you.

**DR FOSKEY:** I hope that other departments will follow your example there. Secondly, just to do a little bit of nitpicking and seek clarification, on page 26 there is a table of concluded indictable and summary matters. For the second category, sex offences, there is a new court called “4 Court”. Is that something to do with tennis?

**Mr Refshauge:** I am sorry, that is the Children’s Court.

**DR FOSKEY:** We figured it was.

**Mr Refshauge:** No, you are quite right and I am sorry, I do apologise.

**DR FOSKEY:** That’s okay. You will be sorrier when I point out the next one. There seems to be a discrepancy between the figures for sex offences in table 1 on page 26 and what looks like it should be the same data in table 3 on page 29. For example, in table 3, there were 81 adult charges and 31 children’s charges in the Magistrates Court, a total of 112.

**Mr Refshauge:** Sorry, which table are you talking about?

**DR FOSKEY:** Table 3, adult charges.

**Mr Refshauge:** Sex offences upon adults or sex offences upon children?

**DR FOSKEY:** It says 81 adult charges and 31 children’s charges.

**Mr Refshauge:** Yes, I’ve got that.

**DR FOSKEY:** A total of 112. Going back to table 1, it lists 122 sex offence charges in the third column.

**Mr Refshauge:** Yes.

**DR FOSKEY:** What has happened? Has there been a problem transferring the data across, are there 10 unaccounted for, or are we talking about apples and oranges?

**Mr Refshauge:** I don’t know the answer to that. It looks as though it might be a transposition error. I will have that investigated. Yes, you are right, I am more embarrassed about that one, but I will have that checked out.

**DR FOSKEY:** Thanks. Don’t worry about that now. As I said, it is just nitpicking.

**Mr Refshauge:** I will have that looked at. If you add 81, 31 and 10, you get 122, don’t you?

**DR FOSKEY:** Yes.

**Mr Refshauge:** And that is what it is in table 1 and in table 3: 81, plus 31, plus 10 is

122.

**DR FOSKEY:** Yes. That is my staff member's problem there.

**Mr Refshauge:** Having said that, I will tell you where there is a transposition error, and that is in the total on table 1. The 184 and the 161 should be the same. I will look at those two tables and give you an answer.

**DR FOSKEY:** I am incredibly embarrassed about the first one, but let's see who gets embarrassed about this one. The totals for proved sex offences between the two tables tally if you add in the child pornography tally in table 3.

**Mr Refshauge:** Correct.

**DR FOSKEY:** But that does not work for the Magistrate's Court charges, which would be five short if you add the pornography charges.

**Mr Refshauge:** Rather than trying to do the maths now, can I look at those and let you know?

**DR FOSKEY:** Yes, just look at it later. I am interested in exploring issues around sex offences and the conviction rate for sex offences, and this is not a comment on the jurisdiction because it is across jurisdictions. It is by far the lowest conviction rate for all the categories of offences.

**Mr Refshauge:** Yes, it is.

**DR FOSKEY:** I just wonder whether you feel that a high proportion of the sexual offence allegations that proceed to prosecution are actually well founded and, through the legal processes and the use of those, some people who are actually perpetrators are escaping justice. I know it is a hard one for you to comment on.

**Mr Refshauge:** I am looking at Ms MacDonald and trying to think how I can answer this very quickly and succinctly, but if I may say this, and it picks up something I said earlier: we do very carefully prepare to the best of our time availability cases where we can, particularly in relation to sex offences. Ultimately, most sex offences occur in private between the victim and the alleged perpetrator and, unless there is additional evidence that can be obtained to support the allegation, it tends to be oath on oath, and that depends then upon the credibility of the complainant. In many cases, the issue will be one of consent and it is very difficult, unless there are overt signs of violence, for example, for there to be corroborative signs justifying consent.

My view, and I think the view of most prosecutors, is that it would not be proper for us to take the view, which would be very seductive and very attractive, that, just because there is only a complainant's version and no additional corroborative evidence, we should refuse to prosecute those cases. We try to go further and say every complaint should not be prosecuted, because there will be complaints that will not be credible. That doesn't mean they are not true. They may well be true but unless you have got some additional factor than the complaint—and the additional factor would be, for instance, corroboration; if you don't have that, at least credibility and

perceived credibility in the complainant—then we should not put the accused person through the considerable trauma and perhaps public humiliation of a trial.

But, by the same token, we have got to be fair to the victim and, simply because a victim is in the unfortunate situation of having refused to consent but not, as she is not required to do, having fought and struggled to the extent of receiving violent corroboration by injury or otherwise, she should not be denied the right to have the assault on her vindicated and the crime perpetrated on her punished. It is very difficult, but that is why there are so many cases where there is an acquittal, because juries faced with a really difficult decision of whether to believe the complainant or whether there is a reasonable doubt will obviously in many cases find a reasonable doubt, but I don't think it is our function to replace the jury and, where there are sufficient indicia to say that there is a reasonable prospect of a conviction, we should endeavour to vindicate and validate, if true, the outrageous violation of a woman's right to integrity when a complaint is made.

**DR FOSKEY:** I want to move on—I know everyone here is cursing me—to public order offences. There is a table on that on pages 34 and 35. There has been a very interesting and rather worrying rise in some of these offences. Most particularly, weapons offences have gone from five to 42, firearm offences from 29 to 53, and offensive weapon offences from 54 to 106. I am not sure whether that includes the two aforementioned.

**Mr Refshauge:** No, they would be separate.

**DR FOSKEY:** Contrary to what Mr Pratt said earlier, knife offences, from your report anyway, are well down and so are trespass offences.

**Mr Refshauge:** Yes.

**DR FOSKEY:** I just wonder whether you have any thoughts—again, I suppose it is speculation, though you may have the evidence of the cases—on why there are those huge increases? The firearms offences have nearly doubled. Given the gun laws and the concern that we have there, that might be particularly worrying.

**Mr Refshauge:** It may be that some of the knife offences have this year been included in the weapons offences. That does not make a huge change, it does not make a change to your point, but it may explain why there was such a huge drop between the two years. I think this is an issue really of criminology rather than of prosecution and I do not have a view about why we are getting so many through. I can speculate, but I am really in no better position than any other member of the community.

**DR FOSKEY:** And we don't have any criminologists working on it.

**Mr Refshauge:** No.

**THE CHAIR:** Thank you. I am mindful of the time. I think Mr Stefaniak has another quick question.

**MR STEFANIAK:** Yes, I have. On page 3, you forecast that the ACT Human Rights

Act will play a more critical role in bail decisions. Is the ACT Human Rights Act likely, in your view, to lead to more defendants gaining bail?

**Mr Corbell:** Oh, come off it, Mr Stefaniak!

**MR STEFANIAK:** Have you noticed that in terms of the—

**Mr Corbell:** That is a hypothetical question.

**THE CHAIR:** It is a legitimate question.

**Mr Refshauge:** I think that is really difficult to predict. I think it will arise as an issue more frequently.

**MR STEFANIAK:** Has it been an issue to date?

**Mr Refshauge:** It is probably the decision where reference to the Human Rights Act is more frequently made, but I don't note a worrying trend, I don't note a particular trend, in more grants of bail than previously.

**MR STEFANIAK:** My final question is on pages 11 and 12. Have there been further incidents of accused changing their plea from guilty to not guilty? You state that the office had received two applications to change a plea from guilty to not guilty after a conviction had been recorded. When you did the report, you said that had not been heard by the court and you were worried about a trend emerging there.

**Mr Refshauge:** Yes. No trend has so far emerged. One of those cases is on appeal and that might help to raise it, but there needs to be some finality in proceedings and we hope that the principle of the common law that changes of plea are exceptional rather than usual would be applied.

**THE CHAIR:** Thank you, Mr Refshauge. Thank you, minister. We will bring it to a close there.

**The committee adjourned at 1.28 pm.**