LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Auditor-General's report No 4 of 2005: *Courts administration*)

Members:

DR D FOSKEY (The Chair)
MS K MacDONALD (The Deputy Chair)
MR R MULCAHY

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 7 NOVEMBER 2007

Secretary to the committee:
Mr H Finlay (Ph: 6205 0136)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

The committee met at 2.04 pm.

JORGENSEN, MR HUGH, Registrar, ACT Magistrates Court

THE CHAIR: Good afternoon, Mr Jorgensen. Thank you for appearing today. I will read the following 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 in the Assembly. 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.

Mr Jorgensen, you would be aware that we have been conducting an inquiry into the Auditor-General's report on courts administration for a couple of years.

Mr Jorgensen: Yes, it has been out for some time.

THE CHAIR: Your appointment has been for part of that time and we have not yet had you appear before us as a witness, so we thought it would be appropriate, before we wind up the inquiry, which it is planned to do after this hearing, to hear from you and to check what changes there have been since the Auditor-General reported. Do you want to start by making a statement?

Mr Jorgensen: I am happy to start by making a few brief comments. I was initially appointed in October 2006 as an acting appointment. I then acted in the position of Registrar of the Magistrates Court until March this year, when I was appointed on a five-year executive contract. I have been at the courts for about 12 months and I have had an opportunity to be involved in some of the changes that we are making that are flowing from the Auditor-General's report. You would have heard evidence from the chief executive and the courts administrator about some of the things that we are looking at in terms of implementation of the Auditor-General's report.

My background is as a practising lawyer. I have practised law in the territory since 1989, initially in private practice as a family lawyer. I was required to do that for my sins and practised in family law for about six years. I then joined the ACT Government Solicitor's Office in 1995 and practised with the ACT Government

Solicitor from 1995 until 2006. As a practising lawyer and as someone who has now worked in the court system, I am in a good position to see how courts operate from both a user perspective and as someone who is at the coalface of delivering the services that the courts deliver. So that is where we are at the moment.

THE CHAIR: Is there any difference between the duty statement that you work to and the one that your predecessor worked to?

Mr Jorgensen: Somewhat, in that under my arrangements I am required to enter into a performance agreement with the chief executive.

THE CHAIR: Of JACS?

Mr Jorgensen: Yes, that is right. I am answerable to the chief executive in one respect but as a statutory officer I am also responsible to the Chief Magistrate. My performance agreement—and we are in the process of negotiating that performance agreement—will generally cover that duality of role, in that I am part of the department as well as being answerable to the Chief Magistrate and report to him on various parts of my role.

THE CHAIR: One of the concerns that the Auditor-General raised was about the fact that the earlier role reported to a number of different people. Has that been simplified to some extent? One of the concerns was the lack of clarity. I quote from the report:

> Clear accountability is difficult to achieve. The Courts Administrator has conflicting accountabilities to the Attorney-General, the Chief Executive of JACS, the Chief Justice, and the Chief Magistrate.

Have any of those dropped out of the—

Mr Jorgensen: I do not think they have dropped out. The court registrar's position is essentially independent in the sense of its quasi-judicial functions—that is, when it is exercising jurisdiction as a court and dealing with it as a court. That quasi-judicial function is always going to be independent from interference by executive government. In the 12 months that I have been there, I have not seen any evidence to suggest there has been any possibility of any interference from the executive government in terms of how the court exercises its judicial functions.

However, ultimately the executive has to pay for the services that the court delivers, so there has to be an overlap or discussion with the government about how those services are funded and whether the funding arrangements are satisfactory. But in my role, whilst I am involved to some degree in those discussions, it is really a matter for the courts administrator to negotiate with the executive government about how those funding arrangements are put in place and how services are funded.

MR MULCAHY: Mr Jorgensen, I have one matter that I want to raise, but I qualify it by saying that I am quoting what has been put rather than necessarily what I believe. I have had the benefit of getting to know, through this inquiry, some of the magistrates and also some Supreme Court judges. I have certainly had my view of the world well informed as a result of talking to them. I know through that knowledge that the issue

of timeliness of matters going through the courts is far more complex than I think a lot of people recognise.

Given that I am aware of that, I would still invite your comment on pages 31 and 37 of the Auditor-General's report. She says that the ACT Magistrates Court had the highest proportion of its cases taking longer to finalise than other states and territories. Moreover, this does not appear to be true of all ACT courts, as the report also states that the Supreme Court of the ACT is close in timeliness to the average of other states. The report found that the ACT Magistrates Court finalised only 16.8 per cent of cases within six weeks compared to 44 per cent of cases nationally. The report concluded that the ACT Magistrates Court finalised only 76 per cent of cases within 26 weeks compared to 90 per cent of cases nationally.

Would you like to give the committee, now that you have been in your role for a little while, your view on the alleged relative poorer performance compared to the national average? What steps has the court taken since the Auditor-General's report to improve the time in which it finalises its cases, if indeed it is able to make those changes on its own initiative?

Mr Jorgensen: I guess the starting point is that these figures are only looking at the criminal jurisdiction of the court as opposed to other areas of the court. The distinction between this particular court and all the other jurisdictions is the variety of jurisdictions which this court has to deal with.

MR MULCAHY: Such as workers comp?

Mr Jorgensen: Yes, but our courts and tribunals deal with a whole range of things that in other jurisdictions are dealt with by stand-alone, separate courts.

MR MULCAHY: So it is not really comparing apples with apples.

Mr Jorgensen: If they are taken from the ABS statistics, it is comparing apples with apples because it is only fixed on the criminal courts. If we compare it to, say, New South Wales, where you have a local court, a district court, courts of criminal appeal and then the Supreme Court, that intermediate district court is taken out of the equation. Many of the matters that are dealt with in the district court are dealt with in our Magistrates Court.

However, I think the ABS statistics do build in a type of leveller, if you like, so that you are comparing apples with apples. The stats that go to the ABS, as best they can, along with the ROGS stats and data, try to level it so you are comparing apples with apples and jurisdictions with jurisdictions. If we take the stats as being accurate and comparing apples with apples, as I think you have heard, a whole range of reasons might contribute to cases falling out. In many instances the DPP, for whatever reason, says the trial or the hearing falls over or a witness is not available or the charges are withdrawn at the last minute.

Since 1 August, we have implemented a new listing arrangement for all of our criminal matters. Firstly, our daily callover list has been changed somewhat so that a deputy registrar does a callover before a magistrate does their callover. We have

enhanced the registrar's and deputy registrar's powers to deal with those matters that can be dealt with quickly and easily without taking up a magistrate's time, when previously they were having to be dealt with by a magistrate.

The second part of this new listing arrangement is a greater case management involvement from the time that matters are recognised or noted as being defended. That is where I think you will find that cases tend to be dragging on—there are forensic delays in completion of evidence from the police perspective. It has been the source of some comment and complaint from magistrates: "Why is this taking so long? Why are the police taking so long to get their forensics in order?"

From the court's perspective, we are trying to more effectively case manage those types of matters so that we monitor them. We have a legal officer who is involved in the listings unit whose role it is to monitor those particular cases once they are identified as being a defended matter. So once a defendant indicates that it will be a defended matter then it is that legal officer's job to contact the DPP and the defence and ensure that, if arrangements are made to set the matter down for hearing, those arrangements are being followed and complied with so that the matter can proceed. It does involve a greater case management model from the court's perspective because hitherto there was no ongoing involvement from court staff about the monitoring of those cases.

MR MULCAHY: Do you suspect that 12 months from now we are going to start to see the numbers improve in terms of any of the statistical work that is done?

Mr Jorgensen: I would like to think so.

MR MULCAHY: Your sense is that it is starting to be a little bit more efficient?

Mr Jorgensen: Yes, I mean, obviously we have only had this new system now for about three months—just over three months. We have had many discussions on the data collection to assess how we can evaluate that new arrangement, because that is going to be very important in terms of its overall evaluation as to whether it is successful or not in achieving the desired outcomes. One of them is to streamline the magistrate's time on a daily basis, but another is to reduce that statistical percentage, if you like, of the length of finalising the matters.

MR MULCAHY: The Auditor-General's report recommended at page 42 that the LC&T unit should analyse better practices from other jurisdictions and advise the judiciary on ways to reduce costs. Notwithstanding whether or not one agrees with the better practices being in other jurisdictions, has the Magistrates Court received any advice of that nature?

Mr Jorgensen: I have attended meetings with the Chief Magistrate who regularly, on a six-monthly basis, consults or has a meeting of all the jurisdictions, and at those meetings there is a degree of networking about what other jurisdictions are doing in terms of practice management. Those meetings are useful in that perspective to get ideas and feedback. We have had a number of positive things come out of those meetings. For example, at the last meeting, which was held in Melbourne, we visited the neighbourhood justice centre in Collingwood, which is an initiative of the

Victorian government, to look at the delivery of justice services from a more holistic community type approach.

Traditionally, the role of a court is to dispense the justice. So, in the criminal justice sphere it is. "What is the offence? Here's your sentence. Go away." With the neighbourhood justice centre approach, it is more holistic perhaps in terms of, "Well, why did you commit these offences? We are going to find you guilty, but we are also going to link you into services that can assist the underlying cause perhaps of your criminality." Some might argue that it is a little too touchy-feely for the criminal justice sphere to be getting into that.

Bear in mind that the Victorian government put about $32 million into setting up the neighbourhood justice centre. I think that equates to more than the budget for our law courts and tribunals in any given year. So, in terms of funding, that is a fairly expensive exercise. Bear in mind also, of course, that it only affects a geography of some 100,000 people. So the neighbourhood justice centre was designed to work in the city of Yarra, which has about 100,000 people. But it is an interesting approach to the delivery of justice services. But that is just one example.

MR MULCAHY: A few lessons there in terms of cost-benefit, though. Even though it might be a nice experience for a lot of people involved, what you are saying is it is a very, very expensive indulgence possibly?

Mr Jorgensen: Well, you have to weigh up, like anything, the cost-benefit analysis of something. I think we recognise that this is all very good and well and it is useful to have that sort of information, but how you translate it to how we conduct ourselves in the territory is another thing. If you were just to transplant it here for a population of 350,000, or whatever our current population is, it means the economies of scale are a little bit difficult. But, that said, it is useful to get that sort of information from other jurisdictions. Even if it means using some of those services or that we can do some of the things that they do then it can be of some benefit.

MR MULCAHY: That is all I have.

Mr Jorgensen: I know the Auditor-General was looking at the Children's Court in her recommendations; she talks about particular attention to the Children's Court. I have spoken with the magistrate who is responsible—the designated Children's Court Magistrate, Peter Dingwall—and we are keen to perhaps develop greater practices and procedures that are going to be more efficient for the Children's Court in the future, bearing in mind the dual jurisdiction of the Children's Court: one, the care and protection side; and the other, the criminal justice side. Peter has gone on a conference this year to pick up more ideas as to what they are doing in other jurisdictions and, in fact, in other parts of the South Pacific. We feel there is a lot more work to be done in the Children's Court area because, from a user perspective in terms of information to the public, there is a lot of work to be done in the development of proper case management procedures which hitherto we simply do not have.

THE CHAIR: I have got quite a few questions, because this is an opportunity for us to find out how many of the Auditor-General's recommendations have been implemented. Given that the government agreed to practically all of them, we should

be seeing some progress, I would assume.

Mr Jorgensen: Yes.

THE CHAIR: I hope—I start with hope. An overarching comment that the report made is that efficiencies are possible in management of case flow, finance, human resources and registry functions. You have touched on some of those things, but could you just say whether there have been any changes in any of those areas and also outline the extent to which they are based on the Auditor-General's report and/or the Wallace and Hall review on court listings of August 2005 or other sources?

Mr Jorgensen: In terms of efficiencies of the structure, following the Auditor-General's report there was a significant overhaul of all aspects of the registries' functions. That overhaul was essentially to streamline a lot of the registries' functions in terms of staffing and the responsibilities and duties of staff within the registries. That overhaul required a significant look at what work people were doing, whether they were productive or otherwise, what services they were delivering and whether we could do it better. That happened prior to me arriving at the courts, but it has been recently finalised. All of those positions have now been set, and there is a greater streamlining, I suppose, of reporting in terms of a clarity about which officers report to which officers and which units report to which units, managers and that sort of thing. So it created a more streamlined and effective response from a staff perspective in terms of the more efficient running of the registry and the various roles that people played within it.

As I said, in terms of listings, we have implemented the new criminal listing arrangements, which we hope will be the starting point for reducing some of those waiting list times and being more effective in terms of the service that we deliver to the community.

THE CHAIR: Does that require more human resources, because it sounds a lot more intensive?

Mr Jorgensen: No, I do not think it does. The staffing that we have got within our listings unit is more than adequate to deliver the sort of outcomes that we need to deliver.

THE CHAIR: It is just a matter of focusing?

Mr Jorgensen: Well, it is a matter of focusing; it is a matter of getting the right people doing the right jobs. There was an old saying that if you get the right people doing the right jobs then everything will work itself out. I think there is a lot of truth in that, because at the moment we can achieve so much with that listings unit with the staffing that has been allocated to it. We are hopeful that, as I said, after a period where we can review it—we are having some ongoing meetings to review the first three months of it—we will have some cogent statistics. We need to have that supported by some statistical basis of how it is going in terms of its progress. The difficulty with that, of course, is that in many respects we do not have a lot to compare it to. We are hopeful that perhaps after six months we will be given some idea about how that system is operating.

THE CHAIR: Was the Wallace and Hall review quite important in reviewing the way listing was implemented?

Mr Jorgensen: It raised some helpful issues, but a lot of the impetus for the new arrangement was sort of an initiative of the coordinating magistrate, John Burns. He has driven, to a large degree, with the assistance and support of the Chief Magistrate, a new arrangement whereby a magistrate's time can be used more effectively and we can effectively get more cases through.

The main complaint from an outsider might be that you have got a lot of magistrates sitting around, and the average was 2½ hours of court time a day. Now, whilst as a glib sort of comment you might say, "Well, I'd like to only work 2½ hours a day and get paid all that money," and members of the public say that is not exactly desirable, there are many explanations for that. Anything can be rationalised, of course, but, in terms of effective use of that particular time, we think that the case management model is a better way of doing it, because you have someone being more intensive and following things up, so the chances of things falling out at the last minute are significantly reduced because of a greater case management of that particular matter by someone throughout the process. Often you will find that cases will fall out and a magistrate might have three or four defended matters listed for a day, and if they were all to proceed, the day would be fully occupied.

THE CHAIR: How many hours would you think such a day would involve in terms of court time?

Mr Jorgensen: Well, let us say the average court day was going from 10.00 till 1.00 then 2.00 till 4.00. So there you have got five hours, essentially, of listing time that you might list for. There is a tendency in some courts to what we call overlist. If you have a matter that is going to run two hours, another one is going to run two hours, another one is going to run two hours, you might, say, put three in on the one day on the basis that they will all proceed. Of those three matters, one might fall out because the prosecution does not proceed. The second one might fall out because the defendant at the last minute decides to plead guilty, and it goes from being a two-hour defended matter to a 15-minute sentence. The third one might not proceed because it might go for a half an hour and then a key witness is unavailable.

There is a whole range of things, but we have to think how you stop that sort of situation. You will never stop it; you will never reduce it entirely. But what you can do, as I have said, is monitor the matter at an earlier stage and reduce the risk of that sort of fall out occurring by more active case management up to the time that the hearing is set. With that you can then get an idea. Even if it is a week or two beforehand when someone says, "Look, he's not going to go ahead with his defence; he's pleading guilty," you are then in a better position to perhaps rearrange something and slot another trial in there and rearrange the court's time. So, in terms of it being a tool to at least reducing that risk, then that is what we are aiming for.

THE CHAIR: I look forward to the evaluation of that, and I hope it does work.

Mr Jorgensen: Well, we all do.

THE CHAIR: Yes, it sounds as though it should. One of the other concerns was financial accountability. Just in my conversations with some of the magistrates and various judges, concerns have been raised about where decisions are made about expenditure. In some cases they might be made by JACS and in others they are made in the courts. Is there a greater clarity about which area is responsible for which part of finances, and has that ceased to be a problem?

Mr Jorgensen: I am not sure if you have seen the memorandum of understanding that has been signed by the magistrates. I have got a copy here if you want.

THE CHAIR: We would love it if you could table that.

Mr Jorgensen: I am happy to do that. It is a memorandum of understanding between ACT law courts and the department which basically sets out the framework underpinning the relationships between the department, the Chief Justice of the Supreme Court and the Chief Magistrate. That memorandum of understanding basically underpins what the arrangements are going to be in terms of finances, in terms of responsibility for various things affecting the law courts and tribunals, and it establishes the courts governance committee, which was another of the Auditor-General's recommendations.

MS MacDONALD: When was the MOU dated?

Mr Jorgensen: It was dated 23 May this year. On 23 May it was signed by the chief executive, the Chief Justice of the Supreme Court, the President of the Court of Appeal and the Chief Magistrate. Attached to it are the roles, responsibilities and governance arrangements in terms of the parties. I am happy to table a copy.

THE CHAIR: Thank you; that is extremely pertinent. What was the process by which that MOU came into existence?

Mr Jorgensen: It started with the courts governance committee. It was part of the Auditor-General's report that there be this courts governance committee. Through those committee discussions, a memorandum was developed by the various parties. I was not privy to any of those discussions but they were undertaken between the chief executive, the Chief Justice and the Chief Magistrate.

THE CHAIR: Do you feel that it covers those issues about financial—

Mr Jorgensen: Yes.

THE CHAIR: The Auditor-General recommended that a risk management plan be developed. Do you feel that one is necessary and has one been developed or is there a process for one?

Mr Jorgensen: My personal view is that when we are talking about risks and identifying risks, those are something that really can be dealt with at a departmental level and can be absorbed into any risks that might be met by the department. I was not quite sure of what the Auditor-General was talking about when she talked about a

risk management plan.

THE CHAIR: She generally suggests that there be one.

Mr Jorgensen: But it depends what risk it is aimed at ameliorating. If it is a risk of litigation against the courts, that happens from time to time. Generally, the department, in terms of a financial level, will wear it, in terms of any insurance protection that the courts have as an agency of the department. If it is a risk in terms of buildings and things like that, again, it is really more appropriately dealt with at a departmental level. So I must say I am a little confused. Without further direction and guidance as to what the risks were that we were seeking to manage or ameliorate, I would have thought there would be no need to develop it, other than in concert with the department's risk management team.

THE CHAIR: Certainly, the department does agree to develop one. It is an obligation from the department because the ACT government has said

> Chief Executives are responsible for developing risk management strategies and practices within their agencies and for ensuring that these strategies are communicated to and practised by all employees.

So we have an assurance that one will be developed. It will be interesting to see whether the courts are involved closely in that.

Mr Jorgensen: I do not have a philosophical objection about not being involved. I am more than happy; I think it would be better to bring it in at a departmental level rather than at an operational level at the courts' end.

THE CHAIR: In answer to Mr Mulcahy's question, you talked about the length of time, by a factor of nearly three, taken to complete cases in the Magistrates Court.

Mr Jorgensen: Yes.

THE CHAIR: While it was close to average in the Supreme Court, do you think that those differences are explained by the kinds of cases that are involved in each court?

Mr Jorgensen: It is more like comparing apples and oranges. The criminal workload, in terms of sheer volume of work, is greater in the Magistrates Court than in the Supreme Court, because the Supreme Court will only deal with the more serious cases, as opposed to the Magistrates Court, which is the summary court and therefore is dealing with the less serious cases. Many cases progress from the Magistrates Court to the Supreme Court, such as by way of committal, and it is difficult to make comparisons about the various performances of the Supreme Court and the Magistrates Court, only because of the—

THE CHAIR: It is about the kinds of cases?

Mr Jorgensen: Absolutely.

THE CHAIR: It was also said that the courts provide little information to the ACT

community. It was suggested that an annual report be prepared. I know that JACS covers the courts in its annual report.

Mr Jorgensen: Yes. Effectively, we prepare that report for inclusion in the JACS report.

THE CHAIR: It does have financial reports separately? I only have volume 1 here.

Mr Jorgensen: No, I do not think the unit is reported on separately financially.

THE CHAIR: Yes. That has always been something that we have thought could be changed.

Mr Jorgensen: Yes.

THE CHAIR: It might be something that the magistrates would like to see done differently, too.

Mr Jorgensen: Yes, I am sure they would. They are really matters, I suppose, for the courts administrator to assess whether there ought to be separate financial reporting, purely from the law courts' and tribunals' perspective.

THE CHAIR: You have got a website, haven't you?

Mr Jorgensen: Yes.

THE CHAIR: That is a fairly major way of keeping in touch and communicating?

Mr Jorgensen: Yes, the website is a very important tool for communicating to the public about the services that all of our courts provide. There had been some criticism of the usefulness of the website. We are currently undertaking a significant revamp of that website. Again, that is a resources issue, but there are certainly ways that we can improve our website, and have in fact done so, in response to some criticisms that it does not contain certain information that members of the public in particular would find useful.

I refer, for example, to information about the Small Claims Court. We have that information to be able to give to members of the public who come to the court, but we do not necessarily have it on our website. Therefore we are in the process of putting all of that information on the website, as well as having it available to members of the public, so that those who, for whatever reason, cannot come into the court can access it via the website.

Our website has been improved but certainly it is capable of greater improvement. If you compare it to other courts' websites, the Family Court's website, for example, is always put forward as the model in terms of communication and what a court's website ought to be, in a perfect world. We have certainly had a look at that website, but again there are resourcing issues.

THE CHAIR: That is something that would happen from within the courts

administration, rather than JACS seeing it as a responsibility.

Mr Jorgensen: We would certainly see it as our responsibility to improve and enhance our website. In fact, our legal policy officer currently has that as an agenda item in his responsibilities—whether we are achieving what we want to achieve with it, whether it can be improved, which it can, how we improve it and what we can do to improve it.

THE CHAIR: The Auditor-General suggested that ICT was an area that needed more resources or more work. I expect it is primarily a resource issue but in a conversation I had with Justice Higgins he indicated that there were some frustrations in terms of the court not having its own system, and being part of the InTACT system. Do you see any problems with being part of the ACT system?

Mr Jorgensen: None at all, in fact.

THE CHAIR: What about cost? He might have felt it could have been done more cheaply with an internal system.

MR MULCAHY: Are you aware of the security issue that was raised regarding a technician who had a background before the courts and who was working on the computer of one of the Supreme Court judges? I thought that was one of the more compelling arguments, apart from cost.

Mr Jorgensen: Yes, that there was a need for greater security.

MR MULCAHY: More stand-alone systems.

Mr Jorgensen: I am not a computer expert. I would have thought we would have sufficient technological expertise within InTACT and the ACT government's resources to ensure that situations like that are prevented or even eliminated in terms of what they can achieve. You would need to do a bit more analysis of what you were trying to achieve with a stand-alone system and then determine whether you could achieve it within the existing framework or whether you would need to implement something that would be on a more secure footing. I do not have any concerns about that at the moment but—

THE CHAIR: Obviously, the website is part of that issue. I guess it is a matter of one thing at a time. In terms of InTACT, it clearly did not have the ability, in the case that Mr Mulcahy mentioned, to prevent that happening. The fact is that it can act afterwards.

Mr Jorgensen: I would be genuinely surprised about that.

MR MULCAHY: Surprised by what?

Mr Jorgensen: Surprised that we would not have the expertise available within InTACT to stop that sort of situation occurring.

MR MULCAHY: I think it should have been stopped. It spoke somewhat about their

own management—the fact that somebody who was known to the courts could end up working on a terminal that belonged to a judge. That was the real issue that the particular judge raised with me. You can put systems in and you should be doing background checks on people; all of these things ought to happen. But the fact is it did not happen and potentially a fairly serious situation arose as a consequence of that failure in the system.

Mr Jorgensen: The system may need some analysis.

MR MULCAHY: Has anything been done in that regard?

Mr Jorgensen: Not to my knowledge. Obviously, that is a Supreme Court matter.

MR MULCAHY: Okay, it is not really your bailiwick.

Mr Jorgensen: It is not my bailiwick, no. I deal with the Magistrates Court.

MR MULCAHY: But it could arise, I guess, just as easily. Somebody who had been a client of your courts could just as easily end up working on one of the Chief Magistrate's computers or something when he is writing judgements.

Mr Jorgensen: Yes it is possible. I guess I would need to know more about the technological side of how that could happen and then get some advice from our IT people. We have InTACT officers who are solely stationed at the courts, in the Magistrates Court, and I would need to get some advice from them and present them with a scenario and say, "Well, are there ways that we can prevent this? Should we put in place measures to stop something like this?"

MR MULCAHY: So background checks are the way? That is what you really need to do. The question is: are they being done now or not?

Mr Jorgensen: Background checks into what?

MR MULCAHY: The people who are working on your technical resources.

Mr Jorgensen: Well, I mean, they are InTACT employees so—

MR MULCAHY: I think it was a contractor who was the cause of this issue.

Mr Jorgensen: Well, as far as I am aware, the people who are working on our systems are contractors. We rely on InTACT to deliver us the services, if you like. To be honest, I am not aware of the precise nature of what occurred in that particular instance, but, certainly, if it was an issue, then we ought to address it.

MR MULCAHY: I will not go into detail in a public hearing, but I am happy to talk to you about what has been relayed to me by one of the members of the Supreme Court.

THE CHAIR: One of the other issues raised by the Auditor-General was that there was little evidence that complaints were followed up or progress made on them

reported to the complainant. That would seem to be a fairly major concern. Any progress?

Mr Jorgensen: I must say I again was somewhat bemused by the Auditor-General's finding in that regard, because when I joined the courts, it was not apparent to me that complaints had not been answered. In effect, we get a whole range of complaints on a whole range of matters. The Auditor-General talks about having a proper complaints management procedure and having that implemented. In its simplest form, a complaints management procedure would be that someone complains, the complaint is answered by somebody, it is responded to, and if there is any action that needs to be taken it is taken. Now, in its simplest form, that is a complaint management response and a complaint management system.

We have had a look at the Ombudsman's guide. The difficulty we have had about producing a complaint management procedure based on the Ombudsman's guide is that we found it did not quite translate to our core services. Often you will get a complaint from a disgruntled litigant who might complain perhaps to me or perhaps to the Chief Magistrate about so-and-so magistrate: "Who didn't give me a fair run in court. He was biased, this and that." Regrettably, the only response to that—aside from investigation by the Chief Magistrate as to what actually happened in court and perhaps obtaining the transcript to see what was said—is to say, "Well, that was the decision of the court. You have a right of appeal. If you did not like the decision or you are unhappy with the decision, then you could appeal that decision to the Supreme Court."

Where the complaint is perhaps about the way a magistrate conducts himself or herself in court, then, no doubt, the Chief Magistrate will be informed of that complaint and may take action against a particular magistrate, depending on what was said et cetera. That, ultimately, is a matter for the Chief Magistrate to deal with and to respond to that complainant. In many respects, he will ask me to respond on his behalf.

So, whilst that recommendation of the Auditor-General is something that the government did agree to and we are in the process of developing an administrative procedure for it, it is not as simple as saying, "Well, we'll just adopt the Ombudsman's good practice guide to complaint handling." We found it did not quite translate to the variety of complaints that we get, bearing in mind that the Ombudsman's core business is answering complaints or responding to complaints. Our core business is service delivery to the public. We get a variety of complaints, and, as I said, in its simplest form, such a procedure would be that the complaint comes in, it is investigated, the complainant receives a response—

THE CHAIR: That is the thing that I think she was commenting on—the complainant did not necessarily ever know what happened to the complaint.

Mr Jorgensen: Any proper complaints response must have that as a component—that the complainant is informed if no action was being taken. As I said, when I joined the courts, there was no evidence that complainants had not been responded to. However that was her finding.

THE CHAIR: That could be the problem—no evidence.

Mr Jorgensen: Just to finish that, Dr Foskey, that still is very much part of our focus, to develop a procedure. Whether we adopt the good practice guide or whether it is a modified form of complaint procedure will depend on the development of that, but we hope to have that developed shortly and finalised shortly.

THE CHAIR: We have run out of time, more or less. But I was just wondering about the LC&T unit. Is that still the name in the part of JACS that administers the courts?

Mr Jorgensen: Well, ACT Law Courts and Tribunals, yes.

THE CHAIR: So that is still LC&T and is part of JACS, because it is not—

Mr Jorgensen: I think you will find in the annual report that it is just headed ACT Law Courts and Tribunals.

THE CHAIR: Yes it is.

Mr Jorgensen: The LC&T unit is just shorthand.

THE CHAIR: It is just that some of the recommendations refer to it directly. The Auditor-General thought there was a lack of senior officers in the magistrates registry and a high level of temporary and acting positions.

Mr Jorgensen: Yes. I think, as I said, with that registry restructure, we have now finalised our senior levels, if you like. A legal 2 policy officer is in place, and has been since September, and we have now got all of those senior positions on as permanent officers. So I think you will find that that situation has been dealt with.

THE CHAIR: That is good. I want to thank you very much for giving us your time. Clearly, you are a very busy person. It would seem that progress is occurring. Certainly, changes have been made. You will be sent a copy of the transcript, Mr Jorgensen, just to check that it is a true and accurate record of what you said.

Mr Jorgensen: Thank you.

THE CHAIR: We look forward to that, and you can look forward to our report.

Mr Jorgensen: Thanks very much.

The committee adjourned at 3.01pm.