LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Annual and financial reports 2010-2011)

Members:

MRS V DUNNE (The Chair)
MR J HARGREAVES (The Deputy Chair)
MS M HUNTER

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 23 NOVEMBER 2011

Secretary to the committee:
Dr B Lloyd (Ph: 6205 0137)

By authority of the Legislative Assembly for the Australian Capital Territory

APPEARANCES

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Amended 9 August 2011

The committee met at 10.04 am.

Appearances:

Corbell, Mr Simon, Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development

Justice and Community Safety Directorate
Playford, Ms Alison, Deputy Director-General, Justice
White, Mr Jon, Director of Public Prosecutions
Green, Mr Phillip, Electoral Commissioner, ACT Electoral Commission
Phillips, Ms Anita, Public Advocate of the ACT
Crockett, Mr Andrew, Chief Executive Officer, Legal Aid Commission

THE CHAIR: Good morning, and welcome to the fourth hearing of the justice and community safety committee's inquiry into the annual and financial reports. This morning we are going to hear from a range of statutory officers. We welcome the Director of Public Prosecutions, Mr White. Witnesses are familiar with the privilege statement on the blue sheet and understand its implications et cetera. Mr White, would you like to make an opening statement?

Mr White: Thank you. I always welcome the opportunity to address the issues that are raised in my annual report. As members will be aware, it has been a very busy year for DPP, particularly in the Supreme Court. I think I have outlined a number of current issues that will no doubt occupy us in the coming year. Certainly one of the chief amongst those is the continuing delays in the Supreme Court. I said something about that in my annual report.

I suppose an annual report is an opportunity to reflect on what has been achieved in the past year, and a lot has been achieved by my office. I do want to take this opportunity to express my gratitude to my officers for all of the work that they have put in, particularly in relation to the very large number of Supreme Court trials that were conducted during the year.

THE CHAIR: Could I open by looking at the director's overview, which is always a matter of some interest, mainly because, Mr White, as a sort of independent statutory office holder, you have more leeway than perhaps some others to say it as you see it being. You have touched on a range of issues in your report. You have touched on the recommendations from Dr Hawke in relation to the DPP receiving funding in its own right, and you have touched on expanding the use of remote evidence. I think most interestingly, on page 3, you talk about the culture of the legal fraternity, the legal profession, in the ACT and the impact that that has on delays in the court system. Would you like to elaborate on what you see as the problems from that perspective that contribute to delays, because it is a perennial issue for us?

Mr White: Yes. I think there really are two problems. The first problem is just the length of the lists at the moment. It will be necessary, whatever happens, to address the underlying problem, which I refer to as a cultural problem, but it will be necessary to address that problem of delay in some way. One of the things that is plain to us and I think is accepted by members of the profession is that, when there is a great delay

between a person being committed for trial and taking their trial, there is no pressure on that person to consider their position and there is no pressure on that person's lawyer to consider their position and give advice as to the proper disposition of the matter. And it must be said that there is no real pressure on my office to consider the matter and determine whether, perhaps, negotiations could be entered into to resolve the matter in a different way. So the very issue of delay causes a problem in itself.

But there is an underlying issue, and that is the fact that the processes in this territory have continued in the same way for a number of years, and it is quite clear that they are no longer adequately serving the interests of justice in terms of getting matters through for trial.

It has been very gratifying to be involved in the committee of Ms Leigh and Justice Penfold, who are looking at this issue, and a number of very worthwhile suggestions have been put forward in relation to that. But there does need to be an attitude adjustment or a cultural adjustment within the profession as to a desire to bring matters on quickly, to identify the issues that are underlying trials, to address those issues and to fight trials on those issues, and not to simply rely on delay as a tactic to achieve a particular result. So when I talk in my report about the cultural issues, those are the sort of issues that I am referring to.

THE CHAIR: Do you see those cultural issues as perhaps leading to situations—and we have seen it in a couple of cases—where there have been applications for a stay of proceedings because they have gone on for so long? Do you see that culture as contributing to that?

Mr White: Yes. The issue of delay, it has to be said, is often perceived by accused persons and also perhaps their representatives as being advantageous to their cause. Obviously the longer a matters takes to come on, the more likely it is that there will be problems with the Crown case, that witnesses will be not as willing or committed to giving evidence as they were originally, that their memories will fade and so on. It must be very tempting for people to rely upon the very delay as a tactic in conducting the litigation. That is one of the things that needs to be addressed. There does need to be found a way whereby lawyers on both sides are required to address the issues that are involved in a particular matter and to establish their positions in relation to those issues so that the trial can proceed and be confined to those issues.

THE CHAIR: You said that there must be a way found to require lawyers to address this.

Mr White: Yes.

THE CHAIR: Do you have any contribution to that discussion about how that might happen?

Mr White: I think there have been a number of contributions to that in the Leigh-Penfold committee. The discussion paper that was produced by that committee really focused on a number of suggestions in that regard. I think it is fair to say that that really is the central issue that is being looked at by that committee. One of the things, clearly, that has been done is to look at what happens in other jurisdictions. I think it

is fair to say that more is expected of the profession in other jurisdictions than is expected of the profession here in terms of identifying issues and disclosing, for example, expert reports—all of those sorts of issues. Those are some of the things that are covered in the discussion paper that has been released.

There is active discussion about that at the moment. I do not really want to pre-empt the outcome of that too much, and I do not want to be seen to be using this as an opportunity too much to push my barrow, but, clearly, there is a real issue with delay. And it is my sense that unless—

THE CHAIR: I asked you the question.

Mr White: Indeed, but it is my sense that, unless we deal with this underlying cultural issue within the profession, we are not really solving the problem.

MR RATTENBURY: There is obviously a discussion going on about what the reforms might be with the group that Ms Leigh is on as well. Do you see any reforms that we could bring forward quite quickly in terms of agreement on them so that we could try and have some short-term impact on the delays?

Mr White: In terms of short-term impact on delays, what has been identified is the issue of additional resources for both my office and Legal Aid to effectively blitz the current backlog and to analyse those cases that are currently in the backlog and also those cases that are coming through, with a view to trying to get earlier resolution of those. I think identifying Legal Aid is particularly relevant because in many senses the interests of Legal Aid and my office are very similar in relation to this because neither of us really benefits from delay, and delay occasions to both of our offices additional costs. So that is one short-term solution that I think is being looked at and it should be looked at.

I hope that the committee is not too far away from making some substantial suggestions for reform. There are certainly some very concrete proposals that are being looked at, and they are proposals that are reflected in the discussion paper. Without perhaps going into too much detail, because they are still the subject of negotiation, they certainly relate to the identifying of issues between the parties early, and those sorts of things. They, hopefully, will not be too long in coming. When they come, there will probably be some legislative changes that will need to underlie those, of a fairly technical nature, I would think.

MR RATTENBURY: When you suggest extra recourses for Legal Aid and the DPP, can you elaborate on how that would work? Presumably, if the court system is still backlogged, are you suggesting that some of those matters could be dealt with before getting to court or simply be expedited so that when they come to court they are more readily dealt with?

Mr White: Both. In other words, the existing backlog can be looked at. I do not step away from the fact that it is difficult for my office to give attention to matters well in advance of them coming to trial at the moment. Often when we do look at them, we do realise that we may be satisfied with other outcomes—fewer charges and those sorts of things. Those negotiations could be entered into much earlier and much more

vigorously.

There has been some diffidence on the part of prosecutors over the years to engage in those sorts of negotiations, but I think that time has passed and it is generally accepted by prosecutors around Australia that it is quite appropriate that prosecutors should take on more of a role in identifying those matters and discussing them with defence colleagues.

It is not until you engage with a matter that you have a chance to work out what the possible solution might be. Sometimes it is amazing what is an impediment to people entering pleas of guilty. For example, sometimes it is just the sheer number of charges, or a particular charge which is not really that big a deal in the scheme of things but with a particular accused person it is something that they are very fixated on. So there often are solutions, but that requires the application of someone looking at the matter, getting across the matter completely and then engaging with the other side, who has also looked at the matter and has also got instructions from their client.

The ingredient in all of this is that, at the end of the day, the client will have to be spoken to, the client will have to give instructions and the client will have to be prepared to enter into any outcome.

MR HARGREAVES: On page 8 in the overview, Mr White, you say that 66 Supreme Court trials were conducted during the year, more than double the previous year's number. What was the previous year's number?

Mr White: It was 30 in the previous year and 37 before that. Those figures are on page 12.

MR HARGREAVES: Thank you very much for that.

Mr White: I have taken the opportunity to put out all of the numbers for the full 20 years of the office in that table on page 12.

MR HARGREAVES: I have got it now. Thank you very much; that is very helpful. In the fifth paragraph you talk about the changes to the sexual offence procedures—the welcome reforms. Then you say:

> As with any new law and procedure a number of issues had to be worked through.

What were those issues?

Mr White: They included just technical issues as to how this would operate. There were technical issues raised about the effect of the legislation—who was authorised, when it had effect from; the sorts of things that lawyers delight in but do need to be dealt with. Those are the sorts of things.

MR HARGREAVES: They were not administrative issues, interpretive issues, were they?

Mr White: There were issues with the technology. But I have to say that those have been ironed out and the technology is working very well.

MR HARGREAVES: Thanks for that. I will not take up much of the committee's time, except for one last question. On pages 42 through to 45 you have disaggregated the matters finalised for us.

Mr White: Yes.

MR HARGREAVES: I think that is a particularly useful table, and I thank you very much for that. Is it possible to disaggregate them for 2009-10?

Mr White: No, unfortunately, it is not. The reason for that is that this is the first year that we have relied on our new system, which is called CASES, which is a case management system. We hope to continue to enhance the reporting capabilities of the system. We record on that system matters against these matter types. Those matter types are supplied by the Australian Bureau of Statistics' standards. Unfortunately, that information has only been captured for the last financial year.

MR HARGREAVES: So we can look forward to having it by year as we go forward?

Mr White: Yes.

MR HARGREAVES: In terms of the definitions, there is a bit of lawyer-speak, I have to say, and I am glad I am not a lawyer—unlike the good Speaker down the end of the corridor here. You talk about the matters, and that is obvious to the man in the street, but what do you mean by the term "proved"? Is that your success rate?

Mr White: Prosecutors are very touchy about that word "success", if I might say so.

MR HARGREAVES: Why would that be, Mr White? Is that because it is not something that is a common occurrence?

Mr White: Possibly in the sense of getting convictions it is possibly a less common occurrence in this jurisdiction than it may be in some other jurisdictions.

MR HARGREAVES: That just means it is a race to the bottom, does it? It is not a race to the bottom here, though, surely.

Mr White: "Proved" would mean the offence was found proved. In some instances there might be no conviction recorded. There would not be very many—but they are proved and either no conviction recorded or a conviction recorded. I am happy to expound on my view of what constitutes prosecutorial success if the committee wants to indulge me.

MR HARGREAVES: I can see a conversation coming up and perhaps we will move on. I am quite happy to engage, but Ms Hunter has been waiting.

THE CHAIR: Ms Hunter has got some questions—unless, that is, of course,

Ms Hunter's question.

MS HUNTER: No, sadly. I wanted to go to the sexual assault reform program and around taking that evidence remotely. It is also noted in the annual report that consideration should be given to expanding it to include other types of offences.

Mr White: Yes.

MS HUNTER: What is the thinking at the moment about the types of offences?

Mr White: I have to say that that has been the subject of correspondence between my office and the directorate. I have received some very positive indications that that is going to be looked at very favourably. We found that there were anomalies in the sorts of offences that were covered. There seemed to be difficulty in working out why a particular offence was covered and a particular offence was not covered. We have identified those offences, and I think we have received a very positive indication that that will be very favourably considered. Perhaps I should not say anything more than that at this stage. I do not know that there has actually been an embodiment of those in the proposed legislation, but I am very hopeful that that will happen next year.

MS HUNTER: Minister, are you able to tell the committee the types of offences that are under consideration?

Mr Corbell: The DPP has made quite a comprehensive number of suggestions in relation to a range of matters both dealing with the operation of the criminal law more generally as well as specifically in relation to sexual offence matters. I have written to the DPP as of the end of last month advising him on what the government proposes to do in relation to all of those matters.

In relation to sexual assault reforms, there are a number of proposals that the DPP has put forward which the government is giving serious consideration to. A number of those matters will be dealt with in legislation which is proposed to be introduced in the coming sitting year.

THE CHAIR: So that is a no.

MS HUNTER: You are not able to expand.

Mr Corbell: I am not really in a position to outline the detail of those proposals simply because they are still subject to cabinet agreement. But I have indicated to the DPP my support for a broad range of matters that he has raised with me and I have indicated to him that I intend to propose the drafting of legislation in relation to a range of those matters.

MS HUNTER: Can I go on to the next question?

THE CHAIR: Sure.

MS HUNTER: I wanted to go to the double jeopardy discussion paper that was issued by your office. I was just wondering how the discussions went. Is there an

appetite for change in this area?

Mr White: There has not been a great deal of discussion generated by that piece of work from my office. I think that probably reflects the fact that there are other more pressing priorities. There have been a number of changes in other jurisdictions to various aspects of the laws on double jeopardy. The ACT is increasingly out of step with those changes. This is certainly a very complex and controversial area, at least in some aspects. Some of the proposals are not that controversial. Some of them are very controversial. There will need to be a great deal of policy consideration given to those matters. I hope that ultimately they may be considered by the Assembly at some stage.

MS HUNTER: What are the other jurisdictions that we are now out of step with?

Mr White: Many of the jurisdictions, for example, have abolished what has been referred to as the double jeopardy rule in relation to Crown appeals on sentence. From memory, in the majority of jurisdictions now there is no presumption when the Crown appeals against sentence that the double jeopardy aspect of the appeal should be taken into account in the resentencing by the appeal court. So the appeal court is freed of any considerations of the double jeopardy to which the respondent to the appeal is exposed in deciding what the appropriate sentence is.

So, typically, if we appeal—and we had a successful appeal last week, for example, in a very serious sex matter—the court will typically say: "We think this sentence was too low. We're going to adjust it. However, we won't adjust it as fully as we would have otherwise because we take account of the fact that it is a Crown appeal and the person has been subject to double jeopardy." That rule has been abolished in a lot of other jurisdictions. That is just one example. That example is probably on the least controversial end of the issue of double jeopardy example.

In some other jurisdictions, for example, the Crown has a right to appeal against a judge-alone trial verdict. At the moment in the territory there is only what is called a reference appeal, which is an appeal on a point of law, which is available. In some jurisdictions the Crown has a full right to appeal against a judge-alone trial or, in other jurisdictions, the Crown has a right to appeal on matters of law involved in rulings that are made in the course of a trial process, and that can result in a retrial. If it is found that a judge had made an error of law, the court of appeal can then send the matter back for a retrial.

That clearly is a change to the old concept of double jeopardy where, if a person was acquitted, then that was not put at risk. Those are the sorts of reforms that have taken place in other jurisdictions. They are not consistent through the jurisdictions. Some jurisdictions have one or other of those reforms but, generally, most jurisdictions are moving to a push back against the harsher consequences of the law on double jeopardy.

Mr Corbell: If I can just add to the director's answer, some other jurisdictions also have provision for what is often known as fresh and compelling new evidence. Where perhaps there has been an acquittal in a prior matter and fresh and compelling new evidence arises there is the capacity, having been through a series of checks and authorities given, for a matter to be re-prosecuted. For example, in New South Wales,

the New South Wales attorney and the director have a shared joint power to initiate a fresh prosecution on the grounds of fresh and compelling new evidence. Their legislation is structured so that their director or their attorney can order a new trial or allow new charges to be laid. Different jurisdictions take different approaches.

I should just clarify that the director's paper on possible double jeopardy reforms was initially provided to my directorate. I asked the director if he would be willing to have it released as a public discussion paper for the purposes of comment from interested parties. He kindly agreed to that. His paper has been used, effectively, as a discussion paper by the directorate seeking views on the issues raised.

We have received six submissions to date. Those have been from the Bar Association, the Victims of Crime Commissioner, Civil Liberties Australia, Mr Brian Maher, the Human Rights Commission and Legal Aid ACT. The government is giving consideration to the issues raised, but they are quite complex. As the director says, some areas of double jeopardy reform are more straightforward than others, and the government is taking those issues into account currently.

THE CHAIR: What is the status of the comment in response to the discussion paper? Is it available for perusal?

Ms Playford: The directorate is still considering the comments. We are also waiting for a submission from the Law Society. We have granted them an extension. They had some other priorities. We are waiting for that submission to come in before we finalise consideration and advice back to the minister.

THE CHAIR: When the advice goes back to the minister will those comments become publicly available at some stage?

Mr Corbell: Yes; I anticipate that is the case.

THE CHAIR: Going back to Mr Rattenbury's question about resources, you touched on—you more than touched on it, Mr White—the increase in the number of trials in the last financial year, the extra resources in the judiciary, which meant that you were pretty strapped for most of the year. Have you quantified for the government the resources that you think you would need to meet the backlog?

Mr White: We have made an indication, as part of the current budget process, about that.

THE CHAIR: Okay. I will read the rest of that; I understand that. The other issue is this: how do your salary packages stack up against, say, people who might be working in DPP offices in the commonwealth or in New South Wales? Are you competitive yet?

Mr White: I am not sure whether members are aware of this, but under the proposed new agreement, to which my office is a party, there is a proposal for a substantial increase in the wages for prosecutors. I do not want to say too much before the ink is on the agreement, but I am very optimistic that that agreement will go through. If it does go through, it will embody significant increases for my prosecutors, and it will

make my office much more competitive than it hitherto was, particularly in relation to other state DPPs, and particularly the New South Wales DPP. I think it is true to say that the new wages structure is heavily influenced by the wages structure in New South Wales DPP. So there is very good news on that front, but until the agreement is signed I cannot really say anything more. But when it is signed, I can assure you that if not the popping of champagne corks, I will certainly be taking—

THE CHAIR: At least a small amount of bubbly.

Mr White: I will be taking the lid off a very premium fruit juice in my office and tasting the result.

THE CHAIR: Do you have a question, Mr Hargreaves?

MR HARGREAVES: I do. I am also aware that the issues that have been publicly aired in recent times have been as much about the number of people involved in addressing the fact as giving people substantial pay rises to keep the ones you have got.

Mr White: Yes.

MR HARGREAVES: I have regard to your earlier statements that other jurisdictions' DPP record of success does not match your own, so I might congratulate your staff on not being paid enough but being better. You have given us these tables that you indicated to me earlier, on pages 12 and 13. They are very enlightening, but I do notice that there is a certain fluctuation.

Mr White: Yes.

MR HARGREAVES: Let me just pick a couple out of it. In 2002-03, you have got 30 trials; the next year, 22; then it is up to 34, up to 42, back to 29 and back to on story.

Mr White: Yes.

MR HARGREAVES: And then, whack, up to 66.

Mr White: Yes.

MR HARGREAVES: What I would be interested in is this. I do not know if you have this information or if you can get it. I did notice also that another one of the charts on page 15 goes back five years, and that might be more relevant to what I am about. I would like to know if you can tell me, by type of staff you have, what the staff numbers were over those five years so that we can match them up against the actual workload indicators, which is what you have given us here.

Mr White: In broad terms, in the first year I was appointed the office did receive a substantial increase in its prosecutor numbers. That was during the 2008-09 year, and there was a substantial increase that came through in the budget that year.

MR HARGREAVES: Could you give us those on notice—not right now, clearly.

Mr White: Yes.

MR HARGREAVES: What I was trying to work out was how many staff you had as prosecutors, as paralegals, in witness assistance and all of those sorts of things. And if we measure that against the 42 in 2006-07, I was trying to work out how you coped with that—and then again in 2008-09 and 2010-11.

Mr White: Yes; I will arrange that.

MR HARGREAVES: I am sure you would appreciate that when we have statements that we need more resources—I think, with respect, that I have heard that from almost every directorate since Pontius was a trainee Pilate—we do need to have some sort of a comparator.

Mr White: Yes, I appreciate that.

MR HARGREAVES: I congratulate you on this annual report. It is very informative, very well laid out and very easy to read. For the average guy in the street, it is brilliant, I must say.

Mr White: Thank you.

MR HARGREAVES: The only thing I have asked for is whether perhaps we could have that five-year staffing profile going onwards into the future years so we can match those two against it.

Mr White: Yes, certainly. There are staffing figures in the detail in the report; they are reported on each year, and they do break down the number of staff into different categories and so on and so forth.

MR HARGREAVES: I saw that, Mr White, but what I did not see is how that matches up against the five-year figures.

Mr White: I appreciate what you say. Also, I have to say that the staffing profile—I am referring to C.7 on page 58—is effectively imposed upon us. The classification or the way that that is expressed is imposed upon us by whole-of-government requirements.

MR HARGREAVES: I am aware of that. I also have to make comment, because I have not made it before, that, quite frankly, I do not give two hoots how many "pre-baby boomers" and "generation X" people are hanging about.

THE CHAIR: It is a weird thing.

MR HARGREAVES: It is just discriminatory for old people like me; I think it is a complete and utter waste of time. However, I am interested in seeing a progression to see how your workload is matched against the resources that have happened fortuitously to have come your way in the last couple of years.

Mr White: Yes. And could I just add to that that I think that, when members do have that information, they will be impressed at the leanness of the administrative functions within the DPP. Most of the people that work in my office are front-line troops, either paralegals or prosecutors. All the prosecutors, including my good self, go to court; no lawyer is reserved for anything other than going to court. And all of the paralegals are directly involved in the preparation of cases, and many of them go to court in one function or another.

MR HARGREAVES: I would be interested in seeing what sort of support level there is.

Mr Corbell: I beg your pardon; I can assist, Mr Hargreaves, with a quick summary of budget funding that has been provided to the DPP in recent years. From 2009-10, as Mr White has already indicated, the government provided just over $800,000, indexed, for eight additional staff to increase—

MR HARGREAVES: Sorry, minister, what year was that?

Mr Corbell: 2009-10.

MR HARGREAVES: Okay; thanks.

Mr Corbell: To increase the DPP's capacity to deal with prosecutorial matters. The sexual assault reform program, which was funded in 2007-08, was provided with additional ongoing funding of approximately $148,000 to assist with new procedures and practices as a result of the sexual assault reforms. Capital funding of a quarter of a million dollars was provided in 2007-08 for a new case management system; and there was ongoing recurrent funding to support the operations of that system, of $63,000.

As attorney, I am very conscious of the significant workload shouldered by the director and his prosecutors. I am always looking for opportunities to provide additional support to the prosecutors office—obviously cognisant of the broader budget demands on the government as a whole. I should also make it clear that the director is always straightforward with me in telling me what he thinks he needs; I take that in the way it is presented to me and always give it serious consideration.

MR RATTENBURY: I want to ask about assaults against police. Previously we heard evidence from the Chief Police Officer that in the financial year we are examining there were 48 assaults against police officers. I am interested in whether the DPP has any data on how many of those were taken to court.

Mr White: I do not have those figures. I would imagine that most of them would have been taken to court, because they are not the sort of matters that would not proceed generally. I could certainly find that information out. It will be a bit difficult; I will probably have to go to the police to get a list of names and then check against my records by doing that, but—

MR RATTENBURY: I am not so much interested in that level of detail as whether,

out of those 48, nearly 100 per cent would be prosecuted or whether only 10 per cent of them would be prosecuted. That is more the scale of information I am interested in.

Mr White: Okay; I can take that on notice.

THE CHAIR: Yes.

MR RATTENBURY: And in that vein, can you give us an indication of the types of charges that were laid?

Mr White: Yes.

MR RATTENBURY: Also, do you have any data on, or perhaps a general sense of, how many assaults there were against other public officials, such as firefighters or paramedics in ambulances?

Mr White: I am not aware of any against politicians but—

MR HARGREAVES: We can soon fix that, Mr White.

Mr White: I am not sure that that material is available, given that there is no territory offence of assaulting a territory official as such. There is a territory offence of obstructing and resisting a territory official, and that is usually applied in the policing context, but there is no offence of assaulting a territory official. Therefore, I am not sure that I could get that information. I might be able to say something anecdotally about it by simply asking around, but I am not aware of any matters that fall into that category, and they are the sort of matters that probably would come to my attention.

MR HARGREAVES: Is there an offence about assaulting a commonwealth official?

Mr White: Yes, there is.

MR HARGREAVES: Is there an offence in New South Wales, for example, about assaulting a New South Wales public official?

Mr White: From memory, in New South Wales it is a circumstance of aggravation if the assault is on a police officer.

MR HARGREAVES: What about a non-police officer but public official?

Mr White: I am not—

MR HARGREAVES: For example, a housing manager, who we often see at least verbally abused.

Mr White: I am not sure that that is a circumstance of aggravation in New South Wales.

MR HARGREAVES: Okay.

THE CHAIR: I am conscious that there are many more questions, but we also have to move on; we have got a backlog. Mr White, thank you for your time this morning. There will be a transcript. There probably will be some questions on notice as well.

Mr White: Yes.

THE CHAIR: Members are asked to get their questions on notice to the secretary by five days from today; you will have three weeks from when you receive them to get them back to the committee.

Mr White: Thank you very much.

THE CHAIR: Thank you very much for your time. We will move to Mr Green. You are aware of the privilege statement? You were here when the riot act was read earlier?

Mr Green: Yes.

THE CHAIR: Would you like to make an opening comment or statement?

Mr Green: Yes. As we all know, this is the lead-up to an ACT election due in October 2012, so my office is very much focused on election preparations. We are particularly focused on finishing the ICT systems that we have under development, which are all going very well. We are just about to use, for the first time, the netVote system for an EBA election.

THE CHAIR: NetVote?

Mr Green: It is an ICT system, an online voting system for EBA elections for ACT agencies which we have been developing. That has just passed final testing; it is going to be used for a ballot, hopefully later this week, if all the timing goes off.

THE CHAIR: Okay.

Mr Green: That is all going very well. There is one matter that I was wanting to raise with the committee in the context of the committee's recent report into the inquiry on the ACT election of 2008. The committee made a recommendation to reduce the pre-poll voting period from three weeks to two weeks. Would it be an appropriate—

MR HARGREAVES: Does that relate to the annual report of 2010-11 or is it just generally a wide-ranging thing that you would like to have discussed?

THE CHAIR: I think that as an independent statutory officeholder, the Electoral Commission is entitled to raise issues that are of interest to the community and to the committee.

MR HARGREAVES: It is very wide.

THE CHAIR: Mr Green.

Mr Green: I will be brief.

MR HARGREAVES: Yes.

Mr Green: I would just like to put on the record that the commission does have concerns with the recommendation to reduce the pre-poll period from three weeks to two weeks. The people who tend to vote in that third week out from election day in our experience tend to be people who are going to be travelling and will not be around on election day. It does tend to be, from the feedback we have had from our pre-poll staff, people who are travelling overseas, interstate, grey nomads who are about to head off on their round Australia trip, et cetera. Something like 10 per cent of our pre-poll voters vote in that week. It is not a huge number, but we are concerned that reducing the pre-poll period might result in people not being given an opportunity to vote that they currently have under the current system.

I would also note that it is not clear from the committee's recommendation whether they are referring to postal voting within the term "pre-poll voting", but if we were to restrict postal voting for that three weeks, most of the postal votes actually go out in that first week of the pre-poll voting period.

MR HARGREAVES: If the committee had been referring to postal votes, we would have said so in the report.

Mr Green: It is just that the act, when it talks about pre-poll voting, includes postal voting in that definition.

MR HARGREAVES: Yes; then that is a matter, I would hope, for the drafters after advice from your good self, I would imagine so as we do not make an unintended consequence out of that.

THE CHAIR: Thank you, Mr Hargreaves.

MR HARGREAVES: My pleasure, Madam Chair.

THE CHAIR: On the subject of drafting, for instance, the committee has just deliberated on two electoral acts. What role does the commission have in advising on the policy settings that go towards the drafting, or do you see the bill at the same time the Assembly sees the bill?

Mr Green: Which bills are we talking about?

THE CHAIR: For instance, there were the two—the electoral amendment legislation and the count back, casual vacancy legislation.

Mr Green: The commission's role in advising on government legislation is provided for in the Electoral Act under our function of providing advice to the minister on electoral matters as requested.

THE CHAIR: Yes.

Mr Green: The level of advice we provide can vary right from putting forward policy proposals for the minister's approval, and we often do it through our reports on the election where we put forward policy recommendations for changes to the electoral legislation. So we can be involved in recommending policy changes. We are often involved in preparing drafting instructions for legislation. Sometimes we do the cabinet submissions that the minister then puts to cabinet about those legislative proposals. Other times the department will prepare the cabinet documents and the drafting instructions and we will provide advice on those. But, generally, any government legislation on electorate matters, we will have some role in advising the minister.

THE CHAIR: But in the two bills that the committee has just reported on, what was the role of the Electoral Commission in those?

Mr Green: Both those bills arose from recommendations made by the commission in its election report. So we obviously had a policy role in the drafting of those recommendations in the report. From my memory, we prepared the drafting instructions and liaised with parliamentary counsel. I think we did a further submission. I cannot remember now.

Mr Corbell: Yes.

Mr Green: Yes.

THE CHAIR: Okay, thanks. Ms Hunter.

MS HUNTER: Yes. I just wanted to talk about the JACS committee report as we have touched on it. It recently supported the proposal to lower the enrolment age to 16 years—not the voting age, but the enrolment age. I am wondering if this was to be followed through, about communicating with young people. Obviously you do it now to try to get 18 year olds on to the roll and voting. What would be some of the strategies that you would use?

Mr Green: One of the key things that we need to do in the context of the 2012 election is to ensure that as many people as possible who are eligible to be on the roll and vote at the election will be on the roll and voting at the election. So that means that people who are now 16 are now too young to be turning 18 by the time of the election next year. So our focus is going to be mostly for the next 12 months on targeting people who are likely to be 18 at the time of the election next year.

As we noted in the annual report, the proportion of people who are 18 who are on the roll as at the end of June this year is one of the lowest figures we have ever seen. We are very concerned about that and we are going to be working with the Australian Electoral Commission to get as many of those eligible people on the roll as at the time of the next election as we can.

We are going to be writing to all the schools in the ACT that have students in that relevant age group. We are going to be working with the Australian Electoral Commission to target mail-outs to people in those age groups using targeted sources like the data we get from the schools boards and from the motor registry, in particular.

As people turn 17 and get their licence, then they are recorded at the motor registry; so we are able to target them through that.

We are also intending to do quite a lot of publicity on the fact that there are people who are currently 18 who are not on the electoral roll in high numbers. We are expecting that to generate considerable publicity. What we tend to find with young people is that between electoral events they do tend not to get on the electoral roll until an event is imminent. So we are hopeful that that proportion of 18 year olds on the roll will increase by the time the election comes around. But, at the moment, it is a low figure and we are quite concerned about that. We are having talks with the Australian Electoral Commission about trying to improve that.

THE CHAIR: Thank you. Anything else on that, Ms Hunter?

MS HUNTER: No.

THE CHAIR: Could I go to your outlook. You said in your opening comments, Mr Green, that you were sort of keyed up for the preparation for the 2012 election. What is the expected budget for the operation of the election?

Mr Green: We do have one, but I am not sure I have it here. It is based on the allocation we would have got for the last election increased by CPI, plus there are increases that we received through the budget process for additional funds and for increases in costs above CPI. But I do not actually have that.

THE CHAIR: You could take that on notice.

Mr Corbell: If I can assist, Madam Chair, in the 2010-11 budget, the government provided additional funding of $3.076 million over four years for electoral redistribution and election readiness and conduct, of which $100,000 is recurrent funding. We would, though, expect further appropriation in next year's budget for the conduct of the election itself.

THE CHAIR: So that will appear in the appropriation for the 2012—the 2012 election will be in—

Mr Corbell: Yes, I think that—I will just check that—

THE CHAIR: the 2012-13 budget?

Mr Corbell: Is that correct? Am I correct?

Ms Playford: Yes, that is correct.

Mr Corbell: Yes. So funding has been provided in the most recent budget to assist with electoral redistribution activities. We project—does that include that figure there? Has the figure been appropriated? It has. I beg your pardon, I am sorry, Madam Chair, I will just clarify this. If you look at the budget papers for this year and the outyears, funding has been provided for in 2012-13 of $2.763 million for the conduct of the 2012 election.

THE CHAIR: That is in addition—that is over and above the sort of baseline funding?

Mr Corbell: Well, it is part of that $3.076 million figure that I just referred to.

THE CHAIR: Okay. In preparation for the 2012 election, you have highlighted the redevelopment of the election system and IT to go with it. Would you like to elaborate on the IT refinements that you have been involved in?

Mr Green: Yes, I could do that. We did actually in the submission we made to the 2008 report election inquiry have quite a deal of information about these systems; so the committee already has quite a lot of detailed information about that, but I can just summarise what we have in train. We are completely redesigning the election results display system that is used on election night and during the count for—

THE CHAIR: So that it does not go down at 9 o'clock?

Mr Green: So that it does not go down at 9 o'clock—that is the intention—or at any other time. We have made changes to the electronic voting and counting system that we use in the pre-poll centres to modernise it so that it works with modern hardware. It will do essentially the same job as it has done in the past, but it will be using 2012 hardware rather than out-of-date hardware, which was the risk running with the system as it used to be.

We are rewriting all of our election management systems, which is a suite of database systems that we are using for all of our election management things, like running the postal voting system, employing staff, materials in polling places and so forth. We are doing more things online with our election management systems; so we will have an online registration process for our casual staff and an online training module for our casual staff. We are redeveloping the online system for applying for postal votes. We are working with Canberra Connect on those online systems, and that has been a very successful partnership.

We are further developing the concept of an electronic certified list of electors in the polling places. As you remember, at the last election we used personal digital assistants or PDAs. This time we are using netbooks that we are borrowing from Tasmania. We have completely rewritten the system that will be used on those. The system will be designed so that as soon as a name is marked off in any one polling place, it will be networked to every other netbook in use in the ACT on polling day, and during the pre-poll period. As soon as a name is marked off in one location, it will be marked off as having voted on every other machine.

We are also using the fact that we have got networked computers in the polling places to use that system for some of the officer in charge reporting that is currently paper based or in previous elections has been paper based. It will help them do things like reconcile the numbers of ballot papers they started with compared to what they finish with and work out whether the numbers all add up.

We will also be using that system for recording the number of first preference votes

for each candidate. Rather than ring those through to a telephone answering service in the tally room, they will now be entered into the netbook system and transmitted through the wi-fi mobile phone network back to the tally room, which will automatically go into the election results system. That hopefully should be faster, particularly as a lot of the polling places report all at once. Sometimes they cannot get through on the phones because they have got to be waiting for the operators to be free. That should make all that faster.

We are going to reuse the ballot paper scanning system that we used at the last election. We have refined that a little, but it is essentially going to be the same system as used at the last election. That is it, I think. Yes, they are all on track, and we are very pleased with the way they are going.

THE CHAIR: In evidence that you gave to an inquiry—I cannot remember which one; it must have been the campaign finance reform inquiry—you talked about an online system for disclosure of reporting. Have you had any further thoughts on that subject or have you done any work on that?

Mr Green: We have not done any work on that. We are still waiting for the outcome of the current proposals that are on the table as to exactly what is going to be required of a reporting system. But we have certainly looked at what would be required to do that. The kinds of systems that we are currently working on with Canberra Connect with regard to online applications for postal votes and online staff training and so forth, that type of technology could be amenable to an online reporting system. So we have had that in the back of our mind while we have been working on these other systems.

THE CHAIR: Yes. Anything else?

MS HUNTER: I am wondering about the approximately $3 million that we spoke of before, which was for the election but also for the redistribution. How much of that was spent on the redistribution?

Mr Green: I would have to get back to you with a figure. I do not—

Mr Corbell: $22,000 was allocated in 2010-11 and $13,000 in 2011-12.

THE CHAIR: I suppose the question is: was it all spent?

Mr Green: I am not sure that we spent all of that. I would have to get back to you on that.

THE CHAIR: Does that mean you have to give it back? And should we have asked that question?

Mr Green: I am sure we will be comfortably under budget.

Mr Corbell: I am sure the committee can make a constructive recommendation.

THE CHAIR: On the subject of the redistribution, it was a very lengthy process. I am

wondering what we learnt from that, because it was a more elongated process than previously. I do not want this to sound critical, but it created some uncertainty because there was a sort of on-again, off-again proposal for redistribution. Out of that experience, what has the commission learnt about future redistributions?

Mr Green: In one sense the process that occurred is exactly what the Electoral Act envisages. The steps that were gone through were the steps set out in the Electoral Act providing for those different proposals—one put forward by the redistribution committee and then another put forward by the augmented commission. It is the first time that two quite different proposals were put forward by the redistribution committee and the augmented commission, which is really why the process seemed to be longer and more uncertain than it has in the past.

But the legislation operated as it should, and the time lines that occurred as a result of those two different proposals were exactly as the Electoral Act sets out. So, in a sense, everything happened as it should have happened within the time that it should have happened. It is simply the fact that there were two quite radically different proposals on the table that made it seem perhaps a bit more fraught than it might have otherwise.

A comment I would make on the aspect of having two quite different proposals is that it reflects to an extent the fact that we have an Assembly that has electorates of different sizes—two five-member electorates and a seven-member electorate. The fact that you have got that mix means that it is practicable to put forward quite radically different redistribution proposals that will meet the criteria. Because of the radical change encompassed by moving the location of the seven-member seat, that is always going to have on the table the option of coming up with quite different proposals.

If the Assembly was to move in future to having electorates of equal size—which is something the commission has recommended over several cycles now—that might serve to reduce the possibility that you might get such radically different proposals on the table.

THE CHAIR: One of the things I have received comment on is that, because of the process, we ended up finalising the decision about the redistribution a year out. That is what the act allows for and envisages, but I am wondering whether, from your perspective, that is entirely desirable. Would it be operationally better to move that process earlier into the electoral cycle?

Mr Green: From an operational point of view, it is probably not a significant issue for us. It is just something that we factor in as a known unknown. I cannot think of any reason why this particular cycle caused us any great additional concern

THE CHAIR: But the act requires that you start the redistribution essentially on the second anniversary of the election. Would there be any value in bringing that date forward in the electoral cycle to, say, the first anniversary, or some other date so it gives you freer air closer to the election?

Mr Green: From an operational point of view, the timing suits us quite well because it is fairly neatly in between the really busiest times we have either side of the election. Bringing it forward a year probably operationally would not make a lot of difference

to us. It would reduce the uncertainty for the political players to have it sorted out earlier. If that was a consideration then I cannot see any problem with going a year earlier from an operational point of view. The later you leave it the better the statistics you will have available for estimating the expected enrolment at the time of the next election, so that is a reason to delay it. Particularly when you have a census occurring, if you are able to wait for more recent census figures to become available then that gives you more reliable estimates of the enrolment at the time of the next election.

THE CHAIR: You touched on online voting for the EBA. How extensive do you see the use of online voting for the smaller elections and things like that? How much do you see that as a development that may eventually lead to online voting for your main job of work, which is running elections for the ACT Legislative Assembly?

Mr Green: As you are no doubt aware, the New South Wales election held earlier in the year used an online voting system for people who were travelling or overseas or in remote areas and unable to get to a polling place. My understanding is that that worked quite well. So the ice has been broken in that context in a parliamentary election in Australia. Because of the inherent nature of voting online, I think people were able to vote online whether they actually had grounds to vote online or not because of the way it worked. It is quite possible that we will see more of that iteration of electronic voting and more people using it as a convenience thing, which goes to the discussion we have been having about people voting early. From that perspective, internet voting is going to change the way people vote and further reduce the significance of having people come to a polling place on polling day.

From my point of view, using internet voting for things like ACT agency and EBA elections is a no brainer. It has been requested by agencies, and that is why we developed it. We are satisfied that the security arrangements for such ballots are sufficient for the importance of the election. If a hacker was able to get into that system, even though it has got lots of security features built into it—as you know from reading the news, from time to time the best systems get hacked into—you could easily run an EBA again. You could do it with paper; you could do it with postal votes. So there is a backup plan for those kinds of elections.

If a parliamentary election that depends on an internet voting election got hacked into, it would be very difficult to run it again. For that reason, I am still quite nervous about putting a parliamentary election on the internet, even though New South Wales has done that. It is still quite a high risk thing, and I am still somewhat nervous about that.

THE CHAIR: How long was the New South Wales internet system live?

Mr Green: We think it was through their normal pre-poll period, which would be about three weeks.

THE CHAIR: So it could be quite vulnerable.

Mr Green: Yes.

MR HARGREAVES: I had a feeling I had seen something somewhere before, and I was right. I was just refreshing myself on the DPP's annual report, and he says they

prosecuted a matter in the 2010-11 year under the Electoral Act 1992. I presume that would be on information provided by your office seeking a prosecution by the DPP. I also notice in here that it was not successful, but I am interested in the nature of that particular matter. The details of who and what does not matter to me, but the nature of that.

Mr Green: The only prosecutions I think I have ever launched in my time as Electoral Commissioner have been prosecutions for non-voting.

MR HARGREAVES: For non-voting?

Mr Green: Yes. Typically, what would happen in something that is out of the normal, immediate post-election period when we sent a large number of people there, it would be people who have contested their conviction. Generally, after being convicted, they will come to us with a reason, like, "We were overseas, we didn't know anything about it," which we would accept as a valid excuse.

MR HARGREAVES: And you would have that discretion under the act whether to take action or not to take action?

Mr Green: Yes.

MR HARGREAVES: It seems to me to be a bit amazing that, after an election which has quite a number of thousand votes cast and people avoiding that, there would only be one action against somebody—

Mr Green: I am not aware of the individual circumstances of that. I assume it was someone who had been convicted who has questioned the conviction. That usually happens because they have had a driver licence check and the police have discovered there was an outstanding conviction and an unpaid fine against their driver licence, so they come to us and say, "Can we get this dealt with?" It would actually be us going to DPP and saying, "Could you please raise this with the court and have the conviction quashed."

MR HARGREAVES: I am a bit confused about it. It says that the matter was an action in accordance with the Electoral Act of 1992, not the road traffic act.

Mr Green: No, it would be in relation to a non-voter.

MR HARGREAVES: How come there is only just the one, though? Is that a normal thing?

THE CHAIR: We have a serial non-voter.

MR HARGREAVES: I know we have a serial non-voter, but let me suggest to you that there are a number of undisclosed anonymous serial non-voters in that list. Am I to assume that for all of those people who did not cast a vote that came to your attention, you sent a notice off to them saying, "Either give us a decent excuse and we will tick you off or you're done, give us $100," or whatever it is, and they have actually complied in 99.999 per cent of the cases?

Mr Green: Let me run through the process. People who we are aware of who are on the electoral roll who apparently have not voted and have not given us the excuse beforehand are sent a non-voter's notice, a please explain notice, and they are given the opportunity to give us an excuse or pay a $20 fine. People who do not reply to that notice get sent a second notice. People who do not reply to that notice get sent a third notice, which is sent by registered mail. People who accept their registered mail—so we have proof that they are actually still living there—but who do not provide us with an excuse or pay the penalty are referred to the Magistrates Court. A summons is issued for those people and those people are dealt with by the Magistrates Court. The vast majority of those people are convicted because they do not turn up to contest the case.

What happens afterwards is that for people who have been convicted through that process, while someone might have accepted the registered mail and the registered summons, it might not have been brought to the attention of the person who has actually been convicted. They might have been overseas, or whatever. They will come back to Australia. They will get pulled over by the police in a random breath testing check. They will do a check on their driver licence and work out that there is an unpaid fine next to their name. They will write to us and say: "We didn't know anything about this. I was overseas at the time." That is an excuse we would have accepted if they had provided it at the time. The matter gets referred back to court. The DPP represents us. They say there is no evidence to offer and the conviction is then overturned.

MR HARGREAVES: Yes, I understand that process, because you have been good enough to walk us through that before, and I appreciate that. I am finding a little bit of an inconsistency between what I am seeing between the annual report of the DPP—which says only one matter brought—and what you are telling me. There would be a number that go to the Magistrates Court where people refuse to engage but you know they are there because they have picked their mail up. They are handed over to the Magistrates Court, but presumably, the prosecutors represent the commission once the point has been reached of referral to the Magistrates Court?

Mr Green: They do, but the vast majority of these matters are dealt with in the election year, effectively. Now that we are two or three years out from the election, there are just these odd cases that come up from time to time.

MR HARGREAVES: That is probably what it is.

Mr Green: Yes.

THE CHAIR: I am mindful of the time. We have a range of people to hear from in the next little section. We will pause for a tea break.

Meeting adjourned from to 11.16 to 11.34 am.

THE CHAIR: Ms Phillips, are you aware of the privilege statement on the blue sheet?

Ms Phillips: I am.

THE CHAIR: Welcome to this hearing of the Standing Committee on Justice and Community Safety inquiry into annual and financial reports. Would you like to make an opening statement?

Ms Phillips: Thank you. My statement in the overview of the report in summary is that I think we have come to a time in the office of the Public Advocate to look at strategic planning for the future for the changes in demographics in the ACT and what effects these will have on our role as substitute decision makers and advocates for people who have decision-making disabilities.

THE CHAIR: I notice that you said in your overview that you have had an overspend and that there are increasing demands on you to meet your statutory obligations. Could you give the committee an indication of the extent to which you feel you have not been able to meet your statutory obligations and the extent to which you see perhaps that there needs to be an adjustment in strategic direction and the resource implications of that?

Ms Phillips: Because of the hardworking team that I have, we haven't not undertaken our statutory obligations at any time in the last financial year. However, the increase in number and complexity of people who come before us means that we are under enormous pressure to meet those statutory obligations.

I think the report details where we have had particular pressure. For example, in the guardianship area, the number of people who are being referred to me to be guardian of last resort is increasing. It is not increasing in huge numbers, but the complexity of the people that are referred, the complexity of their family and their health and wellbeing situations means that we have to spend an inordinate amount of time with such clients.

In regard to our advocacy, which is the other team that we have, the increasing numbers of people with mental illness, the numbers of people with mental illness at the AMC, the numbers of people with forensic mental health problems, the increasing numbers of young people with mental illnesses, the complexity of disability areas and an increase in requests for advocacy or the need for advocacy for children and young people in care all combine to make such a small office as we have under extreme pressure to deliver that service.

Part of the reason that there was an overspend in relation to the salaries is because only about three of my 14 staff are administrative staff. The rest of the staff are all direct service staff. So when they are not there, I have to replace them. I have to have somebody who can go out to the psychiatric services unit on call, if the one person that I have doing mental health issues and advocacy is on leave. I have to have people who are able to be guardians directly and go and visit and be with people for whom they are guardian. So I do not have the possibility of not replacing people when they are on leave, either planned leave or unplanned leave.

THE CHAIR: You spoke in your opening comments about change in strategic direction. How do you think the landscape in the ACT might change to better

accommodate the needs of a very complex client base, taking into account the work that is done by ACAT, in addition to your office and the work done by the Public Trustee? How do they interplay?

Ms Phillips: The demographics of the ACT mean that we are going to eventually have the highest proportion of older people of any jurisdiction in Australia. It is a large percentage of older people who become our clients because of suffering from dementia and related illnesses, strokes and other disabilities that reduce their decision-making capacity. So we are going to have a large additional number of people in those categories just because of the demographics of this territory.

ACAT's role is to hear applications by people in the community for guardianship orders for individuals. That might be families, and often is, who need the protection and authority of a guardianship order to make decisions for their person who no longer is able to do that for themselves. But, increasingly, applications come from community workers for people who have nobody.

As I have mentioned in this place previously, the ACT has a high percentage of older single women. I suspect that it is part of the period when women who were senior public servants could not be permanent in the public service if they became married, and they made a choice that they would not marry and would, in fact, remain single. So we have an increasing number of women in that category who have nobody. They have outlived their siblings, they have no children and they are often living on their own. The only person who can become their guardian is myself, so we are getting an increasing number of referrals from the ACAT.

We work hand in hand with the Public Trustee, but the Public Trustee only has authority over people's property and their finances. Where the person will live, who will care for them, what health provision is made for them, what kinds of lifestyle and other issues related to the individual, is up to me and my staff as Public Advocate when we are appointed as guardian of last resort.

THE CHAIR: In addressing the issue that you and other people have highlighted about the increase in the number of older people and the increased life expectancy, what sort of approach do you think that we need to take to meet this task head on rather than wait for it to overcome us?

Ms Phillips: I do address that in the overview, and this is the strategic planning that I think is critical. We should start looking at how we can both educate and empower people to be able to put in place systems that will make those decisions for them rather than have them come into a situation where they cannot make decisions.

One of the ways of doing that is to encourage people to complete enduring powers of attorney. So if those elderly women that I was telling you about had, in fact, completed enduring powers of attorney, they may have appointed nephews or nieces or even friends or other people that they trusted who could make these decisions for them when they become elderly, instead of being in the situation where they have nobody, have not appointed anybody and then I have to be appointed.

We in the Public Advocate's office take responsibility for community education for

enduring powers of attorney. We do not receive any funding for that. It is not part of our function in the act but we have always taken responsibility for that. I would like us to have the capacity to be able to increase that community education, to increase the funding we receive to be able to produce the booklets that we do produce out of our own budget to educate and inform people and to be able to assist more people in the community to complete enduring powers of attorney.

One of the problems with that is that a number of people, when they complete an enduring power of attorney, do not have anybody that they can appoint, and they appoint me. So it is a bit of a catch-22 situation. We have not as yet had the situation where, with respect to somebody who has appointed me as their enduring attorney, I have needed that to be invoked. But the time will come. I have increasing numbers of people for whom I am attorney and I am just waiting for the day when they will lose capacity to make decisions and I will have to do that. Again, it is not something that I am currently resourced to do.

THE CHAIR: You are resourced to take on those cases which are referred to you directly by the ACAT?

Ms Phillips: Yes.

THE CHAIR: But if a private citizen elects to have you as their enduring attorney, you do not have funding for that?

Ms Phillips: No. That is a new practice, I suppose, in the community. People are becoming increasingly aware of wanting to do this, and we are encouraging people to do it. Normally people appoint a family member, but there are a number of people, as I said, in the community who do not have anyone to appoint.

THE CHAIR: Can you quantify?

Ms Phillips: No. Unfortunately, enduring powers of attorney are not registered in the ACT, so we do not really know the numbers. That is something that is being discussed at other levels, as to whether registration is something that we might want to do. But we do not know. I know, for example, that 18 months ago I printed 10,000 copies of our booklet, but the forms for enduring powers of attorney are also available online, and I encourage people to download their own forms. However, we have distributed all of those 10,000 booklets in the last 18 months.

The third plank, if you like, is that we would like to develop community guardians. This is a system that has been used in other jurisdictions. It calls on the good nature of the community, for people to volunteer to be guardians for people who have nobody to be their guardian, particularly in relation to elderly people who might be in residential care. It is a pleasant and satisfying role for a person in the community to be that person's guardian, just to keep an eye on them once those major decisions about where they are going to live and how they are going to be have been made.

Again, we would need resources to be able to have a campaign to get people to volunteer, to train them and then to supervise them in that manner. I have set this out as a strategy for how we can address this future need—rather than just focusing on us

at that end of substitute decision making, looking at assisted and supportive decision making along the whole spectrum.

MS HUNTER: Are there other jurisdictions where enduring powers of attorney are registered?

Ms Phillips: The only one at the moment is Tasmania. Tasmania has been registering them for some time. I believe it does it through the Land Titles Office. We would do it here through the Office of Regulatory Services, I suppose, along with other registrations that we do. But there are discussions I believe at a national level about how this might be done throughout jurisdictions across Australia.

THE CHAIR: You and I have had a discussion about this before, Ms Phillips—there seems to be a plethora of views about the desirability or the effectiveness of registering. One of the issues is recognition of the registration across jurisdictions. So there are some quite complex problems there which—

Mr Corbell: That is one of the issues; you are right, Mrs Dunne. Other issues relate to whether such a register would be able to maintain a contemporary record of what powers of attorney are in place—that is, if someone made a new power of attorney but failed to register it, which would apply and which would be drawn upon by people seeking to act on that power of attorney?

It is a complex issue. At the moment, the ACT's legal position reflects the position in relation to other documents of a similar nature, such as wills, where wills are not required to be registered. There are benefits and disadvantages to either approach—either registering or not registering—and that is a matter that I and Ms Phillips have had some discussions on, and it is a matter we continue to look at. I understand at official level there are discussions amongst officials from different jurisdictions about the desirability or otherwise of these approaches.

THE CHAIR: One of the circumstances in which this arises is discussion of elder abuse. I am not entirely sure that I have got my head around how registration of powers of attorney might help to address the issue of elder abuse, and I am wondering whether there is thinking on that at the national level. Again, this is one of the aspects of addressing our ageing population that we have to be aware of.

Mr Corbell: I think it would be fair to say that, at this point in time, the government is yet to be convinced as to the desirability of a register. But it remains open to the notion and is engaging in discussions and looking at the issue.

MS HUNTER: In your outlook for the year ahead on page 8, you talk about finalising systemic advocacy. It is a project you are doing on children and young people and out-of-home care. I am wondering how that project is going, if you could give us a bit of an update, and also a little bit about the auditing that you have been doing.

Ms Phillips: Both of these projects are only in the very early stages at the moment. What we are doing with regard to children with disability is that we have collected the number of cases—which has not been an easy task—to identify those young people or children who are in the care of the territory who have significant disabilities. But we

have done that. Then we will be investigating and looking at each of those cases individually to see that all of their needs are being met.

The reason for doing this particular audit came from over the last couple of years that we have had young people come into my care as guardian who had been in the care of the directorate for many years and who had significant disabilities that appeared to us had not been adequately addressed. So the young person turned 18 and did not have the resources and the support and the programs that appeared necessary. We have had to take on that task—which is really over and above the task of guardian—to actually put in place programs to find accommodation, to refer people for medical advice, to do those kinds of things. So that alerted—

MS HUNTER: So the Community Services Directorate, although they were the parent, if you like, of the child to the age of 18, did not do any sort of transitioning? They did not provide any of the sorts of funding or whatever to be able to secure, as you say, accommodation, supports and so on?

Ms Phillips: With three or four young people who came into our care during the earlier part of this year, three of them did not even have anywhere to live. So we made the decision that we wanted to look at what was happening with young people and children with disabilities who were in the care of the office, and we have only just started that project.

MS HUNTER: Certainly, I know the directorate has said that they do planning for young people to transition people out of the care and protection system. I think it is at least 60 per cent—and growing—are supposed to have a transitioning out of care plan. So, in the case of these three young people, was there any sort of transitioning out of care plan in place?

Ms Phillips: In one of the cases there was quite a detailed leaving care plan that was delivered to us after the young person came into our care. It had been done, I think, the day before the young person turned 18. In another case, I had discussions directly with the directorate about a young person who they had applied to the ACAT for me to become the young person's guardian when they turned 18. It was in a few weeks, and there were still no plans in place.

As you can see from later in our report, we are still not happy with the leaving care plans. We are not getting them in a timely manner. The directorate certainly has made considerable efforts to do this, but, as you can see, from the 25 that we received, only 11 were seen by us as being acceptable and were received prior to the young person turning 18. Our recommendation is that this transition planning should start at about age 15.

MS HUNTER: Absolutely. Of the ones that you have seen, at least 50 per cent you did not feel were adequate. What can you do in that case? Obviously you go back and say they are not adequate. What is the response when you do that?

Ms Phillips: Yes, that is what we do, and the directorate certainly makes every effort to put together a plan. They appreciate that that is part of their role. But it is more than that; it is our trying to assist them to see that this is a critical part of this young

person's life and that the plan is really only just something on paper. All of the actions should have been taken—the referrals, the assistance with continuing with school or with employment, where they are going to live. All of those kinds of things should have been done, whether there has been a plan written or not. Part of our advocacy role is to go back to and work with the directorate and with the individual caseworkers on those individual young people.

MS HUNTER: With these three young people with disabilities, I am assuming they were a complex range of disabilities?

Ms Phillips: Yes.

MS HUNTER: How long had they been in the care system?

Ms Phillips: I cannot tell you, but years.

THE CHAIR: Looking at the figures on page 23 of your annual report, a quick rundown would indicate that, according to that snapshot there, there are about 85 children who would probably be in the category of 15 and older. When do you start seeing transition plans for those children? You are saying ideally you should start to see them when they are 15 and they should be developed as a living document over that time.

Ms Phillips: Yes.

THE CHAIR: When do you actually see them?

Ms Phillips: We usually only get them after they turn 17, in the last 12 months. You are right; in terms of the statistics there are only about 30 children each year who transition from care. So one would assume it is not an onerous task and that reports on all of those 30 children should be provided to us as soon as they turn 17.

THE CHAIR: Ideally, you would like to see that happen a couple of years earlier than that?

Ms Phillips: Certainly.

THE CHAIR: It does not all have to be done when they turn 15.

Ms Phillips: No. It can be developed.

THE CHAIR: Developed after that time.

Ms Phillips: One of the things at 15, I think, that is critical is their education or employment planning. At that age, you can make a decision whether this young person is going to benefit from assistance to continue their education, and that might need a whole lot of planning and very different kinds of responses from somebody who might be going to go into a trade or do something quite different. Those decisions, as we all know as parents, we need to make when they are about 15.

MS HUNTER: When you have taken up the issue with the Community Services Directorate about your concerns about the lack of timeliness around leaving care plans being put together or shown to you or about the adequacy of the leaving care plans, have you been able to have ongoing dialogue to then get to what you think is a satisfactory outcome?

Ms Phillips: Yes, certainly. As I said, their compliance is improving dramatically, and increasingly so. But it is still below what we think is an acceptable level. But the response is that they are concerned to work with us and to provide these plans.

THE CHAIR: There are some very disturbing figures in some of the pages of your annual report. For example, I am concerned that you say on page 25:

> Of the **202** children and young people in kinship care whose Annual Review Reports were analysed during this reporting period, it is not clear from the reviews whether **108 (53%)** were actually seen or visited by a Care and Protection worker.

I hate to sound like a cracked record but this goes back to the comment that was made by Ms Vardon in her first inquiry—that the job of the care and protection system should be to be able to say how many children are in care, where they are in care and how they are. You are telling us here that it seems to you that for at least 50 per cent of the children in kinship care, they could not answer that question.

Ms Phillips: That is right.

THE CHAIR: What do you see needs to be done to address that issue? How important do you think that is?

Ms Phillips: We see it as critically important and that is why we have, in fact, reported on it. It is one of the indicators that we have identified as reflecting the quality of the care given to our children and young people. Again, our role is to advocate for these young people by working with the officers from the directorate to point this out to them and to encourage them to actually undertake the case work role that we think they should be doing and visiting as a care and protection officer.

As you are aware, they have been under enormous resource constraints in recent times, and I guess that children and young people who are with kin are probably, one would hope, being cared for. If you are going to prioritise children who you must visit, you might put the children and young people who are with kin lower on the list.

THE CHAIR: Yes.

Ms Phillips: That does not excuse them not being seen, but I can understand, when they are prioritising and having emergency actions and responses, that this is where a lot of their time is taken.

THE CHAIR: But you also report on the previous page that 32 per cent of children are not seen by a caseworker in the reporting period. So you are seeing obviously a much lower proportion of children in foster care who do not see anyone.

Ms Phillips: Yes.

THE CHAIR: But you do not report directly on the quantum of that, or have I missed that somewhere?

Ms Phillips: No, we have not recorded that as a separate category.

THE CHAIR: Could you get back to the committee on that on notice as to the proportion and the number of children you think have not been seen across the board?

Ms Phillips: Yes, certainly.

THE CHAIR: Have you got questions, Ms Hunter?

MS HUNTER: Yes, I also want to go to page 22. Graph 3.4 sets out the placement type by number and percentage of children and young people. You make a comment underneath about being concerned about the number of young people in detention, but also the number of young people who are deciding that they will go and make their own arrangements. I guess what you are saying there is that it may be a reflection of the young people not being supported in the out-of-home care system or not being able to develop an ongoing relationship with a caseworker. Could you give us a little more information on why you have come to that view?

Ms Phillips: I suppose increasingly young people who have been in care for some time who reach their teens often have not—the statistics show us that if they have been in a lot of placements, as many of them have, they have not developed a relationship with any family, home or similar kind of environment. Young people as young as 13 and 14 make decisions to go it alone. Many of them start off couch surfing and living on the street and—

MS HUNTER: Ms Phillips, this has been a feature for a while. How many do you think may be in that position? Do you have any idea of numbers or a percentage of those who would be in the out-of-home care system?

Ms Phillips: Graph 3.4 shows the numbers at that time. The numbers are not high—two in transition, nine self-placed, 10 independently living, nine in detention—out of approximately 550 young people in care.

THE CHAIR: But in that age cohort it is actually quite a large group.

MS HUNTER: Yes.

THE CHAIR: I mean, we are talking about—if you put in kids in residential care, detention, self-placed, independent living, it is almost half the number of children in that age cohort.

Ms Phillips: It could well be, yes.

THE CHAIR: So in the overall scheme of things in the care and protection system, it

may not seem many, but of the group it is an alarming preponderance of people.

Ms Phillips: Yes, as table 3.2 details.

THE CHAIR: You have a statutory role in relation to the Children and Young People Act. Do you find that (a) you have enough resources to meet your statutory role and (b) are there other aspects of the interaction that you feel it is necessary for you to undertake that is not particularly funded?

Ms Phillips: Yes, that is the second tranche, I suppose, of my statement in the beginning, that I believe to undertake the advocacy role, the statutory role, particularly in relation to children and young people, we do require additional resourcing to do that. Some time ago the Public Advocate was given additional resources post Vardon to monitor the compliance of the directorate in relation to the implementation of the recommendations of Vardon. However, over time, the increase in pressure from people with mental health issues, with mental dysfunction, with complex disabilities, has meant that we have had to use some of those resources in those areas. So we have reduced the number of staff who are directly working with children and young people.

We do need more people to do this and, as I have remarked, in other jurisdictions there is a position of children's guardian as opposed to children's commissioner. There are children's commissioners in every jurisdiction in Australia. There are also children's guardians. The guardian's role is specifically to look at and monitor the care provided by government to children and young people in the care of the directorate.

It is a complex role and an onerous role and one that I believe we do need additional resources to do properly. As you can see from the reporting in this annual report, what we need to do to meet our statutory obligations to ensure that children are adequately cared for when they come into the care of the territory is wide ranging and complex.

THE CHAIR: I am conscious of the time, but there are just a couple of questions that I would like to follow up with. When you become concerned about these issues, apart from writing in your annual report, is there an appropriate avenue of communication that you can communicate directly to the chief executive in the case of children and young people, or the responsible minister, your concerns about what you see as failings in the system?

Ms Phillips: Yes, there is. We meet regularly with officers at various levels, from caseworkers to team leaders to managers. We monitor—we receive many reports, and that is a mandatory provision because within the Children and Young People Act it is stated, for example, that when a young person is brought into care, when there are incidents when a young person is in care, where we have to do annual review reports, a whole lot of reports have to come to the office.

We monitor all of those. If we pick up concerns from those, we then meet with the directorate; so we meet over section 507 reports, which are where we are concerned about a possible abuse or problems with a young person in care, or we meet whenever we are concerned on a regular basis. I meet with the director-general of the directorate also and bring these to his attention, as I do with the minister.

MS HUNTER: Page 22 of your annual report talks about inconsistencies in what a reporting period is. Basically, it states that a review should take place on the anniversary of a child or young person entering care and that there seems to be a lot of inconsistency in this area. In fact, you have down here that in 86 per cent of cases there are incorrect reporting periods, which is concerning. Is that an issue you have taken up with the director-general, and what has been the response?

Ms Phillips: Yes, it is, and it has been an ongoing issue. To some extent, I suppose, we are pleased to be getting the reports. If they are a bit late or out of sync, that is an issue, and it is something we do feed back to them. But what is important is that we are getting annual review reports. We were not getting those when I started in this job and we were monitoring in earlier periods. There was not even an acceptable date as to when annual reviews would be done. Now they are being done. They are not always done on time, as you can see. Most of the time they are not done on time, but at least they are being done and we are much happier with the reporting in terms of annual reviews.

What I would like now to see is the quality of those annual reviews improved so that they do tell us that the directorate knows something about what has happened for that young person or child during the last 12 months. We are not getting that sense in all of the reports we are getting.

THE CHAIR: There are probably many more questions to be asked and I do actually have quite a few that I shall put on notice. Thank you, Ms Phillips, for your attendance. One other question: did you ever get a copy of the policies and procedures that you have been asking for since 2008?

MS HUNTER: Yes, I would like to know the answer to that, too.

Ms Phillips: Yes. They are two very large volume folders and I have them in my office at the moment.

THE CHAIR: Someone is making their way through them. Thank you. I am sure that there will be questions on notice. Members have five days to get them to the committee secretary, and if you could get them back to the committee secretary within three weeks of your receiving them, that would be great, Ms Phillips. Mr Crockett, how are you this morning?

Mr Crockett: Fine, thank you.

THE CHAIR: Mr Crockett, you are aware of the blue privileges statement and understand its implications?

Mr Crockett: Yes.

THE CHAIR: Would you like to make an opening statement?

Mr Crockett: Yes, thank you. Last year was a year in which we made substantial progress in implementing the commission's strategic plan for 2008 to 2012. We are

getting near to the end of that plan now and we are well on track for completing most of the goals we set ourselves four years ago.

Particular highlights last year were the implementation of our new online grants management system, which we call e-grants, or the first stage of that, which is electronic invoicing. We also established a new system of private practitioner panels—these are private practitioners who do legal aid work—and introduced, for the first time in the territory, practice standards which all practitioners, both private and salaried, who handle legal aid work must comply with in order to achieve a decent minimum standard of service.

We also completed the upgrade of our information and communications technology systems. We increased preventative and early intervention services, which is one of the objectives, as you know, of the national partnership agreement. We also have achieved closer collaboration with other legal assistance providers in the territory—the community legal centres, the Aboriginal Legal Service—and improved the coordination of the delivery of legal assistance in the ACT.

I suppose the main disappointment last year was that we were not able to increase grants of legal assistance, due to continuing budget constraints and the increasing cost of grants.

THE CHAIR: One of the things that I noticed in particular was that you have again talked about the risk of financial liquidity. You touch on that in the risks section on page 27. What are you doing to address the issues and to mitigate the risk of liquidity issues arising?

Mr Crockett: We are managing our expenditure to ensure that our operating deficits remain at a manageable level. While the deficits last year and in the current year will be fairly substantial, we have budgeted, we have put expenditure settings in place, so that our deficits over the next two or three years would be much lower. We have done that by achieving some savings in salary costs, in administration costs and so on.

The main risk is that the cost of legally assisted cases will continue to increase, and if that happens—and in the past the increase has been well above the rate at which our funding has increased—we will find ourselves continuing to reduce grants for assistance, which is something we are keen to avoid. We obviously are talking to government, both the territory and the commonwealth, about funding issues and hopefully in the future we can look forward to increasing grants of assistance again.

MS HUNTER: If there are cuts, how would you manage those as far as the balance of legal advice and legal education is concerned?

Mr Crockett: The national partnership agreement seeks to increase what it calls preventative and early intervention services—typically these are information, advice, advocacy and referral services—to try to resolve matters at an earlier stage so they do not get on to the stage of litigation. There is evidence that that is happening to some extent, particularly in the family law area. As you probably know, the changes to the Family Law Act in 2006 have increasingly focused on mediation as an alternative to people going to court to resolve disputes. That is showing up in the figures. We are

seeing some reduction now in the average cost of family law cases that go on to court.

On the other hand we are also seeing an increase in the complexity of some of those cases, because it is the difficult disputes that cannot be resolved through mediation, the intractable ones, that need to be litigated. The commonwealth is keen to see a shift in favour of early intervention and prevention. Certainly the figures last year indicate that is the direction we are moving in. But it is very much demand driven and if there is an increase in demand for litigation services obviously we need to be in a position to be able to respond to that. So there is also going to be some balancing but we hope, through early intervention, we can nip a lot of the problems in the bud so they do not go on to become full-blown court cases.

THE CHAIR: Mr Rattenbury.

MR RATTENBURY: There has recently been in the media some discussion about the structure of the Legal Aid Commission with suggestions that it is too top heavy and there are too many managers and not enough lawyers. I note you had a letter to the editor in response to those comments. I wondered if you would like to elaborate on that point at all.

Mr Crockett: Yes. I think we have got a pretty lean structure. We have a management committee of four people and only two of those have executive level jobs. What the correspondent of the *Canberra Times* overlooked was the fact that it is not just lawyers who provide legal services. We have a large number of paralegal staff. Most of them are law students in their later years. Their roles vary from supporting lawyers, particularly in the family and criminal practice areas—and that support includes dealing directly with clients, providing information, passing clarifying advice and so on; also support for the lawyer at court—involvement in the legal aid help desk, so they are the first point of contact for people ringing the commission or coming into the office and their role is to triage the person's problems, find out what the legal problem is, how urgent it is, then decide whether it is something that we can resolve by providing some information or they need legal advice, and then arranging that advice or a referral if they need help from a different agency.

MR RATTENBURY: The staffing profile on page 71 lists 35 administrative services officers as part of your overall staff of 67. Are those paralegals counted under that ASO classification?

Mr Crockett: Yes.

MR RATTENBURY: And how many of those ASOs are in fact paralegals?

Mr Crockett: There would be approximately 12 paralegals.

MR RATTENBURY: Right; so 23 ASOs on your staff. The figures over, say, the last four annual reports since 2007-08 show that total staffing has gone from 57 in that financial year to 67 in 2010-11. As I understand the figures, eight out of that increase of 10 have been in the ASO category. Can you give us a bit more detail on those staff increases?

Mr Crockett: Yes. There have been increases in staff in the corporate services area. When I became chief executive in late 2006 the corporate services area was understaffed. We had no business manager, for example, at the time. There was no professional human resources person. There was also only one accountant, so when that person was away we were in some difficulty in terms of financial reporting. So we have increased staff in the corporate services area. There have also been increases as a result of increased funding from both the commonwealth and the ACT governments over the last four to five years. That includes legal staff, additional duty lawyers, both in the family area and in the criminal area.

There have been more recently staff employed for the Youth Law Centre, whereas before we relied largely on the volunteer efforts of Clayton Utz, which were one of our partners in the Youth Law Centre to provide supervising lawyers. They withdrew from that arrangement so we had to find our own staff to move into that and we were able to obtain additional funding for that purpose. So there has been a mixture in the increase in staff. It has been partly lawyers, partly administrative people or, as I say, financial and human resources professionals.

MR RATTENBURY: And what is the difference in your breakdown between a senior officer and a legal officer? Are senior officers lawyers and do they practise?

Mr Crockett: The senior officers I think are the senior officer grades, which is the standard public sector grading. Sorry; which page is that?

MR RATTENBURY: This is on page 71. In previous years senior officers and legal officers were grouped together. In the last two or three years you have separated them out. I am interested in what the distinction is. Are they purely management or are they practising lawyers?

Mr Crockett: There are four senior officers. They are all administrative people, not legal officers. The senior legal officers are included in the legal officer category.

MR RATTENBURY: Okay.

THE CHAIR: So where do you fit, Mr Crockett?

Mr Crockett: I am one of the two executives.

MR HARGREAVES: Can I go down that track, Madam Chair?

THE CHAIR: Yes.

MR HARGREAVES: On page 73, Mr Crockett, the agency profile has an indication of how many people on your staff are engaged in administrative support. As I read the thing—please correct me if I am wrong—you have got a head count of six people who are providing administrative support to the commission and all the rest of the people there are providing services frontline in the particular descriptors that you have given us. For example—I will just pick one—criminal practice, 14.27 FTE and 16 people in there; how many of those 16 people are actually legal officers and how many are supporting the legal officers?

Mr Crockett: There would be nine I think. I would need to check. I have not got these figures with me but I think nine lawyers.

MR HARGREAVES: Okay. And does that include paralegals?

Mr Crockett: No. That does not; the others are paralegals and administrative support.

MR HARGREAVES: Once upon a time, probably BC, there was such a position in the legal chambers of a legal secretary, which was an administrative position but that person had to have skills in supporting specifically the legal practice; they had to know their way around the books, the acts, the legislation and that sort of stuff. Does such a position still exist?

Mr Crockett: We do not call them legal secretaries any more. The paralegal staff or the support staff in the practice areas provide in effect the sort of secretarial service that the traditional legal secretary used to provide. But most of them also provide more than that and most of them are, as I say, law students. So they are actually dealing with clients and providing information, and doing research into a case sometimes for the lawyer. So it is a broader role perhaps than the traditional legal secretary role.

MR HARGREAVES: And the paralegals would be taking over the duties of what used to be called the chambers clerk, the law clerks? That is another terminology that has disappeared, has it?

Mr Crockett: That is right; you do not hear the term "law clerks" used now.

MR HARGREAVES: Yes. So the administrative people are involved in corporate services quite specifically—accounts, human resources, that kind of thing—and they presumably provide some sort of secretarial type service to the legal staff?

Mr Crockett: Corporate services—

MR HARGREAVES: Diarising and all that kind of thing?

Mr Crockett: Corporate services staff are purely involved in the provision of corporate services—finance, ICT, facilities management and human resources. The support staff in the practice areas are supporting the provision of legal services or providing legal services directly to clients. The other main area of the commission is what we call client services and that is the area that includes reception staff, who again are providing some direct face-to-face service but who also manage the grants process, so processing applications for legal assistance and managing the grants.

MR HARGREAVES: Thank you.

THE CHAIR: Could you on notice, Mr Crockett, give us a rundown on what those descriptors in that table on page 73 mean and a rundown of the FTE or head count—I do not mind which? How many are legal officers and how many are administrative?

Mr Crockett: Certainly.

THE CHAIR: Thank you.

MS HUNTER: May I ask a quick one?

THE CHAIR: Yes.

MS HUNTER: I just want to go to the issue of the calls, the helpline. The number of calls coming in is dropping. This is in contrast to the pieces of advice you are giving out and so forth.

Mr Crockett: Yes.

MS HUNTER: What do you think is going on there? Is that of concern to you or not?

Mr Crockett: It is of concern because we would obviously like to see those numbers increasing, but it is a phenomenon which is apparent not just in the ACT but across other legal aid commissions and community legal centres. A lot of the other commissions are reporting a drop off in the use of their telephone information services. We put this down largely to two things. One is increasing use of the commission websites, which these days contain a lot more information than they used to in the past. These days if people have got internet access they will go to the website first and if they get the information they need there they will not ring up; they might ring up to make an appointment but they are not ringing up for information.

The other factor is that there has been an increase in the number of telephone services available in recent years. For example, family relationship centres are picking up a lot of the calls relating to family law issues which would have come to us or perhaps the community legal centres in the past. So I think it is a combination of those two things. I suspect that the internet is the main answer.

MS HUNTER: Okay. Thank you. I just wanted to say I am pleased to see that the Legal Aid Commission is still an important partner in the Youth Law Centre.

Mr Crockett: Thank you.

THE CHAIR: I am conscious of the time. I thank you for your attendance, Mr Crockett. There probably will be questions on notice. We have got five days to get them to the committee secretary, and after you receive them can you turn them around in three weeks, please?

Mr Crockett: Thank you.

The committee adjourned at 12.34 pm.