



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Annual and financial reports 2011-2012](#))

Members:

**MR S DOSZPOT (Chair)
MR M GENTLEMAN (Deputy Chair)
MRS G JONES
MS Y BERRY**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 13 MARCH 2013

**Secretary to the committee:
Dr B Lloyd (Ph: 620 50137)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 9 August 2011

The committee met at 9.02 am.

Appearances:

ACT Human Rights Commission

Watchirs, Dr Helen, ACT Human Rights and Discrimination Commissioner

Roy, Mr Alasdair, ACT Children and Young People Commissioner

Durkin, Ms Mary, ACT Disability and Community Services Commissioner and
Health Services Commissioner

THE CHAIR: Welcome to the second public hearing of the Standing Committee on Justice and Community Safety on the annual reports of 2011-12. This morning the committee will hear from the ACT Human Rights Commission, the Official Visitor and Corrective Services. The proceedings will be recorded and transcribed and proof transcripts will be sent to witnesses for comment. Questions taken on notice and questions on notice should be responded to by witnesses and sent to the committee within seven days of the hearing.

We shall begin with commissioners of the ACT Human Rights Commission: Dr Helen Watchirs, Mr Alasdair Roy and Ms Mary Durkin. May I assume that you have read your privileges statement and you are familiar with the contents thereof?

Mr Roy: Yes.

THE CHAIR: Do you wish to make a brief opening statement to the committee before we proceed with the questions?

Mr Roy: Yes, I do.

THE CHAIR: Thank you, Mr Roy.

Mr Roy: On behalf of the commission, I would like to make two points. First, the commission would like to make some comments in relation to the structure of the commission.

As you are aware, the commission is an independent statutory agency established by the Human Rights Commission Act. The act establishes five members of the commission: the Children and Young People Commissioner, the Disability and Community Services Commissioner, the Discrimination Commissioner, the Health Services Commissioner and the Human Rights Commissioner. Three people are currently appointed to cover the work for these five positions. Mary Durkin is the Disability and Community Services Commissioner and also the Health Services Commissioner; she also deals with services for older people. I am the Children and Young People Commissioner. Helen Watchirs is the discrimination commissioner and the human rights commissioner.

What is not commonly understood is that the commission operates from a model of collegiality and does not have an administrative head. This means that all three commissioners have equal seniority and decision-making authority within the commission. Despite what many people think—including members of the Legislative

Assembly, executives and other staff within all directorates, including our own JACS, and members of the broader community—the human rights commissioner is not head of the commission. Although we manage the operations of the commission collegiately, the Children and Young People Commissioner has prime responsibility for overseeing the commission’s corporate functions. Accordingly, the Children and Young People Commissioner is the best initial contact for whole of commission related issues.

We can certainly understand how the confusion regarding the collegiate structure of the commission arises, particularly when the human rights commissioner’s title is reflected in the title of the commission itself, and we have many times questioned whether the commission should be renamed to more clearly and accurately reflect the broad sweep of the commission’s functions.

Regardless, we believe it is timely to remind people of the equal administrative status of the three commissioners within the commission. We believe this will lead to a better understanding of the structure of the commission, the roles and functions of each of the commissioners, and the direction of inquiries and correspondence related to commission activities.

Second, and related to the above, the commission wishes to note the scheduling of our appearance before this committee.

Traditionally, we have appeared on the same date as the other statutory agencies, including, for example, the Public Advocate, the DPP, victims of crime, the Public Trustee, Legal Aid et cetera. If a minister does appear with us, it is traditionally the Attorney-General, who has portfolio responsibilities for JACS and the administration of the Human Rights Commission Act.

This year we have been scheduled to appear on the same day as corrections and the official visitor for corrections. And the minister who is listed as appearing with us is the Minister for Corrections, who does not hold any portfolio responsibility for the commission. We do note, however, that Minister Rattenbury did not appear.

We are unsure why this change occurred, but we have questioned whether it is related to a view that the commissioner is only concerned about the human rights of prisoners—which, of course, is important, but is a very small component of the overall function of the commission and is a function which is primarily associated with the human rights commissioner.

We intend no disrespect to Minister Rattenbury or the committee in raising this issue, but simply want to bring it to the attention of the committee as a possible example of how the roles, functions and structure of the commission can be incorrectly perceived at times.

Finally, all three commissioners welcome the opportunity to appear before the committee this morning, and we look forward to answering the questions about all of our statutory functions, including children and young people, disability, discrimination, health, human rights and older people.

THE CHAIR: Thank you, Mr Roy. My first question will centre on areas on pages 9 to 12 of the annual report. Commissioners, in the commission annual report there are a number of references to resource constraints—in particular, effects on the commission’s ability in a number of areas such as updating the strategic plan and managing the increasing number of complaints across all areas. Could I ask each of you to talk about the impact of these resource constraints together with the rising number of complaints impacting on your work. I do not know which one of you would like to start.

Ms Durkin: I am happy to start. In the health area, in particular, the reduction of staffing resources has had a significant impact. Health complaints have increased by 60 per cent since the commission was established, yet resources have decreased. This has meant that this year I have had to turn away complainants. So only matters that give rise to serious concerns about public health and safety or that are likely to result in disciplinary action, policy changes or compensation are being handled. Some 56 per cent of matters are currently being turned away, with the risk that important matters are not being picked up as well as a reduction in the trend of the data that is available to me.

Complaints that are made under the Health Records (Privacy and Access) Act do not meet this criterion, so we are not dealing with complaints under that act unless consumers are seeking access to their records for urgent treatment. Complainants are being referred back to providers for resolution, which is effectively denying the community the right to seek an independent adjudication of their concerns. And health professional complaints are being referred to the Australian Health Practitioner Regulation Agency. This generally provides consumers with no resolution of their concerns, as the agency and boards are really only concerned about the standards of practice of health professionals. That is what is happening in health, and consumer levels of dissatisfaction are increasing.

THE CHAIR: Thank you. Dr Watchirs?

Dr Watchirs: As set out in the annual report, we have had an increase in complaints but a reduction of staff. In the discrimination team we currently have 1.6 full-time equivalents; and both of those employees have workers compensation claims for occupational overuse syndrome, so the future is unclear as to how we are going to handle complaints.

In relation to the human rights and legal policy area, that also has been reduced as well as being shared by all three commissioners. We did no inspections of the AMC in the reporting period. We did attend meetings with the corrections portfolio, and also there is a regular oversight meeting of the AMC which we attended. Since this reporting period, we have announced that we are going to do a mini-audit of the women’s area at the AMC. Hopefully, that will be conducted this year but, with the resources, it may not be completed until next year. So it has impacted greatly on our systemic work.

The discrimination area is absolutely focused on complaints. We have dropped most education functions. The only remaining ones we have at the moment are the ones paid for by the department of justice and community safety, particularly training of

new corrections staff, which we see as absolutely essential. In the reporting period I think we did two trainings for Bimberi staff as well, but they are not paid for.

In relation to policy work, most of that work is common to all three commissioners, and that is listed in our annual report.

THE CHAIR: Mr Roy.

Mr Roy: The situation is very similar for me, as you have probably guessed. I have one FTE advising me, so that means there is a Children and Young People Commissioner who has responsibility for children and young people but also, as I outlined earlier, has responsibility for the corporate functions of the commission. At times I will spend 25 per cent of my time doing those corporate functions. I have one FTE, who is currently part time, assisting me.

Since I began, my complaint loads have increased 10-fold. That means that from the next few weeks we will no longer be taking complaints with respect to care and protection services, which is a significant concern. Care and protection complaints currently account for about 50 to 60 per cent of my workload but I just do not have the resources to deal with them effectively. I will not be simply turning those people away; we will be encouraging them to go back to the department and work closely with the directorate to encourage them to improve their internal complaints-handling mechanisms. But I am not convinced that is going to bear much fruit.

MRS JONES: I am not sure if it is just me, but I am struggling to hear properly, Mr Roy.

MR SESELJA: I have a supplementary on that, if I could, chair.

THE CHAIR: Certainly.

MR SESELJA: Is there a reason why care and protection complaints have been chosen not to be pursued due to the load of complaints?

Mr Roy: Yes—because we have a very good relationship with CSD. The themes which occur in most of the children and young people, or complaints—care and protection complaints—are similar so it is easier to work with care and protection to try and address the directorate’s internal complaints handling processes to ensure that they can respond to the types of issues that are being raised as a result of the complaints.

MR SESELJA: Given what we have seen in care and protection in recent years, with some pretty significant concerns, is there a risk that, by not pursuing those particular complaints, some of these issues may not get the attention that they deserve?

Mr Roy: Absolutely. The other thing to say is that it has been a very difficult decision. The children and young people in the care and protection system are particularly vulnerable, as are their families. You are quite correct: there has been a lot of attention on some of the areas in which CPS could improve its services, including, recently, the Auditor-General’s report. However, as a children’s

commissioner, I have statutory responsibilities for all children and young people, not just children and young people in the care and protection system. If I spend 50 to 60 per cent of my time focusing on kids in the care and protection system, I am neglecting to provide services for the rest of the children.

MRS JONES: Would you agree that that is, nonetheless, the more serious end of the spectrum and requires proper attention?

Mr Roy: That is very difficult to say. I think if you looked at a lot of the clients that the commission across the board deals with, all of them would be vulnerable in particular ways, so it is very difficult to say that a child in the care and protection system is more vulnerable than a person with a disability, an older person in a group home or whatever. We deal with a range of vulnerable people. But, as I said, I have got a relationship with CSD which makes me think that I can work with them to improve their internal complaints handling processes.

Ms Durkin: Could I just add, with my disability hat, that we are turning complaints away in the disability services area. The immediate pressure on the disability area has been that—I have been invited to be on the expert panel for the development of the national disability insurance scheme and to feed into the task force work for the development of the scheme in the ACT. This has not been possible. I have got one FTE, like Alisdair in the children and young people area. That person has worked part time until just recently. So it has just not been possible for me to devote the amount of time that I really need to because the NDIS is so important. I am pleased to say that the Community Services Directorate has recognised the impact that the NDIS will have on my office and has recently agreed to provide me with an additional resource for a period of time.

Mr Roy: Could I just add one more thing?

THE CHAIR: Certainly.

Mr Roy: I also have not been able to undertake systemic reviews over the past few years. Obviously I did the Bimberi review—Helen and I did the Bimberi review—which we received external funding for. But since then I have not done anything. One of the reasons why we would like to drop the number of complaints we are doing is so that I can focus my attention more on systemic issues. There are a lot of issues that I am aware of, not only in this role but in my previous roles, across the board, where a systemic review would be very helpful. But we have not had the capacity to do that.

An example of great concern to me is that, following on from the Bimberi review, the third and final report of the implementation of the recommendations from CSD I received a few weeks ago—a comment I made in response was that due to lack of resources I am unable to comment on whether those recommendations have been implemented.

MRS JONES: A supplementary.

THE CHAIR: A supplementary.

Dr Watchirs: Can I follow up on that?

THE CHAIR: Have you got an additional answer?

Dr Watchirs: Yes. In relation to Mr Roy's comment on the Bimberi report, there is a stark contrast between the Quamby and Bimberi work, which was funded by CSD, compared to the BRC audit we did in 2006-07 and the future one on women and the AMC. We did request specific funding, and that was not accepted. In the BRC review, we found women being bussed between facilities, something that was not known to any other external oversight agency. Similarly, with the Quamby report, there was no knowledge of the strip searching of young people that was routinely occurring there. We can talk more about the Bimberi report if you wish.

THE CHAIR: Could I just echo Mrs Jones's comment and ask if you would just speak up a bit. We are finding it a bit hard to hear.

MRS JONES: A supplementary.

THE CHAIR: A supplementary from Mrs Jones.

MRS JONES: Just to clarify, Ms Durkin, forgive my ignorance but you explained that time is being taken away on the NDIS rollout process. Is that something that has been an addition to your normal workload? Is that part of your work scope or something that you are doing as an addition?

Ms Durkin: It is in addition to my normal workload. The expert panel meets monthly and, as you would expect, there are papers this thick for every meeting. I have had no capacity to have an adviser read through them and advise me on them; I have to do it all myself. It is the same thing with the task force. If we are going to be able to feed into the task force properly and make the NDIS launch in the ACT the best that it is, I need an additional resource.

MRS JONES: Just on that same question, how many fewer cases have you been able to deal with as a result of this extra workload on the NDIS?

Ms Durkin: As with health, we have been turning complainants away when they ring up—saying, “Go back and talk to the service provider.” I do not have the percentage of complainants that have been turned away in the disability area, but I can follow up on that.

MRS JONES: Will you be able to take that on notice and get back to me?

Ms Durkin: Yes.

MRS JONES: Thank you.

THE CHAIR: Just a supplementary on that: would you be able to quantify that rather than it just being a percentage?

Ms Durkin: Yes.

THE CHAIR: The first substantive question to Mr Gentleman.

MR GENTLEMAN: Commissioner, page 10 of the report mentions, in relation to disability services and children and young people, a consultation project with children and young people about the bullying of students. It says:

The report will be released in the coming reporting period.

How is that work going? And I know that you have previously looked at bullying in schools. Have there been changes in the type of bullying over this last period, compared to previous periods?

Ms Durkin: That report was basically a consultation with children and young people about bullying and disability rather than assessing the prevalence of bullying in schools. There was a lot of research available about bullying and there was a lot of research available about disability, but there was not a lot about bullying on the basis of disability. We considered that seeking the views of children and young people about why people are bullied was the best way to go. That report was released last week or the week before.

Mr Roy: A couple of weeks ago, yes.

Ms Durkin: Two weeks ago, I think. It got a fantastic reception from the department of education and it got good media coverage. The minister, Joy Burch, did mention that a workbook that we created to further the discussion with children and young people about bullying on the basis of disability should be in every school in the ACT. You might like to add something, Alisdair.

Mr Roy: I think that probably summarises it, but we certainly would like to see that handbook in every school in the ACT.

MR GENTLEMAN: Thank you.

THE CHAIR: Ms Berry.

MS BERRY: Thank you, chair. On page 89 of the annual report, in section C24, *ACT women's plan 2010-2015*, it makes mention of the establishment of "a working group with domestic violence and rape crisis services to look at issues faced by women with disabilities seeking to escape domestic violence". Would you be able to update the committee on the ongoing work of this working group?

Ms Durkin: Sure. That working group meets when we have the capacity to get together. On page 21 of the report I have identified a bit more about that. We are basically looking at what sort of support people need to be able to access the justice system. To date, I have met with the deputy chief police officer to talk about a few complaints that I have dealt with where police have been unable to investigate a matter or progress a matter further when there are claims of assault in relation to a person with an intellectual disability who is non-verbal and so is considered an unreliable witness. I have spoken to the deputy chief police officer about ways in

which they can better manage those sorts of complaints—seek further evidence, talk with people about how that person communicates et cetera. So we have started off with the police.

We are also hoping in the future to look at the next stage of the support that is available to the people in the criminal justice system—what considerations are taken into account by the DPP about pursuing a matter et cetera. It is early days but at the moment we are basically looking at the early stages—that when it is believed that people may have been assaulted or sexually assaulted, there are supports available for them to work through the system.

MS BERRY: Thank you.

THE CHAIR: Mrs Jones?

MRS JONES: Going to the Auditor-General's report into the care and protection system, have specific failings or shortcomings of the care and protection system as outlined in this report been brought to the commission's attention? If so, what are they and what action did the commission take?

Mr Roy: I am not sure I completely understand the question. We have certainly seen the final report, and that report does highlight what the report refers to as failures in the system. We are aware of those. I have had an ongoing relationship with care and protection for many years, so there was nothing in there that took me by surprise. With respect to what we are going to do about it, hopefully, we can do some systemic reviews, if resources permit, into care and protection services, including some of the issues identified by the Auditor-General's report. I have already provided some advice to CPS and the Auditor-General about how some of the recommendations which specifically mention CPS can be better implemented.

MRS JONES: Just as a supplementary, have there been any complaints that have been warranted—for the commission to actually consider inquiry or investigation of your own?

Mr Roy: Sorry, could you—

MRS JONES: Have there been any complaints about the care and protection system as a result of the report or in association with the report that have required inquiry or investigation of their own? Has anything else come to light as a result of that process?

Mr Roy: Since the report?

MRS JONES: Yes.

Mr Roy: No, but, as I said, most of the issues identified by the Auditor-General were probably known to me and to others. As I said and as I have identified in many of my annual reports, I have been aware of those issues, as have other agencies, for quite a number of years. I would love to do a systemic review into some of those issues, recognising, again, that I have responsibility for all children and young people, not just care and protection, so I do not want to spend the bulk of my time undertaking

systemic reviews into care and protection either.

MRS JONES: No, but obviously if there are systemic issues—

Mr Roy: If they are serious issues, yes. And when I say we are not dealing with—

MRS JONES: Because it would throw up more cases, presumably.

Mr Roy: Absolutely. When I say we are not dealing with care and protection complaints, if people contact us, we are aware of the issue. Obviously, if something emerges that is of significant importance, we would do something about it; we would not just say, “Sorry, go back to the department.”

MRS JONES: Good.

THE CHAIR: Mr Seselja.

MR SESELJA: I have a question for the human rights commissioner, but I want to briefly follow up on one of the statements from Mr Roy, if that is okay with you, chair.

THE CHAIR: Certainly.

MR SESELJA: Mr Roy, in your opening statement you highlighted just the misunderstandings in relation to the role and the structure of the commission. I just wanted your view briefly on whether the way that is at the moment is in fact adequate or whether you believe that there does need to be a restructure that does have a formal head, as is the case in many other organisations—or do you think it is just a matter of clarifying those roles and it continuing in the way that it does?

Mr Roy: I think we all would have a view on that. Certainly there has been ongoing confusion about the structure of the commission as identified. As I said, it is due to a number of factors, not the least of which is that the Human Rights Commission was formed by an existing human rights office which joined with a health services complaints commissioner and adding a children’s commissioner into the mix. And also, as identified, one of our commissioners has the title of human rights commissioner, so it is understandable that some people would think a human rights commissioner is boss of the Human Rights Commission. Helen goes to great lengths to try and dissuade people from that opinion, but it is an opinion that is still held broadly and widely and causes a fair amount of confusion.

The commission, as I said, was established on a collegiate model. When the commission was first suggested, the idea was that there would be a president of the commission. There have been many times when we have said to ourselves that that would be fantastic. But it is a double-edged sword. Operating as three equal heads has its benefits, but at times it is significantly problematic in the sense that we all have equal say on issues. In essence, we vote on issues internally, and that can be quite—

MR SESELJA: So that—

Ms Durkin: When it has come down to it, in talking about the president, we have all pretty much come to the view that if we were to be given more resources, we would rather have more staff resources than another person at the top of the commission.

MR SESELJA: Dr Watchirs, a question for you—

Dr Watchirs: Can I just follow up on that?

MR SESELJA: Yes.

Dr Watchirs: The original bill did have a president in it, but the functional review took that out of the equation to save funds. Also, the original name of the commission was “human rights and services review commission”, and that was also changed.

MR SESELJA: Thank you. Dr Watchirs, I want to follow up with you on some discussion that we had at a prison forum the other day at the Assembly. I want you, for the committee, to make a similar point to the point you made there. It was particularly the point in relation to your ability to take human rights complaints from prisoners. You raised that at that forum, and the minister expressed some surprise. I just want you to outline that to the committee, because it is important to have it on the record. And maybe we can just explore that briefly.

Dr Watchirs: Sure. Both Ross Solly, the chair of the session, and the minister were under the impression that the Human Rights Act enables complaints to be made to the commission. In fact, there is no complaint function. We made a submission to the first year review of the Human Rights Act and the five-year review of the Human Rights Act that a complaints system could work—in my view, similar to the discrimination case model. We would conciliate civil cases—not criminal; they of course have a direct link to the court and should not be looked at by the commission. In fact, under our existing legislation anything before the courts could not be considered by us.

What happens with detainees is that they will ring us with inquiries or they will ring with actual discrimination complaints or services complaints, particularly about health or disability, dealt with by my colleague Mary Durkin. There is no complaint power, but people can make inquiries. I think in the previous year we had 92; this year we had, I think, 45 from the AMC. Some of those inquiries are important because we can follow up. In the case of an allegation of a use of force that was illegal, we were able to immediately get CCTV footage of that, look at it and then refer it to the police and later to the Ombudsman. It is very important having inspection power, but it is not a complaint driven system; people need to go to the Supreme Court in order to make a claim of action under the Human Rights Act.

MR SESELJA: In terms of a substantive difference, though, you talk about inquiries and that you can follow up on inquiries. Would there be a substantive difference were there to be a specific complaints power in relation to detainees?

Dr Watchirs: Sure. We would have powers. There is no complaint power, so we cannot compel documents.

MR SESELJA: From your perspective, is that something that you have raised with

either the current minister or former ministers in relation to changes? If so, what has been the response?

Dr Watchirs: It was within the framework of both the first year and five-year reviews of the Human Rights Act. Beyond that, no, I have not followed up. To be honest, we are so overloaded with complaints that it is not a priority. We did have 11 AMC complaints in the reporting period—not just detainees but also staff complaints. Sorry, we had 46 AMC complaints.

THE CHAIR: Ms Durkin, you wish to add something?

Ms Durkin: Yes. I think probably two or three annual reports ago the commission noted that we considered that it was very costly for people to go to the Supreme Court, and we did support a less costly option, like the ACAT or such like. But we also noted that having human rights complaints has the potential to double up on resources and duplication of investigations when a lot of the matters might already be dealt with by the Ombudsman; the Privacy Commissioner; the Children and Young People Commissioner; me in relation to health services, services for older people and services for people with disabilities; official visitors; and the Public Advocate. So we did note that it is not a simple matter to resolve, but we agree that a less costly option than the Supreme Court is desirable.

THE CHAIR: Thank you. My next question is this. You have all touched upon the fact that you have had quite an increase in complaints and resources have dropped or not kept pace with the increase. What is the relationship between the commission and the executive government? I would like each of you to give an answer on that, if you would. And also, what models are offered by other jurisdictions, both in terms of the workload and, if you like, the number of matters being turned away? In particular, Ms Durkin mentioned 56 per cent of matters being turned away, which is very significant. How does that compare with other jurisdictions? And how is the relationship between the commission and the executive government either helping or hindering that process?

Ms Durkin: I will start with the health thing. It has been some time since I have looked at the resourcing compared to complaint levels in other jurisdictions. The last time I looked, from memory, the ACT commission was the second lowest in terms of resourcing.

THE CHAIR: Sorry?

Ms Durkin: The second lowest in terms of resourcing. All of the other commissioners around the country except one were better resourced. I think that may have been the Northern Territory.

Dr Watchirs: I certainly did look at other jurisdictions when I first was appointed in 2004. There had been a report for the government describing the old human rights office run by Rosemary Follett as having ridiculously few staff. And, as I said, my staff have actually been reduced from the staff when I was appointed. I am absolutely aware that no jurisdiction has anywhere—their complaints are double, triple, quadruple. I know that in Victoria they have 70 staff and a \$7 million budget. So we

are way behind. They are the only jurisdiction to have a human rights function as well as discrimination.

THE CHAIR: Thank you.

Mr Roy: As far as I am aware, I am the smallest Children and Young People Commissioner in the sense that I have one FTE. I think the Northern Territory comes second, with two or three. As far as I am aware, I am the smallest. In saying that, each of the commissioners shares administrative resources, so we have an office manager and a couple of people who answer the phones et cetera. In essence, you could say that I have one point something to assist me, but in reality I have one FTE.

THE CHAIR: The first part of my question was: what is the relationship between the commission and the executive government? Obviously if you have got these serious issues, there is the question of whether your issues are being listened to. If not, what options are open to you to highlight the severity of the issues you are facing?

Ms Durkin: One of the issues for me is about understanding what I do. In relation to health services, the Health Directorate understands what I do better than JACS probably does. In relation to disability and older people, the Community Services Directorate understands. This is nothing to do with anything negative about JACS; it is just that I have the day-to-day links with them. We have probably been more successful in seeking funding from directorates that we deal with—like, as I mentioned earlier, the disability resource that the Community Services Directorate is going to provide me with.

Also, when the new national registration scheme for health professionals was introduced in 2010, the health services directorate was the one that facilitated COAG money coming to me for two years to enable us to deal with the extra workload that arose out of that. Because the commission is a funny conglomeration of different functions that deal with different directorates, we tend to have a closer relationship with the directorates that we oversee.

Dr Watchirs: I have regular meetings with the Attorney-General and corrections minister; most of my work occurs in their portfolio, although discrimination can be in any portfolio, and both the public and private sectors. I have prepared a budget bid in every year of my nearly nine-year appointment, and none has been successful. I prepared a special project bid last year. Specifically, I had two. One was arising from the race roundtable about the bullying of children of different races and same sex; that was unsuccessful. And there was also the one on the women at the AMC. In the previous year, both my colleagues received funding for the schools project on children with disability and bullying.

Mr Roy: Again, it is a similar situation with me. CSD and ETD in particular would have a greater understanding of my roles and functions than JACS probably does. As Mary said, that raises issues. And as Helen has said, I, too—across the commission, we put up budget bids routinely over the years, none of which have been successful.

THE CHAIR: A supplementary, Mrs Jones?

MRS JONES: Yes. It is a question for all of you, I guess. If you could put a simple figure on it—I know it is difficult to do, but for the sake of being able to make some headway—can you tell us how much would be adequate?

Mr Roy: Yes. Last year we put up a significant budget bid. We have done some internal calculations. To bring the commission back, in essence, to the same sort of purchasing power that it had when we started—in the sense of the number of FTEs against the number of complaints and functions, and accounting for the additional responsibilities that have been added to the commission over the years, and they are quite substantial and we can outline them if you want—we figure it would take approximately nine FTEs, which would be about \$1.1 million. That may sound huge—“Wow, nine FTE; that is huge”—but if you added nine FTE to the commission and then compared the Human Rights Commission to the Children and Young People Commissioner, the Health Services Commissioner and the discrimination commissioners in other jurisdictions, it would still be substantially smaller.

MS BERRY: A supplementary, please, chair. Would you mind outlining the extra activities that have come along the way since you all became one?

Ms Durkin: I do not have that; I am sorry.

Mr Roy: I will take that on notice, to give you a more detailed list. I can outline it briefly.

MRS JONES: Yes, and could I have a copy of that as well.

Mr Roy: Sure.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: In the report there is a discussion on the discrimination training program. It says:

The discrimination training program continued to operate on a cost recovery basis for the public and private sectors, with general public events remaining free and accessible, including the second Annual Race Relations Roundtable ...

You mentioned that, Dr Watchirs, in answer to an earlier question. When you say “cost recovery basis”, are you charging members of the public as well as putting in the budget bid to government? How is that working on a cost recovery basis?

Dr Watchirs: From August last year we lost our community engagement officer, who organised the training, booked rooms and did other administrative tasks as well as delivering part of it. When we lost that officer, some of the discrimination and human rights team took up that function, but they were senior staff. As I said, we have prioritised it to be only paying people like Justice and Community Safety. In regard to the private sector, we have got an e-learning module. It is general but also has a sexual harassment element. We are looking at marketing that through the chamber of commerce. We have written a letter. That would be available for free, but if people wanted it tailored we would do the tailoring work and charge a fee for that. The

problem is that the fee-for-service model does not work unless you invest in someone to actually do the work. In other jurisdictions, it pays for the person doing the work and another person. With the cuts, we could not gamble on getting those funds in, so that position was cut.

THE CHAIR: Thank you. We are down to one last question. Ms Berry, do you have a question?

MS BERRY: Yes, I do. We were talking before about the size of our commission in comparison to other states and territories. How does that compare to the number of complaints per head of population or department? Is there a way to measure that or compare it, or am I asking for something that is impossible to measure?

Mr Roy: I am just going to jump in. It is very difficult, certainly from a Children and Young People Commissioner's perspective, because different children and young people commissioners have different statutory functions. So not all commissioners do complaints, for example. And different jurisdictions do complaints in different ways. Even quantifying complaints across the commission is difficult, because we deal with complaints in a different way. So one health complaint does not equal one children's complaint or one discrimination complaint. To answer, to do it across different jurisdictions is problematic. But I am sure we could probably put together some data which would outline population complaint numbers against FTEs.

Ms Durkin: It is problematic because we tried it in the health area. If you just looked at it on a population basis, it looked like the ACT Health Services Commissioner was quite adequately funded, but it did not take into account additional areas of responsibility, like services for older people or complaints under the health records act. So I have additional jurisdictions that other complaints commissioners do not have. It has to be remembered that a lot of health services provided in the ACT are provided to the surrounding region. So our population basis just does not really work because of that.

Dr Watchirs: In relation to discrimination complaints, there was the Australian Council of Human Rights Agencies. We used to collect data from when it was formed in the early 2000s. That has been dropped in recent years just because of the resources expenditure to keep those figures up to date. We did compare once the South Australian office. In the year we looked at, the number of complaints was the same as the ACT, with a hugely higher population. The jurisdictions more similar to the ACT are the Northern Territory and Tasmania, and they have, I think like South Australia, at least double or triple our resources.

THE CHAIR: Thank you very much, commissioners. I think we have reached the end of our allotted time. We will forward a transcript of the hearing for comment. Obviously we look forward to receiving responses to questions you have taken on notice. Thank you for joining us this morning.

Appearances:

Potas, Mr Ivan, Official Visitor

Whetnall, Ms Tracey, Indigenous Official Visitor

THE CHAIR: I now wish to welcome the Official Visitor, Mr Ivan Potas, and the Indigenous Official Visitor, Ms Tracey Whetnall. Good morning. I assume that you have read the privileges statement and you are familiar with that.

Mr Potas: Yes.

Ms Whetnall: Yes.

THE CHAIR: Okay. Mr Potas and Ms Whetnall, do you wish to make a brief opening statement regarding your activities before we ask questions from the committee?

Mr Potas: I might just give you a bit of background to myself. I was appointed Official Visitor about a year and a half ago. I have had a year and a half of experience working at the AMC. My background is in criminal law and criminology, and I have specialised in sentencing law. So this was the first time that I have actually worked with detainees. It has been a learning experience for me and it has been a very interesting one at that.

I do not have anything particular to say about the job. From our point of view, it involves walking around the jail and simply asking people if they are okay, if there is anything they want us to discuss with the officers and, basically, if they have any complaints about their treatment.

Ms Whetnall: Yes, similarly, I have been an IOV for just over two years. I think when I was in the role for about four months, the previous Official Visitor to Ivan, resigned. So I did the whole prison for about four months of that. That was pretty challenging.

Similar to Ivan, I walk around visiting roughly 40 Aboriginal inmates and asking if they have any issues or anything like that. I get quite a lot of issues, but nothing to what I am supposed to be doing. It is more about ringing their mother for money, finding their girlfriend in the community or whatever. So it is very different but similar.

My background is that I am a consultant. I do more cultural training. I am a cultural awareness facilitator, but I also sit on the Aboriginal circle sentencing process that they have here at the courts as well. That has been quite interesting to have some of the inmates in that and then working with them in the system. And I have always been involved in Aboriginal justice issues for about 15 years in Canberra. But I have never worked with inmates either before this. It is quite different, yes; very different.

THE CHAIR: This is an annual report hearing. Obviously, we are referencing questions in the context of the annual report. Can you describe the work of the oversight working group hosted by ACT Corrective Services as discussed in the JACS

annual report? Are you aware of that working group?

Mr Potas: Yes. It is a committee that meets once every two months and it has representatives of the Human Rights Commission and the Ombudsman. There are members from the AMC there. It is generally chaired by either Mrs Bernadette Mitcherson or Don Taylor. Mr Don Taylor is the superintendent at the AMC. Also, the doctor at the AMC sometimes attends. It is a meeting to discuss issues around the jail and what can be done about problems that arise. It basically keeps everybody informed about what is happening and changes that are being made at the jail.

THE CHAIR: Can you comment on its effectiveness as a forum and any future challenges faced by that work group?

Mr Potas: As a forum, I think it is very important because it provides everybody with some idea about what everybody else is doing. There is considerable overlap of interest at that meeting. There is discussion about new policies that are being introduced and also complaints are sometimes discussed—not individual complaints but complaints of a general nature, because the privacy of individuals is maintained even at that forum.

MR GENTLEMAN: Ms Whetnall, I refer you to page 104 of the JACS annual report. You are expressing some concerns about the availability of suitable housing and rehabilitation programs upon the release of detainees. Would you go through some of the issues that you have seen?

Ms Whetnall: Sorry, are you referring to suitable housing on release and programs?

MR GENTLEMAN: Yes.

Ms Whetnall: I always have concerns about that because most of the men are single. Most of them return to their families. Some of them come back because it is not always the right environment or because they have not always dealt with their issues. The waiting list in housing is always long. Some of them do not see that they should put their name down while they are inside. It can take months, if not years, to get something. Yes, that is ongoing.

I think that in the last 12 months my biggest problem I have found in there is that the young boys at Bimberi seem to think that it is graduation day to get to the AMC so they can smoke cigarettes. That is my biggest problem. How do we break that cycle? I have thrown the idea out there just recently about going back to the old days of bringing some of the inmates to these young men to scare them—to try and deter them from thinking that that is a great thing to graduate to. That is my biggest problem.

I have found recently they are doing a lot of programs in there—horticulture and that. The boys seem to be getting a fair bit of that. Some get to do the TC program. But, yes, there is not a lot there for them to do so they can gain employment when they do get out. That is a bit of a problem.

MR GENTLEMAN: Can you describe that TC program?

Ms Whetnall: I do not know a lot about it. It tends to target inmates with drug and alcohol issues, and it is fairly intense. They are kept fairly well isolated away from everyone else. It is even hard for us to get in and see them. We do not get there, say, at half past 10 when they are having a morning tea break. We do not get near them. Even for some of the workers, they are very isolated and it is intense drug and alcohol sessions. I have walked in on a few and they are sitting around doing that intense sort of stuff. But, yes, they are kept very separate from everybody else.

Mr Potas: They are very carefully selected as well.

Ms Whetnall: Yes.

Mr Potas: It is hard to get into the program.

Ms Whetnall: It is hard, yes.

Mr Potas: And it is towards the end of the program as well.

THE CHAIR: Yes, we might ask that of the minister later on.

Ms Whetnall: Yes.

MR GENTLEMAN: Have you done any work with the Canberra Men's Centre on men exiting AMC?

Ms Whetnall: No.

MR GENTLEMAN: They have some programs, I understand.

Ms Whetnall: I am not sure.

MR GENTLEMAN: We will do that, too, with the minister.

Ms Whetnall: You tend to find the Aboriginal Justice Centre, for example, do a lot of that sort of work as well. I am aware of two different Aboriginal men's groups, for example, in Canberra. One is run through the AJC and one through Winnunga Nimmityjah Aboriginal Medical Service. They have a men's group weekly as well. So I think they concentrate on a bit of that but, no, I have not been invited to that. The men kept me locked out of that.

MS BERRY: You mentioned before about your playing a role in part of that restorative justice and the circle—

Ms Whetnall: The circle sentencing stuff, yes.

MS BERRY: Yes. There has been some positive news about how successful that has been. In your role on the circle, how do you feel it is going from your point of view? Like the report says, in terms of numbers it has been successful.

Ms Whetnall: Yes.

MS BERRY: I have seen that in other states and other communities it seems to be going okay, but it is really hard to measure.

Ms Whetnall: It is, yes. No, in my opinion it has always done well. I am very community orientated. I see a lot of people out there and I get some feedback on the streets, basically. I think the biggest concern that we have always had with the circle was the amount of resources placed on places like Winnunga Nimmityjah and the alcohol and drug services in town. Not having our rehab centre ready yet does not help, either. People have to be shuffled off interstate to get rehab, which is always going to be a huge issue. It is all right for us to say, "All right, you have to go and get counselling from Relationships Australia or whatever." Here we are putting these demands on these services that have not always got the resources to keep up with the demand. That is what I find.

MS BERRY: It is young fellows that you are finding to be the biggest challenge?

Ms Whetnall: Yes. Some of the women are not easy, either. Sometimes they are pretty hard to deal with.

MRS JONES: Under the Corrections Management Act, the ACT has provision to appoint one or more official visitors. The ACT currently has two official visitors. Ms Whetnall, are you mostly dealing with Indigenous people and are you, Mr Potas, dealing predominantly with the general crowd in terms of these services? Do we not have a gap here for non-Indigenous women? In order for people to confide about their issues or try to get some sort of way forward on things that are not being addressed properly, presumably there really should be a requirement for a non-Indigenous female official visitor as well.

Mr Potas: I am not too sure about that. There is overlap when we go around. We both visit the female section of the jail. If people want to complain, they can talk to us. I do not think it is necessary to have more than two people. But views could vary on that.

MRS JONES: To follow up, Ms Whetnall, are you also putting yourself out there on the basis that women can come and talk to you, even if they are not from an Indigenous background?

Ms Whetnall: Yes, and that quite often—I do not always go in there as often as I could, but when I am in there, certainly they bombard me.

MRS JONES: Good.

Ms Whetnall: Definitely. Unfortunately, some of them know my daughter and things like that. That sort of makes them come to me more. But, yes, I have had that on a number of occasions. Women come to me. But they never complain about Ivan, which I found interesting. They just want someone to listen to them. They probably see him as the big dad—I do not know, Ivan.

Mr Potas: Yes, big daddy.

Ms Whetnall: But they just seem to want someone to listen. Half the time they have not really got complaints or they are very easy to deal with. That is what I find.

Mr Potas: I must point out that we are not there all the time. For example, I might visit the AMC one day a week. If a person is in particular distress, they are quite welcome to talk to me, whether they are Indigenous or not.

Ms Whetnall: Yes.

Mr Potas: I can pass the issue on to Tracey or I may be able to deal with it myself. So we do not really draw a line in the sand and say, “They are yours and they are mine.” We overlap.

Ms Whetnall: I used to sit there. I have quite often non-Aboriginal inmates coming up to me just asking me questions and approaching me as I am walking from one area to the other—“Can I talk to you for a minute?” You are definitely not going to say, “No, wait till Ivan comes in,” or “Wait till Tracey comes in.” We have never done that and we never will.

MRS JONES: As a supplementary to that, is there a capacity for people to be in contact with you when you are not on site?

Ms Whetnall: Yes, they can put in what is called a blue form, a bluey.

Mr Potas: A bluey, a prisoner request form.

Ms Whetnall: Yes.

MRS JONES: And that is dealt with through the system, presumably?

Mr Potas: It is.

MRS JONES: And then how do you follow-up from that?

Mr Potas: We are either emailed and told that someone wants to see us or else when we visit the jail there will be a form. We will be given the form that says, “Please see so-and-so.” They do not have to indicate what their complaint is—

Ms Whetnall: That is right.

Mr Potas: to the officers. All they need to do is say, “We would like to see the Official Visitor.” They do not have to give reasons. We will go and see them.

MRS JONES: What is the time frame for responding to those?

Mr Potas: There is no real time frame. But we obviously respond as soon as we get such a complaint. Most of my complaints come when I go to visit the jail and I ask people, “Is everything okay? Is there anything you want to complain about?” That is how I get probably 90 per cent of my complaints. We also get complaints by referral.

Ms Whetnall: Yes.

Mr Potas: For example, human rights might say, “Can you go and see detainee X about an issue,” and we do that.

Ms Whetnall: Yes, quite often.

MRS JONES: But just on that note, there is obviously the possibility that someone could raise something and it will be seven days before you have an opportunity to find out about it.

Mr Potas: It could happen. If it is urgent, I am pretty confident that we would be told pretty quickly.

MRS JONES: How would you know if it was urgent? How would they know if it was urgent if the matter is not necessarily covered in the blue form?

Mr Potas: If someone has been assaulted or if there is an obvious external reason for wanting to speak to one of us—I mean, we rely on the officers to make these assessments as well. In fact, we liaise with the officers all the time. The way for handling most of our complaints is to go and talk to a senior officer and say, “Look, a particular detainee has a problem. Is it possible to fix it?” They will say yes or no, and give reasons. We will then report back to the detainee.

I must point out that we have no authority of our own to resolve problems. We are simply a conduit. The ultimate person is the minister. We report directly to the minister. I point out that we are not employed by Corrective Services.

THE CHAIR: I have a supplementary to Mrs Jones’s question. You mentioned that you go in about once a week—

Mr Potas: Yes.

THE CHAIR: unless you get otherwise asked to come in. You have mentioned the blue form, which I presume is filled out by the inmates. Can the Corrective Services officers also take the initiative to say that they would like you to come in?

Mr Potas: Definitely.

Ms Whetnall: I was about to say that. I have never had a blue form. I get told as I walk in mainly. I get lots of emails from inmates—not from inmates; from guards—saying, “So-and-so is a prisoner at PAR”—a prisoner at risk—“He is in the CSU. You might want to go and see him on your next visit.” I also get hammered by the outside as well—various people in the community that are very vocal about what happens in there. Family members ring me. They might have seen that inmate just that day but they do not seem to tell me. Then the mother rings me. So that is how I get contacted. It is through staff, family or community more than anything, yes.

THE CHAIR: A question first to you, Mr Potas: in your view, based on the complaints coming to you and the features of the facilities that you visit, what is the

highest priority issue in your estimation within the corrective system? I ask that question firstly of you and then I will address it to Ms Whetnall.

Mr Potas: I think the greatest problem is the fact that the department or the superintendent has to deal with so many different classifications of offenders—low, medium and maximum security detainees. He has to keep these people from harming each other. He has to keep them apart at times and bring them together at times.

For example, if there is a program, it can be that a protection prisoner will go to a program with a mainstream prisoner. Of course, when they do come into contact, there is always a risk of an assault. So it is a really hard prison to manage because of the multiple categories of detainees. I think that is the number one issue at the jail.

As a result of this, also, there are lockdowns, unscheduled lockdowns. If there is a crisis in one part of the jail, then officers have to move from one block to another. When they do that, they lock detainees back in their cells. So there is also probably a staffing issue—not enough people to manage the jail as well, not enough facilities to separate them. They are the systemic issues that I see as being most important to consider.

THE CHAIR: Thank you. Ms Whetnall.

Ms Whetnall: I would say lost property and property being seized. There seems to be a lot of—a fair amount of lost property. But as the process winds up, you do not know what to believe, because apparently they have all walked in with Nike air max shoes instead of volleys. That is always interesting. But I have had quite a few lately who have been in there and when they have been arrested, they have had private property seized. They expect the staff there to find that property. There is a really big communication problem between them and the AFP. The AFP never seem to give them any answers. It is very hard to find what has ever happened to that stuff that was not ever stolen in the first place. I get a lot of that.

Probably the other thing would be funerals. That is a big issue there. Compared to New South Wales corrections, they have a great program on escorting Aboriginal inmates to funerals and having that understanding about diversity and the necessity for that. We are still getting our heads around what funeral is important to certain inmates. Some people do not see it the same way that we do. That is getting better, because it is so frequent. That is the problem—to have that policy.

THE CHAIR: I have one supplementary to my own question. When you say “property”, are you saying there is theft going on in the jail?

Ms Whetnall: No, I would not suggest that. I have never really seen it. In every case that has ever been investigated, it has just been put somewhere else. Maybe one of the officers has put it in a place where it should not have been put. It has always been found. No, I would never suggest that.

MRS JONES: A supplementary just regarding funerals. Have any changes been made during the time that you have been there about who can and cannot go to funerals and how that can be done?

Ms Whetnall: Having the new superintendent, I think he is getting better at who he approves and who he does not, yes. As first I think he needed a bit more awareness about the diversity of Aboriginal kinship and the relationship of different family members. It might only be an uncle to you but he might have raised us as a father—that sort of stuff and how important that is to us. I have noticed huge improvements in his approvals of who can go and who cannot.

MRS JONES: So it not so much an official change but just a personnel change which has created perhaps a better environment; is that what you are saying?

Ms Whetnall: Yes.

THE CHAIR: Our allotted time of 20 minutes has expired. Thank you very much for joining us. Obviously, we will get the transcript of this hearing to you for comment. We also look forward to receiving any other answers that you feel you may want to give us. There may also be some other questions that will flow to you. Thank you for joining us this morning.

Mr Potas: Thank you.

Ms Whetnall: Thank you.

Appearances:

Rattenbury, Mr Shane, Minister for Territory and Municipal Services, Minister for Corrections, Minister for Housing, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for Ageing

Justice and Community Safety Directorate

Leigh, Ms Kathy, Director-General

Mitcherson, Mrs Bernadette, Executive Director, ACT Corrective Services

Taylor, Mr Don, Superintendent, Alexander Maconochie Centre, ACT Corrective Services

THE CHAIR: At this point I would like to welcome the Minister for Corrective Services, Mr Shane Rattenbury MLA. Good morning to you, minister, and to your officers. May I assume that you have read and are familiar with the privileges statement in front of you?

Mr Rattenbury: Yes, we are, thank you.

THE CHAIR: Minister, do you wish to make a brief opening statement to the committee before we start with questions?

Mr Rattenbury: No, I am happy to go straight to questions, thank you.

THE CHAIR: The JACS annual report refers to the AMC as Australia's first prison expressly established to operate in a human rights compliant framework. Given that the Human Rights Commission has, over time, reported that it has insufficient resources to undertake a human rights audit of the AMC, it is difficult to be assured that the prison in, in fact, human rights compliant. Can you tell the committee how you expect this to be resolved?

Mr Rattenbury: I think there is a number of components to that question, Mr Doszpot. Firstly, the prison has been set up in the context of having the Human Rights Act and with a strong commitment to that culture. Certainly, through issues such as the human rights policy, which provides policy guidelines for the prison, there is a strong expectation and a strong commitment to that way of operating. So I think that is the first answer to the question.

The resources for the human rights commissioner come through the Attorney-General's portfolio. So the question about the specific resources for the Human Rights Commission is perhaps best pursued through that part of the portfolio. But I would note, as I am sure you are aware, that the human rights commissioner is currently undertaking, or has just commenced, an audit at the AMC of female detainees—looking specifically at the conditions of and the situation for women in the prison. That has just commenced.

Corrective Services has just provided a couple of weeks ago all of the information that was requested by the human rights commissioner. She made that request first in late November or early December last year. It has taken a little while to put that information together, but, now she has received that, she will proceed with the audit.

It is scheduled to take until September. That has so far included an on-site visit with Mrs Mitcherson to the Emu Plains women's prison. We expect to receive the audit some time in 2014, the Human Rights Commission has indicated to us. I think that is quite a positive process to have that audit taking place. It will be a useful checkpoint for Corrective Services to have the Human Rights Commission undertake that.

THE CHAIR: But we just heard the human rights commissioner say this morning that there is a resource problem. While you mention that that lies in the domain of the Attorney-General, do you, as the Minister for Corrective Services, think you should also be taking that up with your counterpart, the Attorney-General?

Mr Rattenbury: Yes, it is certainly something that individually I have raised in the last term. Yes, I am happy to. I will continue to make that observation, no doubt.

MR GENTLEMAN: I have a supplementary question first. It relates to Mrs Mitcherson's visit to Emu Plains. Could you explain to the committee some of the things that surprised you on that visit or highlight some of the issues of that study?

Mrs Mitcherson: I did not attend the visit. I organised the visit through the commissioner of New South Wales, Peter Severin, who has recently taken up that appointment. He was recently before that in South Australia.

The visit to Emu Plains was particularly to look at the Jacaranda Cottages, which is the mothers and children's program, which I was personally involved in setting up in the 1990s. I wanted that as an example of some of the other programs that were happening in other jurisdictions when we inform our own work and our own policies and development.

Two of my staff attended that with Dr Watchirs and one of her staff. Certainly, the New South Wales staff made a lot of time available for us. It was a very good day. The observations in relation to the program, which has been going for 20 years, were very useful and will inform how we go forward.

I think it is very important for a small jurisdiction to look at larger jurisdictions to see where they are heading, where their policy development is and to actually coat-tail and cherry-pick the best. I think that is something that we need to do in the ACT. I think it is acknowledged that the larger jurisdictions are comfortable with us doing that as well.

MR GENTLEMAN: Minister, I bring you to page 17 of the JACS report, the outlook and priorities section. It says that you will be supporting the capability in front-line operational areas of Emergency Services and Corrective Services. Can you go through with us what extra support will be provided for Corrective Services?

Mr Rattenbury: Yes, one moment, Mr Gentleman. I will bring up the details for you. Certainly, in last year's budget the government did provide a range of additional funding capabilities to address some of the issues that had emerged at the prison. The government has allocated capital works funding for the crisis support unit over two financial years to allow improvement works in the crisis support unit. Also, in the 2012-13 budget, \$0.25 million has been allocated to upgrade older Corrective

Services facilities and commence planned upgrades in the Alexander Maconochie Centre.

They are a couple of the funding additions that were made available in last year's budget. Of course, I think the other very important element is the extended throughcare program, to which the government allocated \$1.1 million over two years—so for 2012-13 and 2013-14—to extend the throughcare model beyond the end of an offender's custodial sentence and support their transition back into the community.

I think this is a particularly important program. It is designed to reduce the risk of reoffending. Now former detainees will have a period up to 12 months after their release where they will receive support, through the throughcare program. As I said, that is a range of measures designed to assist their transition back into the community, whether that is through housing services, mental health services or drug and alcohol services. It is a range, depending on the prisoner's needs, that is designed, hopefully, to ensure that we do not see them back inside the AMC.

MR GENTLEMAN: Does that program work with other agencies in the ACT? I asked the Official Visitor earlier on whether any work has been done through the Canberra Men's Centre.

Mr Rattenbury: I cannot think specifically if Canberra Men's Centre is involved.

Mrs Mitcherson: We do work with the Canberra Men's Centre. One of our probation parole officers is allocated as a liaison officer to work with that centre on a weekly basis. We have a number of parolees coming out that go into the men's centre, or they might go from our managed accommodation unit into the men's centre. They do run particular programs there around violence and relating to alcohol and drugs. Occasionally, they have also looked after some sex offenders who are often hard to place in the community.

We have a good relationship with the Canberra Men's Centre. I meet with them formally a couple of times a year, but my staff meet with them weekly. It is certainly part of a suite of accommodation options that we look at in terms of people being released from the AMC.

Mr Rattenbury: But on your broader question, yes, the throughcare program has a range of community organisations that it is in contact with. That unit has now been staffed and it is engaging through organisations right across Canberra so those various needs of detainees are best met.

MS BERRY: Regarding the transitional release centre, I see that there is a partnership program mentioned on page 101 with the RSPCA for the rehabilitation and care of native animals. What has been the response from the detainees to that program?

Mrs Mitcherson: Thank you for the question. Yes, we initiated that program last year. There has been a lot of evidence that, if you can provide detainees or people in custody with a process of caring in some way for an animal, it can actually have a positive impact on their demeanour. We are obviously starting with small animals. I

think it has mostly been blue tongue lizards and big lizards that may have some injury. I have also been involved in those programs in a previous life in New South Wales.

For example, the Dillwynia program for women rehabilitates greyhounds. That was actually started in Victoria. This relates to greyhounds that are put to pasture that you want to re-educate. There are a lot of programs in jails. We started small and I think it was positively received. I think it is a good community engagement and obviously good for the lizards and birds as well. We take some birds.

MRS JONES: Minister, the report deals with a list of the needs and care of detainees. In a *Canberra Times* article in August, it was stated that an inmate was able to attempt suicide after smuggling in a tin can lid due to a blind spot in the security system. Has the blind spot been fixed and what procedures are in place to check for and pick the blind spots in the camera surveillance system?

Mrs Mitcherson: While the *Canberra Times* has reported on blind spots, I think it is probably fair to say that one cannot have 24-hour coverage in every single area of the AMC. We actually, in fact, have over 300 cameras, but we do not have staff looking at 300 cameras at all different points in time.

MRS JONES: No, I am assuming this is on the entry that there is a blind spot.

Mrs Mitcherson: We are not sure. The *Canberra Times* reported how—I might hand over to Mr Taylor for some operational details.

Mr Taylor: The report was related to the way the detainee actually obtained the lid. It was suggested that a detainee from another area that had access to the fence in the next cottage was able to take that lid and put it through the fence. It certainly was not an introduction to the centre that was at issue at all.

MRS JONES: So there are blind spots around the fence?

Mr Taylor: No, our perimeter fence—sorry, I will try and clarify that more. In the women's area we have three accommodation cottages. Outside those accommodations is all open. It is inside the perimeter of the centre. The detainee that harmed herself was in one of those cottages. It is alleged that a detainee from another cottage was able to just walk outside her cottage to the free area, which they do access, and walk around to a fenced area around the other cottage and put it through. The fences are not solid. They are just slat fences. They are not a security fence. She was able to put it through the fence to the other detainee who was out in the yard area.

MRS JONES: As a supplementary to that, have changes been made to the interactions between prisoners in different spaces or the availability of open fencing—this sort of thing—as a response to this situation?

Mr Taylor: No, we have not. Generally, the philosophy that we try and maintain is normalisation the best way we can. So the open environment I think is critical. In certain areas this is very difficult when we do consider that certain people should not mix. We then will look at how we stop that interaction. But generally, as a philosophy, the involvement with each other is sort of encouraged.

MRS JONES: As a supplementary to that as well, Mr Chair, this situation could occur again?

Mr Taylor: Yes, it could occur again.

MRS JONES: That is an acceptable level of risk?

Mr Taylor: I think that what we do is look at every incident that occurs. We consider what the risks are, and we consider what is available to mitigate those risks. When there are persons that we know may be susceptible to harming themselves, certainly we consider how we can monitor best. Again, we try not to minimise, take away or restrict the environment and/or the interaction. To a great extent, we try to lessen that a bit—as much as we can—to try to support those people.

MRS JONES: So someone has to have had an incident where they may have tried to self-harm before there is any monitoring of them. After that point, is there a different monitoring of them?

Mr Taylor: No. Right at the very beginning, we assess all detainees that enter the centre. There are a number of assessments that are related to harm and the expectation that they may or may not harm themselves. Then throughout the centre every day there is monitoring by staff at all times. Yes, when someone has a potential for harm there are a number of procedures we put in place to monitor and to support.

THE CHAIR: Mr Seselja, a substantive question?

MR SESELJA: The *Canberra Times* reported, I think in December, allegations of a child pornography ring running out of the prison. What is the date on that investigation? Has the police investigation been completed? And subsequent to that, what has been done from a prison management point of view to avoid the potential for these kinds of things to occur in the prison?

Mr Rattenbury: At this stage, the police investigation is still ongoing so I am not able to provide anything new in that space. In terms of internal procedures, there have been some minor changes. The issues that the police have at least primarily identified have led to us making some changes to the external casing on the computers that detainees have, to prevent tampering. That was an issue that was identified. Certainly we were able to identify that there were no breaches of the prison's internet security policy, so there was no accessing of inappropriate sites as part of this matter. From that point of view, the current protections that are in place were not deemed to have been a problem in that sense.

MR SESELJA: So at the moment what monitoring of internet use by detainees is there?

Mr Rattenbury: The approach we take is to have a whitelist of available sites that prisoners can access. If I remember correctly, previously there was a blacklisting approach; but, as you can imagine, with the proliferation of sites, a whitelisting approach is much better. So there is a designed set of sites that detainees are allowed

to access, and it is possible for additional sites to be added on request. That is, a prisoner or a detainee will make a request and then that site is checked and it can be added.

MR SESELJA: Are there special arrangements in place for people who have come to the prison who have been convicted, say, of child pornography offences, in terms of their internet use? Are there special restrictions or are they treated like everyone else?

Mrs Mitcherson: Thank you for the question. Certainly when everyone comes into custody there are a number of systems that treat everyone the same. In relation to the internet access, I think there are only about 80 PCs that we have available, so not every detainee in custody actually applies for or has that access. The two PCs that were in question with the hard drives were not internet PCs at all. PCs are also available whitelisted in the library, in those sorts of areas, for those detainees who do not have a PC in their room. In terms of appropriate access to those, because they are whitelisted sites it is not seen as inappropriate for a whole lot of cohorts to have access to that. Having said that, there was an issue, as the minister said, in relation to tampering, so we have tamper-proof tape around the hard boxes, if you like, that contain the drive; and they are checked every day with staff.

MR SESELJA: So there is no additional monitoring for someone who would be deemed high risk, someone who is convicted of accessing child pornography on the internet? There would be no special monitoring of those prisoners?

Mrs Mitcherson: There is special monitoring of all prisoners through telephone calls; we have a quite advanced intel system. The reality is that the whitelisted sites are whitelisted because they are okay to look at. If someone does try to access a site that is not whitelisted, we will get notified of that from the provider. We were really pleased to say that during this process our internet system was not bypassed or not accessed in that way. It is very comforting to know that those systems were in place.

MR SESELJA: Just to clarify, you talked about there being access through the library or in individual rooms or cells. Is that how it works? If a prisoner requests it, they are able to have a computer with internet access in their room? Is that the standard procedure?

Mrs Mitcherson: There is a procedure for application, and they are processed. There may even be a waiting list for that to occur as well.

MR SESELJA: How many have access to computers in their rooms?

Mr Taylor: Up to 80.

Mr Rattenbury: The positive side to that is that, for example, some of the prisoners use that to have email contact with their families. Certainly, detainees that I have talked to have used it in that way. I think that is a very positive sign of maintaining a healthy relationship with the family and perhaps providing motivation to not end up back in the AMC, which is ultimately the goal of a lot of these things.

THE CHAIR: I have a supplementary on Mr Seselja's question. When you say

people have internet facilities in their own rooms, do they have access to things like Skype?

Mrs Mitcherson: No. A number of jurisdictions are looking at Skype, particularly where they have a lot of remote locations, for family visits and family access. WA is probably leading the way in work in that area, but at this stage we have not used it at all.

THE CHAIR: Are there any security implications in the ability to have direct contact with outside areas?

Mrs Mitcherson: Emails are all checked, and there is a filtering system as well in relation to that.

THE CHAIR: How is that checking process carried out?

Mr Taylor: We have certain key words that our system picks up on, and they are quarantined. So there is certainly—

THE CHAIR: So before the emails actually go through they are quarantined?

Mr Taylor: Yes, they are. They are filtered through a quarantine system. Any concerns we have are raised through the system itself, as I say, with key words. Then the officers will check those quarantined emails and let them go if they are appropriate.

THE CHAIR: Mrs Jones, you have a supplementary?

MRS JONES: Yes. Can the list of whitelisted sites be provided on notice?

Mr Rattenbury: We will take it on notice.

MRS JONES: Thank you.

THE CHAIR: My substantive question is this. Minister, I refer you to page 97. The prison population of the ACT appears to be increasing at a very high rate. According to the report, it has increased 16 per cent since last year. Can you comment on that?

Mr Rattenbury: Yes, I can. Actually the numbers do go up and down somewhat. Just before Christmas, or in the last quarter of last year, 2012, we were up to around 289 prisoners, detainees. Since then, the numbers have dropped back quite a bit. As of last night, yesterday, the total population was 256. So it has dropped back from that peak that we saw through the last quarter of last year.

THE CHAIR: Can you explain the high growth rate that you are experiencing or the increased rate? What explanation is there for that? And also how does that growth rate fit in comparison with other jurisdictions?

Mr Rattenbury: In terms of the growth rate, those are factors where one can speculate on a range of reasons. There have been discussions about whether the court

blitz last year produced a particular outcome. I think that, to some extent, is a matter of speculation. In terms of other jurisdictions—

Mrs Mitcherson: I can possibly comment in the broad. Certainly other jurisdictions are subject to different laws, different legislation. For example, in New South Wales, where I have had a lot of experience, they experienced a spike in the remand population over the last 10 years or so because of changes to bail laws. While the sentence population did not go up, the length of sentence increased, so it meant that people were staying in custody for longer. So different jurisdictions can have different impacts in relation to that. There is also the normal trend in relation to ABS data and the census which can change. Even though that might be predicted four years out, it can still change again over time. I would say that broadly most jurisdictions—not just in this country but in other First World countries—struggle with that whole notion of being able to properly predict what might be a population at a particular point in time.

MR GENTLEMAN: Supplementary?

THE CHAIR: I have a supplementary as well before I get to you, Mr Gentleman. In 2010, in response to a supplementary to a question on notice, it was stated that the median prisoner forecast for 2030 was 260 detainees, with a high prisoner forecast for 2030 of 274 detainees. As you have mentioned, we have surpassed that by quite a number—289, I think you mentioned, minister. We surpassed these numbers in 2004, so that is quite a few years ahead. Was the previous forecasting wrong, and is there an updated forecast on that at the moment?

Mr Rattenbury: The reference to 2004, Mr Doszpot? You just asked me—

THE CHAIR: No, 2012. I am sorry: 2012.

Mr Rattenbury: So your question is—

THE CHAIR: These numbers that were given for the year 2030, 260 detainees, have been far exceeded. My question is: has there been an update to that forecast as to how 2030 will progress, seeing as how we have exceeded these numbers substantially now?

Mr Rattenbury: Perhaps I can take the question broadly. In relation to the forecast, in the 2011-12 budget the government provided funding for a consultancy to examine the accommodation and other building needs at the AMC. The firm that won that consultancy provided a report and a business case for consideration; it also developed proposed new modelling for forecasting detainee numbers in the years to come. At this stage, there is no formal government agreement to that modelling, but it is a conversation that will continue between Justice and Community Safety, including corrections, and the Chief Minister and Treasury Directorate, as to looking at the best way to forecast numbers into the future so that we can plan for that.

MR SESELJA: So what is the model they are suggesting this time?

Mr Rattenbury: I do not have that information, Mr Seselja

MR SESELJA: Are you able to provide that to the committee?

Mr Rattenbury: The work is not finalised, so no, I am not.

MR SESELJA: So the consultancy you talked about is still ongoing, is it?

Mr Rattenbury: Yes, it is.

MR SESELJA: So the government has no update from those 2010 numbers when they were suggesting 274 as a high forecast and 260 as a median forecast?

Mr Rattenbury: Not at this point in time, no.

MR SESELJA: As minister, though—obviously, the numbers would have had to change, given what we have seen. You would have to be now planning for expanded capacity; otherwise we could face a situation where we will not be able accommodate all the prisoners who are sentenced or on remand in the ACT.

Mr Rattenbury: There is no sense at the moment that we will not be able to accommodate the number of detainees, but as to your general point, yes, it is something I am giving a lot of thought to.

THE CHAIR: Supplementary, Mr Gentleman?

MR GENTLEMAN: It is going back to Mrs Mitcherson's answer earlier on. You discussed length of service—this is another of the jurisdictions, of course—and that those lengths have changed and the sentences have become longer. Are you aware of whether that is due to changes in law or changes in activity in the centres?

Mrs Mitcherson: Certainly my experience in New South Wales in that period when we did some modelling because they were planning to build ahead was that the remand population did go up really. I think that it was put down to changes in bail laws in New South Wales. Certainly there was a sense in the community that some of the sentences were getting longer. I think there was a particular spate of particular sentences that—it is not my place to comment on courts, but obviously there was community discussion about the length of sentence for particular crimes in New South Wales.

So looking at the stats there, if you looked at some of the sentence lengths, they did seem to be getting a bit longer or to be at the longer end. If people are staying in a bit longer, plus you have your remands going up, it tends to mean that your beds stay full for longer in that sense. I know that other jurisdictions, even internationally in the UK and that, have also looked at the impact of policies and sentencing laws, trying to model what is really a very complex thing to model. There is no easy solution to this.

MR GENTLEMAN: Minister, just on the back of that, is this consultancy group that is engaged at the moment also looking at those changes interstate in modelling for the ACT?

Mr Rattenbury: I do not know exactly what they are looking at, Mr Gentleman.

They have been asked to look at forecasting, and I imagine they will be taking those sorts of trends into account.

MR GENTLEMAN: I have got a substantive.

THE CHAIR: Yes.

MR GENTLEMAN: I will just bring you to page 104. This is off the back of some questions we had for the Official Visitor. The Official Visitor told us that there was a program in Bimberi called TC. We thought it was appropriate that we ask you—

Mr Rattenbury: In Bimberi?

Mrs Mitcherson: It is in the AMC.

MR GENTLEMAN: It is AMC, is it?

Mrs Mitcherson: It is the AMC. It is “therapeutic community”, known as the solaris program.

MR GENTLEMAN: And can you tell the committee how that operates?

Mr Rattenbury: Yes. The therapeutic community is a program that assists people that have drug and alcohol dependence, in particular. It is a live-in program that now runs for a period of four months; that was adjusted from the original six-month program so that it fitted with a sentence that more detainees were receiving so we could have more detainees go through the program. It is a dedicated program to help them deal with the addiction issues that they have. I guess it is best described, to some extent, as a self-help program.

Mrs Mitcherson will correct me if I am wrong, but the detainees asked to go in there must be willing to take the step; they are not put into the program, because an important part of it is that self-identification of the need to change. So there is a level of mutual support involved and it is a principal means of promoting personal change. It is about dealing with the behaviours that drive addiction and those behavioural issues.

MR GENTLEMAN: What has the take-up rate been like?

Mrs Mitcherson: As the minister indicated, we changed the program from a six-month to a four-month program to better suit, and we have had a better take-up rate in that sense. In the last financial year, 35 graduated; in the year before we had 12. I was very keen to make sure we looked at what we could do to make sure that program was full. That program is pretty well full all the time, with a waiting list. As the minister has indicated, there is an assessment process to go in there, and a readiness program before that, because you are operating as part of a group. You are living together with a group, and even though they are in custody it is an isolated cottage within custody so there is no access to other detainees that may contaminate the process. It is not unlike a live-in rehabilitation centre in the community except that you do not go anywhere. You do not have any outings or visitors coming. It is pretty similar to that.

We are pretty pleased with how it is going. We run it in conjunction with Karralika in the community. It is really important for that community contact, because they are more likely to stay in contact with the community agencies when they are released if they have met those workers while they are in custody. It is going very well; we are very happy with the intake, and we are very happy with the throughput.

I might add that you can take a lifetime to get addicted. It is not unusual to see someone go through the program twice, and we are okay with that because there is no silver bullet in terms of this area. But the impact on families when their partner is in custody—children in particular—is profound. We consider it most important that we do what we can to get them through that program, perhaps getting them living in our transitional release centre and giving them employment in the community before their actual release. Then they have got a better chance of not coming back into custody, and finishing the parole period or not reoffending.

THE CHAIR: Thank you. Can I just remind witnesses to give your name and designation before you answer the question?

Mr Rattenbury: Do you want that every time, Mr Doszpot, or just the first time?

THE CHAIR: Just from witnesses.

Mrs Mitcherson: My apologies; I thought it was the first time.

Mr Rattenbury: I thought it was a oncer.

THE CHAIR: I was told it was easier for transcription for people to give their names. Ms Berry.

MS BERRY: I want to talk about the coming home program for re-integrating women coming out of prison back into the community. I wonder if you could take us through that and how the program has helped reduce the rate of women returning.

Mrs Mitcherson: That program was established before I joined the ACT. There are three women's organisations together, rape crisis, Toora and another organisation there, called coming home. Their role is to come in to meet with women before they are out of custody if they have a housing issue, say. There is a whole lot of intensive casework with them before they get out of custody. When somebody is out of custody, it is all right to say "I need a house" and just plonk them in a unit, but they need some supports around them. If you are not used to spending your time in a structured way, it is really important to have some intensive support when you are first released, particularly in the first three months. That program does provide that for the women as well.

MS BERRY: Supplementary? Do you know what has been the response? What are the responses from people who have been participating in those programs?

Mrs Mitcherson: I have personally spoken to at least one ex-detainee about the program. She indicated that she does not think she would have made it without it. I

am not saying that she would not have made it, but it was a really important part of her maintaining her parole, which I think is still ongoing. As you know, the numbers of women in custody are small, so the number of women accessing that program is not high. Not every woman in custody needs accommodation, so it is depending on the situation.

THE CHAIR: Mrs Jones, a substantive question?

MRS JONES: I might allow Mr Seselja to ask my substantive question.

MR SESELJA: Minister, in relation to the RFID security system, some time ago it was reported that that is no longer in operation. Are you able to bring us up to date with that? I think the cost that was reported for the overall contract was around \$3.9 million. Has all of that been expended? Are you recovering some of that money from the contractor? If so, how much, and where is that process up to?

Mr Rattenbury: Yes, certainly. As you have touched on, Mr Seselja, the RFID system was discontinued with regard to detainees. It has been continued as a staff and visitor duress alarm system. That will continue to operate until a new staff and visitor duress alarm system is procured.

In terms of the expenditure, and that has been discussed in this committee at some length before, the original scope of the contract was \$3.9 million. Of this total amount, \$1.058 million has been paid to date. That included hardware costs such as cabling which remain as part of the system. The balance of \$2.853 million was to be paid on a monthly basis over five years upon successful commissioning of the system, but obviously, with that failure of commissioning, that is not being paid. The contract termination process and payment only in regard to operation of the duress alarm system has meant that NEC has now received a payment of approximately \$632,000 to date for maintenance. And there is an ongoing monthly fee to NEC for the operation of the current duress systems.

MR SESELJA: What is that monthly fee?

Mr Rattenbury: It is \$15,403.58 GST exclusive.

MR SESELJA: So at the moment we are paying \$15,000 for a system which only operates for duress alarms with visitors? Is that correct?

Mr Rattenbury: Visitors and staff.

MR SESELJA: What is the replacement for this system? It was seen as an important part of prisoner management in the prison. The design of this prison is different. One of the arguments made by the government at the time was that the RFID would allow that different design to work in terms of keeping prisoners separate and those sorts of things. So what is the replacement? Is it more staff? Is it more fences? What are you doing that replaces the RFID and what it was designed to do?

Mr Rattenbury: I might ask one of the staff to comment on that. That would be most appropriate.

Mrs Mitcherson: The jail security operates under a number of systems—both static systems, as in fences and cameras, and dynamic systems, which are staff and the intel unit. That is the way jails run all over the country. Our jail runs very well in that regard. In my experience, and I think Mr Taylor might say the same, the work that is done by staff and by our system is quite impressive. Our total system has not been comprised in any regard at all.

MR SESELJA: Would that not indicate that it was never necessary in the first place?

Mrs Mitcherson: I think in the development of corrections generally there are systems being developed all the time that enhance and can add value. In terms of whether we have been disadvantaged by not having it, the jail is secure and the staff do a fantastic job in the role.

MR SESELJA: Particularly on this point of the design of the jail and the separation of prisoners, you have got a situation where you have all sorts of prisoners who should not be mixing—men, women, maximum, minimum, remandees and sentenced prisoners. Short of having that high-level electronic monitoring, and given the slightly open plan design, are you saying that that has had no impact—that this technology falling over, despite what we were told at the beginning, has had no impact on the ability to separate the prisoners and no impact on, say, the number of lockdowns as an alternative to keeping prisoners separate and keeping the place secure?

Mr Taylor: I was not around to see the suggested implementation of the system. However, an electronic system is a monitoring system rather than a separation tool, so I think that the separation issues are physical. Certainly, from my understanding, it was able to alert when there may well have been detainees who were not wanting to be in close proximity, and that would then create the need for staff members to respond to that situation. As to the dynamic staff deployment around the centre and the separations we have got, yes, it is difficult; however, the staffing deployment is considered as the monitoring system that we have in the centre.

MR SESELJA: You said it was primarily a monitoring system rather than a separation tool. Given that that part of the monitoring system has fallen down, have other aspects of monitoring been upgraded? If so, what does that look like?

Mr Taylor: Again, the staff deployment is our monitoring system. The detainees are in specific areas; when they are being moved, there is staff monitoring of those movements.

MR SESELJA: But my question really is this: given that the system has fallen over, have other aspects of that monitoring been upgraded to compensate for the fact that—

Mr Taylor: Electronic monitoring, if that is your question—no, they have not.

MR SESELJA: So nothing has been put in its place?

Mr Taylor: Electronically, no.

MR SESELJA: How often is the prison locked down? In the last month, have there been a number of lockdowns? If so, how many?

Mr Taylor: I am sorry; I do not have that information at hand.

MR SESELJA: Could you get that for us? And is it a regular occurrence? Is this something that is happening on a weekly basis, on a monthly basis or on a daily basis? How regular is a lockdown?

Mrs Mitcherson: I will take that question. Lockdowns are not unique to the AMC. They happen for a number of reasons. Sometimes they happen because we have an emergency and someone needs to go to hospital very quickly; you need to lock down an area to accommodate that. With the sentenced population, as opposed to just the remand population, we have some people who are living in custody who are unwell. And we do have emergencies from time to time. Also, if we have people that need to stay in hospital for an extended length of time, that means that we need to consider the safety of the community in that regard. So it is priority in terms of that.

When we lock down, we try and do it in a way that minimises impact, so that we share the pain, so to speak. We would not have one unit locked down all day. We might have one unit locked down for a little while, and another unit. Very rarely would we impact on a program or visits where the family have made arrangements to come up. In fact, I can only think of one occasion when they have had to restrict visits because of lockdowns.

We prefer not to do lockdowns. Ultimately, the jail is open and busy; it is much better for everyone. And it is inconvenient. But they are a fact of correctional life. Other impacts are that staff may be ill and we were not expecting an illness or we might have some extra hearings in court that day that we were not expecting and we have to deploy more staff to the court. So sometimes it is not always known.

MR SESELJA: So getting back to the question, is it a regular occurrence? Would it be happening most days? Would it be happening most weeks? Or is it a rare occurrence?

Mr Taylor: It is certainly irregular. In some months you will find more lockdowns than in other months. There are periods when we will go for quite some time without having to lock any units down at all, but then there are other circumstances that arise that compound the need to lock more regularly. It is very irregular, but I could not comment on the exact number.

MR SESELJA: Just finally on that, are you able to take that on notice in terms of some statistics in recent months on lockdowns?

Mr Rattenbury: Yes, we will.

MR SESELJA: Thank you. Finally, you mentioned a number of reasons for lockdowns. What proportion of lockdowns occur as a result of an insufficient number of staff?

Mr Taylor: The staffing deployment that we have got across the AMC, the courts and the periodic detention centre do contribute to lockdowns, yes. But again it is about the other impacts—like, as Mrs Mitcherson said, the hospitals. When we have three detainees in hospital it takes six staff out of the centre at that one time, so the impact can be very high. A seemingly very minor impact on the centre actually impacts greatly on our staff. Certainly our staff recruitment and retention are of critical interest to us, and we are working very hard to understand why we have those staff shortages at the time.

MR SESELJA: When you bring back the answer to that question on notice, is it possible to provide the reasons for those lockdowns?

Mr Taylor: We could provide broad reasons. It may well be that the specific reasons for the staff shortage may be a bit more difficult.

MR SESELJA: Sure.

Mr Rattenbury: Just for clarification, Mr Seselja, are you seeking a reason for each lockdown? Is that what you are actually asking?

MR SESELJA: If the stats are held, I imagine there would be the numbers. In each month that there is a lockdown, there would be a broad reason as to why that was given, in the way that you have indicated, Mr Taylor.

Mr Taylor: Yes. The broad reasons certainly would be that it may well be a staff shortage.

MR SESELJA: Or it might be an emergency, as was pointed to by Mrs Mitcherson.

Mr Taylor: It could be, yes.

MR SESELJA: Probably a good time frame would be since the end of the last financial year—whatever stats you have to date in this financial year.

THE CHAIR: Mrs Jones, a supplementary question?

MRS JONES: Yes. Just regarding that restricted visit that occurred because of the lockdown, where had those visitors travelled from?

Mrs Mitcherson: That was probably over 12 months ago. I only recall one time when we had to, and I think we made the decision on the day. On one day there were no visits, and they were all phoned and contacted, if my recollection is correct.

MRS JONES: So there was a day?

Mrs Mitcherson: I will have to take it on notice. It was before Don arrived, I think, if I recall. I am pretty sure we phoned everyone as soon as possible in relation to that. I think it only happened on one occasion, and I am thinking 20 months.

MRS JONES: Would you be able to take that on notice and give us the details of

what the reaction was—the detail of the people who were notified?

Mr Rattenbury: This, of course, is the beauty of having a prison in the territory: people are not having to travel as far as might otherwise be the case.

MRS JONES: Hopefully, yes.

Mr Rattenbury: Mr Chair, can I make a clarification? Earlier, we were talking about accommodation pressures, and Mr Seselja was asking about the consultancy with RPL, which is the firm that has done the work for us. I just want to make sure about something I may have given the committee an impression about which I want to clarify. The consultancy has actually finished. You asked me when the consultancy was done. The consultancy itself has finished, and that has been provided to government, but internal discussions within government are now continuing.

MR SESELJA: So you have received a number from the consultant's report as to projections?

Mr Rattenbury: Bear with me. There seems to be some uncertainty.

MR SESELJA: Okay.

Ms Leigh: The consultancy has prisoner numbers in it, but that is the start of work that is now being undertaken within government.

MR SESELJA: Sorry, I did not quite get that. You said that they have provided prisoner numbers and projections, presumably?

Ms Leigh: That is correct.

MR SESELJA: What was the second part of your answer?

Ms Leigh: That work that they have provided was provided as a starting point for the work that now needs to be undertaken within government.

MR SESELJA: Who is undertaking that additional work?

Ms Leigh: Justice and Community Safety, together with Treasury.

MR SESELJA: Okay. Then Treasury provides the final projections? Who provides the final government projections? If we ask a question in six months, will it be the Treasury numbers or the corrections numbers that will be forecast?

Ms Leigh: That work is being undertaken jointly.

MR SESELJA: When is it anticipated that that will be finalised?

Ms Leigh: I cannot give you a definite time at the moment.

MR SESELJA: Is there a reason why the numbers from the consultant's report

cannot be shared publicly?

Ms Leigh: That work is part of the budget context, so that would not be appropriate.

THE CHAIR: Minister, can I take you to page 96 of the annual report. The report states that there has been an Indigenous case manager appointed at the AMC. Is this a full-time position?

Mr Rattenbury: Yes, it is.

THE CHAIR: How does this interact with the Indigenous liaison officer?

Mrs Mitcherson: They work very closely together. Both positions are extremely important. I think they have to share an office or are adjacent to each other. While our population of Aboriginal and Torres Strait Islander detainees is too high, as in all jurisdictions, it is small enough for us to know them all or for the caseworker and liaison officer to know them all. Obviously some are on remand and some are sentenced. They work together in tandem.

THE CHAIR: How does this role interact with the Aboriginal liaison officer through the Health Directorate position?

Mrs Mitcherson: That position is employed by Health. They would have an informal relationship or referral relationship, but the health officer attends the AMC, particularly for Indigenous men or women in the crisis support unit. It is primarily a health function, and his role exists through Health. But there are certainly discussions and they know each other.

THE CHAIR: There are three different individuals, and the case officer needs to be across all of the issues—is that correct?

Mrs Mitcherson: Yes, but, particularly if there is someone in the crisis support unit who is being supported by the Indigenous case officer, they will also get a visit from the health Indigenous liaison officer, who is particularly focusing on issues around mental health, on behalf of Health.

THE CHAIR: Let me just understand this. The Indigenous case manager would be the one who oversees the overall coordination of activities between the three individuals?

Mrs Mitcherson: The health Indigenous liaison officer is not employed by us; they are actually employed by Health. They also might have information that is not—

THE CHAIR: They visit the facility.

Mrs Mitcherson: They visit the facility; they are not located with us. They may have information about their client that is privileged, because it might be a health matter. The case plan generally is about what needs to be done now for the client while they are in custody on remand and also in preparation for when they might be released. There is a lot of liaison and networking that goes on there in relation to the client.

THE CHAIR: As a supplementary on it, this is the priorities area we are looking at. There is also, it is stated here, installation of additional audiovisual facilities at the AMC. Can you elaborate on that?

Mrs Mitcherson: Yes. It is conferencing. We do Supreme Court bail hearings by video conferencing—and Legal Aid as well; we have just started. If someone has to go to court for bail, rather than being in the truck and sitting in the court cell all day—and often a bail hearing is very short—they can do that by video link to the Supreme Court with us. If bail is granted, it is easier for them to be discharged from the AMC, where we can spend time sorting out their money and their property. Also, a lot of our clients need to see Legal Aid visitors while they are coming out. We have just had a trial in this last six months, and it is continuing, where Legal Aid officers will make an appointment to talk to their client through the video link; they can do that at the AMC without having to actually visit.

MR GENTLEMAN: So that would reduce the demand on staffing for those particular—

Mrs Mitcherson: It certainly does reduce the demand on staffing but, particularly if you can have a detainee in the jail rather than being in a bus and sitting in a cell all day for a five-minute court hearing, it is much better, because they may miss out on a program or they might not know their bail hearing is coming up and may have a visit organised. It is better all around, both in terms of safety and security and just for the running of what is going on in there at the time.

THE CHAIR: Is there any supervision of the conferencing facility as to who are the attendees at the other end?

Mrs Mitcherson: I will hand over to Mr Taylor.

Mr Taylor: Yes, there is. There is a process that the staff monitor and manage. They know the detainees that are going in and they know that the recipient has been requested—that they have requested that detainee. There is a booking and monitoring process that goes on.

THE CHAIR: Is there a question directed at the source that the prisoner is talking to as to who are in attendance who may not be visible through the television facility?

Mr Taylor: I am sorry; I cannot answer that question. Certainly there are only the courtrooms and/or Legal Aid that utilise that at the moment.

THE CHAIR: Thank you. I have a further supplementary. You were talking about the number of computers or the number of individuals who had computers in their rooms. Are those computers provided individually by the prisoners or are they provided for them?

Mr Taylor: We provide them. We own them and we provide them to the detainees. No personal computers are brought into the centre; no computers that the detainees own or may have had friends or family own come into the centre.

THE CHAIR: How many computers, overall, are utilised by prisoners?

Mr Taylor: Approximately up to 80.

THE CHAIR: Is the content of the hard drives accessible by the prisoners?

Mr Taylor: No. As Mrs Mitcherson said, we have got security tape. They are clear so that we can see inside them and see the workings of the computer. And we have tape around the joins so that we know if they have been tampered with. If there is somebody going inside to try and change the configuration, we are aware of that. We have a compliance monitoring system. On a daily basis, the staff check those computers. Further to that, the system itself alerts us if there are changes made to the hardware of the computer.

THE CHAIR: Do they have USB access?

Mr Taylor: There is USB capability, and that is through the mouse that may be attached. However, again our system alerts us if there is a third-party device that is connected to those systems.

THE CHAIR: Thank you. Mr Gentleman, a substantive question?

MRS JONES: Might I ask a very short substantive question?

THE CHAIR: Certainly.

MRS JONES: In regard to the chaplaincy service, what progress has been made on building the quiet space as put forth in the original plans for the AMC?

Mrs Mitcherson: The quiet space was examined as part of the feasibility study on options going forward and forms part of that particular body of work.

MRS JONES: So it was not advanced—for what reason?

Mrs Mitcherson: The original quiet space was not advanced a couple of years ago due to the costs. We considered the quiet space in the feasibility study that was undertaken about going forward with accommodation generally; we looked at where that would fit and the potential design.

MRS JONES: And there was no space for it? It could not fit? Is that the point?

Ms Leigh: Funding was provided for the quiet place in the 2008-09 budget, but when we went out to tender for that we did not receive any acceptable tenders so that was not proceeded with at the time. It was not considered an appropriate use of public money to proceed with the tenders that were received.

MRS JONES: At a higher cost than—

Ms Leigh: That is right: the tenders were higher than we thought was appropriate.

MRS JONES: How much was able to be spent in that budget?

Ms Leigh: I beg your pardon?

MRS JONES: How much was offered in that budget to be spent on that project?

Ms Leigh: I would need to get those details. They are on the face of the budget papers.

MRS JONES: You would be able to get those back to us?

Ms Leigh: Yes.

MRS JONES: Thank you.

THE CHAIR: We have time for one more question. Mr Gentleman?

MR GENTLEMAN: It is in regard, again, to the Official Visitor's response earlier on. She raised an issue in regard to funerals and prisoners being allowed to go to funerals. I wondered if you might be able to go through some of the criteria that are looked at. Apparently it is an issue in the centre, especially around the Indigenous population. I wonder if you could let us know whether you do a risk assessment and analysis of staffing needs as well as using a criterion on whether you allow them to go for just family members, for example?

Mr Rattenbury: Those are decisions for the superintendent. I might ask Mr Taylor to comment on the specifics of the criteria.

Mr Taylor: With funerals, the next of kin criterion is one consideration for us. In the Indigenous area, we take advice from our Indigenous liaison person, our case manager and also in the community. There is a lot of research done on the association of the deceased to the detainee. That is predominantly the first thing. After that establishment of kinship, we look at the security issues—public safety and those more operational aspects of the risk analysis and risk assessment. For Indigenous and non-Indigenous, those are exactly the same. We certainly consider the relationship of the deceased to the detainee, in the first instance.

THE CHAIR: Thank you. Minister and departmental officers, thank you very much for joining us this morning. We look forward to receiving any responses to questions taken on notice.

Meeting suspended from 11.06 am to 3 pm.

Appearances:

Sentence Administration Board
Delaney, Mr Graham, Chairperson

THE CHAIR: I welcome Mr Graham Delaney. May I assume that you have already read or are aware of the privileges statement?

Mr Delaney: Yes.

THE CHAIR: Would you like to make any brief opening statement or remarks before we start?

Mr Delaney: Thanks; it will be brief. I assume the committee has seen the last annual report. I might just update you on what has occurred since 1 July last year.

The membership of the Sentence Administration Board remains the same; that is, there are two judicial members and six non-judicial members, a total of eight. That is sufficient to support the work of the board. There is one member who is on leave overseas. She is an officer in the Department of Foreign Affairs and Trade, and she has got some assignments away from Canberra, but she will be back in August. We will be at full strength then.

The board sits every week on a Tuesday. There are two divisions, so one division sits each week alternately. As I say, there are enough members to support those two divisions. We occasionally need to sit on other days when we have to adjourn; the act only allows us, in effect, to adjourn for five days if someone is in custody. We use hearing room 1 at the Magistrates Court. At the moment, we conduct hearings on the basis of paper files, but my understanding is that we will be moving to computerised files from July this year.

Since the last annual report, we have had 61 hearings so far—that is, to February, last month. We have made 53 parole orders since July last year. We have refused 14, which is about a 26 per cent refusal rate. We have cancelled 17 parole orders for breaches; those breaches vary from failing drug tests to committing further offences, failing to attend supervision and failing to attend courses that they have been directed to—those sorts of matters.

In granting parole, we have regard to the criteria in section 120 of the act, which sets out a whole series of matters that the board is required to take into account. About half our work—a bit more, apart from parole—involves periodic detention. Since July last year, we have had a total of 1,291 periodic detention matters; 532 of those were inquiries which we were able to dispose of on the papers without going to a hearing. There were 191 hearings in addition to those inquiries. The board cancelled 14 periodic detention orders—which means that the offender goes into jail for the remaining period of the order. They were instances where we could find no exceptional circumstances or health reasons, basically.

Our general approach is to be guided by the statutory criteria in section 120, section 69 and section 75 of the act. We regard ourselves as having to meet the overarching

requirement to exercise our functions in accordance with section 7 of the act, in particular, to promote the offender's rehabilitation and to reintegrate the offender into society. That can work both ways, of course. If we feel an offender is not ready for release, he will not be released, on the same criteria, basically, because we would be setting him up to fail. We have to have regard to the Human Rights Act and procedural fairness such that we will grant a positive decision on the papers, but we will not grant an adverse decision or make an adverse decision in that way; we require a hearing and require the person to be before us for that purpose.

They are the main aspects of the last six or seven months. I would be happy to answer any questions the committee might have.

THE CHAIR: Thank you very much for that introduction. Page 299 of the report shows that there has been a considerable increase—82 up from 55—in the number of hearings from previous years. Can you explain that? Is there any reason for what seems to be quite a large increase?

Mr Delaney: Yes. I think it is just that the Alexander Maconochie Centre now is at a level where it is functioning close to its capacity. Previously ACT prisoners did their time outside the territory; I think there may have been reluctance in the courts to sentence as freely as perhaps is being done now. There has also been an increase, I think, in the use of periodic detention orders by the courts. That means that we get those matters where either there has been a breach or we need to give leave where someone has been sick or had other circumstances that prevented them attending.

THE CHAIR: You mention that you have had 14 paroles cancelled? Is that the correct terminology?

Mr Delaney: Yes. That is right, yes.

THE CHAIR: And that represents around 20 per cent of the total?

Mr Delaney: About 26 per cent.

THE CHAIR: Is that in line with other jurisdictions or is that higher than—

Mr Delaney: I think it is probably generally in line. The states do vary considerably in terms of their statistics. I think it is probably close to what happens in New South Wales. With the ACT being a reasonably small jurisdiction, I guess breaches come to light fairly quickly.

THE CHAIR: Thank you very much. Mr Gentlemen, a substantive question?

MR GENTLEMAN: Mr Delaney, I bring you to page 299 of the JACS report. Under the functions of the board there, there is a dot point that says you decide the additional conditions of parole orders. I am new to this area. Would you be able to go through with me what additional conditions there might be and then perhaps give us an explanation of how many you would have to change?

Mr Delaney: Yes, certainly. We do not have to change a lot, but we may, for

example, have a condition that the offender is not to live in premises near a victim. We may impose additional conditions about them seeking treatment for a drug problem which becomes obvious after their release on parole. There may be conditions about non-association with people whom they are known to have offended against in the past. They are the sorts of things. We usually do it on the basis of a report from the probation and parole people, who would draw our attention to those sorts of matters.

MR GENTLEMAN: Does that occur over a period of time? How long before you get a probation report, for example?

Mr Delaney: We get a pre-release report when the offender first applies for parole. We will then have a hearing. If we do not think there is sufficient to enable a parole order to be made on the papers, we will have a hearing. At the hearing, we will have the offender and we will have the probation and parole service. Sometimes we will have additional people, perhaps a doctor or someone else who can assist in the particular circumstances. It may come to light then that the person needs special conditions on the parole order, and that is when they will be imposed. Or it may occur later. During a supervision appointment, it may become obvious that there are other problems. The matter will be brought back to the board; we will investigate it then and make the orders we think are appropriate in the circumstances.

MR GENTLEMAN: Thank you.

THE CHAIR: Substantive question, Ms Berry?

MS BERRY: Thank you, chair. I take you to the table on page 303 of the report. From 2009-10 onwards, formal warnings decreased but the number of parole orders cancelled increased. I wondered if there was any particular reason for that. Was there any correlation or trend that resulted in that table?

Mr Delaney: There are none in a general sense that I can think of offhand. It may well have been that the breaches were considered too serious for a formal warning and it was decided to end the period of probation. It is interesting to go back to 2006-07. There were 36; then it dropped down to 14, then 10 and 10. Then it went up to 22 and up to 34. They are a bit all over the place, I suppose.

MS BERRY: I was just looking at those last three, and it looked as though there was something happening.

Mr Delaney: I think we are getting more, so there is a greater number to start with. I would hope that we are dealing with each matter on its merits and that these figures would not signify anything more than that.

MRS JONES: I have a supplementary on that. Is it sometimes hard to get a picture of these things because we are dealing with such small numbers?

Mr Delaney: Yes. That is true.

THE CHAIR: I have a supplementary on Ms Berry's question. You mentioned that

there are quite a large number of periodic detention orders. Are any of those cancelled from time to time?

Mr Delaney: Yes.

THE CHAIR: Are they included under parole?

Mr Delaney: No, they are separately—

THE CHAIR: Separate; thank you.

Mr Delaney: Yes. Since July last year, there have been 14 cancelled; there were 17 cancelled in 2011-12. As I say, there have been 14 cancelled since July last year.

THE CHAIR: That is out of how many in force?

Mr Delaney: I am sorry; I do not have that figure. I can take that on notice.

THE CHAIR: Yes, if you would not mind.

Mr Delaney: Sure.

MS BERRY: Can I ask a supplementary?

THE CHAIR: Yes.

MS BERRY: What sorts of breaches is the board noticing? I know that we are only dealing with small numbers, but have you noticed any sort of pattern in the breaches?

Mr Delaney: In the parole area or periodic detention?

MS BERRY: Parole.

Mr Delaney: It is often a combination or individual instances of, for example, not residing in accommodation that has been approved or proving positive to urinalysis tests for drugs. It may be failing to comply—for example, if we make it a condition that someone goes into live-in rehabilitation, leaving those premises without completing the treatment. They are the sorts of things. And of course committing further offences is one as well.

MS BERRY: Yes.

Mr Delaney: So it is a variety of indicators, I suppose, that the person is not integrating back into society, is not overcoming a drug problem and those sorts of things.

MS BERRY: Have you noticed an increase in any of those particular breaches or is it just a bit of a mix really?

Mr Delaney: It really is a mix. And sometimes we will get a breach report which will

have three or four of those at the one time. There is a failure to attend supervision, there is a failure to live at premises approved, and there is an association again with the old crowd. All of those things can happen at once. It is usually only when they all happen, so the person has really fallen off the rails in the view of the board, that cancellation is the outcome.

THE CHAIR: A substantive question, Mrs Jones?

MRS JONES: Yes, thank you. Mr Delaney, the report states that 254 victims were contacted in 2011-12. Under what circumstances are victims contacted regarding an offender's release on parole?

Mr Delaney: That is probably a question that is better addressed to the victim liaison officer. As I understand it, a victim of crime can either become registered or choose not to be registered, but in either case they can contribute a statement about the effect of the crime on the particular person. We certainly get the views of victims in both cases, whether they are registered or not. But a lot of victims just choose not to be involved in the system.

MRS JONES: But, if you do not mind, my question was about victims who are contacted regarding an offender's release.

Mr Delaney: Yes.

MRS JONES: Not just about the crime, but when they are being released.

Mr Delaney: I would have to take that on notice and get the victim liaison officer to give you some figures on that.

MRS JONES: And the circumstances under which victims are contacted, just to flesh out that information. Thank you.

Mr Delaney: Okay.

THE CHAIR: Mr Seselja, a substantive question?

MR SESELJA: Thank you, chair.

MS BERRY: With respect, chair, I have another substantive question, if it would be okay.

THE CHAIR: You have had your substantive question.

MS BERRY: Yes, I understand, but I am a committee member. I just have one—

MR SESELJA: That is not how it works.

THE CHAIR: I think we are moving down the line. You have had a substantive question; you can ask a supplementary.

MS BERRY: If we run out of time, I would like to put my substantive question on notice.

THE CHAIR: Ms Berry, you get one substantive question, the same as all the other committee members. We have only had one each.

MR GENTLEMAN: But Mr Seselja is not a committee member. Or is he here on behalf—

THE CHAIR: We are moving down the line, asking substantive questions. When all of the committee members have had a substantive question, then it is Mr Seselja's turn. Thank you, Mr Seselja.

MR SESELJA: That is the way committees normally work. Thank you, chair.

MS BERRY: Being new to the committee, I thank you for the explanation, chair.

THE CHAIR: Thank you.

MR SESELJA: Thank you, chair. I apologise; I was out of the room for a moment for a quick break, so if this has been asked, then that is fine. It is in relation to page 305 of the report. It states that 85 matters were granted approval not to perform. I just wanted you to explain. I understand that this is a reasonable increase from the previous year. I want you to explain why there is the increase and what are some of the circumstances where that kind of approval not to perform would be granted.

Mr Delaney: Approval not to perform is given in two circumstances under the act—health reasons or exceptional circumstances. With health reasons, we will generally accept a medical certificate that outlines what the sickness is and indicates that that sickness prevents the person attending periodic detention and the period for which that person cannot attend. That is the general way in which it is dealt with. And each weekend that the person cannot attend for that reason is added to the end of the order. Exceptional circumstances can vary, of course. I can give perhaps one example without, I hope, identifying anyone. We had one offender whose wife had a child that had a serious and perhaps fatal illness, and we granted some leave there as well.

As for the increase, I think it is probably reflective of the increase in the number of orders made. But perhaps what I should do, in fairness to your question, is to go back and just have a look at what the global number of orders was in each year.

MR SESELJA: That would be great; thank you. And in relation to that, has the mix between those two changed at all? You said there are two circumstances—health reasons and exceptional circumstances. When you go back and look at that, are you able to look at whether or not the mix has been roughly the same or whether it has changed in any substantial way?

Mr Delaney: Yes; sure.

MR SESELJA: Thank you.

THE CHAIR: Mr Delaney, we have reached the end of our allotted time period. Thank you for coming in. We look forward to hearing back from you regarding the questions you have taken on notice. A full transcript of this hearing will be provided to you for comment. Should there be any other matter that you think would be helpful for the committee to consider, we would very much like you to submit that to us as well.

MS BERRY: Chair, is it okay if I notify that I also have an additional substantive question that I would like to put on notice?

THE CHAIR: Of course. You are entitled to do that in any case, Ms Berry.

MS BERRY: Thank you.

Appearances:

Victim Support ACT

Hinchey, Mr John, Victims of Crime Commissioner

THE CHAIR: Good afternoon, Mr Hinchey. May I assume that you have read or you are familiar with the privileges statement before you?

Mr Hinchey: I am.

THE CHAIR: Is there any restatement that you would like to make prior to questions from the committee?

Mr Hinchey: No, thank you.

THE CHAIR: Mr Hinchey, the report states that at the time of publication you had 45 cases waiting for allocation to a case manager.

Mr Hinchey: Yes.

THE CHAIR: Is this number consistent with past years?

Mr Hinchey: It has been consistent since we established an early intervention team, which is a group of professionals that assess and triage incoming cases. On that group, on that team, they would hold between 45 and 100 cases. Not all of those go on to intensive case management, because there are varying degrees of need amongst that group, but that is a consistent figure.

THE CHAIR: Mr Gentleman, a substantive question?

MR GENTLEMAN: I have a supplementary, if I could.

THE CHAIR: Certainly.

MR GENTLEMAN: On the work on that early intervention, have you been able to show some success in the outcomes for those victims?

Mr Hinchey: We are certainly moving people onto case management sooner than we had been doing. I think that is because we have continued to improve our assessment processes and also add some resources to that. There are more people working on that team than there have been in the past, and that seems to be working. And I think we are identifying different issues amongst our client group in that process rather than just putting them all through to case management, which was the case a few years ago. So I think it is a better use of resources. It seems to be working well, and we think we will keep it.

MR GENTLEMAN: Good. My substantive question is on the victim services scheme. You mentioned in the report that there is a difficulty in attracting approved providers due to low pay compared to contract health providers.

Mr Hinchey: Yes.

MR GENTLEMAN: Are you able to tell the committee what the comparison is? Is there a really large gap?

Mr Hinchey: Not so much on the physical therapy side of things—massage therapists, that type of thing. We are paying a commensurate rate with other types of schemes. The Vietnam Veterans Association have a scheme that pay their clinical psychologists at a higher rate. We currently pay our psychologists, I think, \$120 an hour. That is in the report. We could be paying up to \$200 for that group.

What we have noticed since we have introduced our triaging system is that we are using fewer external approved providers. We employ counsellors, psychologists and social workers on our staff. Because of the complexity of the work that is coming through to them, because we are capturing the more straightforward cases at the triaging stage, we are tending to keep more of them in house, and that is playing out with a reduced level of use with approved providers.

We need to do some analysis as to why that is the case and whether that is because there is lack of availability of particular providers or whether the rate of pay that we remunerate particular providers with is not sufficient to be keeping them in our system—and also the profile of clients that we have. There are a range of factors. I would be looking to increase the remuneration rates to particular groups of providers over the next few years by up to 10 per cent in the short term.

MR GENTLEMAN: Thanks.

MS BERRY: In the annual report you touch on the backlog blitz that was undertaken by the Supreme Court. In the report it is mentioned that there have been many positive flow-on effects for victims of crime. Can you elaborate to the committee on what some of these positive effects were?

Mr Hinchey: The sooner a person can have a matter dealt with at a court, the sooner they can get on with their lives. That is what people have told us. The longer it takes, particularly if it is sexual assault offences, the more likely it is that these people are retraumatised, develop more complex types of trauma and find it more difficult to recover. So we need some certainty around trial dates. If people know this is what they are looking at for a time period, they can set themselves to manage that, but it is the uncertainty that damages people.

The blitz certainly had some positive effects. You can look at the numbers of guilty pleas that were entered, just because we had some certainty about when a trial would take place. There was early engagement between the DPP and defence around the issues that were in contention, and that was all because they knew that the trial would proceed on a certain date. So those things are very positive. I think it is that approach that we observed within the blitz that gave victims some positive outcomes. It has not fixed everything, though, because we are still experiencing significant delays at trial and significant delays in some verdicts being handed down. That is still impacting on a number of our clients.

MS BERRY: What was the time frame during the blitz, between what it was and—

Mr Hinchey: We are still setting trial dates now, two years out. So we are pretty much back to what was occurring. But it was that backlog that flowed through from 2007-08—and once you get that critical mass and certain things happen within the court system, it is difficult to recover from that. So we are still looking at trial dates getting set a long way out. It is not unusual. This jurisdiction is not much different from other jurisdictions regarding the length of time it takes to get to trial. But with any further delays, that is where things get difficult, and that is what we sometimes see.

MS BERRY: And there was that backlog. What aspects of the blitz would you like to see improved that might actually benefit victims?

Mr Hinchey: A certainty of trial date is one thing that we achieved in the blitz, through a range of reasons, I suppose. We had additional resources. Also, the court took a stand that these trial dates were the trial dates and counsel conducted their business accordingly. Because of the certainty there was better engagement by the Crown and defence counsel around preparing for a trial. So there was that culture shift that the Chief Justice referred to in an article in the *Bar Bulletin*, and the Director of Public Prosecutions referred to it in a similar article. If we could retain that culture of having some certainty around trial dates and conducting our business accordingly, we could take that out of the blitz as a lesson.

MS BERRY: With the certainty of trial dates, is that the only positive that you would think would come out of the blitz or are there other things that would make a difference? That would be the primary one?

Mr Hinchey: That would be the primary one. There are a range of things that hang off that, though. Isolating the issues that are to be contended—this is between the Crown and the defence—and agreeing on issues that are not going to be contested, agreeing on the issues that should be contested and bringing that forward at an early date. Also, having some resistance to vacating trial dates at late notice, which has occurred from time to time when defence has not been in a position to proceed or has waited until the trial date to raise issues, which has resulted in the vacation of trial dates, and then we are set back another year or two years. They are the sorts of things that we could avoid.

MRS JONES: Can you please provide an update on the recommendations arising from the Ombudsman's investigation into financial assistance applications?

Mr Hinchey: The directorate has been conducting a discussion or review around that. I understand there is a commitment from government to look at the operation of the scheme. The Victims Advisory Board has also been briefed on the breadth of the review that I think needs to be undertaken, not just on the issues raised by the Ombudsman but on the scheme generally. I am pleased to see that the discussion paper that is being developed—yet to be released—will canvass all of the issues that I would like to see canvassed. The directorate might be in a better position to give you a time frame, but I believe it is a high priority, and I would be thinking that I would be looking at that discussion paper in the near future. To answer your question, the

scheme still operates according to the legislation as it currently stands, and the practice.

MR SESELJA: On page 4 of the report it says that the Ombudsman recommended that relevant agencies, including the Victims of Crime Commissioner, review the existing administrative arrangements. Are you doing that internally, is it being done by JACS with those relevant agencies or is each agency looking at their own administrative arrangements as recommended by the Ombudsman?

Mr Hinchey: The agencies that have been particularly referred to in that report have been talking with JACS. JACS has then drafted a discussion paper touching on the issues that those agencies have raised and that discussion paper will be released for wider comment.

MR SESELJA: So you have had input into that discussion?

Mr Hinchey: I have had input into that discussion paper and the issues that I have raised have been taken up, I believe.

MR SESELJA: Page 5 makes a point in relation to the Victims Advisory Board. It says there is a range of issues currently being looked into. Are you able to provide some more information on what that range of issues is?

Mr Hinchey: The Victims Advisory Board is looking at helping my office to develop protocols with other justice agencies. It is going to be looking at the financial assistance scheme when that discussion paper is released. It will be looking at the sexual assault reform program report when that is eventually discussed within the reform committee. It has a range of other matters on its agenda. I could come back to you with more detail about that. I should know the agenda items that we were discussing recently. My mind has gone blank on that, I am sorry. Can I come back to you with a more detailed response?

MR SESELJA: Sure.

THE CHAIR: Take it on notice. Mr Hinchey, in your report you refer to difficulties with the timeliness of court cases, on pages 9 to 11. Can you tell the committee about the significance of these delays for victims of crime?

Mr Hinchey: Yes. I will give you three examples. There was an alleged offence of sexual intercourse without consent. It occurred in June 2009. A trial by judge alone was held in June 2011. A not guilty verdict was delivered in March 2013. So that is four years from the time of the offence to the time the verdict was delivered, with nearly two years difference between the trial by judge alone and a verdict being handed down. The victim said she could not believe that it took so long. The worst part for her of the trial process was not knowing the verdict. She said it has been very hard for her to get on with her life and she has been struggling emotionally and mentally since the trial. Even though she is unhappy with the verdict, she said she can now focus on getting her life together.

In another case, alleged offences of sexual assault and domestic violence occurred in

November 2008. The committal hearing was held in May 2009. There was a trial by judge alone in May 2011. We are awaiting a verdict.

In another case, there was an alleged assault in August 2008. The victim had a large number of metal plates inserted in his head as a result of his injuries, as well as over 50 staples. A trial by judge alone occurred in July 2010—awaiting verdict. The client's financial assistance application has been delayed as it is the territory's position that his financial assistance application will be considered after the outcome of the criminal trial is known. The client has experienced financial difficulty since the assault because of the effect his injuries have upon him. So he cannot move his application forward and he cannot get a result. He is at the mercy of the court.

They are three examples where the interests and needs of victims are lost in court processes that focus on meeting and balancing the rights of offenders with trial processes. I think that more could be done to consider the interests of victims while balancing the rights of the accused in trial processes.

THE CHAIR: In your report you are obviously highlighting this, and there are very serious time delays there. What other recourse have you got in pursuing this further?

Mr Hinchey: Very little. I do not have a lot of power about this. I do not have any authority to conduct any investigation. That is now a matter for the Ombudsman. I can try to resolve concerns, but standing outside the justice system and not having a rights platform to work off, it makes it difficult to represent interests. I try to do that through other agencies. But whether I can raise the issue with the court directly is a matter that some would see as being contentious.

MRS JONES: Would you say that in your role you are somewhat less able to influence the rights and human dignity of victims as opposed to offenders or people who are on trial for offences in this city?

Mr Hinchey: Yes. Victims do not have a platform of legally enforceable rights. We have guiding principles in the Victims of Crime Act that set out what agencies should be doing and what victims can ask and receive. But the rights of victims are not well framed compared to the rights of others that are subject to the power of the state. Without having enforceable rights, it is likely to remain that way.

MRS JONES: That is a very interesting point.

THE CHAIR: Mr Hinchey, in that regard, obviously this committee can make representations to the government and make our comments about the annual reports. We would welcome any other input you can give to this committee on your concerns in that regard.

Mr Hinchey: The government did look at establishing a rights framework for victims of crime a couple of years ago. The government took the position that there would be a phased approach to this. The first phase was the establishment of the Victims of Crime Commissioner position and strengthening the advocacy role of the commissioner. But the rights framework raises issues of resources. Of course, we are going to be tapping into an unknown need. My advice to government would be that

before we start to reframe or look at the rights framework, some work needs to be done on analysing the costs associated with what those rights might look like.

MRS JONES: It is an interesting observation that while so much effort has—and perhaps rightly so—gone into offenders and how they are dealt with, because of perhaps historical biases, we may have got ourselves into a position where we now have a bias against those who are innocent and who have had crimes perpetrated on them, and where their human rights are not necessarily the first priority of government.

Mr Hinchey: That would be a view that many would share. If you stood in the shoes of a victim of crime in our justice system and observed the application of the Human Rights Act and the application of the rights of offenders who are before the courts, you would form that view at times.

THE CHAIR: Thank you, Mr Hinchey. Our allotted time has now expired, but I would like to thank you for your comments here this afternoon. We will forward a transcript of the hearing for comment. We also look forward to receiving responses to any questions you have taken on notice. Also we look forward to getting any other comment on our last few comments on this. So thank you for coming.

Mr Hinchey: Thank you for the opportunity.

Appearances:

ACT Electoral Commission

Green, Mr Phillip, Electoral Commissioner

THE CHAIR: We welcome the ACT Electoral Commissioner, Mr Phillip Green. I assume that you have faced these committees before and you are aware of the privileges statement in all its aspects.

Mr Green: Yes.

THE CHAIR: Would you like to make a formal statement before we pass on to questions from the committee?

Mr Green: I do not have a prepared, formal statement. I suppose I can make a few introductory remarks, if that would be helpful.

THE CHAIR: Sure.

Mr Green: Obviously since the last annual report, we had the ACT election in October last year. The ACT Electoral Commission after every election prepare a detailed report into the conduct of that election, and we are working on that at the moment. We are hoping to have that finished before the end of the financial year. Obviously, we will be doing an annual report for the financial year that will also cover the election year as well. That is work that is underway. So there is quite an amount of detail that will be in that report that I am not in a position to be able to share with you today, but that will be a report that will be coming out in the next few months.

There are two other things that are of concern to the commission at the moment. One is that I am on the expert reference group looking into the size of the Assembly. We are hoping to have a report on that given to the Chief Minister by the end of this month. Another thing of interest to the commission is the item in the parliamentary agreement where the commissioner is to be made an officer of the parliament. There has been no legislation tabled or made public on that at the moment, but that is something that we are obviously taking a very keen interest in. Other than that, I am very happy to take questions.

THE CHAIR: Thank you. I will start with the first question before passing on to my colleagues. The Electoral Amendment Bill was passed in July 2012. What impact did the changes have on the conduct of the recent election campaign?

Mr Green: That act took effect on 1 July last year. It was actually passed a few months earlier than that. Let me just remind myself what was in that. In particular, there were changes to the funding and disclosure laws. Changes were made by that bill, the Electoral Amendment Bill 2012. That was passed by the Assembly on 10 May and came into effect on 1 July.

It introduced limits on the amount of gifts that may be received for use in ACT election campaigns, a \$10,000 limit per donor per financial year. It introduced limits

on electoral expenditure. It increased the level of public funding payments. It introduced an administrative funding payment to parties of \$20,000 per MLA per year.

It brought forward various deadlines for submission of annual and election financial disclosure returns and it made a range of other amendments to disclosure provisions. So it was essentially a disclosure and funding amendment. That introduced quite a range of new obligations on parties, candidates and other third-party campaigners, particularly a need to disclose donations received within seven days of receipt within the election period, which started on 1 July.

There was a requirement on the Electoral Commission to publish those on our website as soon as possible thereafter. So we had to introduce systems to do that. There was an additional task effectively imposed on political participants and the commission in terms of the cap on donations and expenditures. They were new things that had to be complied with and monitored.

So far as the commission was concerned, that was quite a deal of work that we had to put into preparing parties and candidates and others, informing them about the changes that were made. Then we had to introduce new systems to take account of those new disclosure provisions. There was quite a substantial body of work in preparation for the 1 July implementation of those provisions.

In terms of compliance, it is probably no secret that various parties and others had difficulty complying with the seven-day requirement to disclose gifts received. And that is something we worked with the parties on to increase their compliance on that. As far as I am aware, all the donations that were received before the election were disclosed and posted before polling day. So that policy objective of getting that information out there before voters before polling was achieved. I think sometimes the seven-day period was not met, but it was met reasonably closely.

We did not consider that there were any deliberate evasions of the law in respect of those late returns. So we did not prosecute any of those. In terms of the caps on donations and expenditure, we are not aware of any donations that were received in excess of the caps. We are not aware of any expenditure breaches by registered political parties.

There are on our website some indications that, I think it is, two third-party campaigners may have breached the expenditure cap during the election period. Under the law they are liable to a debt to the territory of twice the amount of the breach. And we are taking legal advice at the moment as to the best way of recovering that debt. It is not a criminal debt; it is a debt to the territory. So that is something that we are still working through. But there are two third-party campaigners that we are probably going to have to be recovering debts from for expenditure caps.

MRS JONES: I have got a supplementary on that.

THE CHAIR: A supplementary, Mrs Jones.

MRS JONES: Which were the two third-party organisations who were involved in

the breach?

Mr Green: Rather than my quoting it off the top of my head, if I could take that on notice. They are on our website disclosed as having received more than \$60,000, but I could take that on notice.

MRS JONES: Thank you.

THE CHAIR: Mr Gentleman, a question.

MR GENTLEMAN: Thanks very much, chair. Mr Green, if I could bring you to page 11 of your report—and of course we are looking back at last year's report—it says that in preparation for that election you were doing final testing in implementing the new, redeveloped ACT ICT electoral system. And it goes into a long series of dot points on what was involved in the system. Can you give us an overview of how that performed during the election period and the resulting counting period as well?

Mr Green: Sure. Obviously we will be reporting on these in more detail in our election report, but I can give you a summary at this point. The electronic voting and counting system was essentially the same system as the one we have used since the 2001 election. It had been upgraded to make use of more modern hardware than was available at the previous election. There were some fairly minor programming changes made to it that did not have any practical impact.

The system was used by over 59,000 voters. About one in four voters used the electronic voting system. That was deployed at six pre-poll centres across the ACT, which was one more than the previous election when there were five. The system worked very well. It was one of the contributing factors to the fact that the election result was finished in record time, seven days after polling day. We combined the electronic voting and counting systems with a ballot paper scanning system where all of the paper ballots were scanned through an electronic scanning system provided for us by a proprietary company.

As a result of both the high number of electronic votes and the speed with which the scanning was conducted, we finished the count in record time. We finished about lunchtime on the Saturday after election day. We are of the view that the scanning system that we use is the most accurate way that we can count an election like ours. It is very accurate. Every ballot paper is verified at least twice, once by computer and once by a human being, and if they go not agree, then another human being comes in and verifies that across the top of that.

One of the changes we introduced for the scanning system at this election was that at the previous election party scrutineers were able to look over the shoulders of operators looking at the screens in front of them, which was not an ideal way of doing it. So we reversed the screen so that there was a screen facing one way and a screen facing another way, showing identical pictures so that in fact, it was very much like this arrangement: the scrutineers would be in the middle and the operators would be around the outside. So the scrutineers were able to see what was happening with the scanning system, and that worked very well.

We introduced a new system that we call ELAPPS, the electronic Legislative Assembly polling place system. In all the polling places, all of the electoral officials were issued with netbooks, which had the electoral roll on them electronically for all three electorates. So when someone turned up to vote, names were marked off on this electronic netbook system, which was networked across the ACT using the 3G wireless network. So for most people, if they were marked off a roll in one particular polling place, the fact that they had been marked off that roll would be replicated right across the territory.

That enabled us to minimise the opportunities for people to vote more than once fraudulently. We have done quite extensive investigation into the possible incidence of multiple voting. We will be reporting on that in our report. I am not able to give you any outcome of that just now. But we are not aware of any significant numbers of deliberate multiple voting at all. Certainly there is nothing that we can prove and take to court.

MR GENTLEMAN: A supplementary, Mr Green: in that system where, if you register to vote at a particular polling place and then somebody else pops up at another polling place with the same details and intends to vote, does that occur very much and will this system now across the ACT in future elections possibly wipe it out?

Mr Green: It will not eliminate that happening. One of the things that are common not only with electronic rolls but paper rolls is that electoral officials will mark the wrong name off in a polling place. There are a lot of people with very similar names or exactly the same names. Sometimes you get father and son living at the same address, and the first name will be marked twice and the second name will not be marked at all. A change that was introduced since the last election was to put year of birth on the electoral rolls that they see in the polling places so that particularly in this father-son situation, they have got some indication as to which name is the correct name. Nevertheless, polling officials do make mistakes. They do mark the wrong name off from time to time. And, in fact, almost all the cases of apparent multiple voting would appear to be the result of electoral officials marking the wrong name.

If someone does turn up and they find that their name is marked off on the roll, they get a declaration vote, which then gets checked against electoral roll records back in the head office, and we particularly match signatures. It goes back to enrolment forms. So we do identity checks to make sure that they are who they say they are.

THE CHAIR: Just a supplementary on that, in that case what happens to the original vote? Can you verify that that has come from an authorised source?

Mr Green: If someone turns up to vote—

THE CHAIR: And finds their name—

Mr Green: And their name is not marked off, they just get given an ordinary vote, which goes into a ballot box. So there is no way you can retrieve that. Any election in Australia is like that. Someone who turns up and then finds that their name has been marked off elsewhere, their vote goes in a declaration envelope. So we have to verify that they are who they say they are before that vote can be admitted to the count. Does

that answer the question?

THE CHAIR: Sort of. What I am asking is: is there any validation of the fact that his name is already marked off and that a vote has been registered inappropriately?

Mr Green: We investigate all of those incidents. And we go as far as ringing people up and questioning them, if we have got enough evidence to think that they might have actually been fraudulent.

THE CHAIR: In terms of the great progress you have made in electronic voting, is there any way of having the whole process done through the computer system so that when somebody is marked off, any other booth, any other area where they are registering people for voting, the name will automatically be spread throughout the network?

Mr Green: That is the way this system works.

THE CHAIR: That is the way it works now, is it?

Mr Green: Yes.

THE CHAIR: Thank you.

Mr Green: And the fact that we did that across the whole jurisdiction, I think, was a first for Australia. Some other jurisdictions have done that on a smaller scale, but we were able to do it right across the ACT. I have not actually finished going through all our systems.

THE CHAIR: Sorry.

Mr Green: Do you want me to keep doing that? There are several other aspects to the electronic polling place system that we use. It is not just an electoral roll hook-up system. It is also used by the officers in charge of polling places to do the electronic returns that used to be paper-based returns. So they have check lists on the electronic system. They keep account of all the ballot papers they receive on that system. It does the maths for them. It makes their job easier and faster. They can do assessments of all their polling officials straight into the computer rather than writing them down, which then has to be data-entered later.

A key thing that is part of that system is the transmission of election results to the tally room. The officer in charge puts those results straight into the netbook in the polling place, and that goes straight to the tally room. So that cuts out what used to happen where we used to have to telephone the tally room and ring that through. There is quite a lot of time and effort saved with that system. So it is very effective from an administration point of view. While it is a complex system in the sense that it was difficult to set up and we had to get software written and so forth, it replaces a lot of paper-based systems and made some very effective changes.

We had an online system for recruiting and training polling officials, which worked very well, particularly as all of our polling officials had to use the computer system at

the polling place. That actually weeded out people who were not able to use the computer system, because we required them to do their training online. So that was very effective. We were able to embed videos into it and all sorts of things along those lines.

We had an online system for applying for postal votes, which we also had in 2008, but we were able to improve that for 2012. We have got a whole series of in-house databases that we use for election management. And we upgraded those for 2012. They are kind of a rolling feast. We are continually updating those as things change. So they were the main ones. That is probably enough.

MR GENTLEMAN: Good; very thorough.

THE CHAIR: A substantive question, Ms Berry.

MS BERRY: Before I ask my question, Mr Green, can I say this. You have pretty much bamboozled us with all of the work that the Electoral Commission did during the last election. I know that you and your team were congratulated in the Assembly after the election last year, but it truly was quite remarkable given the system that we have. It is nice to have somebody like you so passionate about it.

Mr Green: Thank you.

MS BERRY: My question goes to the topic of the completeness and accuracy of the ACT electoral roll. I note that the federal government has legislated for automatic enrolments. Can you please let the committee know roughly how many new enrollees you expect to be added to the roll that would not have been added through past practices?

Mr Green: It is very difficult to put numbers around that sort of question. I have statistics for the completeness of the roll right across the country as at the end of December, and the Australian Electoral Commission, using Australian Bureau of Statistics estimates of how many eligible citizens there are in the ACT, is estimating that about 94 per cent of the eligible ACT population is on the electoral roll. That is above the Australian average. While it is lower than I would like it to be, we are one of the best performing jurisdictions in the country. Tasmania and the ACT consistently outperform the rest of the country; according to these figures, they are running at about 94.0 per cent and we are running at 94.3 per cent. So as at the end of December, we were the best performing jurisdiction in the country for people enrolled on the commonwealth electoral roll.

New South Wales and Victoria have recently introduced direct enrolment for state-only enrolment. If you look at the enrolments particularly in New South Wales, they have managed to increase their participation rate from 90.9 per cent under the commonwealth enrolment system to 93.5 per cent using their direct enrolment method.

MRS JONES: A supplementary?

THE CHAIR: Yes, Mrs Jones.

MRS JONES: You refer in your report, on page 12, to trusted data sources to add people to the roll. What are the “trusted data sources” you are using or will be using?

Mr Green: Can I come to that when I finish answering the first question?

MRS JONES: You were going on to answering a question about New South Wales, but we really want the details for ACT.

Mr Green: Sure, but I am trying to give you some context to answer the question about how likely it is to be effective here. New South Wales has direct enrolment, and they have managed to increase their participation rate by about two or three per cent. I am expecting that that would be a similar result to what we would find in the ACT.

MS BERRY: So that would take it up to—

MRS JONES: Ninety-seven or 98.

Mr Green: Probably 97 or 98 per cent. A thing to keep in mind with that is that what might happen is that we might be able to increase the number of people on the roll, but what that will do to turnout is another question, because there clearly are people out there who do not want to enrol and do not want to vote. I think that the people that direct enrolment will be finding will be proportionately more disinclined to engage. So while the roll might come up, turnout might proportionately go down; until we go through that process, we will not know. At the moment, the commonwealth is using trusted data sources to update the commonwealth electoral roll, and that automatically updates our roll. They are intending to implement that between now and the federal election right across the country. They are about to start doing that in the ACT. The trusted data sources they are using are motor registry—

MRS JONES: Sorry, say that again.

Mr Green: Motor registry data.

MRS JONES: Right.

Mr Green: I might have to take the rest on notice because they are not using a large number of trusted data sources at present. I could confirm which other ones they are using. Possibly Centrelink might be the other one. They may be able to use schools data, but I have a feeling that at the moment they are only using Centrelink and motor registry. I could take that on notice.

THE CHAIR: If you can take it on notice and confirm that, that would be great. Have you got a supplementary?

MS BERRY: Thank you, chair. I was not quite sure about something. You said we were not really able to tell how many new enrollees there were. I just meant in percentages.

Mr Green: Three per cent of the pool of enrolments. We have currently got about

260,000 people on the roll, which probably means that that the potential pool is 290,000, 300,000, something of that order. So it would be three per cent of that number.

THE CHAIR: Mrs Jones, a substantive question. Just before we go on, I remind members that we are going until 4.15 on this current segment with Mr Green.

MRS JONES: Pages 13, 15 and 58 deal with staffing issues. On page 13 you refer to unfunded salary increases and the rising cost of the joint electoral roll. What unfunded salary increases were you faced with, Mr Green?

Mr Green: In a sense, this currently is not an issue for us, but in the past some of the efficiency dividends that have been applied to ACT agencies across the board have resulted in a requirement for agencies to fund part of the salary increases awarded to public servants from efficiencies from within their budgets. So effectively those were unfunded salary increases provided to staff. In the course of the election year and in the course of the changes made to the funding disclosure provisions, we were provided with additional funding for staff to cover those new functions so currently we do not really have any budget concerns about being able to afford our staff.

MRS JONES: In relation to staffing, again, your full-time staff numbers, I believe, as per page 58, dropped from eight to six. Why was there a drop in full-time equivalent staff numbers given the additional work required as a result of the changes to electoral laws and the upcoming elections?

Mr Green: The way the annual reporting works is that when you are doing full-time employee equivalent numbers in the annual report you are looking at a fixed 30 June number. Depending on where we are in election cycles, we employ casuals to undertake particularly fee-for-service elections at around that time of year. Without going back and researching the circumstances at the time, I am pretty confident in saying that the fact that it is listed as eight would be a reflection of the fact that we either had someone on staff doing a special project or we had casuals on hand doing an election. When you have got so few numbers, just a few casuals are enough to make a substantive difference to that.

MRS JONES: I think it said that you had gone from eight down to six. That was the concern. Did that therefore get made up with casuals or something like that?

Mr Green: That was not a reduction in our ongoing permanent staff. In fact, we have now got funding to increase our permanent staff with the public funding budget increases that we received last year.

THE CHAIR: What increased?

Mr Green: When we were given funding for the changes to do with the funding disclosure amendments to the Electoral Act, we were given funding for two additional staff for, I think, this year and next financial year.

THE CHAIR: Mr Seselja, a substantive question.

MR SESELJA: I have a question in relation to your performance indicators and targets and goals there on pages 5 and 6. I am not sure if you touched on this with one of your earlier answers in terms of electoral enrolment or the proportion of the eligible population, but there is a discussion there on page 5 around the target being greater than 95 per cent. You talked about it being less than that but that you expect that that would have gone up as at the election—in the lead-up to last year's election. Are you able to give us an update on what the number actually got to, what the latest number is and what it was, say, at the election?

Mr Green: Sorry, can you just clarify which particular number we are looking at?

MR SESELJA: You have got table 2. I think you have got the participation rate, a higher level of electoral enrolment.

Mr Green: Yes.

MR SESELJA: You talk about 97 per cent at the 2008 election. Do you know what it was for the 2012 election?

Mr Green: Yes. Voter turnout at the October 2012 election was 89 per cent. Our target was 92 per cent. We also measured that in terms of the eligible elector population; we estimate that 84 per cent of the eligible elector population actually voted, and our target was 88 per cent.

MR SESELJA: What do you put that down to? Why is that figure going down?

Mr Green: That comes back to the participation rate right across the country, which is another reason why I was wanting to draw those comparisons with the other states. It is not just an ACT phenomenon; it is an Australia-wide phenomenon that participation rates on the electoral role and in turnout at elections are dropping. It is across the board; it is not just here. The ACT and Tasmania actually have a very high participation rate compared to the rest of the country.

I think there is a whole range of factors in there. I am hoping that the direct enrolment changes that the commonwealth have made will address at least the enrolment side of the underparticipation rate. I think there is perhaps a generational change with people who are now turning 18 or 19. They live in an electronic world; they deal with the world electronically. Until this new direct enrolment change came in, people who were first-time enrolments had to actually fill in a form and sign it; that was a disincentive to young people getting on the electoral role.

MR SESELJA: Although the 89 per cent is of those on the electoral role. Is that the figure you cited?

Mr Green: Yes.

MR SESELJA: That is still a pretty high number who are enrolled who do not show up.

Mr Green: Yes.

MR SESELJA: Does that mean that roughly 11 per cent of the population are receiving a notice from you? What exactly happens to the 11 per cent who did not show up? Do they get something from the Electoral Commission asking them to explain? Is it a fine? How does it work?

Mr Green: Yes, we will be reporting on this in detail in our election report. We sent out our third non-voter notice this week, I think. During the election and immediately after the election we do get people coming to us and giving us excuses for why they have not voted. They do not get a non-voter notice if there is an acceptable reason. People who are overseas and registered as overseas electors are not required to vote; so they do not get a non-voter notice. Of that roughly 11 per cent of enrolment, most of those would have been sent a first non-voter notice, but not all of them because they would have given us an excuse in advance.

Then we receive excuses or a \$20 penalty from people who are able to pay in order to settle the matter. What we will be doing in our election report is reporting on the different categories in which people have responded. Again, it comes back to electoral enrolment and people not being very good at filling in the forms. There were quite a lot of people who were on our electoral roll who do not live in the ACT anymore or living at a different address from the one that they are enrolled for. So we get quite a lot of non-voter notices, "Return to sender, not known at this address", or we get advice that they have left the ACT and they are elsewhere.

MR SESELJA: Do you have an update on the formal voting numbers? In the 2008 election it was 96.2 per cent. The aim was to increase that. Did that occur at the 2012 election?

Mr Green: The informal vote was 3.8 per cent.

MR SESELJA: It was identical to the 2008 election; is that correct?

Mr Green: Sorry, they have put a new column in the election result stats. That was the 2008 result. No, the 2012 result was a decrease—3.47 per cent.

MR SESELJA: That is a good outcome. Is there anything you put that down to?

Mr Green: The high number of people casting an electronic vote; it is more difficult to cast an informal vote electronically. We put a big effort into encouraging people to number their ballot papers correctly at this election. We did some new things. We put different posters in the polling places, in the actual voting compartments, that were designed to make people number their ballots correctly. So hopefully that message got through.

MR SESELJA: Just finally, I guess the other factor in terms of participation is that it is now easier to participate at elections than it was 10 or 15 years ago in the sense that there is more pre-poll voting. So there are more opportunities for people to actually get out there. Those numbers are actually understated in some ways in terms of the engagement of some people, because certainly we see a lot of people voting before elections. Yet many people just do not bother for those three weeks or so.

Mr Green: Yes.

THE CHAIR: Commissioner, on page 18 you refer to the ballot scanning system contract with SEMA. That was voided when SEMA moved into voluntary administration. The report suggests that the commission had confidence in the new owner, SEMA Holdings. Was that confidence well placed?

Mr Green: It was. SEMA went into voluntary administration when they ran into difficulties, but they had a buyout of internal people, I think, who took over the company. So many of the same people who did scanning for us in 2008, the actual individuals who attended in our premises, were in the 2012 team. It was a high profile project for them and they went to great pains to make sure that it worked as it should. And it worked very well.

THE CHAIR: I think we have time for one more question.

MR GENTLEMAN: My question goes to page 19 of your report. It relates to fee-for-service electoral services that you provide for other groups. Having not seen this report for many years, is that an increase now in the other services you are getting and, therefore, the income for Elections ACT?

Mr Green: It is a thing that varies with demand. Some elections we run every year, like the two elections we do for the ANU union and the ANU students association. Because they are attendance ballots, a lot of the cost of those is reimbursing of staff costs. We do tend to make a little bit of profit out of that. But any casual staff that we employ, we just pass the costs of those on to the clients. So we do not actually make a lot of profit for the territory out of those.

The elections that we particularly ran in this financial year and I think we will be running again later this calendar year were ballots for enterprise bargaining agreements in ACT agencies. We are now using an electronic internet voting system for those. We are charging those on the basis that we are recouping the costs that we put into the software development for those. Over time, we are actually going to be making quite a lot of profit out of those, once we pay off the development costs, because it is a rate per vote. The actual staff costs that we have to put into those elections are much, much less because it is now automated.

MRS JONES: I have a supplementary on that. So I understand right, Mr Green, the Electoral Commission is making a profit out of student union elections? Who pays that bill? Is that paid by the university or by the student union?

Mr Green: Union elections are paid for by the unions. Student association elections are paid for by the student association. When I say “profit”, they are reimbursing us for staff time and for materials. The only profit that we are making is reimbursement for staff time that would otherwise be paid for out of the Assembly’s pocket. We are not in a profit-making situation.

MRS JONES: No, but just as a supplementary to that, if you are saying that over time that will become more bottom line profitable, so to speak, for the Electoral

Commission, is there a plan to then reduce the costs to the student union and the student association to run those events?

Mr Green: The type of election for which, over time, our costs are going to come down are the ones that we are using the electronic voting system for, which are essentially just ACT agency enterprise bargaining ballots. The ANU ballots are resource intensive. They are attendance ballots, paper ballots. Effectively, they are recovering our costs. We are not—

MRS JONES: Yes, to dig down into that just a little more, the ballots that are going to be purely electronic, who are they for again, did you say?

Mr Green: ACT agencies.

MRS JONES: So for government agencies?

Mr Green: Yes.

MRS JONES: And did you say union ballots?

Mr Green: We do not conduct union ballots. ANU union is not a trade union. It is a—

MRS JONES: Yes, I understand that. So ACT agency ballots, such as?

Mr Green: The enterprise bargaining arrangements for every ACT agency. Staff have to vote on whether they agree or disagree to accept a ballot.

MRS JONES: And those bills are paid for by the departments?

Mr Green: Yes.

MRS JONES: Thank you.

THE CHAIR: Thank you very much, Mr Green, for your attendance. The committee will forward transcripts of the hearing for your comment. We look forward to receiving responses to any of the questions you have taken on notice.

The committee adjourned at 4.16 pm.