LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Annual and financial reports 2012-2013)

Members:

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

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 20 NOVEMBER 2013

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

By authority of the Legislative Assembly for the Australian Capital Territory

APPEARANCES

Justice and Community Safety Directorate.....**125**

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Amended 20 May 2013

The committee met at 10.30 am.

Appearances:

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

Justice and Community Safety Directorate
Blundell, Ms Tracey, Acting Manager, Restorative Justice Unit
Blount, Ms Wilhelmina, Acting Chief Financial Officer
Phillips, Mr Brett, Executive Director, Office of Regulatory Services
McCabe, Mr Mark, Work Safety Commissioner, WorkSafe ACT, Office of Regulatory Services
Purvis, Ms Alison, Courts Administrator
White, Mr Jon, Director of Public Prosecutions
Garrisson SC, Mr Peter, Solicitor-General for the ACT, ACT Government Solicitor

THE CHAIR: We might get the proceedings underway. I would like to extend a welcome on behalf of the committee to witnesses and to those in the public gallery. This is the fourth and final public hearing of this committee's inquiry into the annual reports 2012-13. Today we are going to hear from the Attorney-General with his officers from the Justice and Community Safety Directorate, the Office of Regulatory Services, Transport Regulation, Law Courts and Tribunal, Director of Public Prosecutions and the Government Solicitor.

I presume witnesses are familiar with the privilege statement that is before you? You have all read that?

Mr Corbell: Yes, thank you.

THE CHAIR: Thank you very much. With that said, welcome, minister, and the usual question to you: would you like to make an opening statement or would you like to go to questions?

Mr Corbell: Thanks for the opportunity for appearing this morning. I do not propose to make an opening statement.

THE CHAIR: I will ask my first question, minister, which is about the merger of agencies. What is the status of the merging of the Human Rights Commission, the Public Advocate and the Victims of Crime Commissioner to address resource shortages in those offices?

Mr Corbell: There is no proposal for a merger at this time. As the responsible minister, I have had a series of discussions with all of the statutory office holders, the commissioners from the Human Rights Commission, the Public Advocate, the Victims of Crime Commissioner and also the Public Trustee. The purpose of those meetings has been to ask them to work with my directorate on the development of options for the government's consideration on how there can be greater alignment of

their various rights protection functions and the potential sharing or consolidation of resources. This could be everything from a common sharing of back office functions, administrative support functions and so on, through to the legislative merging of certain functions and certain powers granted to them under their respective acts.

There is no definitive proposal at this time. I know that the human rights commissioner has expressed a view on that, and that is certainly an option that I think is worthy of consideration but there is no specific proposal at this time. My directorate is working with statutory office holders on this matter, and I expect to be presented with a series of options and possible directions next year.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: Minister, if I could bring you to page 295 of the report, there is a discussion on community grants, assistance and sponsorship provided by JACS. Can you go through, for the committee, some of the projects being undertaken in this area?

Mr Corbell: The community grants are an important part of the Justice and Community Safety portfolio. They are part of supporting our partners in the non-government sector in a range of aspects. There are perhaps some specific grants that I think are well worth highlighting.

The first would be the community organisations infrastructure safety and security grants. This grants program, as you can see, amounted to just over $300,000 in the last financial year. Its purpose is to provide financial support to not-for-profit organisations such as sporting groups, scouting and guiding organisations, other youth development groups, other not-for-profit groups, church groups and so on to improve the safety and security of their facilities.

As part of the government's commitment to tackling property crime, one of the issues that we want to see addressed is the vulnerability of some of the premises of these groups. Often a scout hall or a church hall will be located in a vulnerable location. It might be sitting away from a shopping centre in an area of open space which is dark at night. That makes it more vulnerable to vandalism and a potential break-in and so on. And that can have a really big impact on those groups. If they spend six months trying to raise $10,000 to buy some equipment, they store it in their hall or their building and someone breaks in and maliciously damages it, destroys it or steals it, that can have a terrible impact on morale in those community organisations and a direct impact on the services they seek to provide.

So the purpose of this program has been to assist them in strengthening their premises. That can be everything from the installation of security windows and doors, better lighting, automatic sensor lighting, for example, alarms, fencing, anything designed to make their premises safer, stronger, less likely to be vulnerable to break-in or property damage. And that has been a really well-received program and one which has assisted 46 separate community organisations across the city. It is a really good outcome.

There is another one that is well worth highlighting as we come up to the bushfire season, and that is the grant to the ACT Equestrian Association for its emergency response trailer for horses needing evacuation. We know that the equestrian

community is a strong one here in the ACT. A lot of people keep their horses in horse-holding paddocks around the periphery of the city. But this makes them very vulnerable to fire. We know that in 2003 a number of the most serious injuries that people experienced were because they were trying to rescue their horses as the fire came into those areas. So this is part of our support for the ACT Equestrian Association.

They have been doing a lot of education with their members about what their members need to be aware of and are prepared for when it comes to managing their horses on days of very high or extreme fire danger. We have arrangements in place whereby we provide a safe evacuation point for horses, a pre-emptive evacuation. So if we know it is a going to be a bad fire weather day, we will potentially open up, for example, Exhibition Park and allow horse owners to relocate their horses to there for the duration of the heightened fire danger event. And that way they can be confident that their horses are safe.

So this grant allowed the ACT Equestrian Association to develop their emergency response trailer. The trailer contains a range of equipment needed to help with the relocation of horses in an emergency and is able to be used by members of the association. I know that has been strongly welcomed by the association, and they are doing a lot of work to make sure that their members understand what they need to do to protect their horses and themselves in the event of a fire.

MR GENTLEMAN: I notice on page 300 a large grant went to Lifeline, and the description there is that it was ongoing training capacity for emergency services, private sector staff and volunteers. Why is it important to have that training for that sector?

Mr Corbell: I am not as familiar with the details of this grant; so I might ask one of my officials whether they can assist with that. But in general terms, providing psychological first-aid skills to people who work in our emergency services, either in a paid or a volunteer capacity, is important. We know the stresses and strains that come from dealing with very confronting and challenging emergency situations. But perhaps someone can assist. No? I will have to take that on notice.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: I had a question, minister, regarding the decision to pursue the first-time offender training initiative on page 34. Would you be able to give the committee some background on what is driving this decision?

Mr Corbell: I will ask Ms Blundell to answer your question.

Ms Blundell: In conjunction with ACT Policing, the Restorative Justice Unit were looking at options to increase referrals to restorative justice and look at diversionary pathways for young offenders. Part of the trial initiative was for ACT Policing to refer first-time offenders to restorative justice as a diversion from the formal criminal justice system.

MS BERRY: And is the restorative justice more resource intensive?

Ms Blundell: As a result of the trial initiative?

MS BERRY: Yes.

Ms Blundell: We are operating the trial, which has been implemented into business as normal, within existing resources.

MS BERRY: Sorry, can you tell me how long has the trial been going for?

Ms Blundell: The trial was for a six-month period from November 2012. Subsequently, from then, we have implemented that trial into everyday practice.

MS BERRY: And what sort of impact has this had on young offenders? As part of that trial, have you been able to collect any data for that six-month trial?

Ms Blundell: The data that we have collected shows that we have increased diversionary pathways for young people; that those that did participate gained insight into their impact on the people they have harmed and others; that those that participated in the process complied with their agreements, and that has a flow-on effect to victims who have an opportunity to have a say in those agreements about what needs to happen to repair the harm that has been caused.

MS BERRY: And if it is a young person, it depends on the offence that they have committed before they can be part of this pathway, does it not? If it is a more serious offence, then they would not be able to be part of it?

Ms Blundell: At the moment, the Crimes (Restorative Justice) Act is in phase 1, which is for young offenders only for less serious offences. A less serious offence is an offence that is punishable by a maximum term of 14 years for property crime or 10 years for other offences such as personal offences.

MS BERRY: Assaults, those sorts of personal offences?

Ms Blundell: Assaults too.

Mr Corbell: Crimes against the person, yes.

MS BERRY: So assault would be part of it?

Mr Corbell: Yes.

THE CHAIR: Mr Hanson, a substantive question.

MR HANSON: In volume 2, page 11, I am looking at the comparison of the net cost of services to the budget. There is a line there "User Charges". The original budget was about $21.5 million and only $13 million was receipted. I am just wondering whether there was a specific shortfall in a particular area or whether that was across the board. It is about 40 per cent down from what was budgeted.

Mr Corbell: I would ask Ms Blount to assist you with that question.

Ms Blount: I believe that actually relates to just a change in the way that we recognise the commonwealth fire payment. It was originally recognised as user charges, and now it is recognised as GPO.

MR HANSON: That is pretty simple then. In terms of the savings, has the directorate been subject to an efficiency dividend during this reporting period?

Ms Blount: Yes, they have.

MR HANSON: And what was that, one per cent?

Ms Blount: It was a step-up.

MR HANSON: So what was the total efficiency dividend during the financial year that was required? Did you meet that and, if so, how; and, if not, what was the differential?

Ms Blount: For 2012-13 the step-up was 0.5 of a per cent but that was in addition to some other savings during the year.

MR HANSON: What were the total savings then?

Ms Blount: I might have to take that on notice.

MR HANSON: All right. Where have you targeted—

Mr Corbell: If I could clarify, the way the savings measures are implemented is that they are deducted from the appropriation given to the directorate at the beginning of the financial year. So the savings are automatically accrued and then the directorate have to ensure that that is obviously followed through so that what they said they were going to save is reflected in their operations for that financial year period. But the savings are recouped at the front of the process.

MR HANSON: At the beginning. So it is just a reduction in the budget allocation?

Mr Corbell: Correct.

MR HANSON: In the approp. Where have you then found those savings within the directorate?

Ms Blount: Right across the directorate. All business units had to identify savings, and they looked at different ways of improving—delivering the services they deliver more efficiently.

MR HANSON: I notice that salaries, employee and superannuation is up. Have you found any savings through job cuts or redundancies?

Ms Blount: Usually, when superannuation goes up, it can be associated with

increases in activity—new initiatives and things like that, and changes in the schemes. People are in different schemes.

MR HANSON: As part of your savings, you have not targeted any redundancies or job cuts?

Ms Blount: I would have to take that on notice.

MR HANSON: Okay. Thanks.

Mr Corbell: I could add to that, Mr Hanson. The total savings applied in this financial year period were $4.751 million. That included the efficiency dividend announced in the 2010-11 budget and new savings measures announced for that financial year. The savings are in administrative expenses, including travel, accommodation, printing stationery, staff training, recruitment and development, and external contractors and consultants. They were allocated on a proportional basis across all output class areas.

Ms Blount: Can I also add to that. I have just received advice that there were no redundancies.

MR HANSON: Thank you very much.

THE CHAIR: Minister, on page 2 of the human rights report, it claims that 100 per cent of new government laws are compatible with human rights legislation at the time of introduction. Is this just based on the fact that all bills are submitted with statements on human rights compliance?

Mr Corbell: Yes.

THE CHAIR: Is this adequate?

Mr Corbell: Yes, it is, because the dialogue model that underpins the operation of the territory's Human Rights Act requires that issues that arise that may trigger impacts on or potential infringements of human rights have to be addressed. There has to be the least intrusive response possible and it has to be a proportionate response when it comes to potential impact on rights as set out in the Human Rights Act. So whether it is the justice agency that is developing its own legislation or whether it is any other agency within the government, there is a requirement for a dialogue to occur in the development of legislation to ensure that it is a proportionate response on proposals that may impinge on rights outlined in the Human Rights Act and that it is the least intrusive response available.

By the time the legislation arrives on my desk with a certificate recommending endorsement consistent with the Human Rights Act, there has been a detailed process of dialogue between the human rights unit in Justice and Community Safety and the line area in justice, if it is a justice piece of legislation, or in the relevant other directorate if it comes from another part of government.

THE CHAIR: Does JACS share the view of the corrections minister that the AMC is

not and may never be human rights compliant?

Mr Corbell: The operations of a jail will always result in potential conflicts with human rights. The challenge is to manage those as effectively and as reasonably as possible, and our jail does so far better than any other jail around the country. As an example, the number of visiting days available to prisoners to receive visits from family and friends is the highest of any prison in the country, and that is a good example of the measures undertaken to deliver a human rights compliant facility.

MR HANSON: Can I ask a supplementary?

THE CHAIR: Yes, Mr Hanson.

MR HANSON: On that, can you compare the number of lockdowns that are happening at the AMC with other jurisdictions? Perhaps you could tell me where in other jurisdictions sentenced and remand prisoners are mixed together.

Mr Corbell: I am not responsible for the day-to-day operations of the prison, and I would direct your question to the corrections minister.

MR HANSON: The human rights commissioner said that she wants to conduct an audit of the jail but cannot do so because of the lack of funding. Who allocates the funding? Is that through JACS?

Mr Corbell: The Human Rights Commission is allocated its budget as part of the appropriation bill process, and it is set out—

MR HANSON: You are the responsible minister.

Mr Corbell: in the appropriation bill. I am the responsible minister when it comes to putting proposals to budget cabinet across all parts of the Justice and Community Safety portfolio, with the exception of those that are the responsibility of my colleague the Minister for Corrections, and the budget cabinet makes its decisions about which proposals receive funding.

MR HANSON: The jail has been open for four years now and there has been no human rights audit because of a lack of funding for the human rights commissioner. Is that satisfactory, in your view?

Mr Corbell: I think it is important to reflect on the fact that there have been a series of very detailed reviews of the day-to-day operations of the prison since it commenced operation. Some of those occurred when I was the responsible minister, which saw the engagement of the Human Rights Commission as part of that process. For example, there was the work undertaken by Mr Keith Hamburger, which was a very comprehensive review of operations. That included dialogue, discussion and input from the Human Rights Commission. So it is worth highlighting that there have been a series of detailed investigations to date. I can appreciate that the human rights commissioner would like to do further work in this area. That is a matter that she obviously has to take a decision around prioritising within the resources available to the commission.

MR HANSON: So there is no intention to provide her with the resources that she is looking for to do that review? She has got to find it from within her own—

Mr Corbell: The government has provided a budget to the Human Rights Commission and how the commission allocates its budget is a matter for it within those total global funding levels. On the broader issue that your question raises, which is about the overall level of funding for rights protections agencies, my view is that the territory has a very comprehensive suite of measures and agencies that deal with the protection and advocacy of people's rights, particularly the rights of the vulnerable, including people who are in custody.

For those reasons, whilst we have a comprehensive framework, we do face challenges with resources. As I indicated to Mr Doszpot earlier, my view is that we should look at how we can better use the dollars available for rights protection. Overall, across all the rights protections agencies, the total amount allocated is around $20 million to $25 million. So it is not an insignificant amount of money. But there is significant potential for reductions in duplication and better synergies between our rights protections statutory office holders, and those are the opportunities that are currently being explored with them. As I said in my answer to Mr Doszpot earlier, I will receive a brief recommending options for further consideration next year.

MR HANSON: Finally, could we have the breakdown of that $22½ million on notice? Would that be possible?

Mr Corbell: On statutory office holders?

MR HANSON: Yes. You said there is $22½ million—

Mr Corbell: I said it was between $20 million and $25 million.

MR HANSON: Sure, whatever the exact amount is for human rights officers or people involved in that, if you could break that down—

Mr Corbell: I am happy to do that. There is the Human Rights Commission, the Public Advocate and the Victims of Crime Commissioner. The Public Trustee has a rights protection function for the vulnerable, and the official visitors as well. When you look at that, that is quite a comprehensive suite of independent statutory officers who have a range of broad powers to protect and advocate for the rights of the vulnerable, in particular. If there are opportunities to use that budget in a smarter way, I think we need to do that, particularly at a time when resources across the public sector are quite constrained.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: Minister, the JACS website has a news item on its front page, which is that the marriage equality bill passed in the ACT. Can you tell us what response you have had from the community after the passing of the legislation?

Mr Corbell: Thanks, Mr Gentleman. Obviously, this bill and this law attracts a lot of

attention. Whilst there has been some feedback from individuals who do not agree with marriage equality, the overwhelming feedback has been positive. It is tremendous to see so many people in our city who recognise what this law is about, which is fundamentally about respect and a recognition of standing on an equal basis for those couples who are in a same-sex relationship. In my experience that has ranged right across the board—public servants, people in the private sector, students, retired people, also religious leaders, ministers of religion. They have all expressed to me their support for this law. That is a very encouraging level of feedback. Obviously, we now need to go through the process of the current matter that is before the High Court. We are preparing our submissions intensively to put to the court, and we look forward to the opportunity to present our arguments to the court.

MR HANSON: By way of a supplementary, some of the criticism of the legislation has been from those who support same-sex marriage—Alex Greenwich MP from New South Wales and also the former Democrat; I cannot recall his name.

Mr Corbell: Brian Greig.

MR HANSON: Yes. Some of the quotes, for example, with regard to the law, are: "Your government, not the High Court or the federal government, will be held responsible." "It should not be considered a piece of protest legislation against the federal government." "Had your bill gone through the same consultation process as the Tasmania and New South Wales bills," et cetera. So there has been a lot of criticism from those, I suppose, who could be seen as advocating same-sex marriage. What is your response to that criticism?

Mr Corbell: I would not say there has been a lot of criticism but there have been a couple of comments, notably from the individuals you mentioned. My response would be made in a couple of ways. First of all, they can criticise our process all they like, but their bills have not passed their parliaments and ours has. So that is the first thing to say about that. The New South Wales bills and the Tasmanian bills did not, regrettably, pass their parliaments.

The second thing I would say is that the comments are, in my view, unhelpful because they assume that there is a clear and definitive answer on how the bill should be structured or how the law should be constructed to protect it from a High Court challenge. The facts are that there is no clear or definitive answer on how the High Court will view this legislation and how it will interpret the relevant provisions of the self-government act when it comes to tests for inconsistency.

Mr Greenwich has a view. I respect his view but I also respectfully disagree with it. Those individuals have raised questions. We have looked very closely at the issues they have raised. We have responded where we think it is appropriate to do so. But this is an ACT bill, a law that is based on our longstanding commitment to reform in the area of discrimination against people in same-sex relationships and other non-binary relationships, and we intend to follow that reform through.

MR HANSON: He also makes the point:

> I note that your government waited till the Coalition formed government to

> legislate in this regard, despite having the numbers and a mandate to pass legislation for over a year.

How do you respond to that criticism?

Mr Corbell: Mr Greenwich is wrong. The election commitment was to legislate if the federal parliament failed to do so.

MS BERRY: A supplementary please, chair. Minister, what has been the history behind providing equality around marriage rights and a more inclusive society for the ACT, and will you continue to introduce legislation that provides for a more inclusive town in the ACT, particularly with regard to marriage?

Mr Corbell: Thanks, Ms Berry. Yes, we do intend to continue our reform agenda in this area. Obviously, the record of the Labor government in all of its terms since 2001 has been consistent in seeking to remove discrimination against people in same-sex relationships. It goes right back to the reforms of 2004-05, if I recall correctly, when we repealed or amended a whole range of provisions across the statute book that discriminated against same-sex couples. For example, laws around adoption, laws around access to IVF and a range of other discriminatory provisions were removed from our statute books at that time.

Clearly, we have had a series of pieces of legislation that have sought to deal with relationship recognition, first of all through the Civil Unions Act, which was disallowed by the Howard government, then the civil partnerships legislation, then the revised civil unions law in two separate incarnations, and now the marriage equality same-sex law. This demonstrates an ongoing record on and commitment to reform. We will now need to await the outcome of the High Court case in relation to the law that is now on the territory's statute books. Depending on the outcome there, there is certainly potential for further steps to be taken, but it will depend very much on the outcome of the High Court case.

Finally, I should indicate that the government intends also to bring forward a bill to address issues around persons who identify as transgender and persons who identify as intersex. Those are important reforms as well. That is really unfinished business in terms of the steps that people have to go through to have the sex and gender they identify with reflected on their birth certificates, which is a crucial piece of identification for almost everything you do in life. These reforms will be very important for that community.

THE CHAIR: Time has expired for this segment. I thank witnesses who appeared with you, minister. We now call on our next witnesses, from the Office of Regulatory Services and transport regulation, to join us. Good morning, Mr Phillips. Welcome. I will just check that you are aware of the privilege statement and you are comfortable with that?

Mr Phillips: Yes.

THE CHAIR: Thanks very much. Minister, would you like to make an opening statement?

Mr Corbell: No, thank you.

THE CHAIR: Minister, I note that Mr McCabe, the Work Safety Commissioner, is here as well. Can I address a question, through you, to him?

Mr Corbell: You can certainly ask questions of WorkSafe ACT, yes.

THE CHAIR: Thank you. Mr McCabe, in 2011 or thereabouts you were quoted as saying, regarding CIT's systems, that they were so poor they effectively protected bullies and left staff afraid to speak out about their treatment, while the current investigations into the complaints were flawed. Can you reflect on what has happened since then?

Mr McCabe: Yes. A lot has happened at CIT since that time. That was nearly two years ago, and I think that quote would have come from a report that was 20-plus pages. So it was quite a complex issue at CIT.

CIT have taken enormous steps to improve the culture in their workplace. I am advised that they have put in place a whole range of measures to protect their staff from the prospect of bullying. It is almost impossible for any workplace to 100 per cent guarantee that bullying will not occur. No matter what you do, someone can come in the next day and mistreat staff. So it is not like physical things such as scaffolding et cetera, where they can be checked on a daily basis.

My take on it is that there have been enormous improvements at CIT. I think they would acknowledge that they are on a journey and they have still got a fair way to go. But when I talk to people who work at CIT, they often volunteer that the action that we took and the focus that has been placed on bullying there have been of enormous benefit to the organisation. Individual workers can sense that there is change going on—change for the better. That having been said, the occasional person says, "Look, bullying still occurs." I think that will happen regardless. But the overall sense that I have is of enormous improvement compared to the situation that was in place back in 2011.

THE CHAIR: There were 42 cases, I believe, down from about the 57 originally that I think you would have looked at. There does not seem to be any outcome from the victims' point of view, in that we are getting a lot of people concerned about what is happening. They seem to feel that the comment that you made about the system effectively protecting the bullies is still the case, rightly or wrongly. That is what is coming through from the victims. What can be done to address that perception, and if it is not a perception, can we get to the bottom of why, out of the 42 cases, there does not seem to be any resolution over the last two years?

Mr McCabe: I think the detail of that question is really for the Commissioner for Public Administration. Those 42 cases, as I understand it, would have been the cases—

THE CHAIR: I understand.

Mr McCabe: One comment I could make—it is a bit of a generic comment but I think it is relevant—is that WorkSafe itself in 2012-13 right across the sector only received 40 complaints of bullying. Thirty-two of those were from the private sector. That means only eight came out of the public sector. So although a lot of statements are made about bullying—and I hear them personally—very few of those actually turn into formal complaints to WorkSafe that WorkSafe can address. As I said, eight out of the whole public sector over a year is quite a low number.

I would like to think that is because there have been improvements in the public sector as a result of the focus that people are seeing going on at CIT. I have heard other organisations say to me that the focus that was put on CIT has actually been instrumental in causing other organisations to look at their own housekeeping and make sure that they are doing the right thing. I am not suggesting for a moment that bullying has gone away but I do think there are improvements.

The other comment I would make is WorkSafe does not just sit there waiting for complaints; we actually run training programs and education activities for organisations to assist them to skill up their senior staff in what they should be doing and increase the awareness of the rights of the more junior staff about how they can bring matters forward. But, at the end of the day, we can only formally act when matters are brought to our attention.

THE CHAIR: Do these bullying-type activities lead to injuries or are the injuries the type that often lead to lengthy periods of rehabilitation?

Mr McCabe: They often involve very long periods of time off work. The other aspect of the bullying stats that I was just talking about is that, of those 40 allegations that we received, we found only 12 to be bullying. So a large number of matters that are brought before us are not in fact bullying. They are perceptions of staff about actions that are being taken against them, sometimes in an industrial relations sense or performance management sense. Although there are some very real cases of bullying that happen—and I am very empathetic to that and think it is a terrible thing—there is also misuse of the term "bullying" in some quarters, which, unfortunately, from my point of view, undermines the seriousness of the issue. So there were 40 allegations and a large number of those were found not to be bullying. That is quite telling, I think.

THE CHAIR: Just based on your figures, with 12 cases of bullying being found, have any officers been moved, demoted or dismissed for workplace bullying?

Mr Corbell: I think that is a matter you would need to raise with the Commissioner for Public Administration.

THE CHAIR: Okay.

Mr McCabe: We would not have those statistics.

THE CHAIR: I have a final supplementary. In a workplace where individuals are bullied, is it a fact that the current remedy often requires the victim to have to go back to a workplace where the bully is still in a position of authority?

Mr McCabe: That depends on the circumstances. The current code of practice recommends that that not occur. But there has to be natural justice applied as well, because at the time an allegation is made, nothing is proven. So it is a tricky scenario for organisations to deal with. It is easier for big organisations to deal with than smaller organisations. But it is definitely one of the complexities of dealing with these cases, especially when you are dealing with an allegation, not a proven instance. It can sometimes take quite a while, if ever, before it is proven.

THE CHAIR: Thank you. I believe Mr Gentleman has a supplementary.

MR GENTLEMAN: I do. Commissioner, you touched on training in your responses earlier on. On page 90 of the report it says that you opened the Canberra Institute of Technology's high risk training facility. Can you tell us the importance of training in this area?

Mr McCabe: Training is absolutely essential. For compliance with any legislation, I would say, you need a balance between enforcement and education. At different times there may be slightly different weighting applied, depending on the circumstances that prevail for a particular issue or in a particular industry or a particular organisation. But you absolutely need the balance. The only reason that we do heavy enforcement is to get people to pay attention to their compliance needs and, once you have got their attention, they then usually want training. So training is absolutely essential. Just fining people is not going to achieve compliance in any area.

MS BERRY: I have a supplementary, chair. Mr McCabe, page 92 refers to the ACT Work Safety Commissioner appearing before the House of Representatives standing committee and talking about some of the issues relating to bullying. Could you take us through those and what you would see would be included in a nationally agreed definition of workplace bullying?

Mr McCabe: I do not have information available with me about the definition of "bullying". My point to the committee, however, was that there does need to be one agreed definition, because if you take the stats that I just presented about the number of cases we found not to be bullying, there is a lot of misunderstanding out there. In fact with our education sessions that we run on bullying, the very first thing we do is spend a long time talking about what is bullying and what is not, before we get on to how you respond to it. A significant percentage of the training focus is around that. I do not have my preferred definition with me, unfortunately, or committed to memory, but that was one of the points that we made.

The other point that we made to that committee is that it is very hard for small businesses to deal with issues about bullying. Larger organisations have their own issues but they have at least bigger organisations. They can move people around, for example, as I was talking about in relation to the answer to Mr Doszpot. Small organisations find it very difficult to deal with natural justice issues at the same time. I do not have the answer to it but it is a significant problem for smaller organisations.

MS BERRY: On the numbers that you were talking about earlier with Mr Doszpot, you were saying that there were only 12 that were proven. Do you think that is

because, following on from your conversations up at Parliament House and what you have just said here today, it is not a black-and-white issue?

Mr McCabe: Absolutely.

MS BERRY: You said that it was indicative of other things that were happening in the workplace that you were not able to define as bullying?

Mr McCabe: Absolutely. It is an area that is shrouded in greyness, if I could use that term. Quite frankly, our inspectors would much rather go out to a construction site, as volatile as those sites can be, because they are dealing with black-and-white issues. Bullying issues are quite difficult to deal with, as they are in the workplace as well. But there does seem to be—this is a subjective analysis by me—an increasing use of the term when it is really related to performance management rather than bullying. I find that very disappointing, because there are genuine people out there being bullied and that then belittles, because people think they are all about performance management and they are not. There are some genuine cases as well.

MS BERRY: And I guess that is where the national definition would assist?

Mr McCabe: Yes, that is right.

Mr Corbell: As you would be aware, Ms Berry, the previous federal government proposed amendments to relevant workplace relations law, the Fair Work Act, to provide for mechanisms for Fair Work Australia to be engaged in arbitration or hearings around matters involving bullying. How that will be operational, what it means in practice for our regulatory agencies as well as for employers in the public and the private sectors is still unclear. And the new federal government have not yet really given any indication as to how they propose that to work. So there is still some uncertainty in terms of the national reforms.

But I would agree with Mr McCabe that it is essential that we get some clarity around this, otherwise we could have duplicated complaint-handling mechanisms. There could be complaint handling through Fair Work and also complaint handling through state and territory work safe organisations, and then there is also the complaint handling, for example, that exists in the public sector through relevant public sector management legislation. So it is quite an unclear picture at this point in time, and I think it is important that we get some clarity from the new government about how they are going to approach this issue if, indeed, they see it as a priority at all.

THE CHAIR: Ms Berry, you have a substantive question.

MR GENTLEMAN: I do too.

MS BERRY: You go first.

MR GENTLEMAN: My question is for Mr Phillips. I wonder whether he can give us an update on the operation of the Fair Trading (Motor Vehicle Repair Industry) Act that has been run out.

Mr Phillips: Over the last 12 months, as you can see from the figures, we have been out doing quite a significant compliance activity in relation to motor vehicle repairers, driving around trying to work out the locations, where they are and the level of compliance and the level of licensing under the scheme. We found, by and large, a high level of compliance. We found there were a few pockets where people were unlicensed but they were, in the main, quite happy to become licensed when the compliance activity was done. I think there was one occasion where we had someone who was a bit grumpier in relation to wanting to become licensed, but eventually that person also is inside the tent now. So our assessment is actually a quite high level of compliance with the legislation.

MR GENTLEMAN: And you have a committee in operation on that?

Mr Phillips: We do. We have a motor vehicle repair committee that is appointed by the minister. That provided a report to the minister in relation to the 12-month operation of the act. That report was tabled in the Legislative Assembly. There is a response to be tabled. The upshot of the report was looking at the education and training facilities and the training that was being provided to people who work in the industry and whether that should be extended.

There was a public survey undertaken to gauge the public's level of confidence in the motor vehicle repair industry and the public's level of feeling as to whether training should be rolled out. The committee found that, given it was 12 months after the operation, it was a wee bit early to actually assess whether there is further training that needs to be put in place. And the committee will monitor that as the act matures and compliance matures.

MR GENTLEMAN: And what sort of response have you had from consumers about the operation of the act?

Mr Phillips: We have maintained a consistent level of complaint activity in relation to motor vehicle repairers. But they relate to a lot of things. Pricing is one of the big issues that we deal with, and the supplementary costs for materials and various things like that. We had a few complaints in relation to quality. It is a reasonable complaint level for our industry but it is not something that is alarming or has shifted greatly or increased greatly over time.

MR GENTLEMAN: You were going to move to allow inspectors to do on-the-spot fines. Has that occurred now?

Mr Phillips: I do not believe it has occurred yet.

Mr Corbell: It would be worth pointing out, if I could, that the report mentions an item where ORS has seen some really good results in the general motor vehicle repair area. It is in relation to an enforceable undertaking made by K-Mart on behalf of K-Mart Tyre and Auto Service. This was in relation to K-Mart Tyre and Auto Service premises who were failing to adhere to their obligations in relation to brake testing of vehicles. The road transport legislation requires an authorised examiner, such as those that were in place at K-Mart Tyre and Auto Service, to ensure that the vehicle's brakes are tested in accordance with the applicable standard. They were not doing that.

They did not have a record of demonstrating they had done that.

This was a very serious matter, because consumers were being led to believe that they were having their brakes properly tested. They were not in this instance and, as a result of this matter coming to ORS's attention, the commissioner was successful in getting an enforceable undertaking from K-Mart Tyre and Auto Service to redo those inspections free of charge for all of the consumers potentially affected. They also made a donation, if I recall correctly, to the NRMA-ACT Road Safety Trust as part of their enforceable undertaking.

That was a really good outcome and it reminds everyone working in the motor vehicle repair and maintenance industry that ORS inspectors are on the job, are checking, particularly on critical issues such as brake testing. There were over 430 inspections of motor vehicle repairers in the territory in the period covered by this report.

THE CHAIR: Mr Smyth, a supplementary.

MR SMYTH: As a supplementary, do you work with the peak body representing, for instance, the motor vehicle repairers to educate them on what the obligations of the industry are?

Mr Phillips: We have a good working relationship with the Motor Traders Association, and I have spoken and met with the board and have spoken at their annual general meetings. We provide training where we can and where we are asked to.

MR SMYTH: And there is an ACT branch?

Mr Phillips: ACT branch.

MR SMYTH: Or is it with the New South Wales branch?

Mr Phillips: ACT branch.

MR SMYTH: And when was the last time you met with them?

Mr Phillips: I think they have changed executive directors recently, but the last time I met with them would have been earlier this year.

The other thing is that we bring to their attention the results of our advice and our operations. The executive director is also a member of the motor vehicle advisory committee.

MR SMYTH: Sorry, that is?

Mr Phillips: The motor vehicle—

MR SMYTH: The executive director?

Mr Phillips: I think they have recently changed. I have not been informed of the new

one. I have received correspondence in the last two weeks to say that the executive director has changed, but I have not received correspondence as to who it is.

Mr Corbell: Under my appointments, the MTA has a seat on the relevant advisory committee. So the industry body does have direct representation through those consultative arrangements.

MR HANSON: When did that committee last meet?

Mr Phillips: It last met in the first quarter of this year. So it is due to meet—

MR HANSON: Someone from the MTA was on that committee?

Mr Phillips: That is right.

THE CHAIR: Ms Berry, you have got a substantive question.

MS BERRY: I have a question for the Office of Regulatory Services regarding the regulations surrounding security officers. On page 85 of the report it says that there has been an increase in the regulations. Can you explain why that was?

Mr Corbell: These reforms are part of nationally agreed reforms to strengthen probity and integrity in the security and guarding industry nationally. What it is about is making sure that in relation to people who get a job in the security industry, given the often sensitive nature of the job that they have—access to secure premises and so on—we do everything reasonable and feasible to reduce the influence or the reach of criminals or criminal organisations into the security and guarding industry.

So the first stage of the reform which was introduced on 27 September, as outlined in the report, put in place increased probity requirements for people who were seeking registration in the security industry. That includes mandatory fingerprinting, mandatory criminal history checks. There are disqualifying offences. Depending on your criminal history, if you have committed acts that are disqualifying offences, you cannot get employment in the industry any further. The commissioner is now able to take account of criminal intelligence in assessing whether or not someone is suitable for registration in the security industry, and the commissioner also has powers of suspension and cancellation.

These are important reforms not just for the security industry in the ACT but also important nationally because under mutual recognition, if you are recognised as being registered for security guarding work in the ACT, you can have that qualification recognised interstate. And one of the problems that we saw was that criminal groups and individuals with criminal histories were choosing jurisdictions that had easier provisions to get a licence and then going to other jurisdictions and getting mutual recognition.

The ACT has worked very closely in particular with New South Wales, because of our proximity to New South Wales. to make sure that we are aligning, as appropriate, our registration procedures and we are putting in place measures to prevent people signing up in the ACT and then, for example, just going straight to New South Wales

the next day and saying, "Mutual recognition, please, I want a licence from New South Wales."

We have put in place a range of further measures to address this scenario. As a result, we have seen a very significant reduction in the number of people who are signing up in the ACT and then moving straight to New South Wales. That includes a requirement for there to be statutory declarations from an employer or a potential employer that they intend to employ this person as a bona fide security guard here in the ACT. And that has really led to it a significant reduction in the number of people going straight across the border and seeking mutual recognition. I think now we are at a level where it would suggest that they are pretty much bona fide. They are going into New South Wales because they genuinely have reason to be recognised as a security guard in New South Wales.

MS BERRY: I have a supplementary. On page 85, there is a significant increase in the number of security officers who have been registered, I guess, or licensed as security officers from 2010-11 to 2012-13. Is that a result of these reforms?

Mr Corbell: That captures a range of occupational activities.

Mr Phillips: That is the number of people who are served at the counter. Because of the fact that we have introduced fingerprinting, that sometimes can result in more than one visit to the shopfront. And because we have actually increased some requirements, the better figure is on page 90. It shows you the decline. It shows the number of people licensed is about the same.

MS BERRY: On that graph on page 90, do the new reforms apply to all of those employees—security masters, anybody on temporary licence or trainers?

Mr Phillips: Yes.

THE CHAIR: Mr Smyth, you have a substantive question.

MR SMYTH: Mr McCabe, when somebody makes a complaint to WorkSafe, what is the process for determining whether or not it is investigated?

Mr McCabe: That would really depend on the issue. A process would apply to most complaints, and a slightly different one applies to bullying because of the complexities of the definition. So if you are talking about a complaint in relation to a building site, for example—this is a typical scenario—we will get a phone call from someone who says there are workers on a roof. We will ask some questions of that person to try to clarify. But if that appears prima facie to be an issue, we will tend to go out and have a look. But it really depends on that conversation we have with the complainant.

We might get a phone call from someone saying, "I'm a bit worried that the people next door to me are dealing with asbestos and they're all covered in white suits." That is a good thing, because that is what they should be doing. They should be suited up et cetera. In that case, after asking a few questions, it might be that we decide not to go out and that we can satisfy both themselves and ourselves that it is okay.

With bullying complaints, we have a couple of stages that we follow where we go back and seek more information usually than we initially get to try to ascertain exactly what is it that has happened and if, following that, we do feel that it is possible that it is bullying, we will then tend to go to the employer and ask their view and gradually accumulate information that will help us to clarify whether there is an issue or not.

MR SMYTH: Have you received any complaints about the ACT Ambulance Service and are you investigating them?

Mr McCabe: Yes, we have received one complaint. From memory, we received it in September this year. It could have been October; I am just not 100 per cent sure. But it was fairly recently. I think it was October, actually, but I would have to check the exact date. At this stage we are making further inquiries to find out the substance of that complaint and where it goes.

MR SMYTH: Is it the normal practice, then, to inform the department?

Mr McCabe: After we have collected sufficient information from the worker to ascertain whether it is a matter to go forward. I do know that in that particular case we were going back to the worker to try and establish more detail before we went to the employer.

MR SMYTH: Have you now gone to the employer in that case?

Mr McCabe: I could not answer you definitively. I would have to take it on notice. I was just about to say my understanding was that I thought it was just about to happen, and it has happened. We have notified the employer, but only in the last couple of days.

MR SMYTH: What will the nature of the investigation now be?

Mr McCabe: That really depends a bit on what comes back from the employer. We have got a more complete statement from the worker. We now seek a response from the employer. Really, what path it goes down depends on comparing those two statements. It is very hard to predict exactly where it goes until you see that response. The response from the employer, for example, could lead us to investigate certain aspects of it or it may not. It is very hard to say definitively. It is on a case-by-case basis, really.

MR SMYTH: Normally how long would an investigation take to resolve?

Mr McCabe: In bullying cases, I would say, several months at least—not always. That is probably an average figure. Some can be resolved fairly quickly, most not. Most are very complex and have a whole range of issues, some of which are bullying and some of which are not. So even ones that are established that are bullying often are clouded by non-bullying issues that are wrapped into it. So it is very hard, and sorting through those different layers can be quite complex. I would be surprised if an issue like that was dealt with without it taking several months.

MR SMYTH: So this is a bullying investigation?

Mr McCabe: Yes.

MR GENTLEMAN: A supplementary question, chair. Mr McCabe, you mentioned earlier on that you had 40 complaints; 32 were in the private sector. Were they within any particular grouping in the private sector?

Mr McCabe: I do not have that information. I would have to find that out.

THE CHAIR: We have time for one more question. I will defer my substantive question to Mr Smyth.

MR SMYTH: How many complaints have you had about the ACT public service and what categories do they fall in?

Mr McCabe: Do you mean in terms of bullying?

MR SMYTH: Yes. Are they bullying or other issues?

Mr McCabe: I would have to take that question on notice. I can tell you there have been eight in relation to bullying. So there are eight public sector cases, which must be the ACT public service because we do not deal with the commonwealth public service. But in relation to all other matters, I would have to get those figures for you.

MR SMYTH: And the eight bullying, what departments were they in?

Mr McCabe: I do not have that information at hand. I would have to get that information for you.

MR SMYTH: Thank you.

THE CHAIR: We started a little bit late, so we are now a bit late for the next session. Thank you, Mr McCabe and Mr Phillips—

Mr Phillips: Chair, Mr Gentleman asked me whether there was an infringement notice scheme in place for motor vehicle repairers. The answer is yes.

THE CHAIR: If there are any additional details that you wish to provide, we would like to see them taken on notice as well.

Mr Corbell: Sure.

THE CHAIR: We will now call on our next witness, from the law courts and tribunal, Ms Purvis. Welcome, Ms Purvis. I presume you are familiar with committee hearings, so you are comfortable with the privilege statement?

Ms Purvis: Yes, I am.

THE CHAIR: Minister, would you like to make an opening statement?

Mr Corbell: No, thank you, Mr Chairman.

THE CHAIR: Okay.

Mr Corbell: I can tell you that now for all of the output classes.

THE CHAIR: Okay. There are only a couple more to go, so I will not ask you again. Minister, the JACS annual report 2012-13 on page 2 refers to a 15.9 per cent reduction in the backlog of civil cases in the Magistrates Court and a 38 per cent reduction in the backlog of civil cases in the Supreme Court.

Mr Corbell: Yes.

THE CHAIR: Are these short-term effects of the court blitz or do they have a longer term significance?

Mr Corbell: I think the answer is both, Mr Chairman. Certainly, the steps taken in the Supreme Court in relation to the so-called blitz had a significant impact. The overlisting of a range of civil matters and criminal matters has led to reductions in the number of long-wait cases and has led to a reduction in the period of time parties wait to get a hearing date.

But what has also made a difference in relation to the Supreme Court has been the reforms the court has now implemented in relation to its docket system, in terms of individual case management by judges. That, I am confident, will continue to have an ongoing effect. So we will continue to watch how the court's performance goes over the coming 12 months in particular. Obviously, we have seen a new Chief Justice appointed, and the Chief Justice has indicated that she is taking a further series of steps to change the way the court manages its caseload. That has the potential to have an ongoing effect on backlog and the average time taken for matters to be heard and dealt with.

In relation to the reduction in the Magistrates Court, obviously the Magistrates Court has not experienced a so-called short-term response in terms of a blitz. Therefore what we are seeing in the Magistrates Court is a focus by the court on its practice and the way it manages its caseload in an ongoing way.

THE CHAIR: Minister, taking into account the backlog and the changes that are required to handle the effects of that, does it not suggest that there need to be further structural changes?

Mr Corbell: What it suggests is that the courts need to continue to improve the way they manage their caseload, and, in relation to the Supreme Court, which is where the issue largely arises, that is exactly what is happening. The Chief Justice, for example, has announced reforms to listing which will be operating on a trial basis. There will be a dedicated focus on the criminal lists in the coming months. That involves the listing of a large number of pending criminal matters—in effect, an overlisting, to require the parties to be prepared to proceed to a hearing or to a trial if that is what they choose to do.

What we know is that when a matter is given a hearing date and that it is impending, the parties focus on what exactly is going to be the potential outcome. For example, the accused may decide, with the impending hearing date, to change their plea to guilty if they have not done so already. That, obviously, means that no trial occurs. The DPP may choose to revise their charges, accept some sort of bargain with the accused, change their charges, drop certain charges and so on. That, again, leads to matters not proceeding to trial. So this is a very efficient way of bringing matters to a head, and it is common practice in other courts around the country.

I welcome the initiative on the part of the Chief Justice. It is a clever way to improve case management within the courts. It has obviously been announced as a trial. Clearly, the Chief Justice, the court and the government will be looking to the lessons from this trial as to whether or not it should be an ongoing practice of the court.

MR HANSON: I have a supplementary. Volume 2, page 128, has the courts and tribunal and it has the targets and achievements. Looking through them, it does not look particularly good when you look at things like backlogs, clearances and so on. How does that correlate with what you were just saying about the blitz?

Mr Corbell: This is the reporting period for the last financial year. It is worth remembering that half of the so-called blitz occurred in the second half of last year and, therefore, after this reporting period. So what you are looking at in relation to this reporting period is, in many respects, historical and does not take account of measures that have been put in place by the court since that time. A substantial period of the blitz occurred after this reporting period for this annual report. The new docket system was only formally instigated at the beginning of this calendar year. So what you are seeing here is historical data that does not reflect the steps that have been taken since that time.

MR HANSON: Was there an acting Supreme Court judge brought in from another jurisdiction as part of the—

Mr Corbell: Two acting judges were appointed for the period of the blitz.

MR HANSON: What was the full period of the blitz?

Mr Corbell: It commenced in the first half of last year and it concluded in the second half of last year. There were two periods of time when the court dealt with those matters. Unless that is immediately available, I might have to take that on notice. It was two six-week periods. I would have to take the dates on notice.

MR HANSON: Two six-week periods. And that is two separate judges or two judges each time for those blitzes?

Mr Corbell: A range of judges were engaged depending on the matters, including the acting judges.

MR HANSON: With regard to Justice Refshauge, he has outstanding matters and he was given leave to finalise those, or there was some time period by which he had to

finalise some matters. Has that been completed?

Mr Corbell: As you allude to, there was a complaint made against Justice Refshauge by the Bar Association. I declined to act on that complaint in terms of the steps set out under the judicial complaints legislation. Instead, it was agreed that Justice Refshauge would have time out of court to complete his outstanding matters. That occurred in the period of effectively the first three months of this year. During that time an acting judge was appointed to address the absence of Justice Refshauge from the bench. I am pleased to say that Justice Refshauge returned to the bench to hear new matters on 9 September this year and he had completed all of the matters that were the subject of the complaint made by the Bar Association by that time. He had also completed a number of other outstanding matters which were not the subject of the Bar Association's complaint.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: Minister, I just bring you to—

Mr Corbell: I beg your pardon, I stand corrected. There is one matter in the Bar Association's December 2012 complaint that remains outstanding, but all the other matters have been addressed.

THE CHAIR: Mr Gentleman.

MR GENTLEMAN: Minister, if I could bring you to page 25 of the report, there is a paragraph there on restorative justice. How does the increase in referrals to the restorative justice scheme affect the case load of the law courts?

Mr Corbell: Referral to restorative justice, by its very nature, means that the traditional process of appearing within our courts is superseded. Clearly, that means that those less serious matters are addressed through restorative justice as an alternative and the time of our courts is not taken up to the same degree as it would be if they were heard and judgement delivered in relation to those matters.

MR GENTLEMAN: And what other benefits does the system have for offenders and victims?

Mr Corbell: There are clearly two benefits: in relation to offenders, they have the opportunity to gain greater insight into their offending behaviour. They have an opportunity to reflect on the consequences of their actions, what that has done and meant to the victims of their crime, often in a way which is more meaningful, direct and personal than it would be through a hearing in court, because it involves sitting down face to face with their victims, hearing the victim's story of what their offending behaviour meant and the consequences of it.

For victims—and this is, I think, one of the great strengths of the restorative justice program—there is often a greater sense of closure or completion or finalisation of the matter than is often achieved through a traditional court hearing. Victims regularly report, consistently report, high levels of satisfaction with outcomes compared to the way a court would otherwise traditionally deal with the matter. Often we see

offenders taking significant steps in terms of restoration. If a crime was committed against a business owner, they might end up volunteering their time to work in the business to pay back, effectively, the harm that has been done. Or they may do work to repair the property damage if the offending behaviour was in that area. And these types of mechanisms are very beneficial for victims as well as beneficial for offenders.

It is worth being clear that RJ is sometimes an alternative to traditional sentencing but not always. There may be instances where there will still be a traditional hearing in the courts.

MR GENTLEMAN: A supplementary to that, page 32 has some responses from questionnaires that occurred after an RJ conference. Can you go through, for the committee, how the recipients responded to those questionnaires?

Mr Corbell: What I think you see there in that page—it really does speak for itself—shows very high levels of satisfaction with the process on the part of victims, their supporters, offenders and their supporters. These are quite remarkable figures. Over 90 per cent—and they are up to 98, 97 per cent—of participants feel the process was fair, that they were able to have their say, that they were treated with respect, that they would recommend the process to others. This really speaks very highly of the dedicated team we have in the RJ unit, the skills that they bring, and it can often be a very time-consuming process to bring offenders and victims and their supporters to the same table to engage them in a conference or a series of conferences and achieve a resolution. But those survey results are really quite outstanding.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: I have a supplementary on that. On page 26, it talks about the number of referrals from different areas. ACT Policing made the highest number of referrals to restorative justice. Does that mean that they do not even go into the court system? They are referred directly from police?

Mr Corbell: Yes, for police referrals, that is right. Instead of choosing to lay charges, police are saying to the offenders, "Will you participate in RJ instead?" And that is presented as an alternative to being charged. That is clearly beneficial, particularly for young people. By that, I mean younger offenders in the age range of minors, younger offenders. We have seen a significant increase in the number of referrals from police. That is driven, I think, by the police's commitment to better utilise RJ. It is also consistent with the directions I have given to police to focus on diversion for young people, particularly young Indigenous people, from the traditional criminal justice system. So those are really pleasing figures.

MS BERRY: A supplementary on your directions to police to make referrals rather than send people off to the court system, obviously from the figures, that is working but is it something that the police have been positively embracing as well, not just following direction?

Mr Corbell: I think police and our prosecutors see the value of RJ. Often laying charges and prosecuting in court is a very, as we know, time-consuming process. It may not always deliver the best outcomes, particularly for first offenders, and if there

are ways of getting the message across to young people who have been accused of a crime for the first time that they should reflect on their behaviour and learn their lessons early, RJ is a good option. And certainly police and prosecutors are taking that into account.

MS BERRY: One more on that, are the victims able to be part of the decision for what is going to be the process that the offender goes through, or is it something that is suggested to them and they get to pick, make a decision?

Mr Corbell: I might ask an official to answer that.

Ms Blundell: Restorative justice is voluntary for victims. They have a choice to participate or not. Some choose not to take part. Others do take the option up. We work with both parties in relation to how that process is going to work and what is going to be the most meaningful and beneficial for that group of people and what is going to be the greatest benefit for everyone involved. Sometimes those options involve a face-to-face conference. Other times where there are particular concerns around safety or power imbalances, they are indirect. And for others, mainly corporate victims, it is a time-consuming process, and they choose to participate in an indirect process.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: I note in the report there has been an acquisition of additional security staff and a security manager in the courts. There were a whole lot of changes made to security processes in the court, I understand. I wonder whether you could take us through those, and who is the security provider that holds the contract at the courts?

Ms Purvis: The security at the courts has been going through some change over the last two years or so. The external security provider that looks after the scanning and the external security is MSS Security. The government made provision for us to be able to employ a security manager the year before last, and we have had that position in place since then. They are responsible to liaise very much with the external service provider and make sure that the services that we are getting meet the contractual arrangements that we have with them. They also liaise very closely with stakeholders in the courts, people like DPP, corrections, other people that are involved in that side of the business.

MS BERRY: As a supplementary, could you please explain to the committee what is the integrated electronic security management system?

Ms Purvis: Yes. We have, like any building—I would imagine this building also—security systems. Ours includes door locks, key passes but also a CCTV system within the court buildings so that we can keep track of what is going on around the building. There are cameras in the public areas of the courts. There are also duress alarms so that if people do find themselves in a difficult situation, there is an alarm close by that they can call for help.

THE CHAIR: Mr Hanson, a substantive question.

MR HANSON: Based on evidence that this committee heard last week, in particular the number of sentenced prisoners at the jail, there appears to be an increase in the custodial sentences within the ACT. And the advice we were given was that it was particularly the short-term sentences. Have you done any analysis of that recent trend in the increase in inmates in terms of why the courts seem to be sentencing more people this year perhaps than they were last year? What is the reason for that increase? What is the quantum of that increase and is it a particular trend in the nature of what the offences might be?

Mr Corbell: I think it is too early to say whether it is a trend but, clearly, there has been a significant increase in the number of people held in the prison either on remand or in the sentenced population. There is no one factor that contributes to this. The government is currently in consultations and discussions with judicial officers and other key stakeholders in the justice process—DPP, police, corrections and so on—to get a better picture of what is happening that has led to the significant increase.

Some of the factors that are being looked at as possible contributors include the police's increased efforts on tackling certain crime types, for example, property crime and other volume crime—we have seen some very significant reductions in the level of offending behaviour. That, it would be fair to say, is being translated to some degree into an increase in the number of people being sentenced to prison.

We have also seen the Assembly agree to changes in certain penalties for certain offence types. That will have some impact as well on the duration of sentences that are being handed down. So there are a range of factors at play. The directorate is currently looking at all of those issues as part of the analysis the government has requested around population pressures in the AMC.

MR HANSON: One of the factors that were presented to this committee last week was the fact that the ACT has got its own jail now means that the judiciary are more inclined to impose custodial sentences as opposed to perhaps when people were sent to New South Wales. Is that going to form part of your review, to see whether there is any validity to that?

Mr Corbell: I hear that issue raised. It is a very intangible thing, because judicial officers will sentence in accordance with the sentencing legislation and they will have regard to the issues that arise and considerations they are required to give attention to as part of their sentencing decisions. So I do not think the proximity or availability of the jail within the ACT is a significant, material factor.

MR HANSON: That is contrary to the advice that we were given last week. Is it going to form part of your review or not?

Mr Corbell: This is an issue we look at, and it is being looked at. But I would simply make the point that judicial officers sentence in accordance with the law and the sentencing considerations that they are required to have regard to.

It is worth mentioning too that the government has funded in previous budgets the establishment of a sentencing database for judicial officers and other participants in the criminal justice process. This will be for the first time an electronic database of

previous sentencing decisions. So judges are able to more readily and easily access precedent for sentencing and will also be able to reference all the relevant considerations that they need to take into account through that database as well.

This, over time, will give us a better picture of sentencing trends, and it will prove very valuable in the short term as well because the court staff have now done, I think, an amazing job in backloading a whole range of sentencing decisions that date back as early as, I think, the 1950s from paper-based records into the sentencing database. So that will assist in following trends and will provide some better analysis of sentencing in the territory overall.

MR HANSON: And are you going to backdate some of the data in there, or basically does it start once the database came alive?

Ms Purvis: The data that we are collecting now is quite different to the data we have collected in the past about sentencing. It is much more detailed and the judicial officers—

MR HANSON: So it is not going to be historical data within the database?

Ms Purvis: The database has a series of parts to it. The data that we have been loading from previous sentences is paper-based sentences from 1959 forward, and they are attached to the database. The data itself within the database is information that we have keyed into the database. So it is not the paper-based records from 1959 onwards. We have captured it from when the funding came through. That would be June last year.

MR HANSON: I recall an issue that the Assembly was trying to get across was breaches of bail, and particularly offences committed by people on bail. And there was a motion, I think, from Mrs Dunne requesting that information, but the response was essentially that that information would have meant a lot of work for somebody trawling through historical records. Is that information now being captured as part of this database? Is it is trying to capture how many people who are put on bail are committing offences? And it seemed like a reasonably simple question to ask, but the advice was it was impossible to get that data. Does this database capture that then?

Ms Purvis: It is a sentencing database; so it is going to capture sentencing data. Whether it is as a result of breach of bail, I will have to take that on notice.

Mr Corbell: If there is some sort of penalty handed down because of a breach of bail, that, I assume, would be captured as a sentence and, therefore—

MR HANSON: Can you take that on notice because I just make the point that it would be useful—

Mr Corbell: Not all breaches of bail result in some further penalty.

MR HANSON: No, that is right. It is really about—

Mr Corbell: It will depend on the circumstances.

MR HANSON: Anecdotally, there are concerns raised that people are committing offences whilst on bail. But based on the advice we got in the Assembly it is impossible to work out whether that is true and how significant it would be if it is true.

Mr Corbell: I am happy to clarify that further for you.

THE CHAIR: I will ask a supplementary on that. As you are aware, this committee is conducting an inquiry into sentencing. It is a similar question to what Mrs Dunne asked: what sort of background can you give to the committee? Could you take on notice what information you can provide to the committee to consider during the inquiry as well?

Mr Corbell: The government has made a submission.

THE CHAIR: Yes, I am aware of that. I am talking specifically about the database.

Mr Corbell: I assume at some point I will be asked to appear—

THE CHAIR: Yes.

Mr Corbell: and officials will be asked to appear and we can certainly pursue further inquiries at that point.

THE CHAIR: Okay. My question is to—

MR HANSON: I note the time, Mr Chair.

THE CHAIR: Thank you, yes, we are running out of time. Unless there are any further questions, we will move on to the DPP, which is 10 minutes behind schedule now. Thank you, Ms Purvis, for your attendance. Good afternoon, Mr White. Thank you for joining us. You have appeared before this committee before, so you are aware of the requirements?

Mr White: Yes, thank you.

THE CHAIR: I am not going to ask the minister if he has got an opening statement. I will go straight to questions. This is both for yourself, Mr White, and for the minister: from your knowledge of practices in other jurisdictions, what options might be available to the government to consider in relation to encouraging early guilty pleas or early changes of plea?

Mr White: I am happy to defer to the minister in the first instance.

Mr Corbell: The government has been pursuing a range of reforms in this area. It is not so much about encouraging guilty pleas but about encouraging early pleas and having the accused have regard to what are really the most reasonable prospects for them in a trial. The government is putting in place a range of reforms to try and address this. Most recently, of course, we provided the courts with the ability to have regard to the severity of the sentence they hand down if an offender who is

subsequently found guilty assists with the administration of justice—for example, through early disclosure of certain facts, cooperation with the prosecution and the court, agreement on what matters will be dealt with in a trial and the exclusion of other matters that are just extraneous and not really in dispute.

These types of steps assist the courts when it comes to the administration of justice and the accused, if they are convicted, is able to have some discount on their sentence. That is already having an effect. We have seen the courts start to respond to that in their sentencing decisions. Of course, there are already discount provisions available for those who plead guilty early on. Those are matters which the courts are already able to take into account.

I think there are other issues which the director raised in his report that are worthy of further consideration and which the government is giving further consideration to. For example, pre-trial disclosure really is a key issue. As the director notes in his report, the ACT is the only jurisdiction in the country that does not require pre-trial disclosure on the part of the defence. This can sometimes result in circumstances where the defence leads with matters which the prosecution has no understanding of or prior knowledge of. This can lead to delay in the courts because there is a need to consider and respond appropriately on the part of the prosecution. It can also result in the offender or the accused having perhaps unrealistic expectations of what their prospects are in court. It is far better to have all the circumstances on the table at the beginning of a trial, before a trial happens, rather than them arising late. That leads to delay, it can lead to unrealistic expectations on the part of one party or another and it does not lead to an expeditious justice system. Those types of issues, I think, are worthy of further consideration, as the director highlights in his report. But I will let the director comment further on his perspective.

Mr White: I have set out in my report the statistics from last year about the late entry plea. From memory, there were 87 matters where a person was committed for trial—that is, they pleaded not guilty in the Magistrates Court and were committed for trial—yet, before their trial took place in the Supreme Court, they pleaded guilty. A lot of those pleas, more than 50 per cent of them, were in the last couple of weeks before the trial. Obviously, what is concerning about that is the amount of public resources that have been expended in getting the matter to that stage.

By that stage, we have prepared and we are ready to go. We cannot ever get those resources back. Of course, it also means that accused persons who plead guilty at that late time miss out to a certain extent on the discounts that are available, or they minimise the discounts that are available by pleading late. So it is well worth exploring avenues for encouraging people to confront the issues earlier. As the attorney indicated, it is not just about getting pleas of guilty; it is about defining the issues in trials and working out what really needs to take place if there is a trial.

I put forward a couple of matters in my report which the attorney has alluded to. One of them is a general power of case management for the courts. It may well be that the courts have that inherent power in any event. I have every confidence that the Supreme Court, as now constituted, will be very vigorous in exercising those case management powers that it does have. But there may be a case for further legislative reform in that area, and in a specific area to do with the provision of expert reports.

As to what my office does, we put a lot of resources into preparing matters as soon as they are committed for trial so that we are aware of what our case is, we are aware of any strengths and weaknesses in our case and we are very prepared to talk to the defence side to explore the possibility of resolving matters or, at the very least, of defining the issues that do run to trial.

Mr Corbell: Early pleas, too, are encouraged if there is a timetable set down for the matter to be heard. It is much easier to hold off on your decision and, as the director says, not confront the reality of what you are facing if you know the trial is not going to happen until 12 months time. But if you know the trial is going to happen more quickly, you have to face up to the circumstances you are facing and make a decision as the accused as to how you are going to plead.

This comes back to the issue we were discussing earlier about the decision of the Chief Justice to undertake some trial changes to the way criminal matters are listed. That brings forward the prospect of a hearing occurring, a trial occurring. Therefore the defence counsel are able to advise their clients as to what their prospects are and what they should be thinking about and the accused are forced to that point of making a decision on what they are going to plead early. That has benefits throughout the system. It still means significant preparation on the part of the DPP and the cost to Legal Aid and so on as well. Nevertheless, if that becomes more of the norm, it does deliver efficiencies in the longer term.

THE CHAIR: That is basically what I was referring to in the early part of my question about other jurisdictions. Is there best practice from around the other jurisdictions that could assist the way we are doing it?

Mr White: There certainly are legislative provisions in other jurisdictions—and I know that the directorate is well aware of those—which have, to varying degrees, case management powers that are vested in courts. Some of them go to great particularity about the sorts of things that courts can order and the sorts of information that need to be supplied by both the Crown and the defence. There are a lot of different models out there, but they all, essentially, emphasise the necessity for courts to have case management powers and for there to be some expectation that both parties to the transaction will disclose information that is relevant to making decisions.

THE CHAIR: Mr Gentleman, a substantive question.

MR GENTLEMAN: Minister, in the director's overview on page vii of the report, it says:

> The number of Supreme Court trials concluded—72—was the highest on record and more than double the long term average.

Can you tell us how you think this reporting of an increase in efficiency affects the community's perception of the justice system in the ACT?

Mr Corbell: I will ask the director if he wants to comment on issues around what is leading to this increase in trial numbers.

Mr White: Yes. There has been a concerted attempt to face up to the backlog. It has been done in various ways, most noticeably by the blitz. But there was a backlog in the Supreme Court which was very significant. It dates at least to 2007 and it has taken a long time to clear that backlog. In the last three years, in particular, the trial numbers have indicated that a lot of effort has been put into catching up. The situation we have now is that the delay between committal and trial is much less than it was a year ago and five years ago. A lot of the effort reflected in the last three years of very high numbers in the Supreme Court has been directed to resolving that backlog.

The current listing proposal that the Chief Justice has implemented will further cut into the backlog. We should really aspire to having a minimum length of time between committal and trial—say, six months. At the moment it is probably between nine and 12 months. We believe that it can be reduced further by this program and by continuing listing reforms that are foreshadowed by the Chief Justice.

MR GENTLEMAN: On that page it also talks about DPP's new policy of "in-house advocacy". How has that aided work within the office?

Mr White: It certainly has a fiscal benefit to the territory in that the trials are now conducted by in-house advocates and they are not briefed out as they once were, before my day, sometimes quite expensively, to interstate counsel and so on. But it also increases the level of competence and confidence within my office. It provides more of a career stream for those who are interested in advocacy and gives the younger advocates in the office something to aspire to in terms of running Supreme Court trials. So it has a very positive effect within the office as well. I am very proud of the fact that last year, in particular, we prosecuted some very difficult matters with in-house counsel, including a couple of murders and some conspiracies and so on. Those typically were in previous years the sorts of matters that might be briefed out. So it has increased the level of competence and confidence in my office and it has also had fiscal benefits.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: My question is to Mr White. On page x of your report you talk about the staff culture within DPP. I have to say it was nice to read about some of the people who make the numbers and the outcomes that we are talking about here today possible. Could you reflect on what it is that you and your team are doing to foster this workplace culture?

Mr White: I think it is very easy to only have regard to those at the pointy end of presenting cases in court, but, of course, they are the tip of the iceberg. The hard work in getting cases to court is often done by paralegals, by people in the corporate area and junior instructing officers. A lot of matters need to be attended to. It is not just the work being done; it is also the fact that witnesses are dealt with in a respectful manner and that there is a very clear sense of purpose within the whole office as to what is being done. I have noticed, if I might say so, that the team spirit has really come to the fore. The blitz was a very good experience for the office in that regard because it became clear to every part of the office that they relied on other parts of the office.

We do try to conduct staff meetings and so on that are integrated across all the staff. It is very easy for senior lawyers in the office to just concentrate on the legal side of things, but we try to give attention across the board and have regard to training opportunities and so on for paralegals and others in the office.

MS BERRY: The work that everybody at different levels in your department would do would be driven a lot by deadlines. I guess there would be a lot of hectic activity around meeting those deadlines. How do you manage people's behaviour around that, because emotions would be high in some cases?

Mr White: Yes. Planning is the only real way to do that. You have to be able to look sufficiently far ahead and anticipate as best you can what will be required. You have to ensure that managers chase up the people that they are supervising to ensure that paperwork is done on time and tasks are completed on time. So it really relies on a very strong management culture and a willingness of people in other parts of the organisation to help out areas that are under stress or under particularly heavy workload at a particular time.

MS BERRY: You mentioned the blitz just before and you talked a bit about how that assisted with the case load in the courts. You mentioned that that had an effect on how the culture in your workplace had improved as a result of the blitz as well.

Mr White: Yes. The blitz was the opportunity for many of my younger prosecutors to prosecute matters in the Supreme Court for the first time. And that is always a very exciting period in a young advocate's career. We also pursued a practice of employing as paralegals a certain proportion of law students, and those paralegals were able to become more engaged in the legal process of running matters and, for example, would instruct in some of the matters in the Supreme Court. And that gives them more of a sense of involvement and more input into what is going on. So those are the sorts of positive developments that came out of the blitz. As a result of that, we now have a number of fully fledged advocates that we are letting loose on more serious matters.

MS BERRY: From your perspective, the blitz was a positive thing for the work culture in DPP as well?

Mr White: Definitely, yes.

MS BERRY: And how do you work towards retaining staff? How do you keep all those super paralegals and students that you have been employing and giving great experiences to?

Mr White: That is difficult. That is a particular issue because, obviously, unless there are vacancies amongst the prosecutor ranks, we do tend to lose those experienced paralegals once they attain their legal qualifications. They often look elsewhere. And obviously we only have a certain number of positions that we can offer those people. They are of the highest quality, and the training they get with us is of a very high quality, if I might say so. But we feel that we have got our pound of flesh out of them when they were with us and that we have contributed to their legal development. They go with our blessing and, of course, it is not inconceivable that we could reemploy some of them at a later time if vacancies arise. So there is an issue of retaining people

at that level. But there is a positive in the sense that the training they get with our office is very qualitative.

THE CHAIR: Mr Hanson, a substantive question.

MR HANSON: Did you get additional resources for the blitz?

Mr White: Yes, we did.

MR HANSON: And you have now not got those resources, I assume. Last time you appeared before this committee—I cannot remember whether it was estimates or previous annual reports—you talked about issues with resourcing and that some days you had to literally scramble to find people to go to court. How is that situation now?

Mr White: It is much the same. The courts are very busy. We have detected no drop-off in the amount of work that is done. Initiatives such as that announced by the Chief Justice, while very welcome by the office—and we are very supportive of that initiative, if I might say so—will obviously put a further strain on our resourcing situation. We have run a very tight ship for a number of years. We are expected to provide prosecutors across a great range of courts. While this pilot-listing program will be going on in the Supreme Court, we will also have to supply prosecutors for the normal business of the Magistrates Court. That can be quite complex.

MR HANSON: But are you able to quantify what that resource deficiency is? You are obviously getting by but have you looked at, in terms of FTE, how many additional it would be, or is it not easy to quantify?

Mr White: In relation to the current listing proposal, it is not really easy to quantify. We have certainly had to put on immediately a couple of extra paralegals to cope with the additional subpoenas, the copying of briefs, the contacting of witnesses, the conferencing of witnesses and so on and so forth in relation to this proposal of the Chief Justice. That is a proposal that, hopefully, will have some beneficial effect. I am sure it will have beneficial effects for the listing and listing culture of the Supreme Court. But it does come at a cost to us in terms of the resources that we have available to meet it, because, as I say, we will have to find extra resources to meet the demand of that on top of our other business. That is really all I can say in relation to that.

MR HANSON: And you just mentioned the Magistrates Court. I noticed in your report that you have highlighted some frustrations that you have got with the Magistrates Court. What are they?

Mr White: I am not sure I would express it as having frustrations with the court itself, but I would say—

MR HANSON: You said that in the Magistrates Court, progress towards separate bail lists and the abolition of the case management unit has been frustratingly slow.

Mr White: Yes, and I do not resile from that. The Chief Magistrate has been very receptive to an initiative from the whole profession, certainly spearheaded by me and Legal Aid but also involving the private profession, that there be some reforms to

listing practices in the Magistrates Court which we see as beneficial. Briefly, those reforms are the formation of separate bail lists that can sit every day.

At the moment, there is a tendency for some bails to be heard later in the day, and I think we and the rest of the profession agree that it would be desirable if bails could be dealt with as soon as possible and in one court. The consequence of taking bail matters out of what is the general list, which is known as the A list, is that it should be possible to avoid having an A list on every day. It may be now possible to run an A list, which is a plea or mention list, on, say, two days a week.

We have also floated the idea of reforming the case management system and instituting a program whereby there is an automatic timetable that applies to matters that are for hearing. There would be an automatic expectation that the prosecution will serve its brief in a particular time, the defence will reply indicating which witnesses they require in a certain time and so on and so forth. And this will obviate, we hope, in most instances the need for matters to be mentioned in case management, which happens at the moment.

Those are all reforms which have emanated from the profession. My understanding is the Chief Magistrate is very supportive of those reforms, and we look forward to them being implemented as soon as possible.

THE CHAIR: I have a substantive question, but I defer to Mr Hanson.

MR HANSON: Given the time—

THE CHAIR: In the interests of time.

MR HANSON: We have gone over time. I am happy to put my questions on notice, thanks.

THE CHAIR: Mr White, thank you very much for appearing before the committee.

Mr White: Thank you.

THE CHAIR: And obviously we would appreciate you looking fairly promptly at any questions and any supplementary questions that will be given to you.

Mr White: Of course.

THE CHAIR: We now go to our next witness, the Solicitor-General for the ACT, Mr Garrisson. I presume you are well aware of the privilege statement that is before you?

Mr Garrisson: Yes, I am quite familiar with it.

THE CHAIR: The minister has indicated that he does not wish to make any opening statement; so I am going to ask the first question of you. Through, I guess, the general provision of services that the ACT Solicitor-General provides to the Chief Minister or a directorate—I am talking about specific instances—has the ACT Solicitor-General,

you, provided advice to the Chief Minister or a directorate concerning large numbers of executive contracts not being signed and dated?

Mr Garrisson: The issue has come up from time to time, and there are either particular contracts or particular groups of contracts that perhaps informal advice has been provided on from time to time. Obviously both I in my own role and lawyers in my office are consulted in relation to matters across all directorates. As you will note from the statistics, we provide over 2,000 advices a year on a whole range of topics. Executive employment and contracts are amongst them. Our employment practice is, in fact, quite large and it involves advising on a broad spectrum of employment issues.

THE CHAIR: Did the advice concern the legality of the ongoing employment?

Mr Garrisson: I would have to take that on notice to get some advice on the specific matter. It also involves my disclosure of legal advice, which really would be a matter for the directorate concerned.

THE CHAIR: Taking those into account, if you can take it on notice.

Mr Garrisson: I will take that on notice.

THE CHAIR: Also there may be a couple of other issues regarding that. Did the advice concern the manner in which the employment relation was initially established—

Mr Corbell: It is not the normal practice of the government to disclose legal advice it receives.

THE CHAIR: I take your point. Mr Gentleman, a substantive question.

MR GENTLEMAN: Minister, if I could bring you to page 53 of the report, under the heading on internal restructuring, it says that there was the creation of the Solicitor-General and the implementation of a revised executive office structure. Can you tell us how that has rolled out and what are the benefits to the community from that restructure?

Mr Garrisson: With the creation of the role of Solicitor-General and the functions that I perform in addition to fulfilling the functions of chief solicitor, which is running the office of the Government Solicitor, it was seen that it was desirable that factors that led to the creation of that role of Solicitor-General also required some more dedicated support in terms of the particular work that I do in that role—notably, the major pieces of litigation, major advice. Together with the serendipitous acquisition of some additional space in our building, we were able to move some of our lawyers from our government law practice into an area adjacent to where I am, and that has proved most useful, particularly given some matters I am involved in at the moment.

Those lawyers also do general work within the office in that government law practice. It has also gone hand in hand with an enhanced responsibility for the deputy chief solicitors in terms of the administration of the office in conjunction with my managers of governance and finance and my manager in relation to all staffing and operational

issues.

The office is a complex business now. Over the last 10 years it has doubled in size. The complexity of the work that we do is immensely greater than it was when the office was first established over 20 years ago. And we quite routinely review the way we manage the office, manage the work, how we can do that more effectively. We have quite well-developed processes, for example, for engagement of staff in dealing with management issues. We have internal committees that address particular themes in relation to technology, client relations, management of work, work flow and all of those associated issues, because we find that if you had exactly the management staff that you needed to manage every aspect of the organisation, it would be a very large group of people indeed. And our solution to that has been to engage with staff in those processes, and that has been quite successful.

MR GENTLEMAN: You mentioned that there is a heightening of complexity in the operation now. Can you give us an example of where you were 10 years ago compared to where you are now?

Mr Garrisson: It is in every aspect of our practice. Apart from the increasing complexity of the statutory framework within which government and the community operates, we have the increasing complexity of the business of government. We have significant teams working on major infrastructure projects. We have teams working in a range of areas of the government's business. Of course, as that business becomes larger and more complex, there is an increasing tendency within the community for disputation. Ten years ago, very few people, or not as many people, disputed decisions or transactions that they had with government. And that is increasingly frequent as well.

For example, there is a distinct trend—although we are hopeful that some recent decisions of the Supreme Court may quell it—for planning processes and administrative law challenges to be used really as part of commercial leverage in the course of disputations, and the territory ends up in the middle of those disputes between commercial competitors. All of that produces a complex environment within which we operate and one which has to be handled with some sensitivity and awareness. I have in my office a quite remarkable group of people who are very highly skilled and committed to the work they do. The staff surveys that have been undertaken on a regular basis over the last decade have shown a quite astonishing level of satisfaction by people with the work they do and the people they work with. That has been the end result of a great deal of work within the office on building an inclusive culture, a culture that prides itself on achieving outcomes for government, on achieving excellence.

That has been reflected in the confidence that the government have invested in our office through the making of legal service directions a couple of years ago, the fact that the government's legal services are now concentrated through our office, which, aside from the obvious financial advantages, actually has meant that you have got quite a significant body of expertise in the one central location, which leads to consistency of advice, an awareness of the needs of our clients and, I would like to think, much better outcomes for government.

MR GENTLEMAN: Congratulations.

THE CHAIR: Ms Berry, a substantive question.

MS BERRY: I was looking at the graph on page 59, performance indicators, regarding the number of agreements that were drawn/settled in 2010-11 compared to 2012-13. What was driving that increase in the number of agreements drawn/settled?

Mr Garrisson: It is market driven. It depends on what is happening at a particular point in time. It also depends on the extent to which we are engaged in particular processes. For quite some time most procurements by government agencies have been dealt with through Shared Services Procurement. We have prepared the standard and pro forma agreements that they rely upon in a whole range of transactions. What tends to happen, however, is that where a particular project or a particular group of projects are enlivened through government policy, different forms of contract need to be prepared or transactions involving particularly complex or novel issues need to be addressed, in which case my office will be involved in preparing and finalising those agreements.

We, of course, provide advice on a broad range of contracts and agreements. I have lawyers that are outposted with Shared Services Procurement to assist them in the performance of their day-to-day tasks. As with most things, it is very hard to provide a definitive reason for a broad increase in work, but it can be related to particular parts of government business at any point in time.

MS BERRY: Also on that graph, I am just trying to make sense of it. I do not know that I am reading it wrongly, but in the "revenue saved" part, it shows a move from $3 million to $30 million; is that right?

Mr Garrisson: Yes, Ms Berry. That question has been asked by many in your seat over the years.

MS BERRY: There you go.

Mr Garrisson: I am happy to provide the same explanation. The revenue saved reflects the difference between the estimates of claims that are made against the territory against the ultimate outcome. In the period under review, there were several particularly large pieces of litigation in which the territory was involved which were resolved quite favourably for the territory, either through a settlement at a reduced sum or, indeed, through claims where the plaintiffs lost. And where a plaintiff loses, the full amount of the claim—because many plaintiffs claim very large amounts, but the estimate that was made at the time—is represented as revenue saved.

MS BERRY: Okay, thank you. I had to check my eyes for a while there to make sure I had the numbers right.

Mr Garrisson: There are some large numbers there, but they do vary.

THE CHAIR: Mr Hanson, a substantive question.

MR HANSON: The advice that you have provided to government on the same-sex marriage legislation: did you do that in-house or did you outsource that advice?

Mr Garrisson: I provided advice to the government.

MR HANSON: Did you formulate that advice personally or is there a constitutional law expert within the office?

Mr Garrisson: I have several lawyers working with me who assist me in the preparation of a broad range of advices. In relation to the current proceedings, senior and junior counsel were also briefed to appear with me in relation to the matter.

MR HANSON: So you will be appearing in the High Court on behalf of the territory?

Mr Garrisson: Yes, along with senior and junior counsel.

Mr Corbell: Other senior counsel and junior counsel from the private bar.

MR HANSON: From the private bar. What is the full cost of the case, do you anticipate, to the ACT?

Mr Garrisson: That is very difficult to estimate. Of course, counsels' fees will probably be an amount, I would have thought, of around $100,000. It is very difficult to estimate.

MR HANSON: In terms of that, maybe take it on notice—all of the in-house work and also the people that you have engaged. Could you formulate a total cost of the case?

Mr Garrisson: We certainly could.

MR HANSON: Lawyers are normally very good at doing that. I am surprised that—

Mr Corbell: We can do so on the basis of activities to date. Obviously, we cannot—

MR HANSON: Yes, activities to date.

Mr Corbell: forecast accurately into the future. But with respect to activities to date, we can take that question on notice.

MR HANSON: What do you reckon your chances are?

Mr Garrisson: All I can say, Mr Hanson, is that if you get three lawyers in a room you are likely to get four opinions. It would perhaps be imprudent of me to speculate on the prospects of the outcome, but, as I believe the attorney has responded in relation to some earlier questions, there are many fine legal minds who will differ about particular issues. There are a number of novel matters for the court to determine, and the fact that opinions do differ simply reflects that. Perhaps I will leave it at that.

MR HANSON: We will watch with interest.

Mr Garrisson: Indeed.

THE CHAIR: We have time for one more question. I defer my question to Mr Hanson.

MR HANSON: In the interests of getting out on time, I am happy to put it on notice.

THE CHAIR: Thank you, Mr Hanson. Mr Garrisson, thank you for appearing before the committee. With respect to any supplementary information that you may provide, we would very much appreciate receiving it at the earliest, so that the committee can consider it. Minister, thank you.

Mr Corbell: Mr Chairman, before you conclude, can I provide answers to a couple of questions that were taken on notice earlier in the hearing.

THE CHAIR: Certainly.

Mr Corbell: Mr Hanson asked a question about the sentencing database and whether or not it would capture the number of offenders who committed an offence while on bail. The answer to that question is that the sentencing database will capture data relevant to this matter for matters in the Supreme Court if the fact that the offender was on bail at the time of the offence is included in the judge's sentencing remarks. So that is the answer to that one.

Mr Hanson also asked when the blitz occurred last year in the Supreme Court. The first period of the so-called blitz was from 10 April to 18 May 2012. The second period was from 25 June to 3 August 2012. So those were the two six-week periods. The new criminal listing period set out by the Chief Justice for the Supreme Court will be for a period of seven weeks commencing in February next year.

THE CHAIR: Thank you, minister. I now adjourn the hearing.

The committee adjourned at 12.50 pm.