



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE  
AND COMMUNITY SAFETY**

**(Reference: Annual and financial reports 2014-2015)**

**Members:**

**MR S DOSZPOT (Chair)  
DR C BOURKE (Deputy Chair)  
MRS G JONES  
MS M PORTER**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 6 NOVEMBER 2015**

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

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

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

## APPEARANCES

<b>ACT Human Rights Commission .....</b>	<b>10</b>
<b>ACT Policing .....</b>	<b>41</b>
<b>Director of Public Prosecutions .....</b>	<b>1</b>
<b>Justice and Community Safety Directorate.....</b>	<b>41</b>
<b>Public Advocate of the ACT.....</b>	<b>20</b>
<b>Public Trustee for the ACT.....</b>	<b>33</b>
<b>Victims of Crime Commission .....</b>	<b>26</b>

## **Privilege statement**

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the Committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 20 May 2013*

## **The committee met at 10 am.**

Appearances:

Director of Public Prosecutions

White, Mr Jon, Director of Public Prosecutions

**THE CHAIR:** Good morning, and welcome to the first public hearing of the Standing Committee on Justice and Community Safety inquiry into annual reports 2014-15. This morning we will be hearing from a statutory office holder, the Director of Public Prosecutions, Mr Jon White. Following that we will hear from the Human Rights Commission, the Public Advocate, the Victims of Crime Commissioner and the Public Trustee. Mr White, you have been to a number of these hearings. Are you aware of the privilege statement that has been provided?

**Mr White:** Yes.

**THE CHAIR:** Are you comfortable with appearing before us?

**Mr White:** Yes, I am.

**THE CHAIR:** Before we go to questions from the committee, would you like to make a statement?

**Mr White:** Yes, thank you. In this annual report I have taken the opportunity to look back on the first seven years of my appointment. I think it is fair to say that in those seven years the office has been completely transformed internally. Also the office now finds itself operating in a very different external environment to what it was when I commenced operation as DPP.

I have tried to reflect on the past seven years in my overview. I particularly highlight to members of the committee a fundamental change in the nature of the work done by DPP, which is a real shift towards doing work in superior courts. There has been an increase in that work and there has also probably been an increase in the complexity of that work. When I did the figures I was quite struck by the fact that the number of trials has increased markedly. I have set out the figures. I will not quote them here; they are there for all to see. There has been essentially an almost doubling of the number of trials conducted on an annual basis by the office in the past seven years. There has been a more than doubling of the number of Supreme Court appeals, that is, single judge appeals from the Magistrates Court to the Supreme Court. And there has been a tripling of the number of matters taken up to the Court of Appeal.

That has meant that the work of the office has shifted towards that superior court work. I suppose a key aspect of the way that we have dealt with that is that we now conduct almost all of our superior court prosecutions, appeals and so on in house using counsel from the office. Previously, many matters were briefed out to external counsel. There have been two reasons for doing that. The first is I found that when external counsel were briefed, the expertise that was built up in particular matters in the office was being lost. Once a matter had been conducted by external counsel, the decisions that they had taken, the way they conducted the matter and the lessons that had been

learned tended to be lost. So I decided to try to grow our own in terms of prosecuting those matters and retain the expertise that was built up by prosecuting within the office. That is particularly relevant in sexual offending cases, where there are a lot of technical rules and a lot of expertise just in the handling of witnesses and so on.

That is one reason that we moved to that in-house model. The other reason was fiscal. As part of efficiency dividends and so on, we did have to find savings. We found savings not just in the cost of external counsel but also in the building up of expertise within the office, which had a fiscal aspect.

That really takes care of some of the main issues that have emerged in the past seven years. I have set out a number of other matters. We have reformed internally a great deal within the office. I will not go through the detail; I have tried to set that out in the annual report. One of the key aspects of that is that we have really attempted to promote the professionalism of paralegals within the office. I think it was true to say that paralegals were not particularly well resourced or well trained, and we have really tried to change that. There is now a requirement that paralegals get a professional qualification within a certain amount of time of being appointed and promotion within the paralegal ranks is dependent on certification at particular levels and so on.

That was an attempt to create more of a career path, a more satisfying job for paralegals, and also to integrate the paralegals more into the legal work of the office. I think that has been very successful. With the paralegal branch we try to maintain a balance between paralegals who are studying law and paralegals who are not studying law and are not interested in becoming lawyers and who want to be effectively professional paralegals. That is something that I would particularly highlight. I am conscious that members have questions for me, so I will not say anything more than that at this stage.

**THE CHAIR:** Thank you very much. Mr White, in your director's overview on page 1, under "current issues", one of the reforms you mentioned as potentially very significant was this:

... using interviews of complainants in family violence matters recorded by police at the scene as the evidence in chief of those complainants in criminal proceedings. New South Wales already has this system up and working. The impact of interviews—recorded immediately after the events have taken place—is graphic.

Complainants in family violence matters frequently seek to withdraw their statements ...

**Mr White:** Yes, they do.

**THE CHAIR:** Will the passing of the Crimes (Domestic and Family Violence) Legislation Amendment Bill 2015 help to rectify this situation?

**Mr White:** It certainly will. It really embodies for the ACT very similar reforms to those that have been in place in New South Wales. We think that this is a very significant development. Obviously, it has been operating in New South Wales for some months.

The significance is that the graphic nature of what happens in a domestic violence incident is sometimes lost when the matters come to court months later, on the basis of a statement that was taken, often with a complainant who is reluctant. That reluctance comes from a number of different areas, as you all know, but not least among those is the pressure that is often put on complainants to withdraw their complaints or to minimise what happened on the night, so to speak.

This new legislation cuts through all of that and allows a graphic representation of what was actually said at the scene to police to be presented as the evidence-in-chief of that witness. That of course will make it impossible for that witness to withdraw that statement, as complainants often try to do, because that will be their evidence-in-chief. So whatever their position when it comes to hearing about whether they wish the matter to go ahead and so forth, their statement, which is a video statement, will be tendered in evidence. We expect that that will be of great benefit and have a real impact.

**MRS JONES:** I have a supplementary. As a flow-on effect, even though obviously we want stronger outcomes in this area, will there be a reluctance to give those statements once this has gone through and after a couple of years, once people get to know that what they say in the heat of the moment ends up being presented in court whether they like it or not?

**Mr White:** No, because I think it is true to say that at the moment the police will take a written statement generally on the night, and that will generally be under similar circumstances. In other words the complainant will be told that the statement is for court. At that stage the complainant is very keen generally for the matter to go to court because the complainant wants the matter to be resolved, and they want the immediate issue that is in the household to be resolved. So the position does not really change from that point of view. What changes is that the record is a much more inviolable record, a much more graphic record. It will make it effectively impossible for the complainant to resile from.

**MRS JONES:** That is what I am saying. Does it actually end up making the complainant feel that they have been made vulnerable, whether they liked it or not, in a court proceeding sometime later? As much as we all want better outcomes in this area, will that end up meaning that Mary Smith down the street had her crime video put up in court, and as a result, it was a matter of saying, 'I'm not doing one of those crime videos'? We will have to wait and see.

**Mr White:** There are some very fundamental issues that you raise with that question. One of them is: are we re-victimising victims by effectively forcing them to give evidence? And that is a very difficult question. We take the view that there is a public interest in bringing these matters to conclusion. All members will be aware of what I am referring to there. Just to touch upon it, police officers will find that they get a bit bored with going out to a domestic situation, and doing all the paperwork associated with that, only to have the complainant withdraw their statement. That is the experience of police officers across Australia.

**MRS JONES:** Yes, but my question then is: are we serving the police or are we

serving the victim?

**Mr White:** Hopefully, we are serving the community. Hopefully, what we are—

**MRS JONES:** That is not really the question I asked. I know what you are saying.

**Mr White:** It is a difficult question as to whether you force a reluctant complainant to give evidence. I am not saying that is an easy decision, and it is not a decision we make one way or the other inevitably. In other words we do not inevitably force all complainants on. It is very appropriate, if I might say so, to always question that issue. I think that is what you are alluding to at the base of that question. But at the end of the day the community has an interest in stamping out domestic violence. This is one of the ways; a very strong stand by prosecutors and police is one of the ways to do that.

**MS PORTER:** To follow on from what Mrs Jones was saying, what has been the experience in New South Wales? Do we have any factual data that will show what the effect of this is in New South Wales? It says in the report what the impact has been—that the system is up and working. But that does not really say if it is working well. As a person who has experienced this myself and did withdraw the first time, I can relate to what Mrs Jones is saying.

**Mr White:** It is probably too early to say anything about the New South Wales experience, other than impressionistic experience. In other words the system has only been up and operating in New South Wales for about six months, so I do not think there is data, so to speak. But we and the AFP, who are instituting this proposal, have been very much in touch with the New South Wales authorities as to how they introduced this, and the feedback is very positive.

Let us not put too much emphasis on the way in which this overrides the wishes of complainants to withdraw their complaints, which is a very appropriate thing to put into the mix. But what is also relevant is how graphic this evidence is. For example, I have seen some of the actual video statements that have been taken in New South Wales. Pardon me for using gender terms, but members of the committee will understand why I refer to women as the victims, as they generally are in these cases.

**MRS JONES:** Or those who complain generally are women.

**Mr White:** Yes, those who complain generally are women. With that caveat, if I can use those expressions, the woman will be in a house. There will be broken furniture, there will be bruises, there will be blood, there will be broken glass and there will be a smashed-in door. All of this will be graphically represented on the video, as will the position the woman was in when various things happened to her or when she alleges various things happened to her.

That is very graphic. For anyone who watches one of those videos—and I would urge members of the committee, if they are interested, to see if that can be arranged; I am sure it can be—the graphic nature of that is brought home. That really supports the complainant because it prevents the complainant from being undermined when they come to court about what their recollection was. It is not only the immediacy of the

complaint; it is the corroboration which is provided to all of that by the circumstances of the scene.

**MS PORTER:** I think it is very important that New South Wales and the ACT record some data in relation to this, so that we can get a measure of the effect of it.

**Mr White:** Yes, I take that on board. Can I give a supplementary answer there? One of the key issues will be whether defendants plead earlier. At the moment there is an incentive on defendants to wait and see if the complainant turns up at court, before they confirm their plea of guilty. We have the situation very often, very frequently, where immediately the complainant is seen in the precincts of the court the defendant will come and offer a plea straightaway. In other words the matter has been waiting for hearing for months. As soon as the complainant is seen walking in the doors of the court the defendant will be entering a plea. That effectively is brought forward potentially in this because we all know what the complainant will say because their evidence-in-chief has already been given. I think that will be a key measure of the success, but I take on board what Ms Porter and Mrs Jones have both said.

**THE CHAIR:** I will draw the committee's attention to the fact we are still on question 1. Dr Bourke, you can ask a supplementary, and then Mr Hanson.

**DR BOURKE:** Mr White, this is one of the recommendations you made to government which was accepted for legislative reform in this area. You made some other recommendations that were not accepted. Can you elaborate on those? What were their objectives?

**Mr White:** The main one, which is still under consideration, as I understand it, relates to bail. We suggested that a breach of bail would be an offence, which it is not in the ACT at the moment. That may sound a bit technical, but the significance of that is to really trace the history of failure to comply with bail. In other words at the moment a breach of bail can lead to the arrest of a person and bring him before the court, but a breach of bail is not itself an offence. If it were an offence it would be able to be tracked through the criminal history of the offender, which would give a better history as to compliance. Members will be very aware that offences in this area tend to be perpetrated across a long period of time, and there is repetition et cetera. So that was one of our recommendations.

The other recommendation in relation to bail was that the DPP be given an extraordinary power to review bail. At the moment, essentially the right to review bail arises only if there is a change in circumstances. So either the prosecution or the defence can seek a review of bail if there is a change of circumstances. What we are putting forward as a suggestion is that the DPP be given an extraordinary power to review bail, to capture those situations where magistrates just get things wrong, in our view.

This particularly arises in this family violence context. Magistrates, who are doing the best they can and with a resumption in favour of bail, will sometimes—it does not happen very often—give bail to people who, in our view and in the police's view, are dangerous. Those people walk out of court muttering under their breath dire threats against people et cetera. That is a scenario. It does not happen every day but it does



happen. In that situation we would seek an extraordinary power to review bail on our motion, not with fresh circumstances.

Those are the two issues that have not been taken up by government at the moment, but my understanding is that they are still under consideration.

**DR BOURKE:** Would that be you reviewing the bail or a judge?

**Mr White:** No, the DPP will have a right to bring it before the court. If it arises in the Magistrates Court it could be reviewed back before the Magistrates Court before another magistrate. It does not necessarily need to go to a higher court. But at the moment we do not have a power, without showing a change in circumstances, to even bring the matter back before the court. So that is what we have suggested.

**THE CHAIR:** Mr Hanson, a supplementary.

**MR HANSON:** Can I just clarify: when you talk about the breach of bail being an offence, are you talking about just for domestic violence—

**Mr White:** No.

**MR HANSON:** or are you talking about for other offences?

**Mr White:** It would be for everything, but the greatest impact would be in the domestic violence area.

**MR HANSON:** The other issue is on evidence in chief. Audio alone can now be evidence in chief. The Law Society raised a number of concerns with that. Do you have a view?

**Mr White:** It is preferable that it be video as well, but my understanding is that there was a kind of catch-all to catch the situation where the visual was not captured for some reason or the equipment was not available. I think audio only is a second-best option, and I appreciate that it is, but it is appropriate to have that second-best option available. I think that is the best answer I can give. There is legislation for evidence-in-chief interview by children in sexual offending at the moment. Those are regulated quite differently from these, because this will be a first responding police officer whipping out whatever recording device they have with them and capturing the moment, so to speak. I think it is appropriate to have that backup, but I take the point that the better result is audiovisual.

**THE CHAIR:** Thank you, Mr White. First substantive question, Dr Bourke.

**DR BOURKE:** Mr White, on page 3 of your annual report you state that the ACT Magistrates Court previously did not list matters for hearings during intensive listings periods in the Supreme Court. Can you tell the committee what that meant for your office and why you think the Magistrates Court has changed its policy.

**Mr White:** The Supreme Court has very successfully dealt with issues of the backlog, and also the length of time matters were taking to come on for hearing, for trial, by

organising its business in a series of intensive listing periods during the year. There are four of those periods; they run for about five weeks each. During those periods, in the Supreme Court the matters are over-listed; there are typically 30, 40 or 50 trials put into a period of five weeks. Obviously, all of those trials, from the point of view of my office, need to be ready to go; that involves a lot of resources in the Supreme Court.

The Magistrates Court had previously agreed that it would not list matters for hearing in the Magistrates Court during the time when the Supreme Court had its intensive listing. It is true that the Magistrates Court lists have been blowing out. The response of the Magistrates Court has been that they can no longer not list matters in those periods when intensive listing is taking place in the Supreme Court. That obviously puts a lot of resourcing pressure on my office, because we cannot be in two places at once. And Supreme Court trials are very labour intensive; they require two or three bodies, from my point of view, for each trial, for preparation et cetera. So it is really a resourcing issue that that raises. Having said that, I can fully understand why the Magistrates Court wants to address the issue of its hearing lists.

**MS PORTER:** Mr White, on page 21 it mentions establishment of a specialist sexual offences unit within the DPP as a result of one of the recommendations from the staff report.

**Mr White:** Yes.

**MS PORTER:** Can you comment on the function and performance of this unit?

**Mr White:** Yes. This is something that I instituted fairly early on, and it has been a great success. The unit is responsible for dealing with the police sexual assault unit, providing advice and so on, dealing with the initial charges that are laid and steering those matters through to committal to the Supreme Court. They are specialist matters and they require specialist expertise. As part of that, there is early contact with complainants. My office will, as soon as possible, sit down with a complainant in a sexual assault matter. We will not necessarily go through the matter in detail that first time, but we will at least outline the journey that the complainant will need to take—what is involved, timing and all those sorts of things—and establish a rapport with the person. It is really a way of centralising within the office the expertise to deal with the technical aspects of those but also increase the contact with complainants and give complainants a firm and continuing point of contact.

**MS PORTER:** To have a level of comfort around what the process does?

**Mr White:** Yes. One advantage is that complainants are less likely to withdraw their participation, because they feel they have a rapport and they have a relationship built up.

**MS PORTER:** Thank you.

**MRS JONES:** Mr White, the DPP noted at page 23, under “Sexual Offences Unit”:

Sexual offences continue to be over represented in the types of trials that are

conducted, a reflection of the fact that pleas of not guilty are more common with these offences.

We mentioned that before. However, what is the actual percentage increase in these matters prosecuted compared to the previous year, and is it an ongoing trend?

**Mr White:** Yes. We have put some figures in the report about that. Just to lay the groundwork, when we say “over-represented”, we mean that people in these types of offences plead not guilty at a greater rate than other offences. In other words, for 100 offences it is more likely that the sexual offending will end up in a plea of not guilty and a contested trial than will other types of offences. That is what we—

**MRS JONES:** It is interesting, isn't it?

**Mr White:** Yes. It reflects a number of historical facts. One of them is that it has been more difficult to obtain convictions in relation to that.

**MRS JONES:** So people say “not guilty” because they think they will get away with it?

**Mr White:** Yes. And they tend to be cases that are word on word. But having said that, with advances in scientific techniques and advances in the law of evidence to deal with complaint evidence and so on and so forth, in practice they are rarely straight word-on-word cases anymore. But that has been the tradition; they have tended to be that. And quite possibly accused persons have been encouraged by lack of success to plead not guilty. We are turning that around. One of the very gratifying aspects of this report, if I refer members to page 21, is that for the first year that we can remember there were a greater number of pleas of guilty prior to trial than there were trials. We have compared that with another year—

**MRS JONES:** Meaning they were not going to trial?

**Mr White:** Yes. With those matters, with the plea of guilty prior to trial, they were probably heading towards trial, and at some stage they changed their plea—probably not in every case: some of them would be a plea of guilty at an early stage but some of them would be a plea of guilty at a later stage, including on the doorstep of the court.

We think that is one of the most significant statistics in this annual report, and it is one that gives us great heart, because it says to us that we are doing something right about the prosecution of sexual offending. Also, the juries, quite frankly, are getting a greater understanding of the dynamics of sexual offending. The great thing about the jury system is that it is dynamic, it does reflect community attitudes. Sometimes it is said that it lags a bit, but juries do really understand the circumstances in which these sorts of offences happen, and that encourages people to plead not guilty.

**MRS JONES:** Just to clarify: is there an increase in the volume of cases?

**Mr White:** Yes, there is. We addressed that in here as well. Can you bear with me for a moment?

**MRS JONES:** I do not mind if you take it and get back to us.

**Mr White:** The short answer is that yes, there has been an increase in the volume. I should be able to put my finger on it. Anyway, I—

**MRS JONES:** I was going to ask in relation to that: how are your resources managing to match this increase?

**Mr White:** With great difficulty. Resources generally are another topic, but of course we are under pressure. Members can see that the work in superior courts is increasing. There has been no great change in the Magistrates Court. The complexity of work is increasing. We are doing more murder cases and we are doing them all in house et cetera. We are doing more sexual offending cases, and there is greater complexity around those, because there are more rules about pre-trial evidence and so on, special applications to do with tendency, et cetera. The area is getting more complex. That does put a bit of pressure on resources.

**MRS JONES:** In relation to that, do you feel that you are able to represent cases involving domestic violence as well as you would like or are there people missing out or not being helped as much as they should be?

**Mr White:** I do not think there are people missing out. Obviously we deal with matters that are referred to us by the police.

**MRS JONES:** Yes.

**Mr White:** That is a constraint on us. But I am not going to sit here and pretend that there is not an issue with resources; there is. I have said in my annual report, and I think that members of the committee will know, that we have put in a resources bid in the current budget process, which is, I think, receiving reasonable consideration. For the first time, we have put in a joint bid with Legal Aid, because a lot of the issues that relate to my office also relate to Legal Aid in the criminal area. We tried to coordinate that response.

**THE CHAIR:** Thank you Mr White. We will go to Mr Hanson for the last question.

**MR HANSON:** Noting the time, Mr Chair, I will put mine on notice.

**THE CHAIR:** Thank you very much. Mr White, thank you for appearing before us today. I have a feeling you have quite a number of questions on notice coming to you.

**Mr White:** Thank you very much.

Appearances:

ACT Human Rights Commission

Watchirs, Dr Helen, Human Rights and Discrimination Commissioner

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

Roy, Mr Alasdair, Children and Young People Commissioner

**THE CHAIR:** I welcome the Human Rights Commission to the table. Good morning to the Human Rights and Discrimination Commissioner, Dr Helen Watchirs, the Children and Young People Commissioner, Mr Alasdair Roy, and the Health Services Commissioner and Disability and Community Services Commissioner, Ms Durkin. Welcome to all of you. We have half an hour at our disposal. Can I suggest that the opening statement be given by one commissioner, if that is possible? Dr Watchirs, is that possible?

**Dr Watchirs:** We do not have an opening statement.

**THE CHAIR:** I will pass the first question to Dr Bourke.

**DR BOURKE:** Thank you, chair. Do the commissioners often deal with cases involving Aboriginal and Torres Strait Islander people? What cultural sensitivities does the commission take into account when dealing with this group of people in our community?

**Ms Durkin:** We do deal with complaints from Aboriginal and Torres Strait Islander people. Our intake people ask people if they would like to identify at the start of a process. We have a RAP which outlines the processes that we will go through to try and accommodate people's wishes as much as possible.

**Dr Watchirs:** If I might follow up on that. I am the RAP champion under the Human Rights Commission RAP. We were one of the first ACT agencies to have one. We regularly have events to engage the community, such as the UN declaration of rights of Indigenous people. We held a film called *Charlie's Country* at the National Film and Sound Archive. We have done a number of resources for Aboriginal people which we are going to launch on 9 December this year. We have put international Human Rights Day one day forward. All staff are trained in cultural sensitivity. It is a key criterion.

When I started this job nearly 12 years ago we started collecting data to track whether we were serving the community. Of course it is voluntary identification. We also started fast-tracking Aboriginal clients with discrimination cases. That was so successful that all cases now have a similar process of early conciliation. I would like to think that we engage carefully with the community. We certainly take into account any sensitivities that people may have in having a face-to-face conciliation. If they do not want to face the perpetrator then we will do a shuttle conciliation in a separate room. We could even do it on the papers or on the phone. We do that ordinarily for cases of sexual harassment. There are cases that are more sensitive than others and, of course, Aboriginal clients would have that right, but in my experience most of them want to face their perpetrators and say what the impact was, and that is very powerful.

**DR BOURKE:** Thank you.

**Mr Roy:** If I can just add one thing? We do deal with complaints and approaches from members of the Aboriginal and Torres Strait Islander community. As you would be aware, there is a significant overrepresentation of Aboriginal and Torres Strait Islander children and young people not only in care but also in the youth justice system. We have contact with the community in those areas quite regularly.

We also visit the Jervis Bay territory regularly and have done so for a number of years. In doing so we visit the community, the elders and, importantly, the children and young people of the community, and we visit the school regularly. We have undertaken a number of targeted consultations down there, including short films and cartoon workshops. I am regularly contacted by the community either to go down there and talk about an issue or just get involved in something that is happening in the community.

We also last year released a co-report between me and Dr Watchirs called *Passing the Message Stick*, which was an initiative where we engage with the community to talk about services that work well and do not work well for Aboriginal and Torres Strait Islander children, young people and their families. The report was released in January or February—

**Dr Watchirs:** I think it was January.

**Mr Roy:** this year. It was commended by the community as being a true engagement activity in the sense that we did not go there to investigate what the community told us. It was a conversation: tell us what you think, tell us what works well, tell us what does not work well, and we then passed that to the government for a response.

**THE CHAIR:** Thank you. I will ask my substantive question now. It is in regards to violence, sexual assault and disability on page 11. The commissioner has convened a series of discussions with various stakeholders on violence, sexual assault and disability. Dr Watchirs, what is the commission doing to protect the victims of domestic violence and sexual assault?

**Mr Roy:** I cannot see the reference on page 11.

**Dr Watchirs:** Sorry, could you point me to which part of page 11?

**THE CHAIR:** No; I cannot locate it myself.

**MR HANSON:** I think that is following on from last year, Mr Chair—maybe the report from last year and the results from those.

**THE CHAIR:** We will put the question on notice.

**Dr Watchirs:** I am happy to answer. I was just wondering what the trigger was. Certainly we have a resource that has been developed with the victims commissioner that is to be launched in the next few days about explaining what the rights of victims

are and not just focusing on perpetrators. As I said earlier, we handle cases of sexual harassment. There would be unsuccessful cases of domestic or sexual violence that still meet the criteria of sexual harassment if it was not in the domestic sphere.

We have proposed that the Discrimination Act be amended to include domestic violence as a ground of a protected attribute, so that if you are working and a victim of domestic violence that should not be a factor in losing your job. Say the perpetrator appears at your work then you should not lose your job over that issue. You should be supported by your workplace. Losing your job at that crucial period of time would make it much worse for victims.

We also routinely comment on amendments to the Crimes Act. The children's commissioner and I attended the Domestic Violence Prevention Council extraordinary general meeting with proposals that we thought could make a difference for victims of domestic violence. In my case, it was an amendment to the act, and also a recommendation that the front-line services be given money to do what they are already doing well. It is just a matter of how much can be applied to assist victims in my case.

There were some legislative amendments that I thought could be helpful, such as having protected witnesses in civil cases, not just criminal cases, so that the perpetrator and the victim do not have to come face to face in the actual hearing and evidence could be videotaped.

**Ms Durkin:** Could I just add to that? The page 11 report last year was in my section. It was about a project that I was doing in conjunction with the Domestic Violence Crisis Service, Canberra Rape Crisis Centre, Women with Disabilities ACT and Victims of Crime Commissioner to look at options to assist women who had a disability and were escaping domestic violence and sexual assault.

I have got an update on page 45 of this year's annual report. The scheme to assist women with disabilities has been in operation for 12 months now. During that first 12 months it supported five people with disabilities to escape domestic violence who otherwise would probably not have been able to do so. It provided the supports that they needed to have their disability issues addressed, like having an Auslan interpreter and getting support in relation to personal care and child care et cetera—so things to adapt to the disability.

The Victims of Crime Commissioner has committed to continuing to fund the supports needed for women for the next two years and the government has responded recently in relation to the report and accepted all the recommendations.

**THE CHAIR:** Ms Porter.

**MS PORTER:** Thank you, chair. Good morning to all of you. I have a two-part question. On page 5 it states that the focus for your team was raising awareness amongst professional and government employers about the Human Rights Act. I just wondered what the response has been to that and to what extent you think it might lead to long-term greater consideration of the Human Rights Act generally but more particularly in the courts. That is the first part of my question.

**Dr Watchirs:** Certainly we have had a focus on government employees for a while. On 10 December 2014 we issued a report called *Look Who's Talking*. It is about the dialogue model of how the Human Rights Act has impacted on the Legislative Assembly and the executive. It was an outcome of that that showed the impact on the legal profession was not as great as we hoped. We have engaged in several ways by having articles in local legal journals, at local legal conferences, and talking about pro bono work with solicitors' firms.

In my view, the problem is that a human rights breach has to be taken to the Supreme Court. It would be better if lower courts such as the Administrative and Civil Tribunal could take into account and give a human rights remedy at a lower level because that is where the majority of the work is happening in relation to government services that are public authorities under the Human Rights Act.

**MS PORTER:** So there is more work to be done, in other words?

**Dr Watchirs:** Absolutely, in relation to the legal profession. We did a recent survey that we will publish soon of the knowledge of the Human Rights Act among ACT legal practitioners.

**MS PORTER:** The second part of my question is about a forum that I believe you attended, Dr Watchirs. I am pretty sure you were there. There were a large number of people there. It was a forum which was hosted by the attorney in the Assembly to invite comment on the idea of a restorative city.

**Dr Watchirs:** Yes.

**MS PORTER:** I was just wondering if you could comment on this initiative.

**Dr Watchirs:** Certainly. I am a supporter of restorative processes. I did my PhD and post doc with Professor Braithwaite at the regulatory institutions network at ANU. I have had private meetings with people behind the restorative justice movement and have always maintained relationships with the restorative justice centre within the ACT. I have not led that initiative because we do not have the resources. I have four full-time staff covering both human rights and discrimination, so my support is in principle and attending but not in terms of initiatives.

**MS PORTER:** Do you not see a role for best practice in relation to your day-to-day practice yourselves?

**Dr Watchirs:** It could have a role in relation to complaint handling. That is something that is being looked at in terms of an overall review of the Human Rights Commission. The government is drafting the bill at present so I am not aware of the details of how the complaints handling will be changed in the new commission.

**MS PORTER:** Thank you.

**MRS JONES:** My question is to Dr Watchirs. On page 5 of the report, as we go through the introduction to the Human Rights and Discrimination Commissioner, to



your work, it is stated that there are various areas in which you seek to protect people's capacity, including pregnancy, breastfeeding, and religious and political convictions.

On two separate areas there, pregnancy and breastfeeding, can you update us on whether you think that you are getting cases in that zone or if there is any work that we have been able to undertake at the ACT level to try to actually change the circumstances of the majority of women in those situations based on the report that we had a year ago from the federal human rights discrimination commissioner?

And on religious and political convictions, I read only yesterday in the *Canberra Times* that Muslim women around Australia are still suffering from quite direct statements about what they wear, and not getting phone calls for jobs and the like, that they see as directly because of their religious affiliation. Can you advise what could be done to the ACT Human Rights Act to actually strengthen provisions to protect religious freedom?

**Dr Watchirs:** Certainly. I will take the first part in relation to the issue of breastfeeding and pregnancy. We have taken initiatives over the years. With the Australian Breastfeeding Association, we co-publish a pamphlet on breastfeeding. They distribute that in mothers bags at hospitals, so that has a very wide coverage. I am not convinced that there is a lot of discrimination that is hidden, but certainly—

**MRS JONES:** Well, my experience is—

**Dr Watchirs:** in relation to childcare centres we did issue a report about two years ago about problems in children who are breastfed possibly not getting into child care.

In relation to pregnancy, we have a pamphlet. We are working on getting that distributed through to all hospitals so that new mothers get that. I am concerned that I do not think we are getting the pregnancy discrimination cases that we should be; I think we only got one this financial year. It has been something that has been an issue.

I think the legislation is fine. It is more of a resources thing, of getting out there in the community.

**MRS JONES:** And awareness, yes.

**Dr Watchirs:** Exactly.

**MRS JONES:** Okay.

**Dr Watchirs:** In relation to Muslim women, we have an initiative that is being launched on 16 November called "Diversity goes with the territory". It is something we have been working on for a year. For five years we have had a race roundtable annually. That has been something that has been asked for by the community—that we have a social media public awareness campaign. That will focus originally on race and religion. Other grounds will come into that, such as sexuality, gender and disability, but the first focus is race and religion. I think the Discrimination Act could be strengthened in that religion is not a ground of vilification; if someone speaks in a

derogatory way to you in public, they draw on the grounds of race, and that is covered, or sexuality or HIV status, but it is not covered in religion. And that is something other jurisdictions do cover: Victoria and Queensland; and WA actually has a criminal law provision.

**MRS JONES:** So only in relation to discrimination based on religion, not—

**Dr Watchirs:** No; discrimination is covered. It is vilification, so a public act.

**MRS JONES:** How about religious freedom? Is that covered by our act at all?

**Dr Watchirs:** The Human Rights Act definitely covers religious freedom, and I think that—

**MRS JONES:** Have you taken any cases on that matter?

**Dr Watchirs:** The Human Rights Act is only actions against public authorities; I am not aware of any public authorities breaching the right to religion. It would be more personal issues. I did some advices about people doing letterbox drops vilifying certain religions. Islam in particular covers people of a number of different races, so that cannot be caught up, whereas there is case law in New South Wales saying that people of the Jewish religion or Sikh religion may be caught by broadly interpreting the race power. In my view, religion is definitely not covered in the ACT, so that is something that could be fixed.

The Law Reform Advisory Council did a comprehensive review of the Discrimination Act that is still with the Attorney-General and that has proposals about possibly having vilification on any ground that is a protected attribute of discrimination. So vilification would cover everything, not just those certain grounds that are currently covered.

**MRS JONES:** That is presumably not a released document yet?

**Dr Watchirs:** No; only our submission is online.

**MRS JONES:** With regard to the booklets that you mentioned earlier about pregnancy and breastfeeding, are you able to supply those to the committee?

**Dr Watchirs:** Sure; I can do those on notice.

**MRS JONES:** Thank you.

**THE CHAIR:** Mr Hanson, a substantive question.

**MR HANSON:** There has been some restructuring within the Human Rights Commission, and I think there is some more coming, but you might be able to clarify that. What is the current status of all the restructuring that has happened? Has it had an effect, and is there more to come?

**Mr Roy:** You are quite right. All of the sohos that sit under the Justice and

Community Safety portfolio are being reviewed and have been under review for a number of years now. The restructure has not actually begun in the sense of that many changes being made to date. We understand that the attorney is hoping to have the new proposal in place by early next year, which will require some legislative change. It simply is an amalgamation of the existing bodies, with some tinkering around the edges in terms of who is doing what. It is expected to be in place by early next year.

**MR HANSON:** My understanding is that the intent of it, from what I have seen, is to be less top heavy. So it is not a net loss of staff, but there is a change in terms of the focus. Is that correct? What engagement have you had to have input into those restructuring discussions?

**Mr Roy:** We have been involved since—I think this kicked off probably two years ago. We as a group, so we are looking at all of the sohos who are here, had input into the discussions with the consultant who was engaged initially to come up with the first model. We commented on that. Then there was some further work done within the directorate and we had some input into that. Again, when the first model was released for public consultation, commissioners, other statutory officers and members of the community made comment on that. Then there was the latest model, which I believe has gone to cabinet and has been approved.

**MR HANSON:** Has this been instigated from the bottom up with entities like you saying, “We could do this better”? Or has this been more of a top-down approach from the directorate saying that it wants to amalgamate?

**Mr Roy:** This was an initiative of the Attorney-General, who contacted the rep sohos. Again I cannot recall the date; my colleagues may remember the date.

**Ms Durkin:** August 2013.

**Mr Roy:** We wrote to all the sohos saying that the attorney intended to undertake a review and would we cooperate and participate in the review. Of course, we said yes.

**MR HANSON:** In terms of the organisations that have been involved in this, it is your own, but who else has been amalgamated or part of this review?

**Mr Roy:** The Human Rights Commission, the Public Advocate of the ACT, the Victims of Crime Commissioner, and to some extent the Public Trustee.

**MR HANSON:** Are you comfortable with the way that this has proceeded, from an engagement point of view? Or has this been imposed?

**Mr Roy:** I think all of us would agree that there are opportunities to review practice. Any agency needs time to sit back and say, “Can we do things better?” The commission has done that internally over many years. In terms of whether we are happy with the model, you would have to ask individuals who have been affected by the model. Different people have different views.

**MR HANSON:** Let me ask you.

**Mr Roy:** It is difficult to answer at this stage, because to some extent the devil will be in the detail. The model which is currently being proposed is a high-level model which outlines the functions of commissioners and those who will be leading the different teams. The model will involve the amalgamation of about 45 people into an agency. That is quite a task. I would be very interested to see how all those staff will be allocated under the particular functions to ensure that the commission meets the expectations of the community and the government.

**MR HANSON:** Have job losses been mooted? Is anyone going to lose their job out of this?

**Mr Roy:** According to the discussion paper, no. However, I would expect that the commissioners would probably have to reapply for positions.

**MR HANSON:** In terms of resources, there will be a shuffling out of resources but not a new reduction across those various organisations? Is that right?

**Mr Roy:** That is my understanding.

**MR HANSON:** Do you have a time line on when this is intended to take effect?

**Mr Roy:** The date proposed by the attorney was 1 April.

**MR HANSON:** Is Ms Durkin or Dr Watchirs going to answer that? What is your view?

**Ms Durkin:** The submissions on the proposed model or the previous proposed model are all online, and I think we have all had some different perspectives on that model. As Alistair said, the devil will be in the detail. It will be interesting to see how it can be set up so that conflicts of interest are dealt with when you have got direct service provision now combined into an agency with oversight of that service provision. There are going to be a few issues that will need to be worked through.

**THE CHAIR:** Dr Watchirs, in your report, on page 13, you refer to new proposed anti-consorting and related laws. Can you tell the committee about the laws that are proposed and your views on them.

**Dr Watchirs:** I am not sure officially what stage those proposals are at, but there are New South Wales laws that the Ombudsman has looked at, and his report has shown that it has been over-applied to Aboriginal people and people of lower socioeconomic income. I would be concerned if provisions were over-inclusive. Any such laws—I do not think they have yet been introduced—would need to be very carefully framed, given the evidence in the New South Wales jurisdiction of such laws.

**THE CHAIR:** That is historical evidence of consorting laws too, isn't it?

**Dr Watchirs:** I think move-on powers are part of the proposal that may be coming into force in the ACT or may be considered. Certainly they are historical laws, but our concern is about, if they were to be extended, what the impact would be on those populations.

**THE CHAIR:** They do apply to everyone, so with the new consorting laws you are concerned about the application on the whole community?

**Dr Watchirs:** Yes, given the New South Wales Ombudsman's evidence of over-policing in Aboriginal communities.

**THE CHAIR:** A supplementary.

**MR HANSON:** I thought the consorting laws in New South Wales were really aimed at outlaw motorcycle gangs. Are you saying that they have been then used to target other groups?

**Dr Watchirs:** This is the move-on powers, which are not just the outlaw motorcycle gang powers.

**MR HANSON:** But in terms of the outlaw motorcycle gang powers have you looked at those as they have been applied in New South Wales? The evidence provided by the police is that bikie gangs, in essence, are now coming to the ACT because of those powers in New South Wales. Have you had a look at how that has been applied? Have you got any concerns with the law specifically targeting bikies?

**Dr Watchirs:** We do not have a serious proposal at the moment that I am aware of, but certainly in the past when there was a national move to outlaw motorcycle gangs we were in favour of targeting serious organised crime. Given that there are now two gangs in the ACT, I am expecting there may be new laws that will come into—

**MR HANSON:** The government have indicated that they are looking at that, but they have not had any engagement with you in the formulation of any such laws?

**Dr Watchirs:** It has been early stages. We have not seen any draft legislation, but we are certainly aware of the problem in New South Wales that we would not want replicated in the ACT.

**MR HANSON:** Which problems?

**Dr Watchirs:** The overapplication of move-on powers to Aboriginal people and lower socioeconomic communities such as homeless people.

**THE CHAIR:** Thank you. The last question for the morning will go to Ms Porter.

**MS PORTER:** Thank you, Chair. On pages 26 and 27 Mr Roy mentions a change of focus from child protection to child wellbeing. Can you tell us a little bit about the implications of such a change and how it benefits the children under the care of the territory?

**Mr Roy:** This is in regard to the third national action plan, which is the national framework for protecting Australia's children. The third national action plan will cover the period 2015-18. There is a note there. The commissioners, both individually and collectively, have been engaged with the commonwealth to review the

implementation of the plan. What we meant by shifting the focus to child wellbeing rather than child protection is I think that over the last period the national action plan drifted towards seeing the wellbeing of children and young people simply in the domain of care and protection, whereas it needs to be earlier on; you need to talk about the wellbeing of children and young people. If you can improve the wellbeing and outcomes for children and young people at an early age, you may prevent children and young people from entering into the care and protection system as they get older.

**MS PORTER:** Thank you.

**THE CHAIR:** I think that brings us to the end of our allotted time, so I thank the commissioners for coming in this morning. There may be some questions put on notice from the committee.

Appearances:

Public Advocate of the ACT

Taylor, Mr Andrew, Public Advocate

Watchirs, Dr Helen, Public Advocate

**THE CHAIR:** I now welcome Mr Taylor to appear before the committee as Public Advocate of the ACT.

**Dr Watchirs:** Can I please clarify in part, Chair, that the annual report covers the period where I was Public Advocate for 18 months, but the report was prepared in collaboration with Mr Taylor, as he took up the appointment on 1 July this year.

**THE CHAIR:** Thank you. Mr Taylor, you are aware of the provisions under which you are giving evidence?

**Mr Taylor:** I am.

**THE CHAIR:** Would you like to make a brief statement to the committee?

**Mr Taylor:** Only in that I am currently appointed as Public Advocate in place of Helen. Helen completed a term as Public Advocate on 30 June. I commenced on 1 July. My term of appointment is to the end of March next year pending the completion of the review of the rights of protection agencies in the ACT. I am presently undertaking the role of Public Advocate in addition to the role of Public Trustee.

**THE CHAIR:** I will ask the first substantive question. The *Canberra Times* article dated Monday, 2 November 2015 referred to deep unhappiness felt in the public guardian's office at the merger with the Public Trustee. I will just read part of the article:

The Public Advocate says the merger threatens the reputation of the guardians unit at a time when two former staff of the Trustee's office are accused of fraud, and also threatens the care of Canberra's most vulnerable people.

The merger will not happen until early next year, 2016, as was indicated, but the government has already appointed you as the head of the Public Trustee's office. What safety checks will be in place to ensure transparency and accountability with these changes?

**Mr Taylor:** The Public Trustee already handles the affairs, as financial manager appointed by ACAT, for some 500 people and has done so for quite some significant period of time. I have addressed this committee on several occasions about the Public Trustee, about a mature fraud, corruption and risk management strategy that we had in place. It was disappointing, notwithstanding having a policy and strategy like that in place, to discover that there had been fraud committed.

My annual report as Public Trustee deals with the outcome of that and I might make the point that in that regard every cent of every amount of loss that has been occasioned by any person—there were 110 individual instances—has been fully

repaid and contained within the last financial year. The two persons concerned will be before the courts on the 10th of this month. I could then say to you that, of the 205 people that the Public Advocate was appointed as guardian to by ACAT during the last financial year, that number of clients has shared representation by both the Public Trustee and the Public Advocate to the tune of about 125 to 130. It varies from time to time.

So there is a commonality, if you like, of decision making under the Guardianship and Management of Property Act in relation to those 125 people. That figure has been reasonably constant for 10 years, with minor increases every year, and I am not aware of any instances, apart from the instance you mentioned of the matters before the courts, of there having been any occasion of the rights of any of those represented persons being at risk.

I fully understand that change is difficult for people in any period of change. I also fully understand that people who undertake the work of guardianship are what we might call vocational. They are very, very committed to the kind of work that they do and in statutory offices like that, and perhaps in places where other vocational people are employed, such as perhaps paramedics, nurses and teachers, there can often be a tension between being vocational and being a public servant. So I do understand all of that and the strength of the feelings of people about change.

**DR BOURKE:** There have been a number of pilot projects around Australia of supported decision making. Do you or the office have a view on the prospect of replacing or complementing guardianship with supported decision making?

**Mr Taylor:** Yes. The concept of supported decision-making, as I understand it, came out of article 12 of the United Nations Convention on the Rights of Persons with Disabilities. In my view that article addressed a worldwide issue and from my attendance at an international congress last year it was evident to me that most countries that were in attendance at that congress—and it was well attended—considered that Australia was at the top end or the best end of practice in terms of guardianship and financial management. So I believe that supported decision making may not necessarily be as appropriate in our jurisdiction as it may in others. However, I have expressed my own personal view as Public Trustee and Public Advocate to various proposals for trials.

I draw your attention to an article published by the Law Society of Scotland which made very clear the concern that a community would have where a person who was not a government or statutory office holder decision maker was appointed in any framework to make a decision on a supported basis for a person; it introduces a significant level of risk in terms of financial compensation for any loss that might have been occasioned. I can also mention that we had a seminar at Public Trustee two weeks ago during Wills Week. Somebody stood up and said, “What guarantee do we have when we appoint a public official that our affairs will be safe?” I said that a public advocate or a public trustee is subject to the highest level of regulation, more so than the private sector, and also that there is a clear coverage for compensation in the case of loss. That framework does not exist at all in the supported decision-making framework and nor do I understand that there has been any provision for compensation in any trial that is to be undertaken.



There was a trial notably undertaken in South Australia. I am not sure that any active amendments were made out of that to legislation. However, recently in Victoria there was an amendment made to the Powers of Attorney Act to include the word “supported”. I can tell you as well that, in 2006 I think it was, the ACT Guardianship and Management of Property Act, under which guardians and financial managers are appointed, was amended to include a requirement that a decision maker would consult with carers and family of a represented person.

So in short my view about supported decision making is that it is already happening and that for my part I believe it may be more in the language of the law in the ACT rather than in the practice of decision making.

**DR BOURKE:** Do you think this change in direction will impact the function and workload of your office?

**Mr Taylor:** It will change the workload. The best way to answer that is to say that the proposal is a merger; a merger between an existing statutory office and the function of another existing statutory office. In a merger I understand the legal consequence to be that the merging organisations go out of existence and are replaced by a new entity which has the combined functions of the previous parts. So there will be a new entity called perhaps public trustee and guardian. It will be headed by one single statutory office holder, who will be a public servant, as the Public Trustee currently is, and the workload of that organisation will be quite significant. The whole mandate mantra of that organisation will be quite different from what its previous parts were.

**MS PORTER:** On page 19 of the report there is a heading “Disability Sector Advocacy”, and a graph over the page on page 20, which states:

During the reporting period, the Advocacy Unit provided disability advocacy to 19 individuals of which 2 were under 18 years of age. This is a significant drop from 88 individuals provided with advocacy ...

It also says:

The return of the administrative functions for the Care Coordinator located in ACT Health has impacted on the level of advocacy ...

When you look at the numbers of advocacy episodes and the “Total excluding Paper work review”, the actual amount of work does not seem to have changed dramatically. I was wondering if one of you could talk us through the reason why, even though it has dropped dramatically, the amount of workload, from my reading, does not seem to have changed. Maybe I am reading the graph wrong.

**Dr Watchirs:** Could I please answer that. Certainly there were 88 episodes of advocacy for those 19 individuals. I think the explanation is that there were probably a lot more complex cases possibly than in the past. There is an area that deals with these cases. They are the most complex disability cases. There is a whole section dealing with mental health and forensic clients and another section for children and young people who are also very vulnerable. This office is just one person and they deal with MAP as well as the community care coordinator. There were eight clients of MAP in

the reporting period and 15 clients of the community care coordinator. I believe there were 93 occasions of advocacy for those MAP clients so certainly the—

**MS PORTER:** So what does MAP stand for?

**Dr Watchirs:** Management and assessment panel. They are the most complex cases. Both panels are convened by Marie Coleman, who independently does that work as chair of both those bodies. So there is one staff member doing that work and certainly their time has been taken—it is just fewer people but probably more complex cases. That would be my answer.

**MS PORTER:** That is the reason for that. Okay.

**THE CHAIR:** Thank you. Mrs Jones.

**MRS JONES:** Dealing with the new mental health legislation that the Assembly has passed, my understanding is that it comes into force from March 2016.

**Mr Taylor:** Can you repeat that?

**MRS JONES:** The new mental health legislation that was passed by the Assembly. Obviously it has a strong focus on consumer rights and consideration of a person's capacity to make decisions for themselves about their own mental health treatment. Additionally the legislation increases the number of references to the Public Advocate, from my understanding, from 26 occasions in the older legislation to over 60. Presumably this will more than double the current reporting responsibilities. How do you plan to manage these new responsibilities effectively?

**Dr Watchirs:** The Public Advocate's Office was given one staff member to cope with the new mental health legislation. It was planned to come into force in November. It has been given a reprieve until March. So there are now two officers, whereas traditionally there has been only one, dealing with mental health and forensic cases. Certainly, no compliance work has been done in the period when I was Public Advocate because we were very stretched for resources. Certainly, with the new mental health legislation, there could be more compliance work done by the Public Advocate's Office with the new resources.

**MRS JONES:** Can you put into layman's terms what you mean by "compliance work"?

**Dr Watchirs:** To check that the act has been fulfilled regarding people being involuntarily detained: whether the proper people are being notified, whether the registers are being filled where people have force used against them or involuntary treatment.

**MRS JONES:** In the adult mental health unit or in general terms, more broadly?

**Dr Watchirs:** The adult mental health unit would be the tip of the iceberg in terms of the most serious human rights issues because it is involuntary treatment. Also it would impact on people who are in Alexander Maconochie Centre who have forensic issues,

mental health issues.

**MRS JONES:** The question is: will that level of staffing make it possible for the new requirements to be fulfilled or not?

**Dr Watchirs:** Part of the work is not just doing the public advocate work but also notifying professionals who have new provisions that they need to comply with. That is probably something that should be done in partnership with the Health Directorate because Health Directorate staff perform those functions. But as an oversight agency the Public Advocate needs to do some work with consumers to tell them what their rights are and to be familiar with the new legislation. So that is a partnership in terms of responsibility about what the new provisions are and what people's responsibilities and rights are.

**MRS JONES:** What is the plan to get that information out there, from your perspective?

**Dr Watchirs:** I would have to ask Mr Taylor.

**Mr Taylor:** The Public Advocate's Office, moving forward, will become part of a new rights protection agency from the end of March. The role of oversight and compliance, if I can add to what Helen said, has probably been notoriously under-resourced in the past, to the extent that the additional injection of funding by Health in relation to the Mental Health (Treatment and Care) Act has created some relief. I should mention that the new out of home care strategy that is proposed to be introduced will also result in extra resources being provided to the office going forward. To directly answer your question, I would have to take that on notice.

**MRS JONES:** Please do. Thank you.

**MR HANSON:** On page 33 of the report it refers to emergency action—161 instances of emergency action under section 408 of the Children and Young People Act. That is a significant increase not just from last year but as an overall trend. What implications does that have for you and do you have an explanation of that significant increase? Do you understand why that is occurring?

**Dr Watchirs:** I would have to take that on notice. My understanding is that possibly there have been more notifications of child abuse and then emergency action is taken.

**MR HANSON:** I would be interested in that—whether there is a change in the notification model or whether that actually represents an increase in the number of events. Sometimes you get a change in statistics because of a change in the way the statistics are collected, or does that actually represent a significant increase in the volume of events?

**Dr Watchirs:** My understanding is that probably it is a change in both notification and actions taken because of the notifications. But I will take that on notice.

**MR HANSON:** Okay. That would be interesting.

**THE CHAIR:** We have reached the end of our allotted time. Thank you, Mr Taylor, for appearing before the committee as Public Advocate of the ACT. And thank you, Dr Watchirs, for appearing twice before the committee this morning. We appreciate your attendance. A copy of the proof transcript will be sent to you in case there are corrections that you wish to propose. If you have taken any questions on notice—I think you have—could you provide answers to the committee within five working days. Thank you for appearing. I now suspend the public hearing for a short break.

**Sitting suspended from 11.22 to 11.37 am.**

Appearances:

Victims of Crime Commission

Hinchey, Mr John, Victims of Crime Commission

**THE CHAIR:** I welcome the Victims of Crime Commissioner, Mr John Hinchey, to the table. I take it that you are aware of the privilege statement and understand its contents?

**Mr Hinchey:** Yes.

**THE CHAIR:** Do you wish to make a brief opening statement?

**Mr Hinchey:** No thank you.

**THE CHAIR:** In that case I will ask the first question. At page 7 of your report it states:

In 2014-15 I welcomed the Attorney-General's announcement relating to the outcome of the review of the victims of crime financial assistance scheme. The new scheme will be administratively based, rather than court based. The Victims of Crime Commissioner will be the decision maker for the scheme.

That is the victim support ACT fund. How will this new scheme be implemented?

**Mr Hinchey:** The new scheme will be implemented by, first of all, creating processes, procedures and policies. We are in the process of doing that at victim support. We need to construct a database. We are in the process of scoping that. There are staff already engaged in this activity that are permanent officers of the organisation already. We will bring on new staff early next year, two assessors in particular who will be required to assess applications.

We would expect that the legislation will be in place and will have been debated and we would be ready to operate from 1 July if not sooner. I am aware that the bill is being drafted as we speak. One of my staff members is working closely with the Justice and Community Safety Directorate to provide drafting instructions for the bill and to contribute to the policy debate around that. So we are well advanced in preparing ourselves for the new scheme.

**THE CHAIR:** Do you have any feeling for what will be used as a measure to decide, say, the appropriate compensation to the victims of crime?

**Mr Hinchey:** The idea is that there will be categories of victims according to the types of offences that they have suffered and that those different categories will attract a certain amount of money, which we call recognition payments. That would be one way that we would be administering or delivering a form of recognition to the community for the harm that individuals suffer through crime.

Then, of course, we will reimburse costs for people who have suffered violent crime and for the costs associated in their recovery. That might include medical expenses or

loss of wages and earnings. And then there will be some capacity to provide emergency payments particularly around people's safety. We will be able to respond quickly to their safety needs, for example, assisting people change locks on houses or move. That is how the scheme will operate.

It is difficult to determine levels of harm for people. What we have thought would be the most efficient way of going about this was to equate recognition payments to the type of crime that they have suffered. Then there would be some aggravating factors associated with that. Someone that has suffered a sexual assault would attract a certain amount of recognition but if that person was a child at the time—that is an aggravating factor—there would be additional payment on top for that factor.

**THE CHAIR:** And will victims of crime have to apply for financial assistance or will they be offered assistance during the court or the judicial process they are going through?

**Mr Hinchey:** People will need to make application under this scheme, as is currently the case. The difference between the new scheme and the current one is that we will case-manage people through that process so that they will not be left to their own devices or have to rely on a solicitor to act on their behalf, although they still can do that. We will be incorporating this scheme in our organisation alongside our case-management process.

**THE CHAIR:** My final question is: what feelings do you have about the pluses and minuses of using an administrative scheme rather than a court-appointed scheme?

**Mr Hinchey:** I see mostly positives, frankly speaking. I think a court is not the right place for a victim to bring forward an application for recognition or payment. I think an administrative scheme is going to be a lot less intimidating. I think it provides the capacity for case management which is not possible within a court setting. It will be, I think, a therapeutic process as well whereas a court can become, by its very nature, an adversarial setting. So I see a lot of benefits in it being an administratively based scheme.

**DR BOURKE:** On page 10 of the report it mentions:

Victim Support ACT will work with people whether they have reported the crime to police or not.

How common is it for people to approach or be referred to victim support without having made a report to the police?

**Mr Hinchey:** Quite common, particularly for historical sexual offences. It is quite common that people do not report and if they do they report after many years. Also people from different cultural backgrounds sometimes are hesitant about approaching police, for a range of reasons. We find that by providing service to people without that requirement it gives better access to our service. People are very unlikely to approach us unless they have a legitimate reason for seeking our assistance.

**DR BOURKE:** And what proportion of your clients would be—

**Mr Hinchey:** I do not believe we record on our database whether it is has been reported to police or not. We certainly do if we have police involvement but I would not be able to tell you, I do not think. The capacity of our database, I do not think, would be able to capture that information.

**DR BOURKE:** In your report you made some comments on persisting problems around alcohol violence in the ACT. Could you outline for us where you think the ACT could go further in dealing with this issue?

**Mr Hinchey:** We need to look at what other jurisdictions are doing. We have a range of options available to us. We are witnessing the early closing of licensed premises, the restriction on sale of alcohol, more patrolling of particular places, identification of places that are high risk. These are some of the options that we have and I believe the government is going to pursue that in its continuing review of the Liquor Licensing Act.

**DR BOURKE:** But the vast bulk of that alcohol-related violence is in homes, effectively domestic violence?

**Mr Hinchey:** I would suggest that the vast bulk of harm caused by violence is underreported and is unknown but it would be logical to assume that the vast bulk of it would be in homes. But I think the community can only do what it can in relation to this by policing public areas as much as it can and limiting the harms that are done through the use of alcohol. You are not going to stop people drinking in their homes at any time of the day or night but you can police and control people's access to alcohol in public places and you can influence people's sense of safety in public places.

**DR BOURKE:** But restricting access and price signalling has been very effective in managing cigarette smoking. Do you think there are any parallels there we could draw on to reduce alcohol violence?

**Mr Hinchey:** I think there are parallels there about community education and the programs that might be undertaken in that sense but I think tobacco is a different form of drug than alcohol and is used in a different way than alcohol. So I do not know whether I would draw a direct analogy from the reduction in smoking with the campaigns around restriction and the increase in price. I think the increase in the price of alcohol may well result in cheaper forms of alcohol being sourced, and that has been shown historically to be the case. I think our focus needs to be on education of the community around the use of alcohol, education around the fact that getting intoxicated is not acceptable in our society. I think we have a level of tolerance to that that is unacceptable and that should go hand in hand with a justice response to violence when alcohol is used.

**MS PORTER:** I recall your coming before this committee in relation to the inquiry into sentencing earlier this year. On page 24 of your report you talk about that and your participation in that. At the bottom of the page—and you will not be surprised that I am going to raise this—there are a number of recommendations in relation to the ACT restorative justice program for adult offenders. You welcomed the implementation of phase two and congratulated the government on the broad coverage

of restorative justice in the ACT at this point. Have you any concerns at all about the introduction of phase two and, in addition, can you see other opportunities in the area that you are particularly interested in and where we might be capitalising on this way of working?

**Mr Hinchey:** I am very optimistic about the use of restorative justice in phase two. I think we need to begin thinking about restorative justice as an opportunity for victims, not a diversion or a soft option for people who cause others harm. The ACT's restorative justice act is victim focused. It is one of the only acts in the country that has got as its objects a focus on the interests of victims of crime.

I think it opens up opportunities for justice processes for victims and their greater participation in our criminal justice system. I think the opportunity is for that process to be used in conjunction with the traditional criminal justice response and I think there will be opportunities there for everyone involved in criminal justice procedures to learn more about what victims want and are interested in what motivates them to want to participate in a justice process with their offenders.

**MS PORTER:** In the discussion that has been had—I believe on the inquiry but it may be at other places—there have been questions around the use of this in relation to crimes involving such things as domestic violence and sexual offences. What are your views about that?

**Mr Hinchey:** I support people's choice to participate in restorative justice processes whether they are victims of any form of crime, including domestic violence and sexual assault. I recognise that there are greater risks associated in bringing those people into a process with their perpetrator but I do not believe that that decision should be taken away from them. That was the policy position that the subcommittee of the sentencing review committee established in 2003, when this debate was had. All criminal justice agencies participated in that discussion and we arrived at the point that we should not take the choice away from individuals to regain power and control, to face the person who had harmed them and to get a sense of justice back from what has happened to them.

Many of these crimes go unpunished in many ways, according to victims, and I think victims can gain some satisfaction in holding these people to account. Yes there are risks associated with that. Those risks are to do with the implicit use of power and control and the subtle coercive forces that are at play in these relationships, and those dynamics need to be carefully managed and controlled.

This is a voluntary process, however, and there will be people who are trained. There will be input from community agencies and advocates for victims who can put forward their views. I am sure that those views will be taken into account and I believe those risks will be managed.

**MS PORTER:** You talked about it being viewed by the community as somewhat of a soft option for the person who has perpetrated the harm. Through your experience of observing this process would you see that while the offender is going through that process they would experience it as a soft option?



**Mr Hinchey:** A soft option for an experienced offender is attending court and having a barrister or solicitor speak on their behalf. It is much easier to sit in a courtroom than it is to face a victim in a room where you are held to account and have to speak for yourself. What I have observed is that people who are very familiar with the criminal justice system for the wrong reasons often withdraw from wanting to participate in restorative justice because they realise the amount of scrutiny they will be under and the amount of courage it takes to face others. I think there might be a misconception in the community that the court is the hard end of the law and the restorative justice is the soft end. In my experience that is not the case.

**MRS JONES:** Just a question on the changes the government has pursued in the area of domestic violence. I have a couple of brief areas I want to touch on, but in general terms to start with: obviously your report suggests that more long-term effort needs to be made in standing alongside people from beginning to end, and this sort of thing, to a sustainable place of safety. In your view, how are victims faring, given the changes? For example, today we discussed with another person appearing before us the use of evidence from the event taken on video by police. My questions related to whether we were, in fact, serving police or the victims because it was mentioned that police would get quite frustrated with not being able to get outcomes. Ultimately the problem is supposedly that victims are withdrawing their complaints or they are not able to convince people of what really happened. So there is a balance there. How do you feel victims are faring, given the changes that have been implemented, some of which passed through the Assembly in the last sittings?

**Mr Hinchey:** We have a long way to go before victims feel as though the whole system is responding appropriately to them. I think that victims generally are still on the marginal areas of full participation in our criminal and civil justice processes. I think that there is a will in the community to do something. This is a very complex area, though, and unless we take time and work together and coordinate and focus on what can be achieved we can miss this opportunity. I believe it is an opportunity because there is some common will across government and across the community sector to work differently with this problem.

However, I still get stories from individuals who have unsatisfactory interactions with criminal justice agencies. I may hear only the bad news stories so I take that into account. I think that we still have a way to go before we approach domestic violence in a different way than other types of crime. Until we develop a whole-of-system approach and response to it, we will be tampering at the edges of the problem.

**MRS JONES:** Just to go a little further then: if you were able to imagine what a scenario would look like in which a victim would actually feel empowered to do what he or she—obviously we claim that it is predominantly “she”—wants to to get sustainable safety, how would you imagine a truly effective, empowering system would work, in a nutshell?

**Mr Hinchey:** First of all, you want to reduce the number of times the person—let us call the person a woman because in 85 to 90 per cent of cases they are women—

**MRS JONES:** Of reported cases.

**Mr Hinchey:** Yes. You want to reduce the number of times she has to tell her story. You want the people who ask questions of her when she approaches different services—whether that be Health or Housing or a GP service—where she has opportunity and is in an environment of trust and confidence, to do something if she does tell her story, that the story is shared by the relevant agencies in a way that does not compromise the privacy of the alleged perpetrator, that there is a risk process done—a risk assessment or a screening of risk, at least—that risk of that individual is shared by service providers, that there is a coordinated response and that there is a person of her choice who is advocating for her in that process.

**MRS JONES:** Okay.

**Mr Hinchey:** The way the current system operates is that all of those services are in place, but we do not communicate with one another effectively.

**MRS JONES:** That would presumably then be predicated upon that person's permission?

**Mr Hinchey:** It would be predicated on that person's permission and a full awareness of how that information would be shared.

**MRS JONES:** And used, yes.

**Mr Hinchey:** You would have to overcome some privacy barriers or human rights barriers for alleged perpetrators. I notice the Human Rights Commissioner is in the room. This is where the amalgamation of my office and the Human Rights Commission might bring some benefits in that we can have these discussions in a different way than we have currently.

**MRS JONES:** Imagine that there was the breaking down of the silos and there was a commission structure for the victim to choose whether or not to engage in that.

**Mr Hinchey:** Yes.

**MRS JONES:** But then there would be one advocate—

**Mr Hinchey:** Yes.

**MRS JONES:** who that person chose—

**Mr Hinchey:** Who that person chose.

**MRS JONES:** and was comfortable with to see them through at all times—

**Mr Hinchey:** Yes.

**MRS JONES:** in relation to this issue.

**Mr Hinchey:** That is right.

**MRS JONES:** Thank you.

**THE CHAIR:** Mr Hanson, you have the last question, but a short question if you would?

**MR HANSON:** A short one. Double jeopardy. The minister released a paper on 1 September. What are your thoughts?

**Mr Hinchey:** I think it is a bit toothless. I was disappointed in the fact that it is not going to be applied retrospectively. I cannot see the point.

**MR HANSON:** Quick answer, quick question. Thanks very much.

**THE CHAIR:** That is the question?

**MR HANSON:** We have complied with your request, Mr Chair.

**THE CHAIR:** Thank you. That is very unusual and I appreciate it. Mr Hinchey, thank you very much for coming in this afternoon. A proof of the transcript will be sent to you in case there are any corrections you wish to propose. I do not think you have taken any questions on notice?

**Mr Hinchey:** I think I have avoided that.

**THE CHAIR:** You may get some questions on notice. Thank you for appearing before us today.

**Mr Hinchey:** Thank you.

Appearances:

Public Trustee for the ACT

Taylor, Mr Andrew, Public Trustee

**THE CHAIR:** I now re-welcome Mr Andrew Taylor, this time in his capacity as the Public Trustee, to the table. I take it that you are still aware of the privilege statement and understand its contents. Do you wish to make a brief opening statement?

**Mr Taylor:** I do. In the past two years the Public Trustee has probably undergone one of its most difficult times in my time as Public Trustee. The process, at least in terms of clients' compensation, has come to an end; 30 June is now reaching a criminal phase. It has also been, on reflection, a very difficult time at the Public Trustee in that, for completely different reasons, and I foreshadowed this many years before the last year or two, we were facing the loss of some very senior, experienced managers. That has happened with, might I say, good effect. In terms of performance, it is very often seen by, say, the Chief Minister, Treasury and Economic Development Directorate as a measure of our performance that we return a surplus, but that is not really the measure of performance, notwithstanding that it was probably the third highest surplus in the past 10 years. What it does indicate to me is that community confidence in the services provided by the Public Trustee is at an all-time high, which is probably the greater measure.

**THE CHAIR:** Thank you very much. Mr Taylor, just referring to your comment there, client non-government moneys held in the Public Trustee's PTACT funds under management increased from \$150 million to \$168 million. We touched upon the confidence factor. Is that how this was achieved, or were there other factors involved in the increase of funds that you are holding?

**Mr Taylor:** Not necessarily. I think that figure tends to increase because there had been a statement made by the Auditor-General several years ago that third-party moneys held in trust by authorities, departments and directorates should be in the hands of the Public Trustee, and progressively that has been implemented, to the point now where many agencies are coming to us and asking whether we can invest and manage their funds on call. That money is invested in an entirely different way from client funds that are outside the government sector. I guess what I meant by that is that the normal issues around whether or not, for example, funds are invested in areas like tobacco, alcohol or whatever met government requirements in that form of investment.

**THE CHAIR:** You also referred to the most troubled period that you have had in your period as Public Trustee. Are there any mechanisms in place as a result of those issues to ensure that clients' funds are safe from any potential misuse?

**Mr Taylor:** Yes. As you are aware, we immediately engaged KPMG Forensic on three bases. Two of those were to undertake a controls review, and another one was to investigate the alleged occurrences. The controls review resulted in a report. The report identified up to 15 items that could be addressed. Over the past 18 months we have addressed those items. Some of them have taken longer because they involve upgrading to a new database, with its own inherent problems. But most particularly, the item that makes the difference is the appointment of an independent property

manager that reports to me. It takes the role away from staff in managing people's individual property.

The other important significant change was the acquisition of software some years ago that led to the discovery but is now used in an everyday manner to trawl our databases. Staff know that it is happening. I welcome that innovation. It is looking for metrics that are commonly evident in fraud. These were advised to us by KPMG. What I mean by that is that at the very simplistic end you would be looking for a staff bank account in a government business system. That is an absolute indicator. At another level, it may be looking at the number of times an individual staff member used an outside contractor, and why. Those have been significant and ongoing. Obviously one does not know whether fraud is happening in an organisation until you discover it, so you do not really know how effective it is.

**THE CHAIR:** Do you have your own IT auditor?

**Mr Taylor:** We have an internal audit committee that has an agenda across our complete fraud, corruption and risk strategy. In fact, that strategy is the agenda document which is used in internal audit. One of the changes that we made in the last 18 months was the appointment of an independent external person, who coincidentally was previously a member of the Public Trustee Investment Board and was also a senior executive at ACT Treasury. You may know of Roger Broughton; he has been appointed as the independent chair of that committee.

In terms of IT, we do not have any IT specialised staff and rely totally upon the services available to us from ICT Shared Services. Apart from audits of particular processes, I am not sure that there are audits of IT systems as such. The new systems have got to meet government standards before they are implemented.

**THE CHAIR:** Did the independent review you engaged suggest any further audit of the IT system and the processes that are in place?

**Mr Taylor:** There will be a follow-up in the next month or two of our implementation of the recommendations of KPMG, and it will be conducted by KPMG, which made the recommendations.

**THE CHAIR:** Thank you. I believe Dr Bourke has a supplementary before a substantive question.

**DR BOURKE:** It has been suggested in a *Canberra Times* report that the KPMG report will not be released. Is that the case?

**Mr Taylor:** The test of that has already been made through an FOI request which was handled by the Justice and Community Safety Directorate. The report, though elements of it were redacted, was released. The report was provided to the Public Trustee as a commercial in-confidence document; accordingly, it was dealt with by JACS in terms of a release. There was an FOI request by an organisation called Right to Know, and it was complied with. I do not believe there was any kickback from the information that was supplied.

**DR BOURKE:** You mentioned surveillance software which had detected this problem. Was that a custom-built piece of software or it was just—

**Mr Taylor:** No; it was commercial software called Tactics. It was supplied by the organisation that supplies our database but it has the distinct advantage of being able to trawl disparate databases simultaneously to look for prescribed metrics. That is very important to us, in that we use different databases for different things.

**THE CHAIR:** A substantive question.

**DR BOURKE:** Thanks, chair. The report states that the Public Trustee hosted Aboriginal and Torres Strait Islander awareness training which four of your staff participated in. What improvements have you noticed about your organisation in its liaison with Aboriginal Australians?

**Mr Taylor:** It is very difficult for us to know. We do have Aboriginal and Torres Strait Islander people as clients for financial management, for will-making and in terms of trusts, but it is very much low-level figures. We do not formally have a question that asks clients to identify whether they identify as Aboriginal or Torres Strait Islander or otherwise. We did, in the last six months, introduce free will-making for Aboriginal and Torres Strait Islander persons or for persons who identify as Aboriginal and Torres Strait Islander persons. That has been publicised. We have a webpage accordingly. We have a fact sheet. It has resulted in six wills being made for Aboriginal and Torres Strait Islander persons at no cost. And as you may know, the Public Trustee may only act to prepare a will where they are appointed as executor in that will. We followed the lead of Queensland in doing that. It has been fairly widely publicised and we propose to do more on that basis.

You may remember the story of Ben Catanzariti, a young fellow who died in an industrial action in Fyshwick or Kingston. His mother, Kay Catanzariti, has established an organisation called Will It Your Way. One of the planks of her crusade is to ensure that young people and Aboriginal and Torres Strait Islander people are educated about the need to have a will. The kind of common push back you get from groups in both of those cases might be, “I don’t need a will; I don’t have assets.” We only need to look at Ben’s case to know that he had a superannuation policy with a death and disability cover worth quite a lot of money. He did not realise when he was going to die and he did not know the circumstances of his death. Given the circumstances of his death, there will be a significant payment to his estate. The major problem that follows is that he had no say in where that money would go because he died without a will. So the laws of intestacy will apply, and may apply quite a different result to what he may have wished. We have now engaged with Kay Catanzariti. We promoted that at a recent meeting of all public trustees in Australia in Melbourne. We are hoping that they will do the same thing as we have done and become interested persons on her website.

We have also been active in working with the head of the education directorate, which I understand has now been done, to introduce the need to have a will into the curriculum of year 12.

**THE CHAIR:** Briefly, why don’t you seek to find out whether your clients wish to

identify as Aboriginal or Torres Strait Islander?

**Mr Taylor:** Traditionally I do not have an answer for that. I guess we can do that. We do not have systems in place to do that. I guess it is probably because the numbers have been relatively low and, whilst we did engage in a study with the University of New South Wales around customary law issues, they do not seem to apply in the ACT in the same way they do in other jurisdictions. I guess the level of assimilation into western forms of succession law here is much greater than it is in, say, the Northern Territory, Queensland and Western Australia. But that is probably something we can and should do.

**THE CHAIR:** Ms Porter, a substantive question.

**MS PORTER:** On page 11, it talks about your role as the chair of the ACT Official Visitors Board:

... the Public Trustee, along with Board Members, is responsible for the appointment, training and administration of Official Visitors ensuring ongoing oversight and reporting to the Attorney-General in respect to the closed environments of corrections and mental health and the open environments of disability, homelessness and children and young people.

Could you talk about that, please?

**Mr Taylor:** The changes that brought about the Public Trustee's involvement were principally brought about to create separation between the roles of official visitors and the directorates that they call operational directorates, which have responsibility for those program areas. It was also intended that the Official Visitors Board would be created but not have any role in the day-to-day work of an official visitor. We do not have any influence and they do not have any reporting role to the board. The purpose of the board is to be a support mechanism that provides, once a recommendation has been made, for ensuring that the appointment is made of an official visitor and ensuring that vacancies that come up from time to time are dealt with to ensure that official visitors are trained. We have a training day every year. It is probably useful to note that people who come into that role are usually significantly qualified in what they do; the kind of training that we can provide them is more around what they can expect when they might go to the AMC, for example, or to a mental health institution, or to provide them with safety mechanisms around doing that. We also look after remuneration of official visitors, providing them with all the administrative trivia that might go around their engagement—posters, a website, community awareness and those kinds of things. We do not have any role in their day-to-day activities, and that was intended.

**MS PORTER:** So they still report in the usual fashion to the directorate under which they are—

**Mr Taylor:** Yes. They have a reporting role to the director-general for the directorate and then the director-general is required to collate those reports and provide an annual report. I believe that some of the official visitors will report directly to the minister concerned. I think that is allowed; some do and some do not. Then there are guidelines that have been set in terms of the numbers of physical places that they

might visit; that will impact on the number of official visitors who are allocated to that particular matter.

**MS PORTER:** In that support role that you were talking about, one imagines that there may be some times when there may be difficult situations which the official visitor comes across or experiences for himself or herself. Do you have an ongoing supervisory role or some kind of debriefing role? Does somebody provide that facility to official visitors?

**Mr Taylor:** Official visitors have sought that. We have made available to each of them, in accordance with an intention in the law that they do this, that they will have a collegiate approach to what they do. Very often, the kind of debriefing that you are talking about will and may come from other official visitors, for example, a person who may have a kind of a dual role in the Mental Health (Treatment and Care) Act and Corrections Management Act role, in that they may need some support around mental health. An official visitor may need some support around visits to the AMC. There is particular provision made at the training day for that activity to happen. We invite the Public Advocate for Victoria, who is the head of Victoria's community visitor scheme, to facilitate that at their training day every year.

We have given them all of each other's names and email addresses. We understand that there is now a healthy interaction between them. And, since 2013, we have had official visitor meetings at the Public Trustee where they can raise issues that they wish to raise. The board also has representation on it of two of the official visitors, at their own choice.

**MS PORTER:** Notwithstanding all of that, which sounds like very good support from their colleagues, it seems to me that there is something missing here in that the official visitors could benefit from a person who can stand outside of that situation rather than being somewhat closely involved in the process themselves, albeit in another official visitor role, and can listen to what the person experienced and give them some perspective and some support in that situation.

**Mr Taylor:** There had been a proposal within the last 12 or 18 months that such a person might be created in the ACT, along the lines of the New South Wales scheme. That was circulated to me, to operational directorates and to official visitors. I did not receive any comment back from official visitors that would suggest that they feel it was a benefit. My understanding is that, from a policy point of view, it has not gone anywhere.

**MS PORTER:** Thank you for that, Mr Taylor. I presume you will keep a watching brief on that area.

**Mr Taylor:** Yes.

**MRS JONES:** On the compensation phase that has occurred for the fraud that has been uncovered, can you please inform us how the payouts have affected your insurance situation—I assume these payments have come out of insurance—and whether your premiums have increased and if so by how much?



**Mr Taylor:** I am as yet unaware of the cost of that. I do not really think that we have been made aware as yet of the increase in the premium.

**MRS JONES:** But you would expect there to be one?

**Mr Taylor:** I would expect that to happen. I am not really sure what it would be. As you know, we are insured through the ACT Insurance Authority as brokers. We understand, though, that the government insures itself. So I am not really sure that behind our insurance policy there is in fact a private insurer.

**MRS JONES:** There is, or there is not?

**Mr Taylor:** There is not, I do not believe. I think the government actually insures itself.

**MRS JONES:** So it has actually come out of public revenue?

**Mr Taylor:** Yes, and subject to confiscation of criminal assets recovery processes where appropriate.

**MRS JONES:** What is the total figure that has been paid out?

**Mr Taylor:** It is reported in the annual report on page 36 under “Fraud Detection Strategies”. The total amount was \$1.736 million back to some 87 clients. There is a breakdown shown there of capital, \$1.468 million. On the interest payable, we arrived at an algorithm on which we calculated interest on loss that was agreeable to both ACTIA and the investigators. That helped us. The prospective capital gains, the absence of moneys from an investment scheme, was again a determination of amounts that could possibly have been lost because the money was out of an investment scheme. The additional carry forward income related more to taxation issues, which was the final item that we looked at. We had to do some amended taxation returns around that.

**MRS JONES:** So the total figure is the combination of those four numbers?

**Mr Taylor:** All of those, yes.

**MRS JONES:** And that has been paid out by ACTIA?

**Mr Taylor:** Absolutely, yes, in addition to some of the costs.

**MRS JONES:** Which is the ACT government’s insurance agency, and they effectively self-insure?

**Mr Taylor:** Yes.

**MRS JONES:** So it has come out of consolidated revenue somewhere?

**Mr Taylor:** Yes. And that is provided as part of the assurance in the Public Trustee legislation.

**MRS JONES:** Certainly it is good for those who are signed on to the Public Trustee and their relatives and so on, but it is equally important for the public to understand where this money has come from.

**Mr Taylor:** Absolutely.

**THE CHAIR:** Mr Hanson.

**MR HANSON:** What does the amalgamation of your roles mean in terms of your accommodation? Do you need to expand? Are you amalgamating the staff physically, or how is that all going to work on the ground?

**Mr Taylor:** The term co-location has been used liberally throughout the whole process. I understand that we are talking about one new entity with one head. Clearly co-location is what would be required. We occupy the whole ground floor of 221 London Circuit. There is no space for growth now. It has reached its maximum. I understand that there is vacant space within the building.

In any accommodation change I believe it is vital that the guardianship role be collocated, but not mixed, with the financial management role. To achieve that, it would be necessary then I think to move a discrete unit such as the more legal, commercial part of Public Trustee that deals with wills, estates and trusts to another floor. That also achieves a distinction in dealing with a different client group. The Public Trustee still has an everyday appearance at its office by persons who are under financial management orders who co-mingle with people who are attending for wills.

The experience has been that sometimes it is not a good mix, and that would be improved by moving that to another level. But it is very early days. I think a person is being appointed from outside as a change manager to help us through that process.

**MR HANSON:** You said you think someone has been appointed or someone has?

**Mr Taylor:** There is a process underway at the moment to recruit a person to manage not just the Public Trustee guardian change management but the whole restructure process.

**MR HANSON:** When is that restructure due to be finalised? What is the—

**Mr Taylor:** 30 June, I understand.

**MR HANSON:** You have got the first six months to—

**Mr Taylor:** Yes. There is an enormous amount to be done to do that. I am well aware now of the work of guardians. I have been with them for four months. At the very simplistic level, it is a continuation of what they are doing now in another place in another structure.

But I am very well aware of some areas where the law has created, if you like, silos in ways that the community is required to deal with both the Public Trustee and the

guardianship role. For example, the Public Trustee can only take a power of attorney for financial and property matters, and the guardian takes appointment for health and personal care—two separate interviews, two different appointments, two different officers—and you have the nonsensical situation where a person might attend first at the Public Trustee and be found to have capacity and then go to the other office and be found not to have capacity. That is not what you would call conjoined decision making or conjoined government response.

Additionally the role of jointly financing and acting as guardian for the same person should, in its purest form, have those people talking to one another closely but not necessarily becoming part of the same discipline. I think that the success of this will depend very largely on ensuring that the discipline of guardianship and the discipline of financial management remain entirely separate, that one does not influence the other. And I think that may have been at the top of concerns of some of the guardians that you mentioned earlier in the news reports.

**THE CHAIR:** I have a supplementary on that last question. Was the amalgamation done in consultation with you?

**Mr Taylor:** Yes.

**THE CHAIR:** And did you have the opportunity to reject the amalgamation?

**Mr Taylor:** I have to admit that when the first iteration of what was being proposed was put forward I did not like the idea, and I expressed my dislike of the idea. I think it was based upon the fact that there would be a totally different structure in which the Public Trustee's financial management unit would be divided and part would go into the guardian's office, and that did not seem to me to make sense at all. Through the process that was facilitated by an external body I have come to think that the current model could work and should work and certainly has worked in British Columbia, which is quite a progressive jurisdiction. There is no model for this anywhere in Australia.

I attended a meeting of the Australian Guardianship and Administration Council in Melbourne recently, and I have to say they were quietly interested in what we were doing because it seems to provide a solution for other small jurisdictions like Tasmania and the Northern Territory where they are going forward in terms of small pocket offices not being able to exist on their own.

**THE CHAIR:** Thank you again, Mr Taylor, for joining us for the second time this afternoon. A proof transcript will be sent to you in case there are any corrections that you wish to make or propose. I do not think you have taken any questions on notice. You may get some questions on notice from the committee. Thank you for appearing before the committee today. I now suspend the hearings for lunch. The committee will resume hearings at 2 pm when the Minister for Police and Emergency Services will appear.

**Sitting suspended from 12.33 to 2 pm.**

Appearances:

Burch, Ms Joy, Minister for Education and Training, Minister for Police and Emergency Services, Minister for Disability, Minister for Racing and Gaming and Minister for the Arts

Justice and Community Safety Directorate

Playford, Ms Alison, Director-General

Junakovic, Ms Lana, Executive Director, People and Workplace Strategy

Lane, Mr Dominic, Commissioner, ACT Emergency Services Agency

Brown, Mr Mark, Chief Officer, ACT Fire & Rescue

Stark, Mr Andrew, Chief Officer, ACT Rural Fire Service

ACT Policing

Lammers, Mr Rudi APM, Chief Police Officer

Hayward, Mr Christopher, Director, Corporate Services

**THE CHAIR:** Good afternoon. I resume the committee's hearing on annual reports for 2014-15. I welcome to the table the Minister for Police and Emergency Services. First, the committee will consider the work of the Emergency Services Agency, the ESA. Minister, I take it that you are aware—as well as all of your colleagues—of the privilege statement and understand its contents?

**Ms Burch:** Yes.

**THE CHAIR:** Thank you. Minister, do you wish to make a brief opening statement?

**Ms Burch:** A very brief opening statement, to say that our emergency services operations serve our community well. We have some of the best response times across the nation, across all of our disciplines. That is testament to the support from our volunteers and our paid workforce across all of those disciplines. I want to put on record my thanks to the executive of the ESA and all the front-line staff and volunteers for the fabulous work they do for our community.

Similarly, with ACT Policing, if we reflect on the incidence of reported crime, our community is becoming a safer community, with those numbers going in the right direction, which is down. Again the men and women in uniform serve our community well. I want to put on record my thanks to them for all of their efforts.

**THE CHAIR:** My first question regards the women in emergency services strategy, referred to on page 96 of the annual report, in table 23. Where is the government up to with regard to the development of its women in emergency services strategy? Has this been completed?

**Ms Burch:** Certainly the early work has been completed and it is in its final stage now regarding how we progress that and go to the next stage, around recruitment and attraction of women into the services. There will be something out in the very near future about that. So it is almost done but it is not quite ready to go into the public domain.

**THE CHAIR:** Is there an implementation time frame that you are looking forward to?

**Ms Burch:** Once the strategy is out—and the commissioner can talk to it in more detail—there will be a change of stance. So we will be active at a point in time around recruitment. Also it is about increasing and broadening diversity across the ESA service more broadly. In many ways it has no end; it is about a cultural shift and a change within recruitment and support across our services. The commissioner might like to add something.

**Mr Lane:** A lot of work has been going on over the past 12 months in this particular space. We have taken the opportunity to engage and consult heavily with staff since the government announced the women in emergency services strategy. It is very critical, in undertaking an important cultural reform and change agenda like this particular one, where we are aiming to increase our diversity, to work very hard with our volunteers, our firefighters and our paramedics to understand the issues they have in relation to what we want to do.

We have done a lot of things. We have encouraged women to go to various leadership programs. We have had International Women's Day and special guest functions at ESA to encourage women to consider what they could do to improve their careers. We have engaged specialist consultants—one by the name of Ms Avril Henry, who was recommended to me by the then Chief of Army, David Morrison, who you may be aware has done significant work in the gender area in relation to these matters. It was General Morrison who recommended Ms Henry to work with us, with our women in emergency services, with our men and with our executive to look at how we can accept more women into the organisation, where we can go to recruit them and how we can promote women within the organisation as well.

We have established five separate project groups that looked across volunteers, paramedicine and firefighters, looking at the various elements of recruitment, retention and all of those things. So it is very much about building an action plan and a strategy from the ground up, by utilising the resources of all of the people within the Emergency Services Agency. We established a project officer position to lead all of that work. Very soon we will be bringing forward to government the draft strategy for implementation, and some work that we will be bringing in through that as well.

**THE CHAIR:** I have a final question and then we will go to a supplementary from Dr Bourke. What do you see as the measure for success once this initiative is implemented?

**Mr Lane:** There are three key measures at the most basic element. The first is more women in the organisation. In some of our areas we have traditionally low percentages of women, and it is about growing those. The second is to recognise cultural acceptance of diversity in our organisation. Emergency services have been quite traditional in relation to employing white males. We need to increase our diversity in terms not only of gender but also of people from other backgrounds. Thirdly, it is about, when we get more women into the organisation, how we give them opportunities to be promoted and to grow within the organisation. So our most basic performance indicators go across those three parameters. But below that there is

a whole host of other stuff going on as well.

**DR BOURKE:** Mr Lane, when General Morrison talks about diversity he almost invariably talks about capability, and the enhanced capability that comes from having a diverse workforce. What are you doing within your organisation to both gain the appreciation of your managers and supervisors that diversity improves capability and to portray to your potential recruits that you need them to provide that diversity to improve your capability?

**Mr Lane:** I will answer that question, Dr Bourke, in this way. Mr Morrison, as he now is, would say that definitely in terms of capability it does increase with diversity. But that is also backed up by research. So the Bushfire and Natural Hazards Cooperative Research Centre, to which ESA is a contributor, has done some significant research in relation to incident management teams—that is, those teams that you form together to do your planning and operational support functions in the event of things like a major bushfire. What we know is that if you have a more diverse group you get better ideas; you get a greater understanding of people who may be, for example, vulnerable to bushfire—whether they are old, infirm or disabled, or whether it is in relation to having women on the team who can work out what it means for families that are affected by bushfires. There are different perspectives in relation to what it means for different parts of the community, such as education groups or other areas of special need. By building that diversity, the research is very clear that you build your capability in terms of how you can protect everyone in the community.

The other key thing from General Morrison's perspective is that it allows people like me, in day-to-day environments, to get a greater understanding of general needs within the community. So that is about building our capability in a planning sense, what mitigation measures we should be doing, and what types of education and engagement strategies work with the community, because you have a greater generation of ideas from within your management team.

**DR BOURKE:** I know you understand the benefits, Mr Lane, but I was asking about the benefits perceived by your managers and supervisors. Do they understand that? And if they do not, what are you doing to improve it?

**Mr Lane:** Indeed. I think the key thing is the work we have been doing with Avril. Avril Henry has come in and worked closely with the executive across a whole host of areas of change. She has also worked with the next levels down through a couple of important project teams that we ran earlier this year, back in April and May. We are certainly seeing, through the project groups that we have established, a strong shift to an understanding of the value of that. Recent conversations even with our industrial officers and the like have demonstrated recognition of the importance of change within our organisation.

**DR BOURKE:** Did you do any auditing of attitudes within your organisation?

**Mr Lane:** We run cultural surveys as part of the directorate, and those sorts of things. We have not specifically audited attitudes to women by any means, but who knows what the future holds in relation to that?

**DR BOURKE:** The other part of my initial question was about how you were conveying that your organisation needs diverse recruits to do your job. How do you do that?

**Mr Lane:** I think the community and the government will see that in relation to the strategy as it comes forward. In the coming weeks and months you will see a very public-facing focus in that area.

**THE CHAIR:** That was your supplementary. Do you want to ask your substantive one as well?

**DR BOURKE:** My substantive is on something completely different. Minister, the public signage on new fire and ambulance stations varies greatly, from the loud and proud signage on the new south Tuggeranong station to the somewhat tiny signage on the Charnwood station in west Belconnen. I know that you are in the planning stage for your completion of Aranda. I want to know, minister, whether we are going to have some loud and proud signage at Aranda so that we can look at it and say, “Yes, that’s our fire and ambulance station,” or are we going to have a tiny sign like you have at Charnwood?

**Ms Burch:** I am not across the detail about the final sign on Aranda. By way of a straw poll, do you think that loud and proud is the way to go?

**DR BOURKE:** Absolutely, minister.

**Ms Burch:** All right, I will let the commissioner take that advice and accept the straw poll of the committee.

**MS PORTER:** I would add to that by saying I entirely agree.

**Ms Burch:** We could possibly revisit west Belconnen, if necessary.

**MS PORTER:** My question goes to an issue that was brought up during a hearing on 24 February, in relation to a volunteer firefighter who told the public accounts committee that standard radio equipment issued to them did not support communication between New South Wales firefighters and us. I note that the JACS annual report, at page 100, details upgrades to the ESA communications network. I also note, from my experience as a volunteer with the CFUs, that we have had a similar issue with radios not talking to one another—if you can excuse the pun. Do these upgrades and the work that has been done, as mentioned on page 100, mean that these sorts of issues with New South Wales and with other arms of the ESA, such as the CFUs, will be rectified? We are already in the fire season, so I would really like to know whether it is working now.

By way of a supplementary to that, given that a much hotter than usual summer is approaching, obviously that will raise the risk with regard to bushfires. Can the committee hear from you, minister, and your officials about the readiness to prepare for this year’s season that we are already in?

**Ms Burch:** The preparations are well underway and are sound, through the storm

season and the “Canberra ready” program. We have invested, in this most recent budget, in radio replacements, and by adding a new dispatch system. The commissioner can go to the detail. Part of that was to have that comms across the border.

**Mr Lane:** Certainly, in relation to the first question, I can assure the committee that we have full compatibility with New South Wales radio systems. I should give a bit of background to that, just to assure the committee.

We are in the middle of a \$20 million upgrade of various parts of our radio system. In terms of our radio network, important updates to our computer-aided dispatch system bring forward the latest version of the computer-aided dispatch system, which we will continue to implement over this year and into the next financial year. The infrastructure on the towers itself and brand-new mobile radios for all of our appliances and handheld radios will all be compatible with the New South Wales system. We operate what we call here the territory radio network, which is actually a subunit of the New South Wales government radio network. It was introduced by this government after the 2003 fires, to assure the community that we did have that capability. It certainly does exist and we can talk directly to all of our neighbouring districts through various channels, not only within the New South Wales Rural Fire Service but with other elements of the emergency services as well.

We maintain close links with the New South Wales authorities in relation to that. In fact less than two weeks ago I held a teleconference with the New South Wales Telecommunications Authority to assure myself that the upgrades we are undertaking are compatible with the upgrade program that New South Wales officials are undertaking as well. So we are very confident at this stage that that interoperability through radio systems will continue to work.

**MS PORTER:** Will the work that you are doing at the moment generally also assist the CFUs with their communications?

**Mr Lane:** It certainly will. As you are aware, CFUs play a slightly differently role to our normal firefighting operations. Certainly, in relation to communications within our command and control systems, it does allow CFU members to maintain contact with operational firefighters. As you would be aware, as a member yourself, during those operations we will make sure we have command positions set up close to the CFU units and the firefighters, whether they be Rural Fire Service or Fire & Rescue, working side by side with the CFU members at the time.

In terms of your supplementary in relation to preparedness for the fire season, I might ask our Rural Fire Service Chief Officer to come forward.

**Mr Stark:** In relation to the technical parts of the radio system to support that, the Rural Fire Service, together with the other services of ESA, conduct pre-season meetings with all of our surrounding Rural Fire Service districts. It includes representatives of national parks and forests New South Wales. We have gone through a process to ensure that the appropriate radio channels are in radios within the ACT and across the border. As we have touched on, there is a move to the digitalisation of the radio network. We have the capacity within the ACT to ensure that we maintain



both an analog and digital capability in our radio system, as the transition is going on, so that we can work with our agency partners surrounding the ACT.

**MS PORTER:** What about generally, with respect to preparedness for the season that we are already in?

**Mr Stark:** We work very hard every year to prepare for a nominal 1 October fire season. Very early in winter the bureau started in their forecasting indicating towards El Nino conditions. That can bring very unseasonable weather through spring and early summer, as we have now experienced. So we brought forward our preparations in relation to servicing all of our equipment and plant to make sure that our training had been completed. We have conducted some major incident management exercises right across the ESA, and including our Rural Fire Service partners, national parks and other agencies in New South Wales.

There is a range of other activities, including our aviation preparations. We maintain a regional capability with the investment the government has made in the Hume heli-base. Aviation activities require a lot of support on the ground as well as in the air. We have held workshops with both volunteer and paid staff, in relation to the specialist skills that support those aviation operations, and we have continued to train volunteer firefighters. Indeed we are conducting another course at this time with another 24 who will come on board ready for this season. As I said it was all in light of an El Nino, of which at this stage we are still to feel the full impacts. But we were well aware of that and we brought our preparations forward quite early.

**Ms Burch:** I can say firsthand that in a recent exercise at Fairbairn, you could see the preparation and coordination across ESA, and how they bring all of that together. They are well prepared.

**THE CHAIR:** We have two supplementaries. We will go first to Mrs Jones, and then to Mr Smyth.

**MRS JONES:** Just in relation to the CFUs, can you explain how the communication on the day of a major event actually works between the CFUs and the full-time people? With regard to the training for CFUs, what is the preferred number of hours for them to spend working together and training up together in a year? I know there are some events out at Mitchell where they get together and do some practice but, as to the actual times when they get together in their own units, what is the preferred number of hours?

**Mr Lane:** Thanks for the question. I might ask the Chief Officer, Fire and Rescue—he is in charge of our community fire units—to give some more detailed explanation across those two points.

**Mr Brown:** In relation to communications with the community fire units, we recently undertook some refresher training at our team leaders meeting which was held in September. That included some revision around the use of the territory radio network radios that are provided to each community fire unit. The expectation from Fire and Rescue is that a member of a CFU will be able to communicate directly with our communications centre using the territory radio network radios to advise of fire

conditions in their area when there is an impact of a bush or grassfire in their local area.

**MRS JONES:** Their role then is to communicate back to the base, but how does the base communicate with them on what they are to do?

**Mr Brown:** We are implementing a new system this year where we will page the team leaders and up to four other nominated members of each community fire unit in an area where there is a bushfire to alert those members that there is a bushfire in their area so that they are able to contact the other members of the unit in order to activate the community fire unit.

**MRS JONES:** So then they are activated, but how do they receive instructions as to what to do? There are a number of different functions that they are trained for: door knocking, putting out spot fires—whatever it is. Who is directing them?

**Mr Brown:** The community fire units are largely self-directing. They have been trained to protect their own properties and neighbouring properties in their area within a defined area of operation. As the commissioner pointed out, there is close liaison with the units from Fire and Rescue and the Rural Fire Service when they do activate, but in the absence of that they are largely self-directing and are trained to operate safely in their local area.

**MRS JONES:** That answers the question.

**MR SMYTH:** Just on the fire season, how many days over, say, 40 degrees are forecast given the changes in the southern oscillation in the Indian Ocean Dipole?

**Mr Lane:** Thanks for the question. I do not have the answer as to exactly how many are predicted. All I know is that the bureau is predicting a hotter than average and a drier than average summer. My personal view is that under these El Nino conditions we will see that.

**MR SMYTH:** Is there a number available that you just do not have to hand? Can you take that on notice?

**Mr Lane:** I can certainly take it on notice.

**MR SMYTH:** That is kind. Again, just on bushfire preparation, on page 327 there is the CBR bushfire ready campaign summary. At the rural fire services open field day a couple of Sundays ago there was quite a large skip with “bushfire ready” painted on it. Has the ESA purchased that skip? Is it leased? What are the circumstances with the skip?

**Mr Lane:** The skip was purchased by ESA under a commonwealth grant. Under the Canberra bushfire ready campaign that we conducted last year we have had funding made available for that particular skip.

**MR SMYTH:** So how much for the skip?

**Mr Lane:** I am not sure if I have got anyone in the room that can answer that question. I might have to take that on notice.

**MR SMYTH:** All right. When did you get the skip?

**Mr Lane:** I think the skip was delivered some time just before Christmas last year.

**MR SMYTH:** So going on 12 months. What is the purpose of the skip?

**Mr Lane:** One of the things we would like to do with the skip into the future is make it available to the community. If there is an interest down the track and there are certain areas of the community where people want to undertake their own removal of vegetation, the skip could potentially be available to put the vegetation into so that it can be disposed of, particularly for those members of the community that, again, may be in a vulnerable situation and not have access by other means to things like trailers or own a ute. Whilst we have not actually implemented that part of the program yet, it is something that we would like to see established into the future. That is one of the things we would like to bring forward as part of the Canberra bushfire ready campaign, along with many of the other things we are looking to do.

**MR SMYTH:** We have had it for 12 months, but we have not used it for the purpose for which it was bought?

**Mr Lane:** That is correct. It has been used for other things but not for actually what we would like to see it used for.

**MR SMYTH:** Why was it not used for the thing for which it was purchased?

**Mr Lane:** We have not yet gone through the issue of how we actually identify those properties that could be affected and could be interested in it, but it is something we are keen to do in the future.

**MR SMYTH:** So what has it been used for?

**Mr Lane:** It is used for other things, such as at the field day itself for transporting equipment around. It has been used when we have had rubbish at some of our training events or if we have had to move motor vehicles that Fire and Rescue use from time to time for their displays and the like. It has been used for those other things.

**MR SMYTH:** How many times has it been used in the last 12 months?

**Mr Lane:** I am not sure of that particular question. I would have to take it on notice.

**MR SMYTH:** Okay. Thank you.

**THE CHAIR:** Mrs Jones, your substantive question.

**MRS JONES:** My question goes to jobs, workforce and culture. What impact will the government's plans to remove duplication within the ESA have on jobs within the Ambulance Service, Fire and Rescue, State Emergency Service and Rural Fire

Service? Will there be more or fewer full-time equivalents at the end of that process? What is the plan?

**Ms Burch:** Sorry, can you repeat the beginning of that question?

**MRS JONES:** Thank you, minister. What impact will the government's plans to remove duplication within the ESA have on jobs within the different services?

**Mr Lane:** If I may, minister? I think you are referring to the strategic reform agenda which we announced earlier this year, back in April, when the minister officially launched that particular program. This relates to the outcomes of the expenditure review undertaken by the ACT Treasury last year when ESA was fortunate to receive an additional \$16 million in funding over the forward estimates to meet ESA's base cost pressures at the time. As part of launching the strategic reform agenda, we have undertaken broader reforms in relation to our executive structure—which, again, I spoke about earlier this year to this committee—whereby we have established the new functions across logistics and governance, people and culture and the risk and planning function.

It is certainly my view that this is not about cutting full-time equivalent jobs; it is about making sure that we work better cohesively. As we say, we respect the identity of the four operational services, but we operate in a cohesive manner. That is why, when we established the strategic reform agenda, we spoke about cohesive operations, collaborative management and a unified executive. This is not about cutting jobs. This is about doing our job better. It is about making sure that we recognise, as the minister said in her opening statement, how well our firefighters, paramedics and volunteers work on the road. That is referenced in the annual report in relation to our continued improvement in response times, patient satisfaction levels and areas such as confinement of fires to the room of origin. All of those indicators continue to improve in the main, but we do recognise that we have to do more work on how we work together as an organisation.

The strategic reform agenda is very much about making sure that within the ESA headquarters and within the Hume training centre it is not about cutting jobs. It is about the people who work in those areas not being compartmentalised into their four operational services, but working together across training, working together across planning and mitigation and working together across community education and engagement. Because when we go out and sell the message to the community, it should not just be Fire and Rescue, it should not just be Rural Fire Service and it should not just be SES or ambulance. There is a combined message that can come together, and we have demonstrated that through things like the Canberra bushfire ready program. The strategic reform agenda is very much about that. It is about getting a new strategic plan in place, which we will be taking to the staff next week. It is about understanding our mission and what we are doing as an organisation.

One of the things we recognise is that we have always done emergency management well as an ESA. We have always recognised that in relation to our mission and how we take that forward, but we recognise as an executive that it did not quite meet what we actually do as an organisation. So our new mission statement, which we launched to the staff a couple of weeks ago—that we work together to care and protect—very

much brings together that we have four operational services with four unique and individual cultural identities, but they work together.

As I said, whilst we do emergency management well, one of the most significant parts of our organisation is the ACT Ambulance Service. That is why, whilst we talk about protecting the community from emergencies, we are also a caring organisation in relation to the clinical and pre-hospital care we provide through our paramedics to non-emergency patients. It is about all of those things. It is not about job cuts.

**MRS JONES:** So there will not be any changes to the full-time equivalents as a result of this program?

**Mr Lane:** Of course there will be changes—

**MRS JONES:** Are there going to be fewer or more?

**Mr Lane:** No, if I may? As any organisation does, it changes what its jobs and roles are to meet the needs—

**MRS JONES:** No, I totally understand that. Thank you very much, commissioner. It is simply a question about whether there is an expectation that there will be fewer or more jobs at the end of this process.

**Mr Lane:** As an agency we will always identify opportunities for improvement and areas where we could look to do our job better.

**MRS JONES:** Are you able to take that question on notice?

**Mr Lane:** Some of those things take additional money and additional jobs.

**Ms Burch:** If the direct question is: this is an exercise to reduce FTE, the answer is no.

**MRS JONES:** Thank you. That is great.

**MR SMYTH:** The reverse of that is: will the reform agenda actually put more front-line troops out in the field?

**Mr Lane:** We would like to continue to understand where our risks are.

**MR SMYTH:** That is fine, but will the reform agenda put more front-line troops on the front line, as the firefighters union called for this morning?

**Mr Lane:** It depends what you determine by “front line”. What I would say is that, as the risk profile increases, we will take forward to government opportunities for increasing what we need to do to read that risk.

**MR SMYTH:** Will there be more officers to man fire appliances, ambulances, RFS trucks or SES crews?

**Mr Lane:** I take, for example, an area where we will continue to advocate for

additional resources, which is into our ambulance service. Every year our growth increases by between four and eight per cent, as it does across all of the health system. That continues to place additional pressure on the people who do those jobs. From time to time, whilst our ambulance service is meeting, as I said, its risk profile in terms of its response times and meeting, as the annual report indicates, the objectives in relation to responding to patient transport requests, if that continues to grow then of course we will be bringing forward through this reform agenda the request for additional resources.

**MR SMYTH:** So how many extra ambulance officers are there likely to be?

**Mr Lane:** That depends on how the growth goes. It depends on how we go in terms of our own performance. If it starts to slip, we will be taking forward to government opportunities for additional resources to meet those needs. If we do not have the risk profile, for example in our Fire & Rescue service, which it just shows that over the last six or seven years is not growing, we will not be bringing forward any further requests. We have brought forward in this term of government a request for additional firefighters, and we will continue to do that when we need to.

**MR SMYTH:** So there will be no cuts for firefighters, as feared by the UFU?

**Mr Lane:** No. We are not talking about cutting firefighters.

**MR SMYTH:** When you change the profile, will there be less qualified people manning our appliances or staffing our appliances?

**Mr Lane:** Of course people will be qualified to do the roles they need to do. We are not looking at cutting qualifications or personnel—

**MR SMYTH:** Will there be fewer station officers?

**Mr Lane:** There will be enough station officers to man the stations.

**MR SMYTH:** Enough is enough, but will there be fewer? Are you going to change the hierarchy and the number of officers in each of the hierarchies?

**Mr Lane:** No. The establishment for our fire officers is very clear. We are not looking to change any of that. It is very clear how many people we need to do those jobs.

**MR SMYTH:** So what is that number?

**Mr Lane:** We work on, I think, 52 per shift—52 firefighters across firefighters, station officers and the other people—which covers our nine stations as well as breathing apparatus, aerial appliance, hazardous material and logistic support. So what you have to do then in terms of that minimum is, I think, multiply that by six, which gives you your 312, which is the minimum establishment we need to make sure we continue to run a 24/7 firefighting service across our nine stations.

**MR SMYTH:** Is that the agreed number as set out in the enterprise agreement?

**Mr Lane:** I am not sure of the exact number in the enterprise agreement, but it would be something like that. I can ask someone to come forward if you wish to—

**MRS JONES:** Please.

**Mr Lane:** and be specific in relation to that.

**MR SMYTH:** That was meant to be finalised three months after the last EBA. Has it been finalised and what is the number?

**Ms Junakovic:** Clause 148 of the enterprise agreement refers to the number of staff that you require per shift, and then it has a second number in there that relates to the number of staff that you require per platoon. In essence, we run four shifts to cover the 24/7, 365 days, as you do in a 24/7 operation. The number equates to 312 front-line firefighters. That includes the various levels and management structure that they have in front line, and has been prescribed in the agreement for a number of years.

**MR SMYTH:** So that number has been agreed to?

**Ms Junakovic:** That number is in the agreement and it has been there for a number of years, yes.

**MR SMYTH:** So the report in the paper this morning that said it had not been agreed to was incorrect?

**Ms Junakovic:** The report in the paper refers to creating an establishment for Fire & Rescue. The front-line establishment has been agreed. The roles of what you would call back office, the day work roles, were agreed with the union in 2009. I can check the date of that. I will take that on notice. The UFU were written to and advised what the number was at that point in time, which was approximately 28 FTE plus five FTE who were involved in a training project at that time.

**MR SMYTH:** So that has been agreed to?

**Ms Junakovic:** That has been exchanged in correspondence. That correspondence was to the UFU's secretary and it was dated 23 July 2009.

**THE CHAIR:** Mrs Jones, have you finished with your substantive question?

**MRS JONES:** I just have my final part of it regarding the staff jobs and culture. A couple of years ago obviously there was a contentious statement made by various people that we were dealing with a bullying, sexist and misogynistic culture in the ACT Fire & Rescue service. Can I get an update on where we are at with addressing it two years down the track, and which issues and causes have been acted upon?

**Mr Lane:** Firstly, may I say we do not accept any form of bullying culture in the organisation. We will do anything we possibly can to remove that type of behaviour. I think the work has gone on very closely across a number of areas. Most certainly, the most substantive amount of work in recent times has been the government's

announcement and the implementation of the blueprint for change for the Ambulance Service that was announced earlier this year. From that we have commenced to do a lot of work in relation to that.

The blueprint for change brought forward a whole host of recommendations, which we are in the process of implementing, around improving our leadership practices, improving things like our respect, equity and diversity program, getting on with making sure we are giving good feedback through our managers to Fire staff so they understand how their role is in working with their staff and how they lead their own staff. We have established an oversight committee with an independent chair to make sure those recommendations are implemented. And all of it gets back to, as the report indicated, our behaviours and how we work with each other as an organisation.

So that is very much what we are about: improving in those areas where, yes, we have to accept there were some elements of shortcoming, which is why we took the opportunity to be transparent and engage with our staff in relation to how we can improve that.

**MRS JONES:** And has there been a staff survey or some kind of reportage back, anonymously, to find out whether there has actually been some ground achieved on this area?

**Mr Lane:** Not since we have actually implemented the blueprint for change document. One of the recommendations under the blueprint for change was to run what the reviewers called a staff workshop series. So we did that through the autumn months and the winter months of the year in relation to engaging an independent consultant. We ran five workshops across the operational staff, the paramedics and the ICPs, but also people from the communications centre and the non-emergency patient transport as well as our management people were involved in that blueprint for change staff workshops series, which is allowing us now to develop four project areas that they want to then take forward to do.

So, whilst we have not had specific feedback through that survey, we will through the directorate. Every two years we run a cultural engagement survey across the whole directorate and we will be very closely monitoring the outcomes of those results when that is next done.

**MRS JONES:** So has there been one of those surveys in the meantime over the past two years?

**Mr Lane:** The last cultural survey was conducted at the end of last year, and the results came through.

**MRS JONES:** And is the blueprint for change a document that can be given to us to see?

**Mr Lane:** It is on our website.

**MRS JONES:** All right.



**Mr Lane:** We can certainly make it available as well.

**MRS JONES:** Yes. Thank you.

**THE CHAIR:** Mr Smyth, your substantive question.

**MR SMYTH:** The issue of stress among emergency services workers is a big one. There are some mental wellbeing studies that are about to commence. How many officers from any of the services post-2003, 2007, the Christchurch incidents, put forward or sought assistance for post-traumatic stress syndrome?

**Mr Lane:** I would have to take on notice that exact question in terms of the numbers against those particular events.

**MR SMYTH:** Not just those events; they are just highlights of the worst as opposed to day-to-day cumulative effect.

**Mr Lane:** Obviously one of the things that are really starting to show through in the research is that it is not just one event; it is multiple events over multiple years that can really potentially impact in terms of post-traumatic stress. So it is one of the things in terms of the research that we committed to be a part of here in the ACT and we will be very keen to see what we can do from that.

**MR SMYTH:** So there is no-one here who can tell us how many officers have approached for assistance in the past year for stress-related—

**Mr Lane:** The past year? I am not sure about that particular question.

**Ms Burch:** I will have to take that on notice.

**MR SMYTH:** Can we have it for, say, each year for the past 10 years if the data is available? What is the process there? What service is offered? How much does the ESA spend on counselling of that sort? How many in-house officers are there? Can you give us a run-down of how that works?

**Mr Lane:** It starts in a number of ways. Firstly it starts through training itself when people come into recruit college. It starts when our firefighters come into recruit college. Our paramedics are also given training in that. There are a number of different companies involved should there be incidents in relation to assisting people through employee assistance programs and chaplaincy services, and of course there are the follow-up services available in terms of peer support within our operational services and the like as well.

They are all things that we continue to invest in. But I could not give you the exact figures on how much was spent per annum on that. I am not sure if it is broken down specifically at this point but we can get that as well.

**MR SMYTH:** The other stress is then workplace-related stress through bullying. How many bullying complaints have there been in the period covered by the annual report?

**Mr Lane:** I am not sure.

**Ms Junakovic:** We have received five complaints related to bullying from the ESA workforce over the past 12 months.

**MR SMYTH:** Have they been addressed and how were they addressed?

**Ms Junakovic:** They are investigated, consistent with the code of practice for bullying and harassment, which is issued by WorkSafe ACT. They are generally investigated by an external investigator, an independent investigator, either Shared Services or an investigator engaged from the private sector. When they are resolved, the individuals are advised of the outcome, and if further action is required once they have been investigated that then moves potentially into a misconduct process, where relevant.

**MR SMYTH:** Where are the five from the reporting year? Are they still being investigated or have they been investigated already?

**Ms Playford:** I have got that information. Four of the matters were independently investigated and finalised, and none of the allegations of bullying and harassment was upheld. One of the matters was referred to the Commissioner for Public Administration, and that case has been closed.

**MR SMYTH:** What does that mean? It was upheld or was not upheld?

**Ms Playford:** It was not upheld. It was closed.

**MRS JONES:** So none of the bullying cases resulted in action?

**Ms Burch:** It is not to do with action. They were not upheld. They were investigated.

**MR SMYTH:** At what level of the organisation were the complaints made? Were they officers against officers? Was it against senior officers? Was it against the senior execs?

**Ms Junakovic:** Senior officers, in relation to executives.

**MRS JONES:** All of them?

**Ms Junakovic:** And executives in relation to executives, all of them for the past financial year.

**MR SMYTH:** So in the last financial year in the senior management of the ESA we have had five complaints executives against the executives or executives against senior officers? Is that—

**Ms Junakovic:** Sorry, I did not—

**MR SMYTH:** In the reporting year we have had five complaints, either senior

officers against senior officers or senior officers against the executive or more senior officers?

**Ms Junakovic:** Yes.

**MR SMYTH:** Minister, is it acceptable that senior officers are complaining of bullying against the executive of ESA, and what have you done to stamp out—

**THE CHAIR:** That will have to be your last question.

**Ms Burch:** What I find acceptable is that there is a clear process for people to make a complaint and that there is a clear process for that complaint to be investigated and addressed. What we have found, as I understand, is that the director-general has provided information that none of those was substantiated or upheld.

**MR SMYTH:** But does it concern you that it is—

**THE CHAIR:** Thank you, Mr Smyth.

**MRS JONES:** Just let him finish the question.

**MR SMYTH:** The question was: does it concern you that these complaints are being made at that level against the management of the ESA?

**Ms Burch:** I would say that my concern is that if someone feels they have got to put something forward they do and that there is a clear, independent process that deals with it. That is the concern that I have—whether it is a front-line officer or an executive—that there is a clear independent process, there is a pathway, and what I very much want to stress is that none of those complaints was upheld.

**THE CHAIR:** We have reached the end of our allotted time for this segment. I thank all the ESA officials for coming in.

At this point, we move to ACT Policing. Thank you once again, minister, for appearing before the committee with your officers; we welcome members of the ACT police force. Everyone, I presume, is sufficiently aware of the statements that you are expected to operate under. You have seen the disclosure—

**Ms Burch:** Yes; we are aware of it and understand it.

**THE CHAIR:** You are aware of the privileges statement? Thank you very much.

**Ms Burch:** Yes.

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

**Ms Burch:** I made a comment before when the Chief Police Officer was not here that I have the highest regard for ACT Policing. I think, through this annual report and through the other reports from ACT Policing, they serve our community well. The reported incidents of crime continue to go down, and I think it reflects the targeted

approach that ACT Policing has to making sure our community is safe. I want to put on record my appreciation to the CPO, his executive team and each front-line officer who is out there each and every day keeping us safe.

**MR HANSON:** Why did you cut their budget, then?

**THE CHAIR:** Thank you, minister. Let us move on. My first—

**Ms Burch:** We have manners, and probably an orderly commentary from—

**MR HANSON:** It probably was. I apologise, Mr Chair, and withdraw.

**THE CHAIR:** Thank you, Mr Hanson; we will move on. Assistant Commissioner Lammers, my first question is: were you or the ACT police asked to give any opinion regarding the young person with autism who was held in an unauthorised enclosure in an ACT public school?

**Mr Lammers:** No, we were not.

**THE CHAIR:** Not at any stage?

**Mr Lammers:** We were not asked to give any opinion as to whether or not any of those activities constituted a criminal offence. Therefore, no, we were not asked.

**THE CHAIR:** Is anybody able to make a decision on whether something is a criminal case or not apart from you?

**Mr Lammers:** We would often wait until a matter is referred to us. In this case it was appropriate for an interdepartmental examination of the incident to have occurred. If there were any elements of criminality, I would have expected those to have been referred to ACT Policing, and they were not.

**THE CHAIR:** But who makes the decision as to whether it is a criminal activity?

**Mr Lammers:** The department that was investigating or examining the matter would determine whether or not there were any elements of criminality. If they suspected that there were elements, they would work with us, with ACT Policing, to determine those. My understanding was that that assessment was not made, and the matter was not referred to us.

**THE CHAIR:** We were led to believe at one stage that the matter was actually referred to the DPP, but apparently the minister changed her mind on that, so—

**Ms Burch:** With due respect, chair, I did not change my mind. My response was that the chief investigator—

**THE CHAIR:** Your response was very evasive.

**Ms Burch:** It is what it is, chair.

**THE CHAIR:** It is a serious matter, minister.

**Ms Burch:** Can I answer the question without being bullied by you, chair?

**THE CHAIR:** Certainly.

**Ms Burch:** The advice I had was that the chief investigator had discussions or conversations with the DPP. Following those discussions, the chief investigator determined that there was no criminal activity. That was the finding he made, and that was in the findings of the report, which is in the public domain.

**THE CHAIR:** That is what I am trying to ask Assistant Commissioner Lammers about. What is the protocol—

**Ms Burch:** Chief Police Officer.

**MRS JONES:** Chief Police Officer Lammers.

**THE CHAIR:** Sorry; my apologies. What is the protocol for deciding what goes to the DPP? Does it not have to come through you first?

**Mr Lammers:** Chair, you started to ask whether or not I was aware of a discussion between the department and DPP. No, I was not. The protocols that were followed in my view were quite appropriate. They sought advice from the DPP as to whether or not there was any criminality involved. I had had no discussions, nor had my officers had any discussions, with the DPP. If the DPP were minded to consider that there were criminal charges relevant, then the DPP no doubt would have had the matter referred to us, and that was not the case.

**THE CHAIR:** Thank you. Dr Bourke.

**DR BOURKE:** Minister, or Mr Lammers perhaps, as the major landholder and employer in the Belconnen town centre, with the Winchester Police Centre and Belconnen police station, what has been your involvement in the assessment of the draft master plan for Belconnen town centre?

**Mr Lammers:** Is that a question for the minister or for me?

**DR BOURKE:** Go for it.

**Ms Burch:** Sorry, in the Belconnen town master plan?

**DR BOURKE:** The Belconnen town centre master plan.

**Ms Burch:** Certainly in the whole of government, we would have a view about the amenity, the services and the layout of the land. I am sure that through that process ACT Policing, through JACS or EPD, would make their thoughts—

**Mr Lammers:** And as was the case in this instance, and as is regularly the case, the JACS directorate would ask ACT Policing whether we have any views around the

development and whether or not we have any concerns around the demographics, the environment and whether or not there might be any reason that things ought to be changed based on crime trends and other trends that we might see. We regularly input into those questions.

**DR BOURKE:** I was more thinking about the possible changed traffic arrangements to address congestion and suggestions that Lathlain Street might become Belconnen's high street of entertainment.

**Ms Burch:** High street of entertainment?

**MRS JONES:** I thought it already was.

**DR BOURKE:** A bit like Lonsdale Street, perhaps, minister?

**THE CHAIR:** Is this really a Policing question?

**DR BOURKE:** We have ambition in Belconnen.

**Mr Lammers:** I am sure that if elements of concern around traffic had been identified as we looked at the proposal, we would have made some mention of that. I do not recall any discussions around whether or not the congestion around the development was going to cause us any concern.

**DR BOURKE:** Okay. On a different matter, with referrals to restorative justice, could you explain how ACT Policing makes those referrals?

**Mr Lammers:** We assess every case that falls into a particular category for restorative justice; if they meet certain criteria, we refer those to the restorative justice unit.

**DR BOURKE:** Do you have any further suggestions for improving that restorative justice process in the ACT?

**Mr Lammers:** There are already discussions on foot around extending restorative justice beyond 18-year-olds, I think to 21, which I support. And I support any initiatives that provide diversion away from the courts, including restorative justice. It may well be possible in time even to extend the categories for which people enter into the restorative justice process beyond the criminal categories that exist right now.

**DR BOURKE:** Just a follow on from that, chair. We heard some strong evidence from the Victims of Crime Commissioner today that the restorative justice process should never be viewed as a soft option; that in fact it was actually harder for offenders than going to court.

**Mr Lammers:** I have been involved in restorative justice for almost 30 years, starting here in ACT, and I have never considered it a soft option. I have considered it a balanced option against a number of other options that we have. Bringing a perpetrator face to face with a victim is incredibly uncomfortable for a perpetrator, and it has a measure of resolve that other avenues, including the courts, cannot often

arrive at.

**DR BOURKE:** Thank you.

**THE CHAIR:** Ms Porter, a substantive question.

**MS PORTER:** Just a supplementary, if I may, chair, on the back of Dr Bourke's questions around restorative justice. In relation to the initiative by the Attorney-General in relation to the restorative city, I recall that you were at the forum that was held recently.

**Mr Lammers:** Yes, I was.

**MS PORTER:** It was hosted by the Attorney-General. Do you think that might have additional benefits beyond what we have been able to achieve so far?

**Mr Lammers:** I think Canberra lends itself perfectly to being a restorative city, and that initiatives that go well beyond what we currently explore in the criminal area are possible. Restorative city is not just about the judiciary working with the police, working with the DPP and working with offenders; it is about changing behaviours in a number of different workplaces, be they schools, government departments or private industry. It is about a realisation that enhancing respect in the workplace leads to better relationships and can eventually lead to a reduction in crime.

**MS PORTER:** Thank you for that.

**THE CHAIR:** So that is your substantive question?

**MS PORTER:** No, it was a supplementary. I want to talk to you about public confidence in the police. On page 24, there is a graph that shows the measure of satisfaction that has been demonstrated. There are various categories. There is being home by yourself, walking by yourself at night, walking during the day, et cetera. I note that there is a slightly better outcome as far as these surveys of public confidence in the ACT are concerned compared to those nationally. Would you like to make comment about how you go about working to obtain the support of the public and the confidence of the public in relation to not to just these matters listed in this graph but general confidence in the police service. And do you have any comment about the comparison to the national figures?

**Mr Lammers:** Firstly, I will say that I am very pleased with the level of public confidence in police in the ACT. None of that happens by accident. We work very hard to make sure that the public have a responsive police force, a police force that they can trust, and one that they feel will take action as quickly as possible. We build that public confidence through a number of different areas. Social media has been a significant area that we build public confidence in. There is making sure that we can provide the community with answers to questions, sometimes before they even ask those questions. We have invested quite heavily in Facebook, in Twitter and in our Eyewatch program in Gungahlin.

We make sure that things like traffic enforcement are around changing behaviours and

educating the public, not just about fining motorists when we stop them. In fact, in the last financial year we cautioned and let go more motorists than we fined, after providing some messaging around driving behaviour and attitude on the road. We find that that returns quite significant dividends with the public.

We also do a lot of work around education in schools at the various levels in schools, starting with our Kenny Koala program, making sure that we capture very young children, and then with children right through to year 12. We constantly talk to schoolchildren about their own safety, about online safety and about being respectful in the community.

All of that adds up, in my view, to greater confidence in police. It is not just about policing and upholding the law; it is about changing behaviour across a whole range of issues in the community.

**MS PORTER:** In relation to the volunteers and policing program that has been going on for quite some time now—if I recall, some work was being done on that when I was CEO of Volunteering ACT, so obviously it has been established for quite some time—do you think that plays a role in the program that you are describing?

**Mr Lammers:** We have around 50 volunteers. Volunteers and policing are a very good news story for us. We have been using them for a long time. On average, our volunteers do almost a full year's worth of unpaid service between the ones that we have got. The volunteers range up to the early 80s in years; they provide a significant opportunity for people in our community to feel valued and useful. We have volunteers at every police station in Canberra performing duties from justice of the peace duties to talking to young children when they come in and helping to resolve complaints as people come into police stations. Our volunteers regularly support our emergency services activities. They are at almost every event that we run. If I could double the amount of volunteers right now, I would do so. They provide a service to the ACT and I wonder how we ever did without them.

**MS PORTER:** Thank you very much.

**Ms Burch:** Just for your information, Kenny Koala turned 40 this year, so he is now up to probably a second generation of school kids.

**MS PORTER:** I did not know koalas could live that long.

**THE CHAIR:** Thank you for that information.

**MRS JONES:** I think Kenny Koala has been joined by someone of the other gender, hasn't he?

**Ms Burch:** He has got a friend. Kenny has got a friend.

**DR BOURKE:** Does he have long service leave?

**THE CHAIR:** Mrs Jones, do you have a substantive question?



**MRS JONES:** I refer to a recent *Canberra Times* article, in October 2015, titled “Canberra Police consider changes to high speed pursuits after review”. I wonder if the CPO has commenced the review into high speed pursuits and if it is likely that they will be disengaged at all after the assessment? Is that where we are heading?

**Mr Lammers:** Over the past 12 months we have been examining a number of pursuits in the ACT, based on some case studies. It is one of the most comprehensive reviews of pursuits that we have ever seen in the ACT. I am yet to consider all of the recommendations of the review to see whether or not we need to make any changes to our existing policy. ACT Policing and JACS formed a working group or a committee to examine the potential for legislative reform and also the potential to make sure that any pursuit policy we roll out in the ACT is well considered into the future.

**MRS JONES:** Is the report public, with the recommendations?

**Mr Lammers:** No the report has not yet been made public because it is not yet complete. I am having it examined by Australian Federal Police legal to ensure that there are no disclosures within the report that might point to methodology or to areas that might compromise our operations. That is a work in progress as well but I plan in the future to release a version of that report to the public.

**MRS JONES:** When would you expect to do that?

**Mr Lammers:** I would say sometime early next year.

**MRS JONES:** At this point from what you have seen of it are you expecting to find a safer or a different way of dealing with these crimes?

**Ms Burch:** That is what the working group is now considering. Sorry to interrupt.

**Mr Lammers:** Yes that is right, and that is exactly what the working group will be considering. But can I say that the examination of pursuits over the past 12 months has shown that ACT Policing conducts pursuits in a very responsible way. ACT Policing works in accordance with our current guidelines and policies and we have found no departure from those guidelines and policies in this review. That does not mean that I am not examining every state and territory’s pursuits policy to see whether or not there are things that we can use from those that are applicable to the ACT to continue to make sure our roads are safe.

**MRS JONES:** Are you expecting legislative change to be required as a result?

**Mr Lammers:** That will be a matter for the attorney once we fully consider some of the suggested law reforms.

**THE CHAIR:** Mr Hanson, your substantive question.

**MR HANSON:** CPO, in July you made a statement regarding a question that was asked of you about consorting laws in regard to outlaw motorcycle gangs. I read from that quote:

Police has information to suggest that the ACT has become an attractive location for the holding of such meetings—

that is, motorcycle gang meetings—

due to the absence of specific legislation in the ACT preventing the association of persons of the type typically found to be members of outlaw motorcycle gangs. Legislation such as consorting in New South Wales has proved to be effective in reducing the occurrence of such events in that state.

Are you aware that the position of the Attorney-General over the past six years has been that the New South Wales legislation has had no effect on bikies coming to our location? Your statement seems to directly contradict the view of the Attorney-General.

**Mr Lammers:** Thank you for quoting me so exactly. The fact is that other states and territories are considering and have considered laws over the past two or three years to firstly stop outlaw motorcycle gangs getting a foothold in the states and territories.

ACT is in a situation where it sits between states—it is a passageway between New South Wales and other states—and we have been very cognisant of that. Whether I know what the attorney will be thinking in terms of future laws—I cannot answer that but I know that the attorney is considering the introduction of consorting laws in the ACT to make the ACT less attractive for outlaw motorcycle group members. And it is true that in the absence of laws that directly impact on outlaw motorcycle gang activities the ACT would be vulnerable.

**Ms Playford:** I note that the attorney is appearing next week and you might wish to ask him direct questions, but at this stage there has been no decision on specific legislative reform but we are working with ACT Policing right across—

**MR HANSON:** I am aware of the reform. It is just that we have got a situation, as you would appreciate, where the attorney has said very specifically that the laws in New South Wales and elsewhere have not had an effect and then you have got the Chief Police Officer saying that they have. It is of interest to me. I am encouraged that the government is considering those laws.

**Ms Playford:** There is a report the New South Wales Ombudsman is doing reviewing those laws, which is yet to be released, and once it is released we will no doubt reconsider positions.

**THE CHAIR:** I will defer my substantive question to Mr Hanson.

**MR HANSON:** CPO, how many members have you got on the city beat?

**Mr Lammers:** Twenty-three we have in our regional targeting team.

**MR HANSON:** What is the rank structure of—

**Mr Lammers:** There are two sergeants, there are two teams of 10 constables or senior constables and there is one intelligence officer.

**MR HANSON:** There has been an ongoing debate about tasers. I know that is a particular issue for some members of the city beat. That is within your purview? It is an operational matter, was the view from government. Certainly the narrative, I know from the previous CPO, was that he would not make that decision without consultation with government. Have you formed a view as to whether it would be appropriate for front-line, sworn officers to have tasers if they are appropriately trained?

**Mr Lammers:** I am on the record saying, I think about 12 months ago, that at that point in time I had no desire to roll tasers out past sergeants because I did not see an operational need. In the space of 12 months the environment has changed significantly. The national threat environment has changed significantly. I also said 12 months ago that if the environment changed and if there was a need for me to rethink whether or not tasers ought to be rolled out beyond sergeants, then I would do that. That is still an open question, based on the national threat environment and also officers safety.

We know, because of what we have seen as recently as a few weeks ago in Sydney, that police or anyone within a police station or, in fact, exiting a police station can be at risk from a lone shooter or from someone else. That is making us rethink our position on tasers as to whether or not it would be appropriate to, as I say, roll out tasers beyond sergeants.

**MR HANSON:** In terms of the threat—there is the national threat environment—what about the prevalence of ice? Certainly anecdotally and from conversation with other people there seems to be an increase in the use of ice. I understand that people who are under the influence of ice are difficult to control. Has that had any bearing on the threat to your officers?

**Mr Lammers:** We know that throughout Australia the incidence of ice use is increasing. We also know the detrimental effect that ice has beyond most other drugs that we have seen. What we also know is that the use of force provisions, such as the use of tasers, has a very limited effect on those people affected by ice.

**MR HANSON:** It ebbs and flows in terms of the violence that we have seen in Civic. Where are we at, at the moment, in terms of the amount of violence and the number of assaults and so on in Civic?

**Mr Lammers:** Alcohol-fuelled violence in the CBD has reduced, particularly because of the presence of the regional targeting team and because we are working very closely—in fact better than we ever have before—with licensees to make sure that we educate them properly and they know when they can call us and what response they will get. But we are also making sure that there is responsible service of alcohol in and around bars and nightclubs in town.

We do more walk-throughs of nightclubs now than we have ever done. In fact, last year we did four times as many as the previous year. So we are in constant contact with nightclub owners and with their staff, and we make sure that the partygoers in nightclubs see us all the time. That has a direct effect on the reduction of alcohol-fuelled violence.

**THE CHAIR:** I think we have a couple of supplementaries. First Ms Porter, and then Mrs Jones.

**MS PORTER:** CPO, on page 7 it lists some of the things that you have been talking about now in answer to questions by Mr Hanson—the change in operating environment and the various challenges that you have been discussing. The last dot point refers to crime that is enabled through the use of technology, which of course is a very rapidly changing area and the way the technology is being used is quite new to some of us. Could you take us to some of the responses that you are considering in this area?

**Mr Lammers:** We are running a pilot program on mobility at the moment, which simply means that over time my police officers will be armed with greater intelligence fed into our database. We will have mobile devices to make sure that we understand very quickly the threat environment that we are going into. That is in direct response to the growing use of technology in the workplace and by criminals. We are always trying to make sure that we are on the same footing as those who use technology.

Crime, particularly cybercrime, is a big issue for us—not so much for ACT Policing but certainly for the Australian Federal Police—and from a community policing perspective we need to make sure that people are properly educated on the risks associated with technology-enabled crime. That can manifest itself in a number of different ways. It can be as simple as bullying on Facebook that leads to what we have seen to be a huge impact on the most vulnerable people in our community. It can also be around identity fraud and identity crime. People use very smart computer technologies to steal people's identity. The increasing challenge for us is to make sure that we are up with the times in our own technology.

**MRS JONES:** With regard to the matter of working closely with alcohol venues in Civic, what is the process for somebody who has had their drink spiked and who has, for example, ended up in Canberra Hospital but perhaps has not had any contact with the police during that process? Obviously they could call Crime Stoppers, but is there currently any attempt to try to capture that data—I know it has been happening within the past few months, from my contact with young people—to perhaps try to find offenders who are in the process of going on a spree of drink spiking or something like that.

**Mr Lammers:** Thank you for the question. We are only as good as those things that are reported to us, and if a person happens to have a drink spiked or suspects they have a drink spiked at a nightclub in Civic and they end up in hospital, unless there are signs of a criminal offence that there is a mandatory obligation on the staff there to report, quite often we do not know about it. So we rely on the actual victim to report the incidence of drink spiking to us, and they do that from time to time.

Sometimes we will find that there is a sexual assault as a result of drink spiking, and then our sexual assault team is notified. Other times if a person's drink is spiked they might become a victim of crime themselves because they do not quite know what they are doing. Quite often that is reported to us as well. We investigate every incidence of drink spiking that is reported to us. Whether or not we extend that to investigate the

specific circumstances around the nightclubs depends on each individual matter, but if a crime has been disclosed and is referred to us we investigate it.

**MRS JONES:** If the young person ends up in the emergency department and it is clear that they have ingested something that they say they were shocked by, is that a situation in which the nursing staff are required to report or is it only if it is clear that the particular drug, which may not have actually been tested for because the person has sort of recovered, was not taken by the individual? What is the capture there? The person is still in quite a traumatic situation, and I do not think that data is being captured.

**Mr Lammers:** I do not think the data is being captured either, because it is so variable. If a person presents to Canberra Hospital with clear signs of drug use, for instance, it is not reported to the police because it is treated as a health issue, and we quite often find out that if they report it to the police in that instance they are less likely to seek help the next time. But if there is a clear indication of drug spiking, which is a criminal offence, it has to be reported to us.

**MRS JONES:** But the point is that the young person is in emergency and they do not have any capacity to report it to you.

**Ms Burch:** The question is: is there a trigger within the emergency department to have that alert automatically put in place?

**MRS JONES:** Yes. “What venue were you at?” I am talking about a young woman whom I know who basically hit a stone wall when she said to nurses, “This happened at XYZ venue in Civic. I was totally shocked.” In that case there were two young women. It was lucky one of them did not drink her drink, because they both bought their drinks at the same time and they think they know when it happened.

**Ms Burch:** I am quite happy to have a talk with the CPO and the health minister to see if there is anything that we can—

**MRS JONES:** On the whole they are ending up in emergency, and it is not a reflection on the young people necessarily.

**THE CHAIR:** Dr Bourke, your substantive question.

**DR BOURKE:** Minister, the report’s staffing profile indicates that the component of Aboriginals and Torres Strait Islanders within ACT Policing rests at 1.5 per cent—I am referring to page 35—and that culturally and linguistically diverse employees comprise 20.8 per cent. Do you expect this to increase over time?

**Mr Lammers:** I think you might be referring to 34, not 35.

**Ms Burch:** Yes, “Headcount by diversity group”, looking at CALD groups and Indigenous.

**DR BOURKE:** Table E9; that is correct.

**Ms Burch:** Yes. Do you want to make a comment about your diversity strategy?

**Mr Lammers:** Was the question about the ratio or the numbers?

**DR BOURKE:** Do you expect these numbers to increase over time? Is that your plan?

**Mr Lammers:** We have in place throughout ACT Policing, as part of the broader AFP, significant diversity programs. We would try to encourage people to join our organisation. ACT Policing is exactly the same. We are challenged by an insufficient number of applicants within the various diversity groups who actually apply to join us. We are doing a lot of work in social media around attracting people from various groups into our organisation, and we will continue to do that. The numbers of Aboriginals and Torres Strait Islanders—at 1.5 per cent—are, in my opinion, incredibly low, but it is a huge challenge to try to get people with diverse backgrounds, Aboriginals and Torres Strait Islanders and people with disability to apply to join us.

**DR BOURKE:** So you have a recruitment issue there. What steps, apart from using social media, are you taking to improve your recruitment outcomes within these areas?

**Mr Lammers:** We ensure that, in terms of a mix between men and women, there are opportunities provided to women to join us beyond what there were many years ago. We actively encourage women to apply and put them through a process. We assist them with the process to get through our various gateways.

**DR BOURKE:** That is more the selection process that I think we are talking about, Mr Lammers. I meant within recruitment. It is actually more about attracting people to apply. Some steps that other organisations might use could include advertisements in the media viewed by people that you are trying to attract. I was wondering whether those are the steps that you might be taking and what you are doing now.

**Mr Lammers:** Do you want to speak to that?

**Mr Hayward:** The commissioner, in one of his first announcements, spoke about his desire to increase both the gender balance and the balance of other diversity groups. Across the AFP he is taking active steps, in conjunction with the national manager of people safety and security, to employ a range of actions to encourage and avail ourselves of opportunities to have a wider range of people from various diverse groups coming in, including Aboriginal and Torres Strait Islander groups. We are actively engaging with the community in that way as part of the wider AFP, and ACT community works with the wider AFP. In fact, we have some specific Aboriginal and Torres Strait Islander trainees coming into ACT Policing as part of the AFP's trainee program for Aboriginals and Torres Strait Islanders this year, and that is an ongoing program.

**DR BOURKE:** You mentioned some strategies related to what the federal commissioner was thinking about. Perhaps you could go into those in some more detail for us, specifically in the recruitment phase.

**Mr Hayward:** I do not wish to speak specifically on behalf of the commissioner, but the commissioner has tasked the national manager of people security and safety, who has the overarching responsibility for these policies within the AFP, to explore all avenues available to avail ourselves of a greater access to people. ACT Policing, as part of the AFP, is working very closely with the people strategies area to ensure that, wherever possible, we get access to the greatest number of people and encourage people from diverse backgrounds to apply for positions within ACT Policing, and also to offer opportunities for people to take up things such as traineeships and the like.

**Mr Lammers:** Can I just add to that? Of our 932-plus FTE of last year, 612 of those were male and 320 were female, which is a third. So we are making good headway in that space to at least encourage women to join ACT Policing and increasingly provide opportunities to make decisions around their future employment, and that is working. We have got some work to do in the other areas and, as you have heard, we are working very hard towards it.

**DR BOURKE:** I appreciate you are working very hard, Mr Lammers. I am just trying to work out what that hard work actually involves in terms of steps, perhaps thinking about human relations management theory and organisation management, which could be very useful for recruitment. That is where you look at doing some advertising for your recruitment within media that is utilised by the particular diverse groups, by portraying diversity within your advertising, using recruiters from diverse backgrounds—

**MR HANSON:** Is this a lecture or a question, Mr Chair?

**DR BOURKE:** I am trying to get some information, Mr Hanson.

**Ms Burch:** He is a member of the committee—

**THE CHAIR:** Mr Hanson.

**DR BOURKE:** These are the kinds of steps I am trying to elicit as to whether this is something that ACT Policing or the AFP is indeed doing, or whether you are not there yet.

**Mr Lammers:** It is a work in progress. The issue of diversity is inculcated in everything that we do, in every job that we advertise, in every selection panel we put together and in every series of questions that we formulate to ask applicants. Diversity is foremost in our mind to make sure that we get a good spread. Unfortunately, though, there is only so much we can do if people do not want to apply for jobs. We try to develop new strategies and we try and make sure that we touch as diverse a proportion of the population as we possibly can.

**Ms Burch:** If I can just follow on? I am quite happy, putting on my education minister's hat, to work with the CPO about career opportunities, career development, and maybe a stronger exposure through the senior edge of our schools. I am quite happy to facilitate that.

**DR BOURKE:** Perhaps in the job markets that you organise from time to time?

**Ms Burch:** Yes.

**THE CHAIR:** Mr Hanson, a supplementary?

**MR HANSON:** In terms of your staffing profile, how many positions have been cut as a result of budget cuts?

**Mr Lammers:** Over the past financial year, 13 positions from ACT Policing. So I can give you accurate figures, let me turn to the page.

**MR HANSON:** So 13. Are there more to go?

**Mr Lammers:** I beg your pardon, Mr Hanson?

**MR HANSON:** Are there further staff reductions in the pipeline?

**Mr Lammers:** We are examining next year's impact of the general savings measure. I have no intentions right now to reduce staff further, but we have not examined the one per cent reduction on next year's budget. What I can say, though, is that 95 per cent of my total budget is allocated to employees, so people. I do not have a lot of discretionary budget. One of the things I will do, as I did last year, is to try to reshape and reform parts of ACT Policing to continue to enhance its efficiency before I consider the loss of further jobs.

**MR HANSON:** We have talked this afternoon and previously about the increasing demand on police. We know that from the formation of the domestic violence task force and so on that you are trying to meet the extra demands whilst also cutting staff. That must be putting your members under a lot of strain.

**Mr Lammers:** We get each year a finite amount of funding from ACT government. In fact, this year we received \$1.8 million more than we did last year, so the funding has increased, taking account of a number of different factors. It is a challenge to make sure that we provide a responsive police service to ACT Policing. I have managed to put together a team of 40 people to respond in part to family violence, but also to community safety components within ACT Policing. I have done that within existing resources, at no loss of responsiveness to the community, and we do that within our funding envelope.

**Ms Burch:** But you do that year by year; you look at the different priorities and targets.

**Mr Lammers:** We look at our priorities all the time, and not just on a yearly basis. My executive management team and I meet regularly where we talk about resources and priorities. Last year I decided that a significant priority for the ACT community was a better presence in the family violence space, so we shifted resources around and rebalanced priorities so that we could make that happen.

**MRS JONES:** Just a supplementary on that. Which teams lost staff or were disbanded in the set-up of the domestic violence team?



**Mr Lammers:** There were no teams set up or disbanded to form the family violence teams. The teams that we lost and the staff that we lost, the 13 people, were as a result of planning that was done last year to meet this year's slightly reduced budget.

**MRS JONES:** Where did those people come from?

**Mr Lammers:** There were three people taken from our judicial operations. They are the ones who support the work of the DPP and a number of different areas. There were four people from our intelligence and crime reduction area, four people from our criminal investigations area and two people from our media area.

**Ms Burch:** I think your question was about where the team came from that are now forming the community safety and domestic violence group?

**MRS JONES:** Where have they come from, yes.

**MR HANSON:** That covered the 13, but Mrs Jones was asking—

**MRS JONES:** Where those people came from.

**Mr Lammers:** Came from?

**Ms Burch:** Yes.

**Mr Lammers:** The community safety team were drawn from existing resources. They were a reshaped team and they were given different priorities—but they were the same members within those teams—with a heavier focus on family violence and engagement in the community. There were eight people drawn into the family violence team from operational areas that were not front-line areas.

**MRS JONES:** What areas?

**Ms Burch:** We can take that on notice, if that is easier.

**MRS JONES:** Or if it is there, we could have one more minute.

**Mr Hayward:** As a result of some staff movements at the end of last year through some voluntary redundancies, we were able to reallocate the resourcing that was freed up from those voluntary redundancies to establish two new positions within the community safety and family violence teams. The remaining staff were reallocated from a range of areas across ACT Policing. No one area was disbanded or substantially reduced in any way. There was generally one person taken from one area and one from another, so that—

**MRS JONES:** Okay. Is that able to be taken on notice to determine where those 13 people came from? Thank you.

**MR HANSON:** The 13 is the cuts, but then the domestic violence team to comprise that.

**MRS JONES:** Where they came from. Thank you.

**THE CHAIR:** Can you take those on notice?

**Ms Burch:** Yes.

**THE CHAIR:** Thank you. Thank you, minister, and your officials, officers, for appearing before the committee today. A proof transcript will be provided to you in case there are any corrections you wish to propose. If you have taken any questions on notice, please provide answers to the committee within five working days.

The committee will hold its second public hearings for its inquiry into annual reports 2014-15 on Wednesday, 11 November starting at 1.30 pm, at which will appear the Minister for Workplace Safety and Industrial Relations, the Attorney-General, with his officers from Justice and Community Safety, the Solicitor-General and the ACT Electoral Commission.

**The committee adjourned at 3.32 pm.**