LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

(Reference: Annual and financial reports 2015-2016)

Members:

MRS G JONES (Chair)
MS B CODY (Deputy Chair)
MS E LEE
MR C STEEL

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 8 MARCH 2017

Secretary to the committee:
Dr A Cullen (Ph: 620 50142)

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

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Amended 20 May 2013

The committee met at 9.30 am.

Appearances:

Ramsay, Mr Gordon, Attorney-General, Minister for Regulatory Services, Minister for the Arts and Community Events and Minister for Veterans and Seniors

Justice and Community Safety Directorate
Pryce, Mr David, Acting Director-General
Field, Ms Julie, Acting Deputy Director-General, Justice
Martin, Mr Victor, Director, Criminal Law Group, Legislation, Policy and Programs
Kellow, Mr Philip, Principal Registrar, ACT Law Courts and Tribunal Administration
Toohey, Ms Mary, Parliamentary Counsel
Greenland, Ms Karen, Deputy Executive Director, Legislation, Policy and Programs

Chief Minister, Treasury and Economic Development Directorate
Snowden, Mr David, Chief Operating Officer, Access Canberra

THE CHAIR: Welcome, everybody. I declare open this morning's session of the second day of public hearings of the Standing Committee on Justice and Community Safety on the 2015-16 annual reports. The proceedings this morning will commence with consideration of the 2015-16 annual report of the Justice and Community Safety Directorate as it relates to matters that fall within the Attorney-General's portfolio. I flag here that we will also invite members of the committee to ask questions in a broad-ranging way with respect to your portfolio, including courts and tribunals and any other matters that arise under Mr Ramsay's responsibilities. The committee will then move on to consider the annual report of the ACT Electoral Commission.

I remind witnesses that the proceedings are being recorded by Hansard for transcription purposes and are being webstreamed and broadcast live. I also remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink privilege statement which is set out on the table.

On behalf of the committee, I would like to welcome the Attorney-General and officials from his directorate, the Justice and Community Safety Directorate. Attorney-General, could you confirm for the record that you understand the privilege implications of the statement?

Mr Ramsay: Yes.

THE CHAIR: Thank you. Before we proceed to questions from the committee, would you like to make a brief opening statement?

Mr Ramsay: No, I am happy to go straight to the questions.

THE CHAIR: We might go initially to output 1.1, Policy and advice and justice

programs, on page 23 of the report. Page 17 of the report states that the department is working on "implementing new laws to combat organised criminal groups, including outlaw motorcycle gangs". Further, on page 29, it states:

> On 9 June 2016, the Crimes (Serious and Organised Crime) Legislation Amendment Bill 2016 was presented in the Legislative Assembly. The Bill aims to provide ACTP with the appropriate powers to target and disrupt organised crime, and in particular criminal activities of outlaw motor-cycle gangs.

Minister, do you believe that the program developed by your directorate was adequate and workable?

Mr Ramsay: Yes. I am happy to ask the officials to talk about some of the impact of that. One of the key things for us to be aware of is that the government is, has been and continues to be strongly committed to responding to criminal activities of the OMCGs. We know that the number of OMCG members in the ACT remains stable. We are working, obviously, very closely with Policing regarding the range of responsibilities and the range of ways in which the work can be undertaken.

I note the work of the OMCG task force, Taskforce Nemesis, which is focusing on both operational and investigative responses to the activity. A suite of criminal laws has been developed by the ACT government over many years. I think that the results speak for themselves, having regard to the way that Taskforce Nemesis has worked in relation to OMCGs.

MS LEE: I have a supplementary. Minister, you said, "The results speak for themselves." What do you refer to, specifically?

Mr Ramsay: In terms of the numbers—

THE CHAIR: The numbers, I believe, that we had presented to us yesterday were around the number of arrests and actions taken by the police. We had all of those numbers yesterday, so unless there is something to add to that about success—

Mr Ramsay: I think the numbers show that, yes.

MR HANSON: When you talk about success, though, the whole point is that the Chief Police Officer and others have warned that we are a haven for bikies. So if you say, "There's a lot more action in terms of bikies; more arrests; there is more work being done," then doesn't that actually add to the argument that there is an increase in activity? You are saying, "There are more arrests. There is more work being done. There are more intelligence reports," and so on. That is not actually a marker of success, is it? Doesn't that indicate there is actually more bikie activity?

Mr Pryce: The advice from police is that they are concerned about OMCG groups from other jurisdictions travelling to this jurisdiction. The concern they have is about visits they have had here and the intelligence around that, but we have not actually seen a movement or an influx of OMCGs—

THE CHAIR: To live here?

Mr Pryce: Or the visits. We have had visits over years. The number of visits, in my understanding, has not really changed. They are worried that it may change, and that is what we are looking at, at the moment.

THE CHAIR: Can you provide some substantive evidence to the committee that the number of visits of OMCG has not changed, as you have just stated?

Mr Pryce: I would have to get that through Policing and take that on notice, Mrs Jones.

THE CHAIR: Yes; please do.

Mr Pryce: My understanding from their advice is that the numbers have not changed. We have been having visits over a number of years. It is important to note that they visit other jurisdictions too, and they exist in other jurisdictions too. As to Mr Hanson's question, the criminality we see around OMCGs in this jurisdiction is not different from those other jurisdictions that have other laws as well as what we have.

MR HANSON: That is not what the New South Wales Police are saying. That is not what ACT Policing are saying. Both are very frustrated. Both are saying that the ACT has become a haven. We know that there are bikie groups coming down, particularly from New South Wales, and they are at meets and so on here, specifically because we do not have the same laws as New South Wales. We know that there are outlaw criminal gangs being provided with legal advice that the ACT is the place to go because the laws are not consistent with New South Wales. So why aren't we having laws that are consistent with New South Wales, based on that advice?

Mr Pryce: The advice to us is that the police are concerned that there may be more frequent visits and that they may come here, but we have not actually experienced that yet. We have visits, and we have had them in the past, and they also visit other jurisdictions on national runs and things like that.

THE CHAIR: Do you record every single visit of an outlaw motorcycle gang to the ACT? How are you aware of that?

Mr Pryce: ACT Policing, through their work with the National Anti-Gangs Squad, as well as Taskforce Nemesis here, monitor all OMCG groups. There is a national strategy towards targeting these groups.

THE CHAIR: As a supplementary to that, given that apparently there is no problem, why do we have Taskforce Nemesis suddenly and all of this money being spent in this area?

Mr Pryce: Mrs Jones, I never said there is not a problem. There is a criminal existence here of OMCG groups.

THE CHAIR: The case you are making is that it has not got any worse.

Mr Pryce: No. The concern that Mr Hanson spoke about is that we may see a change—

THE CHAIR: No.

Mr Pryce: And there was a report—

THE CHAIR: I thought Mr Hanson was talking about a change that had been seen.

MR HANSON: You are saying that there are no bikies coming from New South Wales—

Mr Pryce: No, I never said that, Mr Hanson.

MR HANSON: That has never happened—

Mr Pryce: No, I never said that.

MR HANSON: because of—

THE CHAIR: That is not what he said.

MR HANSON: the difference in consorting law.

Mr Pryce: I never said that, Mr Hanson.

THE CHAIR: That is not what he said.

MR HANSON: So it is happening?

Mr Pryce: Yes. I never said what you just said, Mr Hanson. What I said is that there are visits here, but they have been happening over many years. Also, they do runs to other jurisdictions that do have laws in place.

MR HANSON: Are the bikies coming to the ACT, or other outlaw criminal gangs, as a result of consorting laws that occur in New South Wales that make it easier for people to come to the ACT?

THE CHAIR: Yes or no?

Mr Pryce: I cannot answer that—

MR HANSON: Yes or no?

Mr Pryce: because I do not know why they come here. I only know what the police say, and they have expressed some concern.

THE CHAIR: Absolutely, they have. Mr Steel has a supplementary.

MR STEEL: What was the feedback on the discussion paper on anti-consorting laws,

and what did it indicate about the consorting laws?

Mr Ramsay: Certainly, consultation took place in 2016, and there have been a range of views. The key thing is that—

Ms Field: I can talk to that, minister.

Mr Ramsay: Sure.

Ms Field: The discussion paper went out on 9 June 2016. It raised a number of issues for consideration in relation to the impact of anti-consorting laws on vulnerable groups. The ACT government received eight submissions on the discussion paper. Two were in support of consorting laws, and six opposing. Based on this and other consultation processes, and on the importance of ensuring that consorting laws comply with rights under the Human Rights Act, the previous Attorney-General decided to continue to keep consorting laws under review rather than do something at that time.

MS LEE: Minister, yesterday Mr Gentleman, when he was talking about the anti-consorting laws, actually stated that at this time the government is not doing anything. Does that mean that your government will consider bringing in anti-consorting laws in the future? Is that under consideration?

Mr Ramsay: Mr Gentleman has written to the Chief Minister indicating that at this stage anti-consorting laws are not under further consideration. There is a range of ways that the government is working with the Chief Police Officer and the police in general in terms of either continuing the existing forms or other legislative changes that may be considered. I believe that Mr Gentleman has indicated here the potential for anti-fortification laws.

There are a range of things. We believe that there is a suite of provisions and the government is working with the police to make sure that the police are fully aware and are working on the suite of provisions that are available for policing.

THE CHAIR: As a supplementary to that, on 6 March it was reported that Chief Police Officer Justine Saunders told ABC News that outlaw motorcycle gangs were "a growing threat in one of Australia's safest cities". She said, "They capitalise on any opportunity to commit crime, so we are seeing the full suite of offences whether they be assaults against a person, property, crime, drug-related activity." Given that that is the publicly stated view, which has not been refuted in any sense—the CPO was here yesterday—are you still maintaining that there is not yet a problem here?

Mr Ramsay: The indication that we have, and the evidence that we have, is that there is no evidence that there is any increased activity. We are working with Taskforce Nemesis—

THE CHAIR: No evidence of increased activity?

Mr Ramsay: There are anecdotal comments about it. There is no evidence—

THE CHAIR: So the CPO's opinion is not evidence?

Mr Ramsay: The CPO has indicated that she is concerned for the future, as Mr Pryce has indicated.

THE CHAIR: I think we are playing a game of semantics here, minister, because she said, as I quoted, that the gangs were a growing threat. Is it not a concern that we are seeing the full suite of offences—assaults against the person, property crime, drugs and related activity?

Mr Pryce: Ms Jones, unfortunately OMCGs bring with—

THE CHAIR: I am Mrs Jones if you do not mind, Mr Pryce.

Mr Pryce: Sorry, Mrs Jones. OMCGs bring with them the whole range of criminality. That is what I think Ms Saunders was getting to through that statement. The other thing is—

THE CHAIR: How does she come to the conclusion that the threat is growing?

Mr Pryce: Well, she is saying—

THE CHAIR: It is a growing threat.

Mr Pryce: Yes, and what I said to Mr Hanson is that there is a potential threat there.

THE CHAIR: No, there is not a potential.

Mr Pryce: But we have not actually seen that change.

THE CHAIR: She said it is a growing threat.

MR HANSON: The word was "growing" not "potential". They are not potentially growing; it is growing.

THE CHAIR: It is growing. Obviously, she has some kind of evidence of it growing.

Mr Pryce: And the government has invested significantly in Taskforce Nemesis, through the additional funds to increase their intelligence, their operational investigative capacity, their criminal assets forfeiture capacity and we—

THE CHAIR: Absolutely, and nobody's disputing that.

Mr Pryce: have also more recently worked with the commonwealth to embed a national anti-gang squad member too.

MR HANSON: But the advice from the CPO and others is that this creates a haven. By not having laws consistent with New South Wales we are a haven, so—

Mr Pryce: But we have not seen that. It has not become apparent.

MR HANSON: That is her advice. That is the advice of the experts. We are a haven. Failure to introduce those laws means that we are haven. So I put a question to you: if, down the track, having been warned that the ACT has a growing threat and that we are a haven, if a member of the public is killed or hurt by an outlaw motorcycle gang that has come here from another jurisdiction because we are a haven, who is culpable?

Mr Pryce: It is indeed a hypothetical situation and speculative as well. What I can say again is that there is gang activity in each jurisdiction. There is no evidence that there is increased activity here. We have a suite of investments and increased ways of operating with Policing. That includes the increased funding in terms of Taskforce Nemesis. It includes ways that we are working with Policing for the ongoing monitoring and the ongoing disruption of their work. We are, and have always said we are, concerned in relation to anti-consorting laws about the ways in which we operate in this jurisdiction in terms of human rights compliance and within the operation of the rule of law as it has long been established in Australia.

MR HANSON: Does Victoria have consorting laws, are you aware?

Ms Field: Victoria has a limited form of consorting laws.

MR HANSON: They have the Human Rights Act, do they not?

Ms Field: Yes.

THE CHAIR: So they have managed to—

MR HANSON: Are you aware of other areas—

THE CHAIR: Wait a minute, Mr Hanson.

MR HANSON: Sorry.

THE CHAIR: Ms Cody has a supplementary and I have a supplementary.

MS CODY: Thank you. Minister, I do not mind if someone else answers this question.

Mr Ramsay: Thank you.

MS CODY: Mr Hanson just mentioned other jurisdictions. Have you been looking at other jurisdictions that have anti-consorting legislation and at how that is working in those jurisdictions? Is that something that you have been mindful of, been investigating?

Mr Pryce: Yes, Ms Cody. The answer is yes.

Ms Field: Basically in areas like this we keep an eye on what other jurisdictions are doing. We are aware that Victoria has the anti-consorting laws. Our understanding is that they are not using them; so there was limited utility in having them here. It would just be tokenistic. I think the bottom line is that there have been a lot of loose words

around evidence. Really, we are happy to look at any evidence, as opposed to speculation or feelings.

We are happy to have an evidence base and, really, that is what the Human Rights Act is about. It is saying that you need an evidence base to do something, to show that it is proportionate. That is what we are waiting on. If we had an evidence base, we would provide that information to the minister.

MR HANSON: I am a little confused, though, because I have been in the committee hearings here for a while. The previous Attorney-General and the officials were reasonably gung-ho about getting consorting laws. There were summations and indications that consorting laws were going to be tabled by the government. A discussion paper was put out, with a model of what consorting laws would be like. Was that done because there was a lack of evidence? Surely the government was not just doing that ad hoc, for no reason. Surely the government was proposing, discussing and looking at consorting laws for a particular reason. Were they wrong with the proposed consorting laws? Were they wrong when they put forward a particular model? Were they doing that without evidence?

Ms Field: No. What we were doing was considering options, getting advice and putting it out to the community to get that advice. The model that we put out was quite similar; I think it was almost exactly the Victorian model. The feedback we got around that was that it is not being used.

Mr Pryce: The government response, Mr Hanson, was the increased funding for ACT Policing through Taskforce Nemesis to bolster their intelligence, their investigative capacity, their criminal assets forfeiture capacity and obviously their strength and linkages with the national anti-gang squad and then to see how that played out. Now, that funding only came in towards the end of the last year. So we are still waiting to see the results of that additional effort being applied by ACT Policing.

Can I make one other point, please? It is that we do have other laws that actually prevent association and put place restrictions on people in certain circumstances. It is not accurate to characterise it as if there is no legislative ability to actually prevent people—

THE CHAIR: I do not think anybody is characterising it as such.

MR HANSON: Thanks for that. Can you just explain what those other laws are that restrict association, please?

Mr Pryce: Broadly, and then I am happy for Julie to provide more detail. We have non-association orders that the courts can deliver. Obviously, through bail restrictions, there is an ability to put restrictions on people and there are also place restriction orders that can be made as well; so person and place.

MR HANSON: Can I quickly follow up on this? Can you provide a list to the committee of the laws that are in place that do provide for non-association so that we have a list of what those laws are?

Mr Pryce: Shall we take it on notice?

THE CHAIR: Yes, please. I also want to ask: I know over the last couple of years—and I have lived in Canberra for a long time—we have seen reports in the media of shootings in the suburbs, some in Gungahlin and some in Tuggeranong, which were directly associated with criminal gang activity. My recollection is that at the time in the Assembly we were told that there was a new tussle between different gangs, that we had had one gang and we moved to two and now we have three. To say that there is no evidence of any change in this area, is that not just a little disingenuous?

Ms Field: Those events, we understand, were the result of patching over. That is where—

THE CHAIR: Where they change whose turf is whose?

Ms Field: Yes, where members change gangs sometimes. In fact, we have not seen a change in the overall numbers. What we have seen is a change in what group they belong to.

THE CHAIR: I understand that, and that point has been made over and over again. Clearly the line that the government is running with is that the numbers have not increased. But there certainly is something going on. We are funding Taskforce Nemesis and even if there is no admittance of the fact that there are additional issues going on we clearly have a reason to fund it. I just want to ask how the human rights matter is decided. Here we have a jurisdiction where it is illegal to meet for peaceful protest outside the health clinic but apparently making it illegal for bikies from outlaw motorcycle gangs to meet together is against people's human rights. How does the Attorney-General justify that?

Ms Field: The anti-consorting laws would actually not just impact on members of motorcycle gangs. The experience in other jurisdictions is that the way they tend to be used is they disproportionately impact on the homeless, Aboriginal and Torres Strait Islander people, people like that.

THE CHAIR: Can you explain how that happens, Ms Field?

Ms Field: I might ask Victor Martin to come up. He has a better background.

Mr Ramsay: He is the director from the criminal law area.

Mr Martin: The concerns that Julie has pointed to relate to the challenges associated with how you structure the laws. For example, in New South Wales the threshold for the making or giving of a warning is relatively low. A person can be warned not to associate with a convicted criminal. The conviction is a relatively low-level conviction. The examples that the Ombudsman in New South Wales has raised concerns about relate to people who have had, for example, shoplifting convictions and who are told not to associate with their friends and colleagues, particularly young people or homeless people. How exactly we would structure consorting laws in the ACT, having regard to models available in Australia and overseas, comes back to the fundamentals of how you confine the folks who would be eligible for a warning and

who would not be.

THE CHAIR: Just out of curiosity I think the average Joe would think—and forgive me if you think I am wrong—that a consorting law means that someone in colours cannot meet, that bikies cannot come on their bikes, in their colours and have get-togethers. Is that not part of what the legislation could offer?

Mr Martin: Certainly the models available in New South Wales, South Australia and Queensland do not point to the idea that you are wearing colours and are necessarily a member of a gang. The threshold is very different, and therein lies the controversy. Do we consider a model more akin to the model available in Victoria? There is a nexus there between an allegation of involvement in criminality at a particular level—for example, serious criminal conduct—and the idea that that person should be prevented from associating with another person, whether or not that other person is also associated with criminal conduct. It is about recognising that in other jurisdictions it is quite possible for somebody who is effectively a cleanskin to be made subject to a consorting warning and be subject to a criminal offence if they associate with the person.

THE CHAIR: So it is definitely something that there needs to be some more work done on, but does this mean it is not a possibility here, essentially?

Mr Ramsay: It means that at the moment the government is not looking at the introduction of anti-consorting laws. It is—

THE CHAIR: Not investigating it all?

Mr Ramsay: We believe that there is a broader suite of ways in which the policing and government are able to respond.

THE CHAIR: I understand all that. I want to take you back to my question. How do you make an argument about the human rights of people who, in the public's perception, were there an anti-consorting law, would be targeted if they had either a criminal history or an evidence based association, versus the human rights of those people who are meeting for a peripheral, quiet protest outside a health clinic in the ACT?

Mr Ramsay: I note that in terms of the Human Rights Act one of the important matters is to know when the anti-consorting would be an example of where there are unintended or unnecessary restrictions placed on people. For example, there are a large number of people who ride motorbikes and who are not part of an outlaw motorcycle gang. So it is a matter of making sure that the legislation is targeted and is targeted effectively. We have mentioned a number of the other—

THE CHAIR: But, Mr Ramsay, how does that apply then to people gathering peacefully, without any conversation with the public, outside the health clinic?

Mr Ramsay: The limitation in terms of the protest that you are talking about is something that has been introduced because of the impact on the people who are accessing health services.

THE CHAIR: But I think no evidence has ever been tabled about that, Mr Ramsay, because there have been no discussions between those people and people entering the health centre. It is not possible because the health centre has 500 different other things going on in it.

Mr Ramsay: In terms of those particular laws, the government is not intending to review the limitations that are placed.

THE CHAIR: No, I am not asking about what you intend to do. I am asking: how is it justified on human rights grounds that people who have never, ever had evidence brought against them of even having had conversations, because they have not taken place, are not allowed to gather quietly and yet bikies in the ACT are?

Mr Ramsay: I do not believe that it is an appropriate comparison between those two situations. In one you have a number of targeted and particular law enforcement provisions. In any situation where any act of parliament is brought through, what the human rights compliance certificate looks at is: is there a limitation that is placed on any person's human rights? Is it necessary? Is it proportionate? There are a range of matters that—

THE CHAIR: So you believe it is necessary and proportionate to stop people quietly standing around outside the health clinic under their human rights and their religious freedom versus bikie gangs meeting in the ACT—just to clarify?

Ms Field: My understanding—and I did not have time to check—is that the bill would have included a human rights assessment.

THE CHAIR: That does not matter. I am asking the minister what he thinks about the human rights in this situation and ultimately he needs to answer for the laws over which he has responsibility in the ACT.

MR HANSON: The point is that there is an acceptance that there are times when legislation is brought in where there will be noncompliance with the Human Rights Act. In the case that Mrs Jones is pointing to, the government argues that the right of assembly in the Human Rights Act would be essentially waived because there is a concern that Sister Mary praying silently would be a threat to the community in some sense and therefore the Human Rights Act should be waived.

The contradiction seems to be that the government argues very strongly that we cannot possibly waive the Human Rights Act with regard to outlaw criminal gangs. It seems an odd contradiction that on the one hand you are arguing we can waive the Human Rights Act for people praying silently in their right of assembly but we cannot possibly waive the Human Rights Act for people who are known criminals and their right of association. It is an odd contradiction. This is a matter for the minister to answer, I think, not officials. This is a matter for the minister to explain to the community: why it is that we are more concerned about Sister Mary being a threat to community safety rather than identified criminals in outlaw motorcycle gangs.

Mr Ramsay: Firstly on that, it is a gross misrepresentation to say that we are more

concerned about the people who may be choosing to pray and protest within a particular area than we are about outlaw motorcycle gangs. That is simply not accurate and not fair.

THE CHAIR: But unfortunately that is what the facts say.

MR HANSON: Your argument has been about engaging the Human Rights Act, and that is entirely consistent with what you are saying.

Mr Ramsay: We are not at any stage talking about waiving the Human Rights Act and I think that is—

MR HANSON: They are not compliant with the Human Rights Act on certain aspects of freedom of assembly. Read the speeches.

THE CHAIR: Making a justification to take away someone's human rights is essentially how our system works. When someone brings in a bill which takes away the human rights of someone they are expected to provide justification, and that is our system. We actually do not accept that we never take anyone's human rights away. All we say is that there has to be a reasonable justification. What we are asking you is: how can you lie in bed at night knowing that the justification is acceptable in the case of Sister Mary praying outside the abortion clinic but not okay when it comes to criminal bikies who are known to be causing trouble around the area?

Mr Ramsay: We do not have an operation Nemesis in relation to—

THE CHAIR: Because there has never been anything done wrong by those people, Mr Ramsay.

Mr Ramsay: In the situation at any stage when there is legislation brought in, including the one that places limitations on freedom of association, it is a matter of looking at what is the extent of the limitation, what is the impact—

THE CHAIR: Justification?

Mr Ramsay: And the justification. Is it necessary? Is it appropriate? The decision was made, and I stand by the fact that, in terms of the protest that you are talking about, the limitation is reasonable and is appropriate.

THE CHAIR: That is nonsense, but that is fine.

Mr Ramsay: We could go into whether people, in terms of having a quiet, silent, prayerful protest, need to be in a particular place to do that.

THE CHAIR: Really, Mr Ramsay, as someone who has been a minister in the past, I would not expect that to come out of your mouth. Anyway, we will move on.

MR HANSON: Can I just confirm—and I reiterate—that all the time in legislation we look at the Human Rights Act and consider whether the restrictions on it are reasonable and appropriate. I think that that is the point. There are a number of pieces

of legislation where we undertake that consideration, which is reasonable and appropriate. It is odd and it seems strange that the freedom of association of people conducting criminal activity seems to not meet that test—it is not reasonable and not appropriate for the government to act—but on so many other pieces of legislation, and the one that has been identified is just one of them, the government regularly makes that determination.

MS CODY: I was reading page 23 of the annual report, under output 1.1, the family violence part. I was just wondering about the background to the reviews and what issues they addressed. You talk about some reviews.

Ms Field: There were a number of reviews. There were the closed case reviews about family violence deaths and the Glanfield review. The government introduced the family violence package. There was $21.42 million in the ACT budget for the safer families package. The coordinator-general for family safety is leading the necessary change. Part of that is about implementing an information-sharing culture, promoting collaboration and focusing on key outcomes. The coordinator-general is working with stakeholders to co-design a family safety hub. The family safety hub was one of the recommendations coming out of Glanfield.

The parliamentary agreement for the Ninth Legislative Assembly provides that the government will undertake legislative reforms to expand the definition of domestic violence in the Crimes Act to include emotional and social violence. That has already been done, and that comes into effect on 1 May. It also commits to implement any outstanding Australian Law Reform Commission recommendations on sexual assault. We have done the first tranche of that. That includes things like a new strangulation offence.

Strangulation is seen as a very good indicator—although the results can look quite small; they can be small bruises and things—that family violence is going to occur. People use it as a control mechanism. In fact, it was found that 50 per cent of all victims have no visible markings at all. We are really proud of the strangulation offence. It is quite an important new offence. What people tend to do is strangle people to the point where they are about to lose consciousness or they lose consciousness. It is really about being able to charge that offence.

MS CODY: What other recommendations were made from the reviews in relation to domestic violence?

Mr Pryce: In terms of the government response to all of those reports, there were three main reports. There was a gap analysis as well as Glanfield and the other review. The key themes coming out of them are leadership and cultural change to drive changes there, prevention and early intervention, information sharing, collaboration and integration and transparency and accountability. The lead for that work is the coordinator-general. I understand she will be appearing before the committee this afternoon and can give further detail on that.

MS CODY: Yes.

Mr Pryce: Obviously the development of a family safety hub will bring a lot of both

government and non-government services together to further promote cultural and information sharing and, I guess, joined-up responses, as well as the legislative changes that have been made. Even with the strangulation offence, there have been recent cases already where that has played an important role in addressing victims' needs when dealing with family violence. I might hand over to Victor Martin.

Mr Martin: We have now progressed two major tranches of legislative work in response to the focus that we have had over the last three or four years on family violence. In late 2015 parliament passed a very important bill with key changes to, as Ms Field has already pointed to, the offence of strangulation. It introduced a new mechanism to allow police to take video recordings of a complainant's evidence, often in their homes, about an allegation of family violence.

Those changes have now been in place for over a year, and we have seen some very important benefits. It is early days, but the indication from police is that having the ability to take a recording at the scene, or very shortly after an incident, is creating a number of benefits. Firstly, it is giving a victim the opportunity to tell their story, and to tell their story only once, often in circumstances where the evidence is presented in a very raw and detailed fashion, given it is fresh in the mind of the complainant, and that is offering further benefits to the justice system generally. It means that that evidence will be available to the court and to the accused early so that an accused has the opportunity to consider the case against them in a full way, informing the question of how they should plead in the matter or whether they should take the matter to hearing with a not guilty plea.

I reiterate that it is very early days. We have about 260 of these recordings in the system that have either come to finality or are still working their way through the system. To give you a sense of the scale, in New South Wales, where they did get the jump on us on these mechanisms by about a year, they have 19,000 of these recordings in play, and more every day. So we will be looking very carefully at how that new mechanism plays out over the next couple of years. We are very glad that the New South Wales Bureau of Crime Statistics and Research has decided to review the New South Wales laws and how they are being used in that state, given that there is a keen focus on this change around the country, with jurisdictions either already making efforts to implement the changes or looking at them very closely.

Finally, the amendments to the Family Law Act passed in November last year, which have yet to commence—they will commence on 1 May—will significantly change the way that our civil provisions work in the Magistrates Court. Broadening the definition of family violence to capture things like economic exploitation is a very welcome change in terms of understanding family violence—appreciating, of course, that so much of family violence does not have a physically violent element to it. That is one of the key challenges that we have in promoting to the community that family violence can take a number of forms.

One other change—if I could just take the committee's time—that is reflected in the family violence package that was passed late last year, which I think has gone somewhat unnoticed, is the idea that, from 1 May this year, all victims of sexual assault will be able to give their evidence in court by pre-recorded evidence. That has a number of benefits. We are working closely with the courts and the DPP on making

sure that that is implemented effectively, but we expect to see that additional change, added on to the significant suite of changes that we have had in relation to sexual assault reform, contribute to the way that justice is delivered in relation to allegations of sexual assault.

MS CODY: You mentioned that taking evidence at the scene—

THE CHAIR: The videos.

MS CODY: Yes. The video evidence has been wonderful. As you mentioned, it is early days yet. Has any of that evidence been used to take a matter further, whether it be all the way to prosecution or—

Mr Martin: I understand that there have been only three matters to date that have gone to hearing, and each of those matters has resulted in a guilty finding. I should also note that it is not all positive. Having the availability of that evidence also gives investigators the ability to confirm whether or not they should be proceeding with charges, so some matters have not proceeded with charges. But, then, that is a benefit to the justice system in and of itself.

MS CODY: Absolutely.

THE CHAIR: It is getting to the truth of the matter.

Mr Martin: I am reminded that I left one key element out of the package that we saw passed in November last year and that is the new national recognition of domestic violence orders around the country. Here in the ACT, being an island in New South Wales, we have a lot of folks coming in and out of the ACT who have an order. Some of them take advantage of the mechanism that we already have to register an order in the court. That is an administrative process that is very straightforward, but still it leaves the burden on the complainant to take those steps. We know that a lot of people just do not do that. Hopefully, later this year—at this stage the final implementation date has not been settled—we will be able to promote this new change, which has been a long time coming, frankly, that will offer an important intangible benefit to the way that our national orders around family violence work.

MR STEEL: I have some questions about the review that was undertaken into ACAT's jurisdiction. It is referenced on page 24 of the annual report. What recommendations did the review make about ACAT's jurisdiction and structure, and how will the changes improve access to justice?

Ms Field: ACAT was set up in about 2009, and it was our first super-tribunal. Super-tribunals were not as common as they are now. We did not know quite how it would run. In the review we looked at how effectively matters were heard. We looked at the appeal president position and whether that was value for money, whether it was a useful function to have in a low-cost jurisdiction. We determined that it unnecessarily tied up resources. So the structure has now gone to a president and two deputies. That really helps support the president of ACAT to better provide services and better manage the business. As part of that we looked at lower down kinds of structures. We have actually put in more of a management structure to better support

it, so it is a more effective use of ACAT's resources.

Another thing that got looked at and was later implemented was the level of the jurisdictional limit. It had been $10,000 from the beginning of ACAT. We went out and talked to people about that and looked at inflation and things like that. There was a little bit of concern. We looked at whether we should raise that to $50,000. We just were not sure what impact it would have if we did that, so we took a medium and measured approach. The government decided to raise it to $25,000 and we will see how that goes.

MR STEEL: Was that an impact in terms of the case load that you were concerned about or other impacts?

Ms Field: Yes, it was about case load. It was about management. It was about feeling confident that ACAT could cover matters up to $25,000 before we looked at whether it should cover more. In fact, ACAT is a really odd jurisdiction because there are areas where it can deal with matters that are worth much more in particular jurisdictions; so it has street cred around that.

MR STEEL: Do you have any numbers on how many cases you are getting from the $10,000 to $25,000 range?

Ms Field: The jurisdiction started on 15 December 2016. It is very early days, but between 15 December 2016 and 25 January 2017 there were 33 claims valued at $3,000 or less and 15 claims over $10,000. It is about one-third, two-thirds.

MS LEE: One of the flow-on effects of ACAT raising its jurisdictional limit to $25,000 was that it would relieve a bit of pressure from the case load in the Magistrates Court. Have we seen a drop in delayed judgments in the Magistrates Court as a result of this? I know it is still early days.

Ms Field: I think it is too early to tell.

MS LEE: Yes.

Ms Field: It should happen.

MS LEE: Yes. And then in turn, the Magistrates Court having raised its jurisdictional limit a number of years ago, have we seen the effect of the case load being lifted from the Supreme Court, now that it has been a number of years?

Ms Field: The case load in the Supreme Court is doing very well. The case load in the Magistrates Court certainly has improved over the past few years. I might ask Philip Kellow to come up. Sorry, I should be letting the expert talk to you on this.

Mr Pryce: Philip is our principal registrar.

Mr Kellow: Philip Kellow, Principal Registrar and Chief Executive Officer of ACT Law Courts and Tribunal. I think I have got one of the longer position titles embedded in legislation.

THE CHAIR: Try the shadow minister list!

Mr Kellow: Picking up Ms Field's comment, we do not have firm data yet. It is very early on, and a lot of these cases have some lead time, but I might just pick up a little bit about ACAT's management. I think the new structure, with more full-time members, has allowed the president to delegate case management responsibility to particular members. It was centralised. The then general president had to look at all the various areas of jurisdiction to develop policies and procedures. That has now devolved to the presidential members and senior member, so I think we are able to focus our attention on getting through the work in a more measured way.

In relation to the civil jurisdiction, one of the very positive outcomes with the increase to $25,000 was that it gave ACAT one of those opportunities to look at how it was managing the civil and residential tenancy jurisdiction. It ran a couple of workshops with a range of stakeholders, such as the general heavy users of the tribunal, if I can put it that way, from the legal profession and some of the commercial agents.

It has really come to a process of trying to embed the use of conferencing and alternative dispute resolution in a proportionate sense. In that regard we have looked at some of the experience in the bigger tribunals in Victoria and New South Wales to see how they effectively triage some of these matters. You try to focus on resolving the ones that you can resolve through assisted dispute resolution, and to clarify issues, and only let the ones go to hearing that really need to go to hearing. Equally, you do not want to have low-end cases in which you can over-egg the alternative dispute resolution, where people have invested a lot of time and money on a claim that may not be worth very much. Sometimes they just want a very quick result.

Those procedures came in at the beginning of December. Again, we are monitoring how they are working to deal with the jurisdiction. Turning to the Magistrates Court, again, it is early, but we are monitoring it. We are trying to work through the complexities of interrogating the new case management system, which came into the civil jurisdiction in September. We are working now on how we can build the reports that will help to give us granularity on monitoring different areas of the jurisdiction.

MS LEE: And the Supreme Court case load would have been reduced as a direct result of the Magistrates Court jurisdictional limit being lifted? That has been in place for a couple of years now. Do we have any figures on that?

Mr Kellow: The lodgements in the Supreme Court have dropped. We need to do some analysis as to why that is, but I think it would have had an impact. We certainly have noticed in the Magistrates Court that it is often the case that the higher the value of the claim the harder it is contested. The Chief Magistrate has been setting up arrangements. Magistrate Morrison now has oversight of the management of the civil jurisdiction to try to contain an increase in long hearings, which obviously have an impact on throughput and so on.

Mr Pryce: Ms Lee, if you wanted some figures, over the past six years the significant backlog of matters in the ACT Supreme Court has improved. The number of criminal matters that are non-appeal pending is down from 338 matters in 2010-11 to

186 matters in 2015-16. This is from ROGS data, the *Report on Government Services*. The number of cases older than two years is down from 56 matters in 2010-11 to six matters in 2015-16. The number of civil matters non-appeal pending is down from 1,404 matters in 2010-11 to 551 matters in 2015-16, and the number of matters older than 12 months has decreased from 729 in 2010-11 to 165 in 2015-16. The final measure—that is, matters older than 24 months—is down from 381 in 2010-11 to just 72 in 2015-16. So the ACT Supreme Court in particular has made significant inroads.

MS LEE: Yes, and no doubt the fifth judge contributed. That was long awaited.

THE CHAIR: Ms Lee, that was a supplementary, I presume.

MS LEE: Yes.

THE CHAIR: Do you have a substantive question?

MS LEE: I do. My substantive is to the Attorney-General. Yesterday we had the Director of Public Prosecutions in here and he spoke about welcoming the fact that we now have a fifth resident judge in the Supreme Court; however, that added resource from the ACT government was not matched with any further funding for the DPP's office to enable it to effectively prosecute the rising number of cases that is coming through that office. Can you give us your views on that?

Mr Ramsay: I will pass to David, who has a voice today.

MS LEE: Yes, and thank you for attending today. I know that you are unwell.

Mr Ramsay: But certainly, yes, there are ongoing conversations with the DPP and I have asked JACS to work with the DPP on a review of matters. David can speak to that further.

Mr Pryce: Ms Lee, obviously I am aware of the DPP's comments through this process and also through the annual reports that he provides each year. At the moment we are working with the DPP on conducting a review of resourcing arrangements. We are yet to finalise the scope of that review process, but we are looking at other jurisdictions to see if we can come up with a model that more accurately characterises what resourcing needs the DPP might have, noting that we need to take a holistic view.

You have to consider the workload of the courts and the impact of the number of magistrates and the number of judges. Obviously we have got to compare it across the whole of the justice system. Legal Aid, as a contrast, is in a similar position. But, to use that contrast, they have made some very good changes over recent years to improve their efficiency and effectiveness, noting that there is a fiscal limitation on everyone to some degree. We are working with the DPP. I am having constructive conversations with Mr White about that. We hope to have the review underway soon that will inform the process. Of course, as we do with every agency, we work through the budget process each year, and that is still under consideration of cabinet.

MR HANSON: The DPP's concerns are not new. This year he has used the word "crisis", but I have sat in this committee over the past four years and Mr White has

given very similar evidence about the constraint on his resources, the stresses that it is placing on his organisation and the inability to do any work beyond, essentially, prosecutions. Some of the other work that he would like to do is just not happening and it is also putting significant constraints on the organisation. The response that we get back from JACS is the same every year: "We are in conversation. We are having a chat. We are looking at the budget process."

What gives us assurance this year that there is anything different and that we are not just going through the same cycle that has occurred for the past three or four years, where the DPP puts forward in the annual reports and provides evidence to this committee and in estimates that he is, in his words, in "crisis", and then we get these smooth, assuring words from officials that "it is all being looked at" and nothing happens?

THE CHAIR: Did we not have a new minister, Mr Hanson?

MR HANSON: It is not the minister answering this.

THE CHAIR: No, but the minister will have a view, I am sure.

Mr Pryce: Mr Hanson, it is not accurate to portray the situation as if nothing has been provided. The government has provided a funding increase of approximately $4.5 million to the DPP from 2011-12 through to 2016. Some of the additional funding provided in recent budgets includes, through the last one, $1.363 million over four years to the DPP for strengthening their criminal justice responses to family violence. That is part of that family safety package. Also through the last budget $2.352 million was provided for a specific team in the DPP, comprising three FTE, to progress the Eastman matter.

Funding from 2016-17 follows on from previous supplementation to the DPP, totalling $1.7 million from 2012-13 to 2015-16, for the Eastman matter as it progresses. There was also additional funding of $1.158 million over four years to establish a work safety prosecutions unit, supported by two additional FTE, as well as $0.027 million in one-off capital funding for fit-out and accommodation fixtures to house those people. So we do work with the DPP. There have been additional measures.

Equally, other changes that have been introduced across this section provide efficiencies too. We have seen some of them play out in the courts and obviously the DPP too. But it is a continuing conversation, Mr Hanson.

MR HANSON: What was the—

MS LEE: You have just given us a lot of figures and the increases in funding for the DPP, but does that measure up? Does it align with the increase in workload that the DPP has faced over the same period? Is it sufficient? Is it sufficient to combat the increase? What we heard from the director yesterday was the significant increase in workload for the office and the lack of senior prosecutors to do the actual prosecuting work. Is that commensurate?

Mr Pryce: That is why we are commissioning the review, Ms Lee, to be absolutely sure.

THE CHAIR: Is that review finished?

Mr Pryce: No. We are just finalising the scope and the terms of that review with the DPP.

THE CHAIR: And when is that likely to be reported on?

Mr Pryce: Until I settle the terms and then work out the time frames for it—

THE CHAIR: But do you have any idea, Mr Pryce, or is it as long as a piece of string?

Mr Pryce: I do not have any idea because I have not settled it with Mr White, but obviously we are keen to do that as soon as possible so that we can provide advice and options to government.

THE CHAIR: Will it be within the financial year, over the next five years or tomorrow?

Mr Pryce: Absolutely. We are trying to do the review this financial year.

THE CHAIR: That would have been a good piece of information to provide.

MS LEE: I have one final supplementary to the attorney. Attorney, as you would be well aware, Justice Refshauge is retiring—and of course Justice Mossop was appointed—but how is the progress going in the appointment of the associate judge?

Mr Ramsay: We have advertised for the replacement for Justice Mossop, who is the associate judge, and that is moving through at the moment. We are obviously running the appropriate expression of interest interview process but, yes, it is a high priority.

MS LEE: What is the time frame?

Mr Pryce: Interviews are scheduled in the next week or so, so that is where the process is at.

MR HANSON: I want to talk about the technical amendments program that is detailed on page 42 of the annual report. It refers to:

> … legislative reform through its ongoing technical amendments program. The program provides for amendments that are minor or technical, and noncontroversial.

There has been some concern over a number of years that often in a SLAB—statutory law amendment bill—there will be items that are of significance as opposed to minor and technical. Can you give me an explanation of what it is that you are aiming to put into SLAB bills? A lot of this is initiated by the PCO, isn't it, or from the directorate?

My understanding is that significant issues, more substantive issues, are being dealt with in separate, standalone bills. Can you give me an update on that process and how that is being monitored?

Mr Ramsay: I note that that matter is being looked at by one of the committees at the moment. There will always be some conversation around the definitions of "minor", "technical" and "significant". There are a range of words used. Certainly, that is one of the key things that have been picked up in the referral to the committee. We look forward to consideration of that.

Ms Toohey: Mr Hanson, the technical amendments program that you referred to is the program that we run in PCO. A set of guidelines were written many years ago, and we have been operating under those guidelines since then, to produce the statute law amendment bill for each autumn and spring sitting of the Assembly. The guidelines are available on our website, and I can make sure that they are—

THE CHAIR: Could I ask for that link or document to be provided directly to the committee, on notice? That would be really helpful.

Ms Toohey: Absolutely.

THE CHAIR: Thank you.

Ms Toohey: The test is articulated in the guidelines for the content of those SLABs. We have in schedule 1 what we call minor policy matters. Schedule 2 generally contains amendments to the Legislation Act; they will be more structural things. Schedule 3 is very technical—things like grammatical errors, typos and things like that. So schedule 1 is where the judgement has to be made from time to time.

With respect to minor matters, the test is that it has to be something that we do not consider likely to be controversial at all, that is not affecting people's rights in any substantive way. Certainly, we would not be doing anything that was creating offences and so on. I can certainly provide those guidelines for you. They will spell it out more for you.

THE CHAIR: I am sure we will have our own reflections on that once we see them.

MR HANSON: There has been some confusion here because we were debating a statute law amendment bill in the Assembly. Minister, when we raised this issue, you made this statement:

> In fact, if the changes were technical and insignificant, I would have sent back the brief when it first arrived and said there was no point in spending resources on making technical changes …

The very purpose of these bills, as you have just outlined, Ms Toohey, particularly in schedules 2 and 3, is that these are minor and technical amendments. They are not significant. That is the purpose of them. But in your speech in the Assembly, minister, you said that if things had come forward that were minor and technical you would have sent them back. How do you explain your comments? Essentially, you were

saying that anything that comes forward to you that is minor and technical would just be sent back?

Mr Ramsay: No. To be accurate, my statement was about where they had no impact.

THE CHAIR: I think you are being quoted.

MR HANSON: "That have no impact on people's lives".

Mr Ramsay: That is right.

MR HANSON: But these things are just a structural rearrangement of the bill.

Mr Ramsay: But the reason for structural—

THE CHAIR: So yours was more a philosophical argument; is that the point you are making?

Mr Ramsay: The reason we make the minor and technical amendments is that they do change things. It might mean there are things that can happen for people if there are minor—

MR HANSON: Minister, these are talking about typos; these are talking about issues which are changing structures around—

Mr Ramsay: Typos can have a significant impact in legislation. There are a range of things that can have a significant impact on people.

MR HANSON: So every time there is a SLAB that comes forward to the Assembly, you will now be explaining in your explanatory statement and in your speech how this has an impact on people's lives. We will not be supporting or discussing anything that is just minor and technical; they will not be tabled in the Assembly. These have to be significant issues, as you said, that have an impact on people's lives, and that is the purpose of the SLAB?

Mr Ramsay: My sense is that you are drawing a false dichotomy between options. The reason that we have the minor and technical matters going through the SLAB bills is that it does improve the legislation that we have, and improving the legislation that we have has an impact on people's lives.

THE CHAIR: I think the point at the time—

MR HANSON: But you said that they are—

THE CHAIR: Mr Hanson, please.

MR HANSON: insignificant. They cannot be insignificant.

THE CHAIR: Mr Hanson, I think the point being made at the time was in relation to the fact that it was a requirement of these bills that they be minor and technical. So if

anyone was drawing a false dichotomy in the first place, that must have been you, minister. Anyway, we will move on.

Mr Ramsay: Mrs Jones, if it is helpful, the guidelines are here.

THE CHAIR: Please. Could they be provided to the committee's secretary? Do you want to read them into the *Hansard*?

Ms Toohey: They are several pages long.

THE CHAIR: How about we have them tabled? Thank you.

MS CODY: Minister, have there been any recent changes to the Coroners Act 1997?

Ms Field: Thank you for the question. Yes, there have been recent changes to the Coroners Act. There was a review of the Coroners Act. We got a Queensland coronial expert to look at the current Coroners Act and make recommendations around improvements. We have gone through an incremental process. The whole purpose is that we were doing too many post-mortem examinations, and, where we were doing those, we were doing full post-mortem examinations. The policy has been to only consider a post-mortem where it is actually necessary. Previously, people were doing it as a matter of course. So it is only when it is necessary and only to the extent which is necessary. That is recognising that, in fact, in a lot of cases, you will know what the cause of death is and it will not require a full post-mortem.

Mr Kellow: I can talk about the process. We have been looking at the forensic pathology services with respect to the forensic medical centre. We have had arrangements in place which are coming to an end. The primary pathologist is approaching retirement, so we have been looking at other options. Our ideal option is to try and partner with New South Wales to create a bigger body of forensic pathologists, as it were, to provide some better support in terms of being able to cover planned absences and so on.

Part of that discussion flowing from the legislative changes is looking at whether we can get expert advice from the pathologist to a coroner very early about what is necessary and what is the reasonable extent of the post-mortem. New South Wales has been introducing those systems over the last few years. It has found quite a big drop in full post-mortems. So we really want to leverage off their experience. Some of it relates to quicker and more effective toxicology equipment and testing which we do not have access to. We are exploring those options to try to give real meaning to that legislative framework. That is a work in progress at the moment.

Ms Field: Another thing I forgot to mention was fires. We have removed fires. Previously, every fire required an inquiry. Most of those were done on the papers. Every time anyone put a match into a bin and set a fire, that required an inquiry. So we have removed fires, and that has already produced a substantial reduction in the number of matters coming before the coroner.

MS CODY: Can you explain what factors may cause a coronial inquiry to be delayed?

Mr Kellow: There are a range of factors, depending on the particular circumstances of the case. Sometimes it is just the time in evidence gathering. Sometimes additional time is required to get expert reports. Often the particular nature of the expert reports may take a little time to identify, as more material comes to the coroner. If there are related criminal proceedings then often the coronial inquiry will have to be delayed so as not to prejudice those criminal proceedings. So a range of those factors can arise and it really is peculiar to the particular case.

Ms Field: One of the things that we have also amended that has helped reduce delay relates to who can sign a death certificate. The provisions previously were that the person's normal GP had to sign the death certificate. If the GP had, three weeks before the person died, taken a cruise or gone around Australia or something like that, there could be delays. So we have also fixed that so that—

THE CHAIR: Another medical officer can sign it.

Ms Field: Yes.

MS LEE: I have a supplementary. I apologise if this has already been raised. There was a call by the Chief Magistrate about the need for a dedicated coroner for the ACT so that the roles are not taken on by special magistrates who also have other commitments in the courts. What is the government's response to that?

Ms Field: We are working with the Chief Magistrate on an option on that, but it is probably too early to speak further on that.

MS LEE: I have a substantive question. Looking at the ACT legislation register and the project you are undertaking, I must say that, as a user both in practice and in academia the 12-year-old website is not the most user-friendly. Where is that up to? The expected finish, I notice, is 2017-18. Can you give us an update as to where that is up to?

Mr Pryce: Mary Toohey, the Parliamentary Counsel, looks after this area.

MS LEE: Ms Toohey, that was in no way a criticism of the office in terms of the way it is set up. I think most who use it agree that it is a bit clunky.

Ms Toohey: The redevelopment project is underway, obviously. Broadly speaking, we are halfway through. It is being done in stages because we are a small office and we are trying to do that while keeping ordinary business going, of course. The stage that has been rolled out and that we are trying to bed down now is our internal job management system. The stage that we are working on but which is not visible to anybody yet is the redevelopment of the website itself, and that is well progressed. I am hoping that by the end of this year we will have the new look and feel, and enhanced functionality. There is another stage that will continue next year and perhaps into 2018-19 that will contain the final enhancements that we are able to do within this project—RSS feeds and things like that.

There will be a range of improved functionality, we hope, and a new look and feel.

Essentially, there is comprehensive content now, and we will be maintaining that. We do get a lot of good feedback from people, particularly about that aspect of it, the currency of everything and all of the historical versions and records that are there. We are conscious of the importance of keeping all of that and just improving accessibility and functionality in other ways that users expect.

MS LEE: By the end of the year is the time frame for the website itself?

Ms Toohey: Yes.

THE CHAIR: I turn to page 49 of the JACS report, looking at output 2.1, Corrective Services. I particularly want to go to concerns that have been raised with me in the community regarding bail. Minister, I know there is obviously a balance of rights in situations, but yesterday or earlier last week the committee heard about a couple of examples—cases of people who had been perpetrators of domestic violence who were out on bail because of the things that our legal people have to take into account when making the decision about bail, which had led to violent and injurious outcomes, sometimes death, for those involved. Are you able to give us an update? I know you have made statements that there are reviews going on in this area. Can you please tell us what they are and what you are hoping to get out of these reviews?

Ms Field: Perhaps the most relevant thing, to answer your question, is the new bail review power. That came under the work on family violence that we did last year. In August last year the Bail Act was amended to give the Director of Public Prosecutions a bail review power, and that is one of the amendments that will start on 1 May this year.

THE CHAIR: What does that do, exactly?

Ms Field: The DPP will have two hours to request a review of a bail decision made by a magistrate and the Supreme Court will then have 48 hours to decide the review. Non-sitting days, including public holidays, have been included in calculating the time allowed for the review. Really, what this is about is—

THE CHAIR: So a clear 48 hours, not just 48 hours of working time?

Ms Field: That is right.

THE CHAIR: It is still enough time for something to go wrong.

Ms Field: I am fairly confident that the person remains in custody for that time. Really, that is giving us a backstop, a safety stop. We are not expecting that to be used very often. We are expecting it to be very rarely used. It is saying that courts do an excellent job. They do the job with the information they have. This is providing us with another level of comfort when there might be a case where you might want to say, "No, we think there is something seriously wrong here."

THE CHAIR: Who is the decision-maker in that situation? Does it go back to the court or is it a decision being made by the DPP?

Ms Field: The DPP decides to apply for a review, and that goes to the Supreme Court.

THE CHAIR: So that is not then the same judge who has dealt with the initial matter?

Ms Field: No.

THE CHAIR: It is someone new in a new court?

Ms Field: That is right.

THE CHAIR: How is that option advertised back to victims? How do they know that that is a possibility, to then raise something with the DPP, or is it just left as a neutral matter for the DPP to raise if they have concerns?

Ms Field: The DPP has a specific unit to deal with these kinds of issues. They work closely with victims and would be supporting them on this. So they would be aware.

THE CHAIR: Excuse my ignorance: what is the mechanism for the DPP to be aware of every single one of these cases?

Ms Field: The DPP will be the prosecutor, so they will be aware of the cases. They will be aware of any special vulnerabilities because they have the victim support unit.

THE CHAIR: A relationship, yes.

Ms Field: And police information would feed in, so police do the informing.

MR STEEL: You mentioned that the magistrate makes the initial decision on bail. I wonder whether you are aware who makes the decision in other jurisdictions. What concerns have been raised about those?

Ms Field: I will get Victor to come back. Certainly in Victoria they have a different process. I know that has been quite criticised but it is very particular to Victoria. We do not have the same provisions.

Mr Martin: Mr Steel, I take it that your question relates to the different powers that officers either in police or in the court can exercise in relation to bail. In the ACT in the first instance when a person is arrested and charged, police—certain authorised officers in police, usually the watch house sergeant—can exercise a power to grant bail. In family violence matters we have something of a unique mechanism which we refer to as the pro-charge, pro-prosecution approach. Here in the ACT it means that the police can grant bail only where they are satisfied that there is no danger to the victim. In effect, very few cases result in the granting of police bail. Most are presented to court at the next opportunity.

THE CHAIR: Can I ask when that began? Since when have we had that?

Mr Martin: Yes. That goes back to the 1990s.

THE CHAIR: So that is not a recent change?

Mr Martin: No. That presumption against police bail has been in place as one of the foundation stones of the family violence intervention program in the ACT.

THE CHAIR: Do we have statistics on how many offenders or accused in this category are put on remand and how many are bailed?

Mr Martin: How many are held in custody by police? The court will remand a person at that point, but, in relation to police bail, police are either granting bail or holding them in custody pending the person being brought before the court.

THE CHAIR: We are talking about the phase after arrest—

Mr Martin: Yes.

THE CHAIR: to being held in police custody versus after the decision is made by a magistrate, where a person can be put on remand in the AMC—

Mr Martin: Yes.

THE CHAIR: and your statement about the preference for prosecution is around the first holding of the person—

Mr Martin: That is right.

THE CHAIR: or the remand?

Mr Martin: Here we are talking about the very front end after arrest and charge and a question about whether or not police bail should be granted.

THE CHAIR: Of course, that is very important initially, but is the same preference taken as to whether someone is remanded in custody or not?

Mr Martin: No. That presumption against bail in family violence matters does not apply for the court. The other normal rules about the absence of a presumption, neutral presumption or in fact a presumption against bail, will apply; so it will depend on the charge. For example, if the matter is an assault or a breach of a domestic violence order, there will be no presumption—excuse me; there is a presumption for bail there. So the court will have to consider whether or not it should be granting bail at that point.

MR STEEL: But a justice of the peace would never be involved in the process—

Mr Martin: No, and—

MR STEEL: in the ACT like it would be in Victoria where there have been concerns raised—

Mr Martin: That is right.

THE CHAIR: So what happens there?

Mr Martin: You are pointing to the example in Victoria where they do have police bail and they do have the normal court bail that we have. But they also have an intermediate stage of bail, which is a justice of the peace, a volunteer justice who can, out of hours, consider whether a person should be granted bail. It occurs after police consider and refuse police bail. Then it goes to the justice. That is something that is partly a historical quirk but also it is a recognition that Victoria has a number of regional areas.

THE CHAIR: Of course.

Mr Martin: The point that we point out is that the ACT is a city state. We have ready access not only to senior police officers but also to the Magistrates Court.

THE CHAIR: Just to clarify, what other states use that type of mechanism like Victoria?

Mr Martin: I am afraid I do not have that information.

MR HANSON: Can you give me a snapshot of how many offenders, how many people, have been convicted of an offence whilst being on bail?

Mr Martin: Mr Hanson, this question has been asked in the past and we have pointed to the fact that we do not have the mechanisms to allow us to draw that information out readily.

MR HANSON: But you could go back through court records and find out, couldn't you?

Mr Martin: Sure. There are about 5,500 matters listed in the criminal jurisdiction every year.

THE CHAIR: Are they held electronically or on paper?

Mr Martin: At the moment it is paper based but as we move towards the integrated court management system—

MR HANSON: It is possible, eminently possible, to go back through court records to identify people who are convicted of offences who at the time were on bail. That is something that we have asked for for about three or four years now. You have had plenty of time to go back and look at convictions that have occurred in the court, to find out who was on bail and what was the nature of those convictions. If you are going to be analysing in any evidence based sense how bail laws are operating and how effective they are, why have you not done that?

Mr Martin: We are working with the courts through the implementation of the integrated court management system. We expect to have better access to information about the circumstances of offenders.

MR HANSON: Sure, but that information is sitting there. It is available. It has not been collated, but that information is sitting there and available. If you are going to have a view on how effective bail is and how many people are committing offences whilst on bail, why has that information not been collated? You have been aware about this as an issue for about five years now, that that information is not collected, that there is a desire in the Assembly and the community for that information to be provided so that a view on how bail laws are operating can be formed. Why has JACS not done that?

Ms Field: JACS has been—

Mr Martin: Sorry, I was going to point to one issue that has been progressed in the last two to three years. That is making better use of information that police have in relation to an accused person's conduct in the past in relation to presenting themselves to court or committing offences whilst on bail. The key change is that police now have revised the way that they present information to the DPP when they are recommending that bail should be opposed.

MR HANSON: Is it on individual cases?

Mr Martin: That is right.

MR HANSON: But what you are saying to me is that five years after first asking for a view of how many offences have been committed by people whilst they are on bail, you still cannot answer that question.

THE CHAIR: Just to clarify, from a community interest perspective I think it is incumbent upon us to collate that type of information when there are fears in the community about people on bail committing serious offences, both here and in other places. I wonder whether that body of work can be undertaken, even ahead of the change of the systems. People pay their rates to have things analysed by the government. I think this is not low in the community's mindset, from the conversations I have been having in the community.

Ms Field: If I were to take someone offline to do this it would take considerable time and that is where—

THE CHAIR: How much time, Ms Field?

Ms Field: It is going to take—

MR HANSON: Would it be more than five years?

Ms Field: The thing is that we have done more things like put in the bail review power and things to respond to family violence.

THE CHAIR: That is excellent, but how can we know how big the issue is that we are dealing with if we have never analysed the actual numbers of offences taking place? Are we in line with the rest of the country? Are we behind? These are normal

questions. They are not odd questions for us to be posing.

Ms Field: Because it is a paper based system at the moment it would be extremely work intensive, whereas once ICMS is in we expect that it will be better.

THE CHAIR: When is ICMS expected to be in?

Ms Field: My understanding is next year.

Mr Martin: It is 2018-2019.

THE CHAIR: It is 2019? Do we have someone who can explain that?

Mr Martin: Just while Mr Kellow joins us, could I frame the issue? In essence, the question about bail is a judicial exercise of risk—

THE CHAIR: Indeed.

Mr Martin: and we understand that the way we measure risk is through information, on a case-by-case basis.

THE CHAIR: I understand that, Mr Martin, but what we are talking about here is how we are tracking overall. It is not uncommon in government departments to check the overall figures.

Mr Kellow: The integrated case management system rolled out for the criminal jurisdictions, the final stage, will be by the middle of next year; so the middle of 2018. The system provides an opportunity to do—

THE CHAIR: Searches.

Mr Kellow: basically a data dump; so we can warehouse the data however we want. We will need to work that out and we can interrogate that data. But it still requires some expertise to write that programming to interrogate. We are just developing now a schedule of works or priorities as to reporting. We have got some key ones around our accountability indicators and strategic objectives that we report on to the Assembly through the annual report process. We contribute data to the report on government services. We can certainly add this particular item to that list of reporting to develop and get advice as to what is possible

I think one of the challenges we have in these sorts of matters, even within the court, is that individuals, for various privacy reasons and historical reasons, do not have individual identifiers. We are trying to work out ways of tracking—

THE CHAIR: Yes. We are not necessarily asking for the data on who has committed offences on bail. It is more a matter of whether offences have been committed or has that information not been accessible?

Mr Kellow: It is like having matched the data of people found guilty of an offence and then matching data around the bail. It is trying get that linear history without

identifying.

THE CHAIR: In the new system, is that resolved for cases from here forward?

Mr Kellow: The high quality data will come from new matters that get into the system. We will migrate the data that we have in the existing system, but that is a much smaller database and there are a large number of blanks there.

THE CHAIR: Indeed, but, Mr Kellow, my question is: with the new system, with this higher quality data, will that particular issue of tracking an individual's actions, with or without a name, have been resolved by mid-2018 for the new data?

Mr Kellow: Theoretically it will be possible to interrogate the database for those sorts of figures. How complicated it is we need to get advice on.

THE CHAIR: Can I ask that you take on notice whether by mid-2018 our new systems will, at the very least, capture this information? Also, could we have on notice how many hours of work it would take to interrogate the paper based system to find out the answer to the question that is burning in everybody's minds?

Mr Martin: Mrs Jones, if I could offer assistance: the way the system will work is that it will track each of the steps of the judicial process as it occurs. It may be—this is subject to further consideration, of course—that we could use the mechanism in the Bail Act that already applies in circumstances where somebody commits a further offence while they are already on bail. But there is already a presumption against bail if somebody is on bail at the time that they have committed a further serious offence.

THE CHAIR: Yes, that presumption.

Mr Martin: That presumption is already in place and has been for many, many years. The court obviously has to weigh that question. It will not always refuse bail but the prosecution will point to that presumption applying. It may be that from a business process perspective that is a mechanism that could be included, but again—

THE CHAIR: That is all fantastic detail and very interesting—

Mr Martin: that is something that will need to be resolved through the integrated court management system.

THE CHAIR: I can see this program is obviously a big one. I just want the answers to these questions. Will it or will it not capture that data?

Mr Kellow: Just to clarify, it will capture the data but—

THE CHAIR: Will it or will it not be able to be interrogated?

Mr Kellow: it is how we can get it out.

THE CHAIR: Yes.

Mr Kellow: So that you know, we have started meeting. In fact, we have one tomorrow, kicking off with the business analyst who will be developing the software to interrogate the database.

THE CHAIR: Good. This might be able to be raised and then you might have an answer for me immediately as to whether this will be possible. I hope it is a part of the design of the new system, given that for five years we have been trying to get this data. As our scheduled time is coming to a close for this section, we will conclude this part of the hearing. Attorney-General, we thank you and your officials for appearing before us today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and to suggest any corrections.

In relation to all of the proceedings here today, I advise members and witnesses that answers to questions taken on notice should be provided to the committee office within three business days after the receipt of the uncorrected proof *Hansard*, day one being the first business day after the uncorrected proof *Hansard* is sent to the minister by the committee office.

All non-executive members may lodge questions on notice, which should be received by the committee office within five business days after the uncorrected proof is circulated, day one being the first business day after the uncorrected proof *Hansard* is sent to ministers by the committee office. Responses, the more important part perhaps, to questions on notice should be provided to the committee office within five business days of receipt of the question, day one being the first business day after the questions are sent to the members by the committee office.

We will now suspend the hearing for a short break. We will resume at 11.15 with the ACT Electoral Commission. Thank you very much.

Hearing suspended from 11.01 to 11.14 am.

Appearance:

ACT Electoral Commission
Spence, Mr Rohan, Acting Electoral Commissioner

THE CHAIR: We will now move to the ACT Electoral Commission. I welcome Mr Rohan Spence, Acting Electoral Commissioner, and other officials from the Electoral Commission. Mr Spence, could you confirm for the record that you are aware of the privileges statement and its implications?

Mr Spence: I am.

THE CHAIR: Thank you. Before we proceed to questions from the committee, would you like to make a brief opening statement?

Mr Spence: I have no prepared statement, so I am happy to take questions.

MS CODY: Thank you for joining us today. I was reading on page 22 of the annual report about the Electoral Amendment Bill. You have outlined a couple of key points of that. I was wondering if you could give us a more information about excluded expenditure by MLAs. Can you provide the committee with a bit more information?

Mr Spence: I believe that bill did not pass the Assembly, but it was aimed at excluding from electoral expenditure what used to be known as the communications allowance. As it did not pass the Assembly before the election, from 1 January 2016 until the end of polling day the expenditure by MLAs that falls within the definition of electoral matter was included under those counts.

MS CODY: And the amendments to the Electoral Act 1992 were all technical in nature?

Mr Spence: Yes, they were consequential and items like red tape reduction. The Electoral Act talks about, for instance, if a political party wishes to change its abbreviation then that needs to be notified. Previously it must have been notified in the *Canberra Times* and the red tape reduction legislation allowed for those notifications to be made on government websites, the Electoral Commission website being included in that. It is optional. The commission, on items such as that, still notifies those parties in the newspaper, as we have previously done.

THE CHAIR: My question goes to matters relating to the physical nature of election campaigning and how we have gone over the last election last year. I want to go to corflutes, complaints, this sort of thing, but also electronic and pre-poll voting. First of all, was the volume of complaints received by the Electoral Commissioner last year regarding candidates and campaigning significantly different from that in other years and do you have a way of tracking that?

Mr Spence: We certainly track it. I would not say it was significantly different. The general categories that we receive are in reference to the 100-metre rule. There was a bit of a spike at this election in relation to the placement and number of what people

commonly call corflute signs but not to a degree that was alarming, no.

THE CHAIR: I wonder if on notice you could provide us with the comparisons between this election and the last couple, if you record those numbers and the categories under which they come in.

Mr Spence: As part of our general practice, following each election the Electoral Commission produces a report on the election which will be provided to the Speaker for tabling. All of those statistics are in that report.

THE CHAIR: Is it possible for us to have that, though, on notice here?

Mr Spence: Of course; no problem.

THE CHAIR: Obviously there was a new interpretation of the 100-metre rule. Can you explain to us what the rationale was for that new interpretation? I know in the community there were a number of varied opinions about whether it was justified or not, given the way that the rule was applied in some schools versus whether there was a fence or not.

Mr Spence: I would not characterise it as an additional interpretation. The Electoral Act provides for the ability to either set the 100-metre boundary from every aspect of the building in which polling is to occur, which historically has been the way the commission has enforced that 100-metre rule. But it also provides the ability for the commissioner to set the boundary 100 metres from a boundary in which the building is located.

THE CHAIR: Where is that detailed? I know I have not been able to see exactly where that possibility is clearly defined.

Mr Spence: Within the Electoral Act?

THE CHAIR: Yes. I know there is a provision about the 100-metre rule, but I did not see anything that specifically explained the difference between the physical building and the perimeter of the property.

Mr Spence: It talks about a boundary, a physical boundary, where—

THE CHAIR: I wonder if you could get that back to me on notice. It might be easier to pinpoint where that interpretation is coming from.

Mr Spence: Sure.

THE CHAIR: It would be good to clarify the issue.

MR HANSON: It is a little confusing if it changes. Some continuity would be good. Whichever interpretation is going to be used, could advance notice be given long before the election so that the political parties can be aware of what the rules are in time? When will it be notified which version of the interpretation of the act is going to be used? Certainly I am aware the Liberal Party waited to find out where that

boundary was going to be, and waited and waited and waited. Then we were quite surprised by the result. If in 2020 it is going to be the same as the 2016 election, at least people can be aware of what that means.

THE CHAIR: Also, some members of the community who were not used to having signs put outside their house were very upset, because it had been 50 metres in the other direction before. Could you perhaps take that as a comment and let us know if there is a standard set of procedures on when that will be available for the next round?

Mr Spence: Yes. It was a new ruling by the commissioner at the time. I suspect that the continuity will come in 2020 and further, because it is unlikely that additional boundary fences for schools and things will be different. It is of course possible.

THE CHAIR: Who knows? Yes, it depends on the school.

Mr Spence: We can certainly, as a commission, review that at an earlier period and provide those maps that are provided to the parties and present it on the website.

THE CHAIR: Certainly at this point we are left with a situation that is a little half-cooked, because there are people at booths but they are too far away to be able to be seen, on the whole. They are expending their energy and time. However, if there were how-to-vote cards available at the door or something like that, that may be another possibility where there were not volunteers present. There are many options for how it could be dealt with, but I would like to think that there will be some decisions made, probably based on the review that is going on at the moment.

Mr Spence: Under current legislation, it would not be possible to have how-to-vote cards at the door.

THE CHAIR: No, but legislation can be amended.

Mr Spence: I think it is important to understand the basis of how that 100-metre rule has come into place. It is a rule where the ACT mirrored the Tasmanian system, which also has Hare-Clark, Robson rotation.

THE CHAIR: But I think they have nothing on election day. They do not have a 100-metre rule. They have no campaigning on election day.

Mr Spence: That would be a matter for a legal opinion on how that would sit within the freedom of political expression.

MS CODY: So that would be a review of the Electoral Act?

Mr Spence: Yes. But the Robson rotation, the Hare-Clark system, the 100-metre boundary, all go to the suite of—

THE CHAIR: Legislation?

Mr Spence: It is a suite of rules that go to the heart of the ACT's electoral system, where it is giving the power of the vote to the elector rather than the political parties.

There is no ticket voting. The idea, when it was introduced, was that it puts an onus on electors to make their own preferential choices rather than following the indications from political parties.

THE CHAIR: As I am sure you are aware, there are requests every election from people who are surprised that they have come to the booth and cannot find a how-to-vote card and are looking for one. That is a balance, I guess, that has to be struck.

To go to the other part of my question, regarding electronic and pre-poll voting, obviously we have had an increase in pre-poll voting over the period. We basically have voting season now, which has its ups and its downs, shall we say. I am interested in whether there are any plans to improve the machinery of that vote. I have done an electronic vote before and I found, as a technologically advanced person who is always using touch screens and so on, the system that we have is pretty old-fashioned and clunky. I am just wondering where we are at with that.

Mr Spence: The system that we used in 2016 is basically the same system, with some regular upgrades and reviews, as the 2001 system.

THE CHAIR: But we are still talking about the big buttons on the side of the machine?

Mr Spence: We are, but there are good reasons for that.

THE CHAIR: Tell me them.

Mr Spence: It is very natural for people to want a touch screen version of electronic voting and we note that, but one of the security and integrity measures within this electronic system is the ability to track keystrokes to confirm that what is entered into the system is actually what came out of it. It is part of the integrity of the system and the open source nature of that and there is no way you can tell how someone voted. There is no link between the vote and the person, but there is an ability to audit the software to ensure that if that keystroke is made then that is the result of that. That is a much harder thing to be doing with a touch screen. However, having said that, as we do between all elections, we review all of our ICT systems. There will be a particular focus, commencing quite shortly, on a review of electronic voting, because we do note that—

THE CHAIR: Community expectation is that it would get more like the systems that they use all the time?

Mr Spence: Yes. Having said that, in the exit polling that we do between every election there is a high confidence and high satisfaction with the electronic voting system and the more and more it is being used, the more and more people become familiar with it and we receive very few, if any, complaints about that nature of it.

MS CODY: I have a substantive question on electronic voting. You count the keystrokes. What about for vision impaired people? I suppose hearing impaired people are not disadvantaged.

Mr Spence: Of course. That is another aspect of a touch screen. One of the reasons that electronic voting was introduced back in 2001, or very much one of the strong benefits of it, is that it was the first parliamentary system in which a blind or vision impaired voter could vote entirely in secret. It does that through the use of audio navigation through the system, linked to the key strokes. Again, it is very difficult to do on a touch screen. Having said that, we could maintain two different systems, one for—

THE CHAIR: Especially if you were going to expand to 90 per cent electronic at some stage?

MR STEEL: One of the expectations of the community with the electoral system is being able to see the results in a transparent way and a timely way. What work did you put in place to ensure that there was enough server capacity so that if you had a large number of people accessing the website where the results were being published it would stand up and people could access those results when they needed to?

THE CHAIR: Especially given that we did not have a tally room this time.

Mr Spence: You are referring there to some issues that the Electoral Commission results website had on election night. The advice that I have on why that occurred was that it was a result of underestimating the load that we were expecting and that would—

THE CHAIR: There has probably been a spike, has there not?

Mr Spence: There has been a spike, but we have built that into our expectations. But what appears to have happened is that there were a large number of citizens on that website at 6 o'clock expecting there to be results. There are not going to be any results until they start coming in from polling places at 7 o'clock, 7.30.

THE CHAIR: There were people checking, checking, checking?

Mr Spence: What appears to have happened was that—it is an auto-refresh system; there is no need to click refresh—because there were no results at that very early stage it was multiplying that load considerably and the result of that was slow response rates. We had contingencies for that and we brought into effect additional servers to counter that, but the lesson learnt from that is that you plan to scale down rather than scale up.

MR STEEL: Will you build in some redundancy for next time in the server capacity?

Mr Spence: Without a doubt, yes. We will review in depth the expected load, taking into account some of those now foreseeable issues, and create an infrastructure that can be scaled down to match the load rather than scaled up, because scaling up, as we have seen, takes half an hour, 45 minutes.

MR STEEL: Did it affect the broadcast by the ABC in relation to the results?

Mr Spence: No, it did not. On the night there was a comment by Antony Green that he had trouble getting results from the Electoral Commission, which is unfortunate because, having spoken to Antony after that, what he actually meant was their system had problems getting our data. Our data for their system was always available. It was their system. If anyone was to then go over to the ABC results, where they get the data from us, the results were there, as could be expected. They had to do some cutting and pasting, but that was an issue—

MR STEEL: Do you provide them with a separate stream of results or do they just take it from the website?

Mr Spence: They take it from the website, but that is from our system that every three minutes scrapes the data and produces an output for media outlets to grab and then use in their systems. They had trouble getting that, but that was their system, not ours.

MS LEE: We had a significant change in the electoral boundaries for the election last year. What were the challenges that the commission faced in managing that change, and was there any feedback from the public about the communication about the change of boundaries? I know that on the campaign trail we had people a bit confused about where they were.

Mr Spence: Are you asking about how the redistribution was determined or how we communicated the changes?

MS LEE: Both would be great, if you could.

Mr Spence: Two years before every election, a redistribution of electoral boundaries must take place. Public comment is sought on a number of occasions over that process. It was, by and large, the most complicated since the creation of ACT self-government in that it was the first time that the number of electorates had changed, so there was quite a lot of interest in the naming of those electorates and where the boundaries would be formed.

The Electoral Act determines what needs to be considered. There needs to be as close as possible to parity between the size of five-member seats, and plus or minus five per cent of the quota of enrolment. Consultation with the community and anyone who wished to put in a submission is available for that, but in determining that, the act talks about considering historical boundaries that are already in place and lines of communication between areas and central business districts, which is very much how it is arranged in the ACT, in that we have quite determined areas. That is the process in determining a redistribution.

MS LEE: I think it is pretty obvious to most people that you have five quite clear districts except for a few nuances. For example, Yerrabi captures a couple of Belconnen suburbs and Kambah is in Murrumbidgee. Was that purely based on the numbers of voters?

Mr Spence: It has to be.

THE CHAIR: I think it is five per cent, is it?

Mr Spence: The ACT has to be divided into a fifth, being five seats, and—

THE CHAIR: You have rules regarding what percentage difference there can be between the seats, don't you?

Mr Spence: Yes. You have to try for plus or minus five per cent of the average enrolment.

THE CHAIR: So that a quota is roughly a quota everywhere?

Mr Spence: Yes. The Tuggeranong area is just too highly populated to fit within those restrictions, so there are going to have to be some suburbs in that area that are not in Brindabella with the rest of it. In this case, it was Kambah.

THE CHAIR: Just as a supplementary to that, in your future-casting—I was very glad to get Kambah, for example, in my electorate—when will the balance change? Will new suburbs in Weston Creek and so on mean that Kambah will have to go to another electorate? Would that ever happen or would that cut in somewhere else?

Mr Spence: In between each election, in the next redistribution, we would have to look at future projections. The Bureau of Statistics and ACT planning are all part of the redistribution committee. They have representatives. They provide data on the projection of developments. Molonglo Valley clearly is somewhere that is likely to grow.

THE CHAIR: You have two years between when you start your redistribution and when the actual election is held, and a lot can change.

Mr Spence: The Bureau of Statistics has projections on that, so that is what is used.

THE CHAIR: Good.

Mr Spence: And as places like Molonglo Valley grow, you can expect that that will swing the—

THE CHAIR: Parts of Woden or something might go up.

Mr Spence: They will need to move, and it is quite likely that in a number of redistributions, a number of cycles, some of the suburbs in the Belconnen region that are currently in Yerrabi will go back. But that is very much for the committee at the time.

THE CHAIR: Yes.

MS LEE: Going to my question about communication with the public, were there any challenges that you faced about that?

Mr Spence: It was an aspect of our information campaign that we have not had to engage in at previous elections. It was the first phase of our information campaign.

We had television ads, radio ads—

THE CHAIR: Bus shelters.

Mr Spence: bus shelter ads, yes, all communicating essentially that the boundaries had changed. We also engaged SMS services for people who had recorded their mobile telephone number as part of their enrolment.

MS LEE: There was also a direct mail-out, wasn't there? I think I remember that.

THE CHAIR: There were postcards, I think.

MS LEE: Yes, there was something.

Mr Spence: We do household mail-outs; the information was very much included in those as well. That is quite a standard practice for the commission. But some of the other aspects of that information campaign were new. And again, exit polling seemed to suggest that it was reasonably successful.

THE CHAIR: There were certainly lots of people on the ground aware of the change.

MS CODY: From memory, social media were also used.

Mr Spence: We have certainly ramped up our use of social media since the 2012 election, when we first started to really have a social media presence. So, yes, there were social media. All of those things are communicated through that, and hopefully that is where the media are paying attention.

MS CODY: And that was positive? You got a positive response from that?

Mr Spence: Yes, very much so.

MS CODY: Okay.

MR HANSON: With regard to electoral expenditure, as you would be aware, candidates are capped at $40,000, as are other entities. There have been media reports of the CFMEU and UnionsACT having potentially over-expended by ascribing some portion of spending to one part of their organisation and other spending to the other part of their organisation. That has been raised as an issue in the media. Is that matter under investigation? Has it been resolved? Can you give me an update on where that particular issue is at?

Mr Spence: At this point in time, those figures are self-reported. They have reported, as part of their obligations as third-party campaigners, on their electoral expenditure. It appears, on those figures, that they have overspent the $40,000 cap on expenditure. As part of our practice, we need to perform compliance reviews on the funding and disclosure scheme. That is currently underway, with an independent auditor visiting each of the third-party campaigners to find the definite figure of expenditure incurred. The penalty for breaching the expenditure cap is payment to the territory of twice the amount over the cap.

MR HANSON: And that process is ongoing? When do you expect it to be finalised?

Mr Spence: My understanding is that those particular organisations have recently had a visit from our auditor. I expect that we will move quite quickly once we have those figures.

THE CHAIR: In relation to the fine, how has it been determined that that is a sufficient amount? Presumably if bodies have a fairly reasonable cash flow and they want to spend, they could make the calculation that it was worth the fine to do so.

Mr Spence: It is an amount that is prescribed in the Electoral Act.

THE CHAIR: Do you know what the background to that figure is or what the rationale was?

Mr Spence: I do not.

MR HANSON: There was a committee inquiry in 2011-12, a tri-party inquiry that led to the Electoral Act 2012, I think, that that was initially contained in.

THE CHAIR: So it was a recommendation.

MR HANSON: There have been subsequent amendments, but I think that that was—

THE CHAIR: It could have been a recommendation.

MR HANSON: the legislation that was agreed on. I do not know if that was the figure they prescribed.

THE CHAIR: I wonder if you could let me know if you find out anything about that, on reflection?

Mr Spence: Sure.

MR HANSON: Also, during the election there was an issue where the ALP distributed a Medicare card. Medicare, my understanding is, wrote to the ALP threatening legal action because they had distributed material that was of concern to them. Did you look into that issue and investigate? Are you aware of that as an issue? And does that constitute any sense of breach of the Electoral Act?

Mr Spence: The only powers that the Electoral Commission has in electoral advertising are in relation to the authorisation of the material. We are quite limited in what part of that is within our jurisdiction. Any claim by Medicare in terms of copyright and things like that is not within our remit.

MR HANSON: Okay.

MS CODY: I was just reading about the completeness and accuracy of the ACT electoral roll. You stated that we have had a significant improvement in

enrolments from the 18 to 19 and 20 to 24 age groups, which is fabulous—fantastic. You have stated that this may be an indication that direct enrolment measures are having an impact. What sort of direct enrolment measures are you using?

Mr Spence: As a bit of background, the ACT Electoral Commission has a joint agreement with the commonwealth, with the Australian Electoral Commission, to maintain the electoral roll, so much of the work is performed by the Australian Electoral Commission. I think in June 2012 the commonwealth law was changed to facilitate the direct enrolment and update of electoral details. That essentially means that the AEC have access to some prescribed data sources—namely, drivers licence, Centrelink and tax information. Where that data indicates either a new enrolment or a change of details, they are empowered to directly enrol that person, providing them with the ability to opt out, to say, "I am not eligible under those," but other than that they are directly enrolled.

That has had quite a positive effect, particularly on the ACT roll. We are at the head of the field in terms of eligible population enrolment. At the time of the election it was 99.8 per cent of the population enrolled. Historically, as you have said, where the youth enrolment was lagging significantly behind the rest of the population—I think in the 60s—the estimated eligible population is now 99.9 per cent of the population. It is probably the most accurate roll the ACT has ever had since self-government.

MR STEEL: I was just wondering what the results were of the review of membership of all registered political parties which was concluded in the 2015-16 period.

Mr Spence: Again, it is standard practice for the commission to review, once a term, once a cycle, the eligibility of every registered political party. Really, the heart of that review is whether they have 100 eligible ACT-enrolled electors. As part of that review, in the lead-up to the 2016 election, a number of political parties requested to be deregistered. As you can see, the political parties that contested the 2016 that also contested the 2012 were successful and no issues were found.

MR STEEL: Do you audit every single membership of a registered political party, or do you just go to 100 eligible and then stop your audit?

Mr Spence: No. Every registered political party is audited, and we write to every member.

MS LEE: On page 9, the same page, one of the points that you have there as a highlight was establishing a new ACT disability advisory committee to advise the Electoral Commissioner on issues and strategies to ensure people with disabilities are empowered and able to vote. Can you give us an outline of the steps that the commission has taken?

Mr Spence: This is the first time that we have established a specific reference group for the disability community. We wrote to the community and asked for representation. Many of the peak bodies sat on that, and previously we had ICT reference groups where members of the disability community were represented. But this was very specific. They were able to provide fantastic advice on the best ways to reach their community. As a result of that I gave a number of presentations to

peak bodies in person. From that we had representatives provide comment on our electronic voting system and how that functions, particularly the screen contrasts, size of texts and things like that. We certainly had great benefit from that committee and we very much intend to continue with that process. In fact, we will have a follow-up to the election debrief of that committee. We are in the process of arranging that meeting.

MS LEE: The electronic voting system—you have incorporated the feedback that you received from that group?

Mr Spence: Yes.

MS LEE: What about any other steps that you have taken to action items from the advice that you have received?

Mr Spence: We also gain access to networks such as Radio 1RPH. I gave an interview on that station as a direct result of the committee. We also publish and have a lot of our publications read out through that. They also provided comment on the accessibility of polling places and the accessibility of our website.

MS LEE: It is even accessibility of the actual building, isn't it?

Mr Spence: Yes. We are very limited in what we can do with polling place accessibility because they are not owned by us. We rely very heavily on the disability services they already have. At previous elections we simply had a code on our website against polling places as to whether they were fully accessible, partially accessible or not accessible at all. On the advice of that committee, we provided further information on what was provided in that polling place. If it was partial, why was it partial? Interested electors could review that and say, "That doesn't affect my particular situation," and they were happy. All of those are benefits that have come from the establishment of that committee.

MS LEE: Thank you.

MR HANSON: On page 39 of the report, on financial disclosure provisions, it says:

> Only one issue was considered a matter of public interest.

That was with the Australian Labor Party, ACT branch. Significant variations were identified between the amounts reported in the party's initial 2014-15 annual return and the amounts reported following the party's internal financial audit. Were those matters identified by the Labor Party in terms of misreporting, or were they identified by an audit commissioned by Elections ACT?

Mr Spence: In this particular circumstance, I think it was found to be an audit. It was discovered through that audit.

MR HANSON: Sorry, what audit?

Mr Spence: The compliance review.

MR HANSON: The compliance review commissioned by Elections ACT?

Mr Spence: Yes.

MR HANSON: What was the quantum of the discrepancy?

Mr Spence: My understanding is that in this particular circumstance it was a requirement to disclose the information in two locations, and it was a misunderstanding of the requirements for the disclosure in that second instance. So in that circumstance it was found to be a minor breach and a formal warning letter was sufficient in that case.

MR HANSON: I notice that there were some other warning letters sent. Are you still finding that the major parties—I do not know if the Liberal Party was involved or not—struggle at times to understand exactly what the requirements are in accordance with the act? I understand that, because it is a complex act.

Mr Spence: It is.

MR HANSON: And I guess you get new staff in and so on. Do you take proactive measures to work with the parties so that they are aware of their obligations?

Mr Spence: We certainly do. We have held disclosure scheme briefing sessions with the appropriate people within major parties and some of the smaller parties that were contesting the election and were registered. We provide quite detailed manuals on how to comply with the provisions of the act. As you say, the scheme itself is quite complicated and there are quite a lot of nuances to it. We find that when some of the office staff change there is a substantial need for them to come up to speed, and that is where we have found that some of those breaches have occurred. We present, publish, all of those compliance issues on our website. That is kept regularly up to date with any of those findings. We find with participants that it is very rarely, if ever, intentional; largely, it is a compliance issue.

MR HANSON: Broadly speaking, if matters are technical oversights, your process is to advise—maybe with a letter saying, "This is the way to do it." Call it a warning or not. But you are not aware of any incidences where people have deliberately tried to misreport or anything like that?

Mr Spence: Broadly speaking, I would say that is correct.

THE CHAIR: Thank you. Members, we will draw this matter to a close. I thank the officers of the Electoral Commission for appearing before the committee today. On behalf of the committee, I would like to thank witnesses who have appeared so far in the hearings today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and suggest any corrections.

In relation to the proceedings heard today, I would like to advise members and witnesses that answers to questions taken on notice should be provided to the committee office within three business days after receipt of the uncorrected proof

Hansard, day one being the first business day after the uncorrected proof *Hansard* is sent to ministers by the committee office.

All non-executive members may lodge questions on notice, which should be received by the committee office within five business days after the uncorrected proof is circulated, day one being the first business day after the proof *Hansard* is sent to ministers by the committee office. Responses to questions on notice should be provided to the committee office within five business days of receipt of the question, day one being the first business day after the questions are sent to ministers by the committee office.

Sitting suspended from 11.55 am to 1.30 pm.

Appearances:

Ramsay, Mr Gordon, Attorney-General, Minister for Regulatory Services, Minister for the Arts and Community Events and Minister for Veterans and Seniors

Justice and Community Safety Directorate
Greenland, Ms Karen, Deputy Executive Director, Legislation, Policy and Programs

Chief Minister, Treasury and Economic Development Directorate
Snowden, Mr David, Chief Operating Officer, Access Canberra

THE CHAIR: Good afternoon. We will now resume our public hearings for our inquiry into the 2015-16 annual reports. This afternoon the committee will hear from the Attorney-General and Minister for Regulatory Services in relation to gaming and racing policy and the Gambling and Racing Commission. After that the Minister for Justice, Consumer Affairs and Road Safety will answer questions covering fair trading and consumer affairs. This will be followed by the Minister for Corrections in relation to the Sentence Administration Board. The hearing will then conclude with the Minister for the Prevention of Domestic and Family Violence appearing with officials, including the Office of the Coordinator-General for Family Safety.

We will begin with questions relating to gaming and racing policy. On behalf of the committee I would like to thank you, Attorney-General, and relevant directorate officials for attending today. Attorney-General, would you confirm for the record that you are aware of the privilege statement and its implications?

Mr Ramsay: Yes.

THE CHAIR: Thank you. Do you wish to make a brief opening statement or are you ready to answer questions?

Mr Ramsay: I am happy to go straight to questions.

MR PARTON: I might ask a broad policy question first. What is your strategy for ending the Canberra greyhound racing industry?

Mr Ramsay: I would like to make a statement. I note that there has been a recent announcement by the Canberra Greyhound Racing Club that it has lodged an injunction aiming to stop the cessation of government funding to the club in the 2017-18 year. I am happy to table a screenshot of the statement that the greyhound club has put up on its website, and on Mr Parton's Facebook page, which also shared it.

To my knowledge, the application for an injunction has not yet been served on the territory, but I can advise that the ACT Government Solicitor made contact with the lawyers for the club in February in relation to the injunction which had been initially proposed in correspondence and in meetings with the club. The Government Solicitor invited the lawyers at that stage to provide a copy of the terms of any injunction

before it was filed, and the legal basis for that injunction, in order to consider the position of the territory. The announcement on Facebook today suggests that the club has decided to proceed with the injunction and to make public statements about the matter without taking up the invitation of the GSO or serving a copy of the application on the territory.

Obviously, members would appreciate that the matter is now apparently the subject of legal proceedings, so it is inappropriate for us to make any comment on the matter in relation to greyhounds. Because of that matter, I will not be proceeding further with any conversations in relation to the greyhound industry, seeing that it is a matter before the courts.

THE CHAIR: I would be very happy for that statement to be tabled. Thank you.

MS LEE: Minister, did you say the territory has not actually been served yet?

Mr Ramsay: Not at this stage, to my knowledge.

MS LEE: So if it has not been served, do you still classify that as legal proceedings being on foot?

Mr Ramsay: Noting that service is able to take place within 28 days from the commencement of the proceedings, we have to assume that, given the fact that the greyhound club had put on their website that they had lodged the injunction—

MS LEE: Yes, but the territory has not been served yet.

Mr Ramsay: To my knowledge, at this date we have not been served. I certainly have not been served personally.

MS LEE: So my question still stands: in the absence of valid service to the territory, do you still say that there are legal proceedings on foot, and on that basis you will not be answering any questions?

Mr Ramsay: That is right.

MS LE COUTEUR: Does this include any question about a possible transition program, which is what I want to talk about?

Mr Ramsay: We believe that, because of the nature of what we understand to be the application, from what has been put on the website, it is not appropriate because of those legal proceedings.

MS LEE: With the legal proceedings, though, every potential plaintiff has 28 days to serve, and in that period they also presumably have the right to change their mind and not serve. So you still stand by the position that they are legal proceedings and on that basis you will not answer any questions?

Mr Ramsay: That is right. That is legal advice that I have received today.

MR PARTON: The proceedings are in relation to funding to the industry at the cessation of the current MOU. They are not, in effect, proceedings that are about the transition of the industry. They are about the funding.

MS LE COUTEUR: That would be my line of argument, too. I want to ask about the transition.

Mr Ramsay: The legal advice that I have received today is that it is inappropriate for us to be discussing any of the matters because of the—

THE CHAIR: Minister, is that advice from the GSO?

Mr Ramsay: Yes.

THE CHAIR: Right; and do you have that advice?

Mr Ramsay: I am sorry?

THE CHAIR: Do you have that advice as written advice?

Mr Ramsay: The statement that I just read out is the legal advice that I have received.

THE CHAIR: Okay.

MS CODY: Which stated that there will be no discussion.

THE CHAIR: Minister Ramsay feels unable to discuss this part of his portfolio because his legal advice states that it would be unwise to do so.

Mr Ramsay: That it is inappropriate, given sub judice principles, yes.

THE CHAIR: Can you explain what is meant by "inappropriate"? Is it "inappropriate" in that it can influence a court decision? I would like to explore the word "inappropriate" because I would like to make sure I understand properly exactly what the advice is.

Mr Ramsay: The principle of not discussing matters before the court is so that discussions that take place do not impact on those matters that are now presumably to be tried before the court. Because those matters are open for consideration by the court—

THE CHAIR: No, I understand that concept. I wish we had the GSO here to ask, to understand properly their advice.

MS LEE: Minister, I am sorry to harp on about this, but the territory has not been served with the process. So you actually have no idea what the content of that process is and the cause of action; is that right?

Mr Ramsay: The nature—

MS LEE: You are speculating at this point.

Mr Ramsay: We are relying on the—

THE CHAIR: Website.

Mr Ramsay: statement that has been made by Canberra greyhound racing in relation to that; they are the people who have said they have lodged the application.

MS LEE: Yes, but you cannot say for certain, because you have not been served with a process, what cause of action has been outlined in that initiating process?

Mr Ramsay: That is true.

MS LEE: On that basis you still say that legal proceedings are on foot and you cannot discuss anything?

Mr Ramsay: Because of the—

MS LEE: Because of what may come up, of the initiating process. You have no idea what is contained in it?

Mr Ramsay: Because of the nature of the statement of the greyhounds industry on their Facebook page today, saying the nature of the application and what it is seeking to cover—

MS LEE: But that public statement on the greyhound industry Facebook page, or wherever you saw it on the website, is not an initiating process that has been filed in the courts.

Mr Ramsay: Indeed, and we have been seeking today to clarify the position of the application and also the nature of the service. I have instructed the GSO to look into that immediately. But in relation to this particular time, I only became aware of it within the last hour.

MS LEE: So 28 days is the court rule for service; presumably, the greyhound industry has 28 days to do so. It could be on the 28th day; it could be on the first day. I suppose we do not know the date of service.

THE CHAIR: I would like to understand better if there is a precedent for ministers not being able to discuss whole areas of their portfolio because there might be something served on them in the courts.

Mr Ramsay: I cannot speak at this stage to the timing of previous legal proceedings in relation to previous committee work. All I can simply do is draw to the attention of the committee the time at which I became aware of this matter—

THE CHAIR: Yes.

Mr Ramsay: and therefore the advice that I have received in relation to those matters.

MR PARTON: Minister, what you are saying is that if the Rebels had suggested on their Facebook page this morning that they had lodged—

THE CHAIR: Could I interrupt for a minute, Mr Parton. I propose that, after this session has concluded, we invite the minister to come back once there is more clarity around the issue, so that possibly within the 28-day period we can still question the minister on this fairly important matter, if that is possible. It is difficult for us to conclude an annual reports hearing about a matter which is so important to the voters of the ACT and the people at the moment—it is topical—when basically we are being told carte blanche that we cannot ask any questions. Once that matter has been served, at least the parameters of it will be clearer at that point.

Mr Ramsay: Indeed.

THE CHAIR: Can we perhaps get some more feedback between the GSO and the committee office about when and if we might be able to reconvene this hearing, because it will be difficult for us to report.

Mr Ramsay: I appreciate that.

MR STEEL: I have a point of order. I do not think it is that we cannot ask questions. I think it is more that the minister and the department feel that they cannot answer the questions.

THE CHAIR: So will we put the questions to the minister? What is the thought of the committee? Does the committee want to have a private meeting?

MS LEE: Are you proposing that we put all of the questions on notice?

MR STEEL: That might be one way of dealing with it, potentially.

THE CHAIR: Can I suggest that we suspend for five minutes so that the committee can have a private meeting? Thank you.

Short suspension.

THE CHAIR: Thank you all for your patience. We like to do things thoroughly over here and get on the same page. I would like to inform guests, the minister, members present and witnesses that our decision as a committee is to go ahead and to allow questions to be asked. The minister is free to take them on notice or to refuse to answer them, but we feel that it will be best for us to put those questions. Once those questions have been put, if they are able to be answered on notice the minister can do so when he has more clarity. We also reserve the right to invite him back to do this section again if we feel we have more clarity about the issue.

In order to continue the hearings today and to get our reporting done in time, we will ask the questions and see if it can be resolved outside of this room. We can also report separately on this issue. We can also do the annual reports—finish them, complete them—and then do a separate report on this issue.

Mr Ramsay: Yes.

THE CHAIR: We will go back to Mr Parton to ask his questions.

MR PARTON: I might go with this. What are the legislative implications of potentially ending the Canberra greyhound racing industry for the other two racing codes?

THE CHAIR: There you go.

Mr Ramsay: I will take that on notice.

MR PARTON: Okay. There is no way you will answer this?

THE CHAIR: I think the point is, Mr Parton, to get it on notice, to give the minister a chance to answer.

MR PARTON: All right. If the greyhound industry continues under its own volition in future years, what further action will this government take to end this industry?

Mr Ramsay: I will take that on notice.

THE CHAIR: Would you like to put more written questions on notice or would you like to verbally ask more questions?

MR PARTON: I fancy that there are a couple here that you may be able to answer, but I just have not—

THE CHAIR: Given that you have had no joy, we will give you one more go, Mr Parton.

MR PARTON: Minister, in your media release of 3 March you stated that continued operation of greyhound racing in ACT is out of step with community values. How did you come to that conclusion?

Mr Ramsay: I will take that on notice.

THE CHAIR: The minister can choose to take anything he likes on notice.

MR PARTON: Of course he can.

THE CHAIR: He will have to live with the fallout, but he can choose that.

MR PARTON: What will you do if the greyhound racing industry declines your transition support?

Mr Ramsay: I will take that on notice.

MR PARTON: I am happy for someone else to have a crack here.

MS CODY: I notice the major achievements section in the Chief Minister, Treasury and Economic Development Directorate report mentions that the Gaming and Racing (Red Tape Reduction) Legislation Amendment Bill 2016 was introduced. Where is that up to? It seems to have made things a bit easier for some areas.

Ms Greenland: The red tape reduction program has been running for a number of years, and one of the areas that the government is focused on is gaming and racing. This goes through to the way in which Access Canberra undertakes regulation of the gaming and racing industries.

The amendments that have been implemented in recent times include changes to the Lotteries Act which have made it simpler for low-value lotteries to be run without the requirement for approvals. Community groups, schools and charitable organisations, where they met a threshold, can now run raffles and promotions without the need to apply for a permit. That is obviously reducing red tape for those sorts of organisations that do not have the extra time to be filling in forms and applying for things that are not necessary.

The Gaming Machine Act allows approved lotteries to be advertised, and that reform allows clubs to advertise lotteries such as members raffles or competitions on the walls of their buildings where previously they were only allowed to advertise them internally. That has made it easier for those clubs to promote low-risk lotteries.

MS CODY: Good.

Ms Greenland: And there have been a number of other measures to reduce the regulatory burden on business, including allowing interstate visitors access to clubs without the need to be accompanied by a club member and also having a simplified licensing framework for race bookmakers and agents. Those were a number of the sorts of things which have been implemented under the red tape reduction program.

MS CODY: I noticed that there were some committee recommendations about the introduction of reduced red tape. Is that why we looked at this?

Ms Greenland: The government has a general commitment to red tape reduction where it can find it. That has occurred across a number of areas of regulation. I think there is an ongoing program of identifying where there are red tape reduction opportunities. These ones were identified in conjunction with the stakeholders who saw the benefit in those red tape reduction measures.

MS CODY: Have you had feedback from the organisations that it has impacted on yet?

Mr Snowden: Yes. I am the CEO of the gaming and racing commission. In relation to the stakeholder engagement aspect, the feedback that we are getting from our general level of engagement with all the stakeholders has been very positive. It has smoothed past procedures out; it has made it easier for them to attract clients. Overwhelmingly, it has just helped their business.

MS CODY: Fantastic.

MR STEEL: I want to ask some questions about the problem gambling assistance fund and just how effective the fund has been during the reporting period.

Mr Snowden: The problem gambling assistance fund over the reporting period has been able to facilitate quite a number of research projects. Equally importantly, it has been able to fund Relationships Australia in providing gambling counselling services. That is done in partnership with the Care financial counselling service. It represents the bulk of the expenditure out of the problem gambling assistance fund. That contractual relationship is to the tune of about $820,000 per annum.

In terms of other research activities that have been undertaken, we are actively engaged with the Australian National University to continue to understand the issues around problem gambling. We have a number of projects underway with them, some of which finished during that reporting year, the major one being the prevention survey that was undertaken. This is the second one that has been undertaken by the ANU. The first one was done in 2009; this one concluded during 2014 but was reported on during that reporting period. Some of the findings out of that particular report are very useful for helping the gaming and racing commission to align its harm minimisation program.

I would like to point out some of the major findings of that prevalence survey. Participation in gambling activities has fallen over the last decade in the ACT. From the last survey in 2009 to the present one, there was a 15 per cent reduction in gambling activity from adults. In addition, gambling expenditure fell 19 per cent. That is not to say that it still did not highlight some issues that we need to tackle. It still represents that at least 20 per cent of adults gamble on gaming machines at least once a week, and that in terms of severity there is still 0.4 of the population that has severe issues in relation to gambling harm.

THE CHAIR: Can you outline to me what incentives are in the system for venues to deal with problem gamblers? It is my anecdotal advice from members of the community that it is fairly well known in a lot of venues who the problem people are, because they are there on a regular basis, but there is little in the system that incentivises the clubs to do something about that person. Is there something you can tell us about that is positive in that area?

Mr Snowden: Certainly. The gambling code of practice provides a number of incentives, and one of the initiatives that we have put in place, which is funded through the problem gambling assistance fund, is the exclusion database.

THE CHAIR: I know about people self-excluding. I have met them at the supermarket, to be honest, and they tell us about it. But what about those who do not?

Mr Snowden: The clubs are in a position to be able to exclude patrons which—

THE CHAIR: What is there to incentivise them doing that, given that the incentive for getting money is there for them not doing that?

Mr Snowden: The incentive is in relation to the mutual aspects, the clubs being community orientated.

THE CHAIR: I understand that, but they need money to pay for their club, so I am just saying that there is a conflict there. I am just wondering if there is an incentive for them to deal with the problem gamblers that they know are there who are not self-reporting.

Mr Snowden: The incentive is to look after the welfare of their members.

THE CHAIR: Members of the club?

Mr Snowden: Members of the club.

THE CHAIR: Thank you.

MR STEEL: Do you think the findings of the ANU research will help you realign how the problem gambling assistance fund will be used in future?

Mr Snowden: It is useful to be able to take that research on board and realign some of the activities around the problem gambling assistance fund. One of the things that the gaming and racing commission has been considering is a change to the interventionist way that we try to reach out to people to alert them to issues around problem gambling. It has made us stop and think about our approach to that. We are embarking on a process of putting together a strategy for this coming year, a public health model, as a means of raising awareness across the community about problem gambling.

This is a more universal approach to this type of problem. It is geared to not only target the whole population per se about gambling awareness, but also have selective and preventative mechanisms in there where people are showing an increased risk of the problem but also have indicated prevention mechanisms so that we can go down and target people who display real problems with problem gambling. We will use this in engaging with community based organisations to better understand problems in our community with gambling but also raise the level of awareness more broadly about it. The hope is to de-stigmatise this issue.

MR STEEL: Will that deal with online betting as well as other forms of gambling?

Mr Snowden: Yes. It will not be limited to the traditional forms of gambling. It is quite clear from the prevalence survey that, whilst those traditional means of gambling are in decline, online gambling is actually on the increase.

MS CODY: I have a supplementary to follow on.

THE CHAIR: Certainly.

MS CODY: You have captured part of it. I noticed that in your response there was a lot of talk about gaming machines. Is the 15 per cent reduction in gambling across the board, across all forms of gambling apart from online, as you just said?

Mr Snowden: Yes. The prevalence study points to quite a decline in relation to EGM activity.

THE CHAIR: Sorry, what does that mean?

Mr Snowden: Electronic gaming machine activity, pokies.

THE CHAIR: Poker machines.

Mr Snowden: Yes.

MS CODY: But what about other forms?

Mr Snowden: It highlights that there is an increase in online. Across the board at the aggregate level there is a decrease, but when you take into account the increase in online activity it averages out at around 15 per cent.

MS CODY: Right. So would online mean horses, trots and dogs?

Mr Snowden: Yes, as a platform.

THE CHAIR: So the 15 per cent is a reduction in gambling through gaming machines?

Mr Snowden: No, it is across the board.

MS CODY: That is across the board.

THE CHAIR: Across the board.

Mr Snowden: Across the board, yes.

MS CODY: Right, yes.

THE CHAIR: Including online?

Mr Snowden: Including the online activity, yes. But online activity is increasing.

THE CHAIR: So there must have been a much more significant decline in other areas?

Mr Snowden: That is correct.

MS CODY: Thank you.

MS LEE: Minister, can you give us an update in relation to the status of the evaluation of the unsolicited bid from Aquis for redevelopment of the casino precinct?

Mr Ramsay: In terms of the unsolicited bid, a further submission has been put in by Aquis, and that is now subject to further evaluation and analysis by government.

There has been no decision made in relation to that. There is no current particular time line or deadline for that analysis, but the analysis work is being done on the second submission that has come through.

MS LEE: Okay. Will your government put a time line on it, to give some certainty?

Mr Ramsay: The primary lead is obviously with the Chief Minister in relation to economic development, and I have not had the opportunity to speak with the Chief Minister about the time line. But certainly a rigorous analysis of the matter is done through government. Following that, depending on where any decision is, at a later stage there would be community consultation.

MS LEE: Thank you. Obviously a lot of issues were publicised about the impact that the redevelopment of the casino will have on community clubs. Has the government been in further contact with community clubs about the impact, since the last negotiations that you had with them?

Mr Ramsay: Since when, sorry?

MS LEE: Since whenever you last spoke to them, I assume before the election. Correct me if I am wrong, by the way.

Mr Ramsay: Yes. I have met with a number of community clubs in my time, and that is certainly one of the ongoing points of conversation. I have not had any conversations with clubs since the lodgement of the next round of proposals, but all the way through the conversations with the clubs their awareness has been that their business model, relying on poker machines, is something that they need to diversify. There have been particularly positive conversations in relation to both ClubsACT and other clubs.

MS LEE: Has the assistance that the ACT government offered the community clubs before the election changed since the election or is that the same? What is the status of that?

Mr Ramsay: The election commitments for that and all issues are a matter for budget cabinet consideration and a matter of the budget processes at the moment.

MS LEE: So that answer is: "It is in the air at the moment"?

Mr Ramsay: All matters are before budget cabinet for consideration.

THE CHAIR: I also want to note that, because we go through with this minister till 2.30, if there are questions in Regulatory Services we can start them now. Otherwise we may not get back to you.

MS LE COUTEUR: Okay, thank you. I was going to ask about greyhounds, but given that they have raced away, I will ask about—

THE CHAIR: They have raced away under the protection of the GSO.

MS LE COUTEUR: Yes. To follow the question about people being excluded from venues, what auditing have you done of venues complying with the code of practice? We have anecdotal evidence from constituents that people have self-excluded and have then been allowed back. Specifically, how do you audit ongoing breaches of exclusion and the placement of ATMs? Again, we have anecdotal evidence that there are ATMs in places where it would appear they are not allowed to be, according to the patrons who told us about them. Are you recording people who show signs of gambling problems, where a problem has been or should have been identified, for follow-up by gambling contact officers? What do you do to audit that clubs are doing the right thing? As Mrs Jones alluded to, it is almost certainly not in their financial interest.

Mr Snowden: Ms Le Couteur, thank you for the question. Access Canberra undertakes proactive compliance programs and works with the club sector in relation to those issues. As a rule, we go around every club at least once a year and audit compliance with a broad suite of laws, including compliance with the code of practice. Where we do find elements of non-compliance, we escalate that through our regulatory frameworks, our governance frameworks internally, and where appropriate we will take action in areas where there is non-compliance.

THE CHAIR: So, just to clarify, if there are constituents or members of the community who are concerned about a particular operating venue, in order to focus that process on that particular venue do they go through Canberra Connect?

Mr Snowden: Not necessarily, Mrs Jones.

THE CHAIR: How would you recommend they do it?

Mr Snowden: We do get complaints from members of the public in relation to a variety of activities.

THE CHAIR: But how do they come to you?

Mr Snowden: They can come to us through direct contact through the gaming and racing commission; they can come through the contact centre, through Access Canberra, which was previously Canberra Connect. Those matters are then triaged through our governance processes.

THE CHAIR: Thank you.

Mr Snowden: We take any complaints about non-compliance very seriously, especially in relation to self-exclusion or the exclusion database. We recognise that there are issues of significant harm. The way that we structure our response in Access Canberra is around risk and harm, and this would be one of the elevated risks and harms that we would pay very close attention to.

THE CHAIR: Thank you.

MS LE COUTEUR: Have you found any instances of what I have just reported to you anecdotally—that is, the self-exclusion not being enforced and ATMs being in the

wrong place?

Mr Snowden: In relation to ATMs, we have not found any that are in the wrong place. If we did, we would have them put in the right place pretty much immediately.

THE CHAIR: Are you able to come back to the committee with the details of where ATMs are allowed to be in clubs and venues?

Mr Snowden: We can provide details on that. I will have to take that on notice.

THE CHAIR: Absolutely.

Mr Snowden: Yes, sure.

MS LE COUTEUR: And self-exclusion?

Mr Snowden: In relation to self-exclusion, we have one matter under investigation at the moment.

MS LE COUTEUR: Can I ask another question? It is actually a different question, but given that I may not come back—

THE CHAIR: Yes, and then we may not come back to you.

MS LE COUTEUR: Is the commission currently conducting a social impact assessment of the application for additional gaming machines at the Mawson Club?

Mr Snowden: In relation to that licensee's request for an increase in authorisations, they have submitted a social impact assessment and that matter is under assessment by the gaming and racing commission at this point in time.

THE CHAIR: So just to clarify, they are seeking additional machines?

Mr Snowden: They have made an application for additional machines.

THE CHAIR: Thank you.

MS LE COUTEUR: Is that social impact assessment going to be published on your website? How many submissions did you receive about it?

Mr Snowden: We are making changes within the current process to ensure that, in the future, the social impact assessment is published on our website. At the moment it is not published. It is available for public viewing, but we have not, at this point in time, published the social impact assessment.

MS LE COUTEUR: Could I request to view it now? When will the decision be made? How would we get to see it?

Mr Snowden: We can provide a copy of it to you. We have that.

THE CHAIR: Ms Le Couteur, would you like the social impact statement for the Mawson Club to be provided on notice?

MS LE COUTEUR: Yes. And when will the decision be made?

Mr Snowden: It should be made within the next month.

MR STEEL: Do you consider in that assessment how many poker machines are in the particular region, the general demographic of the region and how that may relate to problem gambling in that area as well?

Mr Snowden: Mr Steel, they are considerations that the GRC will take into account. More specifically, they also consider what the club has at this particular point in time, its membership numbers and its gross floor area.

THE CHAIR: Mr Snowden, is there a document that explains how consideration is given for social impact statements?

Mr Snowden: I would have to take that on notice, Mrs Jones.

THE CHAIR: Okay. Can we have a summary of how that is done?

MR PARTON: I am back to questions on Aquis. I would like to ask the minister what criteria are being applied in evaluating the Aquis proposal. More specifically, will the government's evaluation process take into account the financial performance of Aquis?

Mr Ramsay: As I said, the primary lead for that work is the Chief Minister, as Minister for Economic Development, but I am happy to take it on notice and get back to you with that.

MR PARTON: All right. Closer to your specific portfolio, will the government be providing any other concessions? We have a proposal for 200 poker machines on the table at the moment. Will there be any other concessions, assistance or incentives to facilitate the implementation of that Aquis proposal?

Mr Ramsay: The framework is important. The government takes particularly seriously the impact of gambling in Canberra, so the proposal by Aquis, the unsolicited bid, is in that context. The response by the government to the proposal that has recently come in is now being worked through. The proposal has not been considered by government beyond that at the moment. It has already been publicly stated that that there will be no lesser requirements in relation to that particular bid. As is expressed in the parliamentary agreement, further considerations are being given to the harm minimisation processes in relation to any bid going ahead.

MR PARTON: All right.

THE CHAIR: Is that an answer to the question?

MR PARTON: Yes. I think it is as good an answer as we are going to get. I would

like to test the chair and ask a greyhound question that I think I will get an answer to.

THE CHAIR: Have a go.

MR PARTON: I will just jump on in. Has the minister, in his life, ever attended a greyhound race meeting?

Mr Ramsay: Yes.

THE CHAIR: Fantastic. Does the minister want to give any more details about that?

Mr Ramsay: I do not know that it is particularly relevant, but I was at a greyhound race meeting a number of years back.

MR PARTON: Excellent.

THE CHAIR: Very good to hear.

MR STEEL: My question is in relation to amendments made to the Lotteries Act 1964. What feedback have you received, particularly in relation to low-value activities, including raffles? What impact has that legislative change had on community organisations in particular raising funds?

Mr Snowden: Thanks for the question, Mr Steel. In general, the feedback that we have had is that it has made it much easier for them to undertake their activities. It is not only in relation to community organisations that this has had a benefit. It is also for some of the pubs and the tavern industry, where they also want to undertake activities such as bingo and the like. It is a very low-value activity. It was a means of attracting patrons and the like. But previously they had to go through an administrative process equally as convoluted as a high value lottery to get a permit.

THE CHAIR: Do you mean that a meat lottery had to go through the same thing?

Mr Snowden: To that extent, the feedback we are getting is that it is a really positive red tape reduction. Running it past the way that we risk assess these things, they still have to provide us with some levels of information, but it is not nearly as complicated as it once was.

THE CHAIR: What is the value threshold?

Mr Snowden: It is $3,000.

THE CHAIR: Prizes to the value of $3,000?

Mr Snowden: Yes.

MR STEEL: What is the law on ticketing in relation to that prize?

Mr Snowden: In relation to ticketing?

MR STEEL: Yes. Are there still laws on the ticketing?

Mr Snowden: There are still general conditions that they need to comply with. The rules of the particular promotion are provided to us. We still insist on that. We scrutinise those to make sure that they are fair, that it is equitable, and that there are consumer safeguards around them so that people can redeem their prizes.

MS CODY: I have a supplementary. Are charities separate?

Mr Snowden: Charities are separate.

THE CHAIR: Do you have a document about the regulations on charities running small lotteries?

Mr Snowden: I would have to check on whether we have a specific document on charities, yes.

THE CHAIR: Can you take that on notice?

Mr Snowden: Yes.

THE CHAIR: Thank you.

MS LEE: I have a brief question to the minister, not necessarily to the commissioner, if that is all right?

THE CHAIR: Yes.

MS LEE: I should have asked this as a supplementary earlier. Going back to the community clubs, you mentioned that you were in talks with the clubs about their business model and that that has been going very well. If the government is requiring the clubs to change their business model, what support is the government giving the clubs?

Mr Ramsay: Firstly, it is not so much that the government is requiring the clubs to change the business model. The conversation has been that the clubs are recognising the necessity of changing the business model, just because of the changing circumstances of the—

MS LEE: But that changing circumstance, a lot of it is to do with the fact that there are going to be 200 poker machines in the casino, is it not?

Mr Ramsay: It is a much broader issue than that.

MS LEE: Yes, granted.

Mr Ramsay: I think that is the main thing, to recognise that the government is not requiring it, but there is an ongoing recognition by the clubs. That has certainly been something that I and others have been seeing. One of the key things that came out of that was the community clubs grants and the assistance package for the small and

medium clubs. We have announced that there will be a range—

MS LEE: Which you just said is on the table; is that right?

Mr Ramsay: With all the election commitments, with all matters for the future, it is a matter of working through the cabinet process, the normal budget processes. But, as part of that, one of the key things is the provision of community club grants of $10,000 to every small and medium club. We are also introducing small and medium club gaming tax rebates to allow the small clubs to retain 50 per cent of their gaming taxes, up to $4 million of gross gaming machine revenue, so that that can be reinvested in the organisation.

There are a number of ways to support the clubs to broaden and diversify their business model. Part of that is the recognition that that includes the moving away from a heavy reliance on gaming machines. Part of the work on that is the government's commitment to the reduction in the number of electronic gaming machines over the course of the next four years—effectively, from 5,000 to 4,000 by 2020—and working on that in terms of how it is that we move—

MS LEE: Is that a reduction applied across the board, across all clubs? How is that going to work?

Mr Ramsay: At the moment we are in the trading scheme, whereas when there are machines that are traded from one licensee to another there is the percentage that is sacrificed as part of that. Phase 2 is a mandatory percentage that comes back as well. That is due to come, but at the moment in conversations with the clubs we are looking at ways of being able to make sure that it is either brought forward or modified to ensure that we reach the 4,000 target by 2020.

MS LEE: Thank you.

MS CODY: I have a follow-on from that. That is all the stuff we are doing for small clubs. How does that impact on pubs? I know that pubs have slightly different legislation from clubs. Are there things we are doing with the pub industry to help support them?

Ms Greenland: The hotels, as you say, are subject to a different arrangement and do not rely nearly as heavily on gaming machines; so the numbers are relatively small. They are subject to different taxation regimes, that sort of thing, which recognise that they are a smaller type of venue. They are not part of the sort of trading scheme arrangements in the same way as the clubs are, because they run on a different model.

MS CODY: How long has it been since we have reviewed the way that hotels work?

Ms Greenland: I would have to take that one on notice and get back to you.

MS CODY: If you would not mind, that would be great.

Ms Greenland: Yes, sure.

THE CHAIR: Thank you.

MR PARTON: My next question is in regard to the Gambling and Racing Commission annual report—community contributions, pages 22 to 24. How are community contributions monitored and the payment limits enforced?

Mr Snowden: Mr Parton, the community contributions are required to be supplied to the Gambling and Racing Commission by 31 July each year. We undertake then a program of auditing to ensure that the contributions that are made actually are true. We aggregate the amounts to ensure that they are above the eight per cent of net gaming machine revenue. Statutorily, the Gambling and Racing Commission is required by 31 October each year to publish a report in relation to the community contributions that have been made by the clubs.

MR PARTON: How does the commission validate the appropriateness of community contribution payments actually made by clubs to eligible entities?

Mr Snowden: The commission undertakes its own audit program. It will undertake spot checks of a variety of venues to ensure that it has a documented process, an audit trail in relation to the funding that has passed.

MR PARTON: Have there been any breaches, anomalies or concerns detected in the appropriateness of payments or the amounts that clubs paid in relation to community contributions?

Mr Snowden: There is a very high level of compliance in the sector in relation to the audit activity. Where we do detect that there are issues, they are more likely to be administrative errors than wilful breaches. For instance, there could be just transcription errors in relation to the amounts or there could be a missed receipt, which can be validated by other means. Generally, the clubs and the commission work very well in auditing community contributions. It is a process that has been in place for many years. The clubs that are larger have their own accounting systems that continually track their contributions.

MR PARTON: Do we have any reviews or investigations pending on contributions by clubs at this stage? There is nothing that is ongoing?

Mr Snowden: We have no compliance activity in relation to community contributions at the Gambling and Racing Commission at this point.

MR PARTON: Excellent. Thank you.

MS LE COUTEUR: My question relates to harm minimisation. Given the evidence of the Productivity Commission, the ANU Centre for Gambling Research and many, many other people on the effectiveness of $1 maximum bets and mandatory pre-commitment, is the directorate considering introducing these measures for gaming machines in the ACT?

Ms Greenland: Ms Le Couteur, we are obviously aware that there is a commitment to look into those as part of the parliamentary agreement; so that is certainly on our work

program as we go forward with a range of pieces of work we have to do with clubs and other stakeholders. We will definitely be undertaking some work to look at what our options are in respect of those harm minimisation measures.

MS LE COUTEUR: Are you looking at any other harm minimisation measures?

Ms Greenland: We are interested in looking at a range of harm minimisation measures. The work that Mr Snowden was referring to earlier will help to inform the thinking about other harm minimisation measures that might be implemented. We are not narrowly looking at only those two measures, though they are two that we are very conscious there is a commitment to look at. But if there are other harm minimisation measures in other jurisdictions that are shown to be working well, we will certainly explore those as options as well.

MS LE COUTEUR: Are there any that you are specifically thinking of?

Ms Greenland: I cannot say that there is anything that is in the mix at the moment. We have a program of work that we are working our way through with the clubs. Clearly, we will need to be working with those that are going to actually implement these measures in their businesses. It is a case of getting the relationship established with Clubs ACT and working our way through what options might be able to be implemented then.

MS LE COUTEUR: On your commentary of working your way through with the industry, do you have an idea of how many of the existing machines can be retrofitted for $1 maximums and mandatory pre-commitment?

Ms Greenland: I would have to take that on notice. What I can say is that my understanding is that the technology that is used in the clubs at the moment is variable. There are some more modern machines that might be able to be utilised in a more sophisticated way, I guess, to monitor harm minimisation. But my understanding also is that a lot of the machines that are in place at the moment are quite old. One of the barriers potentially to some of the harm minimisation measures, like central monitoring systems, is the age of the machines.

MS LE COUTEUR: Can you take that on notice? That is roughly my understanding of it.

Ms Greenland: Yes, sure.

THE CHAIR: Are there any additional questions in this area? The minister is not here yet for the next section, so I do not mind our doing another couple of minutes.

MS CODY: Yes. I noticed, minister, that in the Gambling and Racing Commission annual report the regulation side of gaming and racing has now moved to Access Canberra, along with some of the other regulatory services. Are there any specific training and educational matters for the gaming and racing regulators that are slightly different from those undertaken by Access Canberra?

Mr Snowden: Thanks for the question, Ms Cody. You are correct insofar as the staff

of the Gambling and Racing Commission have integrated into the broader stream of activity within Access Canberra. Generally, it is within three streams. There is a clear licensing ambit. Staff have been integrating within the licensing area of Access Canberra. The compliance ambit and the compliance teams have been integrated within the compliance stream, and a general administrative and research stream has been integrated into our governance and support area.

Overwhelmingly, with the formation of Access Canberra it was very clear that there was a lot of synergy and overlap in the skills and capability of the staff. We have been able to optimise their particular strengths across Access Canberra. It has been very profitable for us because at the same time we have been able to cross-pollinate the skills of other members of those teams in relation to understanding licensing processes within the Gambling and Racing Commission—the nuances of the compliance requirements for gaming, and especially in relation to the casino. That eliminates single points of failure in our staff. It creates greater levels of interest amongst our staff in terms of the work value. It has been a seamless process.

THE CHAIR: Thank you. At this point we will move on to our next minister. Thank you, Minister Ramsay, and thank you, witnesses, for appearing before the committee today.

Appearances:

Rattenbury, Mr Shane, Minister for Climate Change and Sustainability, Minister for Justice, Consumer Affairs and Road Safety, Minister for Corrections and Minister for Mental Health

Chief Minister, Treasury and Economic Development Directorate
Snowden, Mr David, Chief Operating Officer, Access Canberra

Justice and Community Safety Directorate
Pryce, Mr David, Acting Director-General
Lutz, Ms Amanda, Manager, Restorative Justice Unit
Chilcott, Mr Michael, Chair, Sentence Administration Board

THE CHAIR: The committee will move on to its next witnesses, the Minister for Justice, Consumer Affairs and Road Safety, together with officials from the Chief Minister, Treasury and Economic Development Directorate and the Justice and Community Safety Directorate. Specifically, the committee is examining matters in relation to fair trading and consumer affairs respectively. Minister and officials, could you confirm for the record that you are aware of the privileges statement?

Mr Rattenbury: Yes.

THE CHAIR: And its implications?

Mr Rattenbury: That is fine, thank you.

THE CHAIR: Thank you. Minister, do you wish to make a brief opening statement or are you ready to answer questions?

Mr Rattenbury: I am happy to go straight to the areas that the committee wants to cover.

THE CHAIR: We are also going to deal with restorative justice in this section because we have not had it listed anywhere specifically; so if there are any questions on restorative justice, please ask them.

Mr Rattenbury: Ms Lutz has come specifically. We are prepared to do that. We are more than happy to cover that when you are ready.

THE CHAIR: Thank you for coming back. I know it has been difficult, but we really appreciate it.

MR HANSON: Can you give me an outline, with regard to fair trading, of what you have done about any complaints but also what you have done proactively and whether it has led to any prosecutions? What action have you taken?

Mr Snowden: Our compliance area in fair trading is very active. We have a model of "engage, educate and enforce". Overwhelmingly, the majority of our resource is

directed to the engagement and education of business in the ACT in and around fair trading. It is a fairly large remit because it touches on a number of industry sectors. That includes retailing. Retailing provides the highest level of complaint to Access Canberra in relation to this part of our portfolio responsibility, and as part of our response to that we have an active trader engagement program.

We proactively plan, based on the data that we have, to get out to traders and educate them about specific matters. Generally those issues are around refunds, warranties and consumer guarantees. There are complexities in and around that from a transactional perspective and we respond to those by increasing the knowledge of businesses about those matters. Where consumers come to us we will help conciliate a suitable outcome in those areas.

MR HANSON: Have you had only conciliation and arbitration or has it led to any matters being referred to—

Mr Snowden: I know we have not taken anyone to the Magistrates Court, but we have commenced proceedings within ACAT in relation to some areas of the portfolio, in particular real estate agents. We have issued some infringement notices to traders in the motor vehicle sector and the security sector. But we consider that to be an absolute last resort. If the conduct in question is egregious enough to warrant that type of sanction then, through our government's processes internally, we will weigh up whether that is the appropriate deterrent message that we need to send.

MR HANSON: Are you getting repeat offenders? Is it mostly people actively breaking the rules and doing it repeatedly?

Mr Snowden: We do not see, as a matter of course, wilful conduct to break the fair trading regime in the ACT. Where we do, through our process of evaluating risk and harm depending on what that conduct is, of course we will respond to that in a proportionate way. If that means that we need to take enforcement action we will, but generally speaking the compliance rate in and around this part of the portfolio in Access Canberra is particularly high.

MR HANSON: How do you tie in with the third inspectorate from ACT Health? Where is the line of demarcation, so to speak?

Mr Snowden: The line of demarcation is that they have a specific remit under their health law about where they look for potential issues with cafes and restaurants and the like. We work very closely with them because, of course, we have the liquor remit and the outdoor dining remit under unleased public land. We work collaboratively with them in arranging proactive inspections; so we have a reduced footprint, less of an impediment to business activity, and we use that time to check for high-risk activity through HPS. I have an HPS officer there, but I also have a fair trading officer. We will check to see whether they are complying with the fair trading regime as well. The demarcation is legislative.

MR HANSON: You work collaboratively, do you, in a formal sense?

Mr Snowden: That is right. It is about an efficient use of our resources, but it is also

to allow business to continue doing business with a reduced regulatory impediment.

Mr Rattenbury: There has been some work to align the inspections so that the business gets only one visit and not someone one day and someone the next day.

MR HANSON: Is there any thought that the inspection would be better collocated, so to speak, functionally so that there is one person sitting over the top to coordinate that activity, or is it best held in Health?

Mr Snowden: We had a memorandum of understanding with HPS in the formation of Access Canberra. My understanding is that it was considered that HPS should sit within the broader remit, but, due to legislative and a range of administrative difficulties at that point, it was agreed that the best pathway was to strike a memorandum of understanding with them for them to provide services in relation to the regulatory aspects of health protection.

MS CODY: I want to touch on what Mr Snowden was just saying there. I note that some of the information you talked about included engaging with the community. I think you mentioned education as well. In the report you talk about "continue to engage with and educate industries to ensure they undertake their obligations under legislation". Can you expand on the sorts of activities you undertake to meet that?

Mr Snowden: Yes. Depending on the industry sector, that is the way that we target them of course. We have a range of mechanisms where we push information out to the community. That can be through our website. It can be through outreach programs with a variety of stakeholders that are particularly targeted. We have a program where we will go and conduct seminars on particular issues with industries. We are invited to come and present to a variety of industry sectors when they are conducting training programs or having conferences. It is a myriad of activities that we provide in that education space.

There is a suite of information on our website that is generally available to business and consumers, about this portfolio. It is a very broad remit, the administration of fair trading in the ACT, and we constantly review and seek to update that where necessary. Of course, commercial imperatives in the ACT change. E-commerce is a big issue for consumers and we seek to provide as much information as we can on that. Where we do not necessarily have the information we can access that through our colleagues in the commonwealth, through the Australian Competition and Consumer Commission, which also administers the Australian Consumer Law.

MR STEEL: I have some questions around restorative justice.

Mr Rattenbury: Are there any other consumer matters?

MS LEE: I have a question in relation to inspectors and visits by inspectors. It says on the website:

> Visits by Inspectors to businesses can be at random or may be part of targeted programs. A visit may be to investigate a complaint or incident.

Are you able to outline how many random investigations occurred in the reporting period and also what targeted programs were investigated in the reporting period?

Mr Snowden: In terms of random programs, I would have to take that on notice, but I am sure that I will be able to provide those details. We have had a number of proactive programs which we have undertaken in the course of the reporting period. They have been generally based on the information that we have been able to aggregate on previous complaint levels, where we have seen that there could be some consumer detriment in the marketplace. We have targeted industries in the motor vehicle sector in particular: motor vehicle sales and motor vehicle repairers. We have had a particular interest in real estate agents. We have also undertaken proactive elements in the liquor industry and security sector.

MR STEEL: In relation to real estate agents, were you specifically targeting issues with real estate agents providing a price guide for homebuyers?

Mr Snowden: Not on that issue.

MS LEE: Is this the one where they advertise a home is for sale between a low price and a high price?

MR STEEL: It tends to be on the lower end of the scale to attract buyers to an auction or something. Is that an issue you would deal with under fair trading?

Mr Snowden: Misleading and deceptive conduct is certainly something we would look at under fair trading. If those matters came to our attention of course we would engage with that industry, but that was not the subject of our proactive programs.

MS CODY: You mentioned motor vehicles. Can you expand on the sorts of things that you have done to make that your target?

THE CHAIR: You mean automotive?

MS CODY: Automotive industries, yes.

Mr Snowden: Certainly. In relation to the motor vehicle sector we proactively look at the sales aspects to make sure that they are compliant with all elements of the Sale of Motor Vehicles Act. There are pretty stringent requirements in relation to the way that they document their acquisition and sale processes. That is very important for a range of interests, including ACT Policing and the like. We ensure that those practices are above board.

In relation to motor vehicle repairers, we undertake joint inspections with our colleagues not only from transport regulation but also from work safety, and under the Environment Protection Act, to make sure that they are compliant across the board. It is about making sure that they have proper documentation from the fair trading perspective, that from an environmental protection perspective they are disposing of their oils and tyres appropriately and that from a work safety perspective they have all the necessary equipment in place and that it is approved.

MS LEE: Earlier, commissioner, you were talking about the targeted programs that you initiate. They are taken from a combination of complaints and you see what comes up. Are there any other criteria for determining where you might target? Is that the only criterion?

Mr Snowden: No, it is not the only criterion. Of course there are some national programs that we participate in, through the Consumer Affairs Forum. Ministers have an interest in particular areas and can direct their officials to make inquiries. We actively participate in national areas. That is determined, again, generally from complaint levels or where they see new and emerging markets where they think they need to make some market inquiries. It is not the sole criterion.

MS CODY: Can I clarify one thing you said about the sale of motor vehicles? Was that across the new and used car industry?

Mr Snowden: Yes, but predominantly used.

MR STEEL: I have a question in relation to Australian Consumer Law. Since that framework came into place, have your other legislative frameworks that you work within also been harmonised to reflect the same sort of language as the Australian Consumer Law, to make it easier for businesses and consumers in the ACT to understand?

Mr Snowden: In terms of the frameworks, are you thinking more along the lines of liquor, the security industry and the like?

MR STEEL: Yes. You were using the words "misleading" and "deceptive" before, which obviously are drawn from the ACL. Is that sort of terminology used in other acts and is that the legislation that you work under, where it is appropriate? There were some changes in terminology that resulted from the ACL being introduced and replacing the Trade Practices Act.

Mr Snowden: Certainly. In terms of the way that other laws have been drafted per se, in the remit that we have there has not been that level of harmonisation across the board in the ACT.

MS LEE: Just a follow-up on that. In terms of ensuring that businesses as well as consumers are aware of their rights, is there anything that you can point to that assists people—businesses and consumers—for whom English is not a first language? The big department stores, for example, have signs up at the cash register saying, "No refunds, except in accordance with the law," but some of the smaller businesses that may not be familiar with Australian law might not have those.

Mr Snowden: Thank you for the question, Ms Lee. In working with members of the community with non-English as a primary language, we would defer to the information that is generally provided by the ACCC. They have a consumer framework which allows for that. With the resources that they have, most of the states access the material that they produce. We push that out as necessary amongst our community. We do not have a specific program. If we are asked to assist a specific group, then of course we will.

MS LEE: The information that you refer to is available from the consumer network? That is for businesses as well as consumers?

Mr Snowden: Correct.

MS LEE: Thank you.

THE CHAIR: There are new witnesses at the table. I will just draw your attention to the privilege statement. It would be good to acknowledge that you understand it.

MR STEEL: With reference to the second phase of the restorative justice project, referenced on page 26 of the report, I was interested in the higher compliance rate: 100 per cent of restorative justice agreements made. I was wondering what might have led to that higher compliance rate—it is obviously quite pleasing to see—and how the program has provided cultural sensitivity and understanding for Aboriginal and Torres Strait Islander people.

Ms Lutz: I will just acknowledge that I understand and am in agreement with the privilege statement.

THE CHAIR: Thank you.

Ms Lutz: We moved into phase 2 in February 2016, so we were already more than halfway through that financial year. We are looking at some smaller numbers. You are looking at Indigenous compliance with restorative justice agreements. I think we had 26 referrals. We had 14 who participated and, at the time of that report, 11 of those had complied with an agreement. We did not have the whole number but, of those who had participated within that period, we had a 100 per cent compliance rate. I would put that down to the very fine work of our Indigenous guidance partners, who do all of the rapport building, information provision, support through processes and follow-up. They might make referrals outside restorative justice processes too, but their main role is to support them and encourage them throughout that.

THE CHAIR: To go through the process.

MR STEEL: As part of stage 3, family violence and sexual offences are being brought under restorative justice. What challenges do you think that will present?

Ms Lutz: Substantial challenges. Foremost at the moment, we are building solid relationships with victims' advocacy agencies that we will be working closely with in phase 3. We will be building trust with them and a shared understanding of how we will work together to identify appropriate matters, to look at the risks that will be involved and to manage those matters safely and in the interests of victims.

THE CHAIR: Ms Lutz, just as a supplementary question—and I note Ms Cody has some interest in this area as well—can you give us a picture of how this is intended to work for victims of domestic violence? I think from the very inception of it, though many of us are deeply supportive of restorative justice, it has been hard to picture how this process will go ahead without there being potential collateral damage to the

victims. Obviously everyone has to agree to be involved in the process, but can you give us an example of how this might actually play out?

Ms Lutz: Absolutely. I think there is the potential for collateral damage in the formal system because we are dealing with complex matters and—

THE CHAIR: And people.

Ms Lutz: Yes, and people and messy situations. What we can do is work closely with the agencies that have years of experience in working with victim survivors and understand their needs. We are going to build capacity within our unit to understand those needs and work with those agencies.

THE CHAIR: Have you looked at case examples?

Ms Lutz: Yes. At the moment we are looking at case examples and working with those agencies to do walk-throughs right from the beginning. We are looking at: how do we identify what level of risk and what level of seriousness a matter involves? Perhaps I can just explain that the restorative justice unit works within the criminal justice system and not outside it.

THE CHAIR: Yes, it is not separate; I understand.

Ms Lutz: We will not be receiving any referrals outside the system. We are hoping to be involved in the case-tracking of matters so that we have a really close idea of what those matters involve.

Ms Field: As part of the preparation for phase 3 there have been a number of workshops. One of the most valuable things I personally have found from those is hearing from people in this area who have undergone a restorative justice process. These sorts of things are working in other jurisdictions. What the women say is beautiful to listen to. They say, "I wanted this option. I needed to understand."

Part of the process that Amanda has been going through with her team is to understand protections. It is about understanding how to give support. It is about understanding when to make the decision to deal with the issue or not. Generally, once they take something on—correct me if I am wrong, Amanda—they are very careful and very selective. They are not going to engage in a process where the defendant is not in the right frame of mind and they see it as being dangerous for the victim. The repeated message you hear from the women who have been through a process like this is: "I felt better afterwards. It does not fix it, but I understand and I feel better."

THE CHAIR: I think the average Joe will not be able to picture what one of these conferences looks like. In fact, I went to a conference, which was about a general criminal matter with a youth offender, to observe and understand and I was deeply moved by it. I understand the power of this.

Ms Field: It is a powerful thing.

THE CHAIR: I simply want to be able to demonstrate to the community how that logistically works. Let us be stereotypical and say we have a male partner who has assaulted a female partner and the female partner has agreed to be involved in the process, as has the male. They are put in a room together and there is a process, a script that is worked through; is that right?

Ms Lutz: Can I just explain?

THE CHAIR: Please.

Mr Pryce: There is a lot of work beforehand.

Ms Lutz: That is right.

THE CHAIR: No, I understand that. That is why I would not mind your painting us a picture.

Ms Lutz: In the assessment we are collating all sorts of risks. We would never see them together in an assessment phase. We are speaking to the victim separately. We are getting a sense of, "What is it you would like out of this process?" to make sure that she is in it for the right reasons and is not feeling coerced into it.

THE CHAIR: Or vindictive.

Ms Lutz: We know there is a diversity of victims. Some will be completely under somebody else's control and powerless. Others will be quite strong victims who know exactly what they want to get out of a process. We will be giving them all the information they need to decide whether they want to participate in this voluntary process. From that point on, if that person genuinely wants to have a process and we can work through the preparation, it goes at the pace that they feel comfortable with and that makes it a very trauma-informed process. They are in control of it. If they want to step out at any point, they can step out. Their information is managed very carefully so that it is not given to anybody it should not be.

THE CHAIR: Is it the same sort of process that I have seen where questions are asked of each party and then they are allowed to answer?

Ms Lutz: You sat in on a face-to-face process for a young person. When we are looking at young people's matters in the criminal justice system the approach is: "Why wouldn't you want to do this? Take responsibility." It is a less serious matter. For the more serious matters the approach is: "Why do you want to do this? What are you hoping to get out of it?" If there are dovetailing interests and reality checks about what people can get out of a process and it all ties in, that is when you start to move towards it, assessing risk all the way along.

The difference is that it might be an indirect process, or part of it might be indirect. If there has been a nasty assault or a sexual component to a gender violence matter, it might be that the offender takes responsibility in a statement, writes a statement. That is perhaps looked at and, if that is accepted, a face-to-face component might follow. But that person, the victim survivor, might not want the offender to speak about all the

details of that offence face to face.

THE CHAIR: So you could go through a whole RJ process where the two do not actually sit in the same room together?

Ms Lutz: An indirect process and they may never be in the same room.

THE CHAIR: I think this is something that the community probably does not have a lot of information on at the moment—not that it is necessarily dependent upon the community, but I think it would be healthy for there to be more information.

Ms Lutz: That is one of our biggest challenges—building up awareness in the community, and that is why we are running workshops.

THE CHAIR: Maybe people who have been through this in other states would be able to say—

MS CODY: I guess that follows on from what Ms Field and Mrs Jones have said. You mentioned that this is happening in other jurisdictions. Have you gone out to some of those jurisdictions and spoken to them to see what has worked and what has not worked? Are we basing our studies on some of the things that have been trialled in other places?

Ms Lutz: I am aware that in New South Wales they have been dealing with serious matters post-sentence. There might be a conference with the remaining family members of a woman who has been murdered by a partner. Those conferences have been extremely beneficial. It may be 10 years after the—

THE CHAIR: You mean between the perpetrator and the family?

Ms Lutz: That is right: the perpetrator, in a custodial setting or perhaps when that person is on parole. But quite often people want to meet before the person is released because they have questions and they want to be reassured. If it is appropriate, they can come together and have that session. It has been very successfully managed in New South Wales.

Mr Rattenbury: I might just step back one level. The questions you are asking are certainly ones that have occurred to me. In taking on the portfolio late last year it was probably the first discussion I had with Ms Lutz and her team. We are talking about a 2018 introduction here. Certainly a lot of the questions you are asking today are very much mine. I have been explicit with the team in saying, "We need to think very carefully about how we introduce this to the community and how we explain it." We need to work with some key stakeholder groups in advance—and you can imagine who some of them would be—before we launch this. We need to talk them through it and make sure they understand, because I think they will also be important advocates in the community in explaining how this will work.

THE CHAIR: Absolutely.

Mr Rattenbury: The various support groups around town—the Women's Legal

Centre and those kinds of groups—will be both important critical friends through the process and advocates, presuming they are persuaded of the suitability in certain circumstances. The first thing you can always say about restorative justice is that it will not be suitable in every circumstance. I think that has come through from what Ms Lutz has said today. That is a very important factor.

THE CHAIR: One of the benefits of the Canberra community is that people are willing to try something new, especially if it offers people some closure, an end to something or a resolution, or even just part thereof. That is one of the great things about Canberra. There are a lot of questions still remaining. If there is anything that the minister wants to inform the committee about, we would be happy to have private meetings to discuss that.

Mr Rattenbury: Sure.

MS CODY: I was just about to ask if we could.

THE CHAIR: We are going into our own investigation of the domestic violence issue, so perhaps that could be part of it as well. It is a more in-depth conversation about it.

Mr Rattenbury: I can assure you that the team is cognisant of some of these questions. The approach, as you have probably just heard from the evidence, will be a softly, softly one—I am not sure if that is the right expression, but certainly a careful step forward. It certainly will not be a risky approach; it will be a very deliberate and very careful approach.

THE CHAIR: Control is in the hands of those involved. I think that that is an important message as well.

Mr Rattenbury: Particularly the victims. The victims' considerations are primary.

THE CHAIR: Often when you get into one of these processes you realise there are lots of victims. The perpetrator can often be a victim of something as well.

Ms Lutz: That is right. Restorative justice is a community response, so you are bringing other people in to witness and be a part of an accountability circle for that person afterwards.

Mr Rattenbury: An example I have talked through with the team was not in this area, but it was an assault matter. A fellow had been assaulted and had had a heart attack as a result. His wife and daughter were very traumatised by the whole process. The process involved the three of them because they wanted to talk to the perpetrators about the impacts so that the perpetrators got a deeper appreciation of their own behaviour.

THE CHAIR: I might just clarify: whenever we talk about RJ it is important to make sure that it is stated, for the record, that the court processes go on as usual. This is an addition to that, essentially. Is that still correct?

Mr Pryce: It is important. I just whispered to the minister that referrals can be made at any stage of the criminal justice system, either as a diversion from, in parallel to or separate from criminal proceedings. It goes to that point where sometimes, especially with family violence, there may be criminal proceedings that, rightly, should proceed, but equally a restorative approach can be taken as well.

THE CHAIR: It does not replace dealing with matters in the courts, does it?

Ms Lutz: The legislation allows for exceptional circumstances to be considered. We would never do that without discussing that with our victims' advocacy agencies, in that assessment phase, whether it would be suitable. We recognise that in some circumstances, for instance for young people, there may be an exceptional circumstance—

THE CHAIR: Where the criminal matter does not continue?

Ms Lutz: where it might stay as a police referral and then a report back to police. If it was not dealt with appropriately or to the satisfaction of the victim, it would then go through the court process.

THE CHAIR: Right. But once criminal proceedings or something like that have been undertaken, RJ does not replace them.

Ms Lutz: No.

THE CHAIR: That is what I have had explained to me on this side of the table many times. Every time we talk about RJ we need to have it on the record that that is the case, because I think it can be seen as a soft option. It is actually an additional process.

Ms Lutz: It is something extra, yes.

MR STEEL: I have one further question. I know you have done quite a few surveys to evaluate how restorative justice is going. I just wondered what you were learning from that, particularly in relation to restorative justice that occurs after sentencing.

Ms Lutz: What we found from our surveys is that people love having a say; they love to have a voice. We really enjoy working in an area that lets them speak. The process is respectful; it is inclusive. It is voluntary, so they can step out. For those who choose to participate, it is carefully prepared. All of the reflected surveys speak to that. We have a 97 per cent satisfaction rate that has continued through phase 2, but the annual report deals with matters that are only in a four-month period.

THE CHAIR: Yes. We will get there.

Ms Lutz: We will get there.

Ms Field: Next year.

MR STEEL: Thank you.

THE CHAIR: Or the end of this year.

MS LEE: The question I have is in relation to whether any other cultural background sensitivities are taken into consideration. It may not have come up. It has been going for 10 years, I think, from yesterday. Is that right?

Ms Lutz: Twelve.

MS LEE: Twelve years. Clearly there has been a lot of good work done in dealing with Indigenous people who are entering this program, but are there any other cultural background sensitivities or concerns that have been addressed?

Ms Lutz: We have people from all walks of life who come to the process, either as victims or offenders. We can use the Translating and Interpreting Service, and we have done on occasions. We have utilised whatever we have in our unit personnel to assist people. For instance, we have a Chinese Malay reception, admin and evaluation officer who was able to rescue a process for us when we were not getting engagement, and we could give a bit of extra explanation on one occasion. We do make strong efforts to be inclusive.

MS LEE: Yes, because sometimes it goes beyond pure language, doesn't it? When you look at certain Asian cultures, for example, if it is somebody who is much older there is a power imbalance.

Ms Lutz: One of the ways that we can respond to that is by bringing in community members to be part of a conference. We had one that involved a Sri Lankan family who had been refugees. The son had been assaulted. We brought in one of the community workers that had worked with the family right from the time they arrived. He joined the conference and he was an absolute bonus to the conference. He helped to explain what it had been like for this family and helped the offender to get a sense of them as real people, not just a stereotype.

MS LEE: On page 26, again in the report, there are words to describe the process. It says that 14 participated in the conference, 11 complied, one conference satisfied the victim's needs and two are still being monitored. Can you articulate what those mean? Given the nature of the way restorative justice works, what is compliance?

Ms Lutz: When people come together in a conference, whether that is indirect or face to face, there may be an agreement that the offender take on certain tasks to try to make amends for some of the losses that the victim has experienced. Or it may be that the conference itself and having that conversation, with that person answering questions and apologising, has been enough to satisfy the victim. That qualifies as an agreement complied with for that circumstance.

MS LEE: So what constitutes compliance is different according to each case.

THE CHAIR: Yes, and there is an agreement at the end.

Ms Lutz: That is right. Each task is either complied with or not complied with. We are fairly strict on that. If there is only one task, they have to complete that task within

the time frame or it is not considered to be complied with. However, many people comply perhaps the week after or two weeks after. Referring entities can take that contextual information into account, but for our data purposes, they have not.

THE CHAIR: Can I request that any members of the committee who have not seen this process might be able to be a witness in a phase 1 type environment. That is what I was allowed to do in the last term, to see what this process is and to understand it. It is so foreign, in a way, to our justice system. It would be really helpful for members who have not been able to sit in on a conference to do so.

Ms Lutz: We would certainly welcome that.

Mr Rattenbury: If you contact my office, if anybody wants to, we will work with the team to set that up.

THE CHAIR: With the different cultural groups, how do you go about getting information about that culture? Is it from the individual involved, or do you have some liaison? We have a lot of different cultural groups in Canberra, and they operate in very different ways. When you know you are dealing with someone who is first or second generation new Australian, do you have a standard procedure that you engage in?

Ms Lutz: We will bring them in and we will be talking to people that they bring in as their support person at that initial meeting. If they have any needs that are established at that initial meeting, we are go out and bring other people in to assist.

THE CHAIR: Are there questions around cultural sensitivity, though, in that? Again, some cultures are so inhibiting of people saying what they actually think that you would have to ask quite direct questions.

Ms Lutz: That is right. The convenors that we have come from all walks of life. Some are from corrections; some are from policing; some have been in victims' advocacy agencies. They have had years of experience of working with people from different cultures and often already have had a heads-up about it.

THE CHAIR: Also, the people who are victims or perpetrators could have lived in this country for many years and still not have a great deal of understanding about what the law says and does in this country. I have dealt with that in the community.

Ms Lutz: That is right. If we had somebody who was not sure of their rights, it is part of our consent form that we inform them that they can get legal advice if they wish, and encourage them and support them to do that. The value of our process is that we have the time to prepare, go slowly and ask all of the questions that need to be asked to make sure that it is tailored to individual needs.

THE CHAIR: I will just ask the minister if there is anything else he wants to add on the RJ or other matters. I think we might be drawing to a close here. I know you have another person to appear with you, but I think he or she is expected to come at 3.30.

Mr Rattenbury: That is the Sentence Administration Board.

THE CHAIR: Yes.

Mr Rattenbury: I was not planning to stay for that.

THE CHAIR: Sorry.

Mr Rattenbury: The SAB sits independently.

THE CHAIR: Yes. Sure.

Mr Rattenbury: I am happy to be here if you want, but I am happy for you to—

THE CHAIR: No. It was just a matter of working out the break with you, so that you did not have to sit around and wait for SAB.

Mr Rattenbury: I am relaxed.

THE CHAIR: Thank you. While we are here, we might do the Sentence Administration Board.

MS LEE: Yes. We might as well.

Mr Rattenbury: There is 15 minutes set for the board. I am happy to stay if you want.

THE CHAIR: Yes, if it is okay with you. I think the questions we ask are always the same, but it is perhaps important for you to hear them.

Mr Rattenbury: Sure.

THE CHAIR: I thank the witnesses who have appeared with the minister in his capacity in the previous section, in particular, as the minister responsible for justice and consumer affairs, road safety and restorative justice. Now we welcome him as the Minister for Corrections, together with the chair of the Sentence Administration Board.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink privileges statement before you on the table. Minister, I have already asked you. Mr Chilcott, may I also confirm for the record that you are aware of the privileges statement and its implications?

Mr Chilcott: Yes, I am.

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

Mr Rattenbury: We can go straight to questions.

MS CODY: I was just reading through the annual report. You mention that the board's work mix was altered by the government's decision to introduce intensive corrections orders. Can you give me further clarification or information on that?

Mr Chilcott: Sure. On about 1 March last year, legislation that the government had introduced took effect and the new sentencing option of intensive correction orders became available to the courts. The Sentence Administration Board was charged with responsibility for managing breaches of those orders. A small consequential issue that we have only just experienced is managing issues like overseas travel for people who are subject to such orders. That was the introduction of a new workload. Running hand in hand with that was the removal of the sentencing option of periodic detention. That has being winding down for—I cannot remember the exact time frame.

Mr Rattenbury: Two years.

Mr Chilcott: About two years. I can say that, if you had not already heard, the last case came to an end rather abruptly a couple of weeks ago with the arrest of the last person who was subject to such an order.

THE CHAIR: Who is now going through a new court process?

Mr Chilcott: He will be going through a new court process very soon.

THE CHAIR: Right.

Mr Chilcott: But he certainly will not be eligible for a periodic detention order. We expected that jurisdiction to continue over 12 months, if he had served his whole order. But the reality is that that jurisdiction is now over for us, apart from a residue of very old warrants that still exist for people who have failed to attend when required to do so and whose whereabouts are not known. I cannot tell you how many warrants of that nature exist.

THE CHAIR: Do you or the minister know how that will be dealt with? Will the facilities remain available or not?

Mr Rattenbury: The facility for weekend detention is still there. As you may recall, we used it during the expansion phase of the AMC for some additional full-time accommodation. The government has taken no long-term—

THE CHAIR: Where is that? Sorry. Where is that facility?

Mr Rattenbury: Symonston, on Mugga Lane.

THE CHAIR: Yes.

Mr Rattenbury: Not far from Hindmarsh Drive. It is about 300 metres up from Hindmarsh Drive on Mugga Lane there.

THE CHAIR: Okay.

Mr Rattenbury: The government has not taken a long-term decision on that facility. My view at the moment is that it is there. I certainly am in no rush to bulldoze it or anything like that.

THE CHAIR: No.

Mr Rattenbury: It remains as a facility that has some potential uses, but we do not have anything in mind for it at the moment.

THE CHAIR: Is it a modern facility, and does it function fairly normally, or is it ageing?

Mr Rattenbury: It is a bit aged. Last year, when we moved to use it for full-time detention, there was some work done to upgrade some areas, but it was not expensive; it was a relatively easy upgrade. It is okay, but it is—

Mr Chilcott: Perhaps I should add that it is my understanding that, with the last couple of detainees who were subject to periodic detention orders, they actually served their sentence or their weekend detention in the transitional release centre.

THE CHAIR: Of the AMC?

Mr Chilcott: Of the AMC.

THE CHAIR: Which is single-cell accommodation?

Mr Chilcott: It has been a long time since I have been there, but they certainly—

Mr Rattenbury: That is the one that is outside the fence.

Mr Chilcott: Yes.

Mr Rattenbury: It is low security. It is designed for people who are transitioning out of jail to start their transition back into the community.

THE CHAIR: So that is another option.

Mr Rattenbury: As we had such low numbers, instead of opening up the whole Symonston facility, there was a like facility that could be used.

THE CHAIR: Yes. Is Symonston a completely secure facility?

Mr Rattenbury: Yes. And that would have been done on a risk assessment of the individuals.

MR STEEL: Regarding breaches of parole conditions, what sorts of conditions are being breached?

Mr Chilcott: The most common is drug use. The next category would be failure to abide by directions that are given to offenders by community corrections officers.

MR STEEL: And that could be a range of different things.

Mr Chilcott: It could be a range of conditions. Usually what we find is that those sorts of directions tend to go to place of residence.

THE CHAIR: As in, "You need to sleep in this house"?

Mr Chilcott: That is right.

MR STEEL: Or consorting with particular people?

Mr Chilcott: To be honest, we rarely see breaches of that, and that is rarely a condition that is imposed by the board. It is occasionally imposed by corrections officers, but we have rarely seen breaches of that. In fact—I am thinking back over the seven years that I have been a member of the board—I have seen only one breach, and that was for a very long-term offender, who said to us, "At the end of the day, I do not know anyone else other than people who have been to jail." It raised a complicated issue for him.

THE CHAIR: That is right.

MR STEEL: Do you have a breakdown of the most common breaches?

THE CHAIR: Do you keep a record?

Mr Chilcott: The answer is no. I cannot even undertake to take that on notice, because I—

MR STEEL: I understand.

Mr Chilcott: It would require a lot of manual work for staff to obtain it, depending on how far back you wanted to go.

THE CHAIR: I have a question on your data collection in relation to that. We have heard about some other areas of our government systems where we still maintain paper records but that is being upgraded. What is your process after board meetings and decisions? Where is that information held? Is it electronic or on paper?

Mr Chilcott: It is available electronically. It is collected and maintained by the secretariat.

THE CHAIR: Of the SAB?

Mr Chilcott: Yes. In fact, I have to say it is probably collected in two forms. It is stored electronically and it is also stored in paper form.

THE CHAIR: Can those records be interrogated for datasets? Could we, say, ask how many people we have looked at in the last 12 months, hit a button and get that? Could we ask how many people have breached, and hit a button? I am just trying to understand.

Mr Chilcott: I do not think it is quite as simple as hitting a button, but I think that

information could be obtained. I know, and bear with me, that information is collected and maintained on Excel spreadsheets, and they can be interrogated.

THE CHAIR: It is a fairly manual task.

Mr Chilcott: I think so, but that also represents the type of data which is being collected, which is quite variable. We are about to start a process of looking at that data again. One of the issues we want to address is the question that was just asked, about the types of breaches, the timing of breaches.

THE CHAIR: It is hard to address, in a way, unless you can analyse the data. We have been through this in another area where we have been discussing it. Can I request—and we might put it in our report—that consideration be given to how that data is available and if there are upgrades needed in order for us to be able to have an analysis of the data which does not take too many hours to produce. I know the government is investing in systems in other areas, and perhaps it can also in this area. But let us not go over the top.

Mr Rattenbury: Corrections is going through a significant process to improve our offender management database. I cannot think off the top of my head—we will take this on notice and come back to you—whether that covers the Sentence Administration Board or not.

THE CHAIR: Maybe that is something to think about. We might put it in the report anyway, but you will have plenty of time to think about it.

Mr Chilcott: As I indicated, we are certainly working on looking at what we think will better inform us in relation to the efficiency and effectiveness of our processes. We do not think the current collection of data does that as well as it might do, and it would give a better understanding across the system if we knew where our weak points were in relation to breaches and the timing of breaches, as examples.

MR STEEL: And also whether there is a particular area—

THE CHAIR: Where it is regularly breached?

MR STEEL: Yes, where there could be extra support given so that those offenders do not breach their parole and do not go back to jail and cost the taxpayer more money.

Mr Chilcott: One of the issues that have arisen in the last six to nine months is accommodation. If you had asked the previous chair about that being a major issue, say, three years ago, the answer would have been no. It was an issue, but not a burning one. It is now a burning issue in relation to our ability to release some offenders on parole, because they simply do not have accommodation to go to. In terms of data collection, that shows you the fluidity of the issues that we can sometimes confront. It goes to things like accommodation and rehabilitation services.

THE CHAIR: I guess we are hoping to be able to pinpoint the specific deficiencies that over time we want to address. We will make sure we get something about that in the report.

MS LEE: Can you tell us a bit more about the parolee program that is happening at Oaks Estate? I understand from the community that there is a parolee program. Perhaps, minister, you might know.

Mr Rattenbury: No. This is an issue that has floated around for a while.

THE CHAIR: So put it to bed, minister.

Mr Rattenbury: I do not think I have the numbers on me, but St Vincent de Paul runs an accommodation program at Oaks Estate. That is not a parolee program per se.

MS LEE: I see.

THE CHAIR: But they happen to house—

MS LEE: So you do not refer them to—

Mr Rattenbury: Forgive me on the figures, but about five parolees in the last three years have gone through Oaks Estate.

THE CHAIR: I think the population of Oaks Estate is about—

Mr Rattenbury: A hundred?

THE CHAIR: Is it?

Mr Rattenbury: Yes. It is a hundred and something.

THE CHAIR: Strangely enough, I do not spend a huge amount of time there.

MS LEE: It is probably about 80.

THE CHAIR: I did get a good vote there in 2012, but anyway.

Mr Rattenbury: This has been a difficult issue. There is a sense in the community that there are large numbers of people coming out of the AMC and going straight to Oaks Estate. My data tells me otherwise. I will have a look at the numbers, but it was something like five in the last two or three years.

MS LEE: Would you be able to take that on notice?

Mr Rattenbury: Yes. I will come back.

MS LEE: Thank you.

Mr Rattenbury: I have got the number; I just cannot remember it.

MS LEE: No worries.

Mr Chilcott: All I can say, to support what the minister is saying, is that I do not remember the last time somebody left prison to go to Oaks Estate. They might have ended up there later.

THE CHAIR: They might be hanging out with their friends there.

Mr Chilcott: The last occasion I remember Oaks Estate being mentioned was because of that, and that person had run into some problems.

MS LEE: Okay.

THE CHAIR: Maybe it is one or two particular people.

Mr Rattenbury: I have just checked the data. Only one through-care client had gone to Oaks Estate as at 1 January 2016.

THE CHAIR: Since through-care began?

Mr Rattenbury: Yes.

THE CHAIR: When did through-care begin? In 2015?

Mr Rattenbury: In 2014.

MS LEE: One.

Mr Rattenbury: Yes.

MS LEE: But that is not including, for example, if they have gone to St Vincent de Paul themselves?

Mr Rattenbury: Yes. Someone may have offended in the past, still not be doing so well and have gone to St Vincent de Paul for help and ended up there. So they may be a former offender, but not on parole.

MS LEE: Yes, and not through the through-care.

Mr Rattenbury: I think that is where some of the community perception probably lies. There may well be people who were involved in the criminal justice system previously.

MS LEE: Thank you.

MS CODY: You both mentioned that the parolees go to through-care and one person has gone to Oaks Estate. This is not related to Oaks Estate, but surely the board works with agencies to put in place accommodation? No?

Mr Rattenbury: First of all, through-care is an important part of that. Through-care is 12 months of support after they have been in custody. Almost all of our detainees go into through-care.

MS CODY: Yes.

Mr Rattenbury: Everybody takes it up. It is voluntary. You would think that the last thing most people would want to do is be involved in corrections once they get released, and those who are not under orders are not obliged to be involved. Yet they choose it. I guess the word on the street is that it is a good support network.

THE CHAIR: Yes, and people have needs.

Mr Rattenbury: Yes. There are five areas of the through-care program: health, housing, accommodation, employment and basics. The basics program is one that got added six months after the program started. It includes things like helping people get a bus pass.

THE CHAIR: Medicare card.

Mr Rattenbury: Getting a Medicare card. We found that people did not necessarily know how to do those things.

THE CHAIR: Especially if it has been a while.

Mr Rattenbury: They were important things. Having a bus pass means you can get to your appointment with your parole officer, for example.

MS CODY: Yes, that is right.

Mr Rattenbury: It is designed to reduce the failure to comply with orders, because you have the mechanism to do it.

THE CHAIR: No excuses.

Mr Rattenbury: That is kind of the idea, and helping people get back on their feet and learn how the system works. Some people have been in for a while; the system has changed. We have people who come out who have spent quite a bit of time in jail and the world is different.

MS LEE: On page 331 the report states:

> There are a number of legislative reforms we suggest would help the Board to manage its work more effectively. These include amending the Board's remand power and addressing the presumption about bail that applies after the arrest of an offender following the execution of a warrant issued by one of the Board's judicial members.

I am wondering if you could expand on that.

Mr Chilcott: The situation at the moment with bail, if someone is arrested as a result of a warrant that is issued by the board, is that the presumption applies to the original offence for which they are serving imprisonment. Obviously, the more serious it is, the presumption will be against bail, compared to it being neutral or in favour.

MS LEE: Yes.

Mr Chilcott: The difficulty is that it ebbs and flows. We have had experience where bail is granted to an offender after their arrest by a magistrate and they do not appear before us in accordance with the condition of their bail. There was a suggestion that an offence be created to deal with that circumstance. That was, in my view at least, of little utility, because these people usually have long records anyway, so another matter is not really going to help them.

The view that the previous chair and I shared was that these people are serving terms of imprisonment, and it would be more productive and better if there was a presumption against bail in the circumstances where the board has issued a warrant for their arrest. The circumstances where a warrant is issued usually relate to their whereabouts not being known at the time the matter is set down for their appearance or that they have failed to attend an arranged hearing. I cannot remember the first part of your question. I think I went straight to the second.

MS LEE: It was about amending the board's remand powers.

Mr Chilcott: The remand power? We have a period, and I cannot give the section numbers off the top of my head, and we have a power to remand for a total of two weeks. By the time we do all the appropriate statutory interpretations, it is actually a period of less than two weeks. We are a part-time board. We meet every Tuesday on our current schedule. It means that to take advantage of the remand power we need to meet on days other than Tuesdays, which brings cost and inconvenience to the part-time members. The legislation states that we have the power to remand someone in custody for a period of two weeks when the matter is adjourned. There are rules around that. As I said, it is a process of interpretation that brings you down to a period less.

The other problem is from the point of view of effectiveness. If we are looking at remanding a person for that period of two weeks, it is usually because some work needs to be done in relation to the issue that is before us, and anything less than two weeks usually is not sufficient time. So again it does not lead to very effective decision-making. Or, worse, it leads to rushed decision-making, which does not help either the broader interests of the community or, in the sense that they form part of those interests, the interests of the offender.

MS LEE: Thank you.

THE CHAIR: Thank you very much for appearing today. I think we will go to a break; our scheduled time is coming to a close. We might conclude this part of the hearing. Minister, Mr Chilcott and Mr Pryce, thank you for appearing before the committee today. After the break, the committee will move to its next witnesses, the minister for the prevention of family violence and the office of the Coordinator-General for Family Safety.

Sitting suspended from 3.31 to 3.44 pm.

Appearances:

Berry, Ms Yvette, Deputy Chief Minister, Minister for Education and Early Childhood Development, Minister for Housing and Suburban Development, Minister for the Prevention of Domestic and Family Violence, Minister for Women and Minister for Sport and Recreation

Justice and Community Safety Directorate
Pryce, Mr David, Acting Director-General
Wood, Ms Jo, Coordinator-General for Family Safety

THE CHAIR: The committee will now move on to its next witnesses, the Minister for the Prevention of Domestic and Family Violence and the officials from the Office for the Coordinator-General for Family Safety. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the pink coloured privilege statement before you on the table. Minister and officials, can you confirm for the record that you are aware of the privileges statement and its implications?

Ms Berry: Yes, thank you.

THE CHAIR: That was a yes from everybody. Thank you. I also thank all three of you for being here. As it is a new area, do you want to make a brief statement?

Ms Berry: I did have a long statement, but I am not going to give a long statement. I am going to give just a small bit of information to the committee because of the time factor.

THE CHAIR: Thank you very much.

Ms Berry: It is about what has been achieved so far. So far we have legislative reforms to improve the response to domestic and family violence. This is the new Family Violence Act, which broadens the definition of family violence in the ACT to include the full range of coercive, controlling and abusive behaviours. Establishing dialogue between the ACT and Victorian governments has been a really important relationship for us because of their royal commission and the three reports in the ACT that we have been responding to. A big government like Victoria and an agile government like the ACT can work really closely together on information sharing and getting our family safety hub set up right.

We are releasing the issues papers and information sharing to improve the response to family violence in the ACT and undertaking community consultation. We have increased funding to the domestic violence crisis service and the Canberra Rape Crisis Centre. We have provided funding to ACT Policing to employ order liaison officers to assist victims with domestic violence orders.

We have provided funding to the Director of Public Prosecutions to strengthen criminal justice responses to alleged perpetrators of family violence. We have provided funding to Legal Aid ACT to improve access to legal services for victims of

family violence. We have provided funding for the development of the new room for change program, which is the innovative residential behaviour change program for men who use violence or who are at risk of using violence. That will be launched in April this year.

We are establishing and launching the safer families grants program to provide practical assistance to women who are leaving violence, to establish a private rental tenancy. We have launched the ACT public service family violence toolkit. We have achieved successful White Ribbon accreditation through the Community Services Directorate, the only directorate that has received White Ribbon accreditation. We have joined up to Our Watch and we have passed legislation to establish a reportable conduct scheme to improve the oversight of how organisations respond to allegations of child abuse.

Since the family safety package was put together, those are the sorts of things that we have started. Now we have also the coordinator-general, Jo Wood, who is dedicated to putting together the family safety hub.

THE CHAIR: Thank you very much, minister. I note that the committee will invite you back as part of our deliberations on the domestic violence issue, which we are looking into separately. We look forward to having more conversations with you. But we thought it was really important as part of annual reports hearings, even though you are not in the annual report we are looking into, to get an idea of what is happening.

Ms Berry: Yes.

THE CHAIR: Then I am sure we will have many more questions for you. The $20 levy that has been levied on rates, which has produced—

Ms Berry: It is $30.

THE CHAIR: Sorry, the $30 levy.

Ms Berry: It is $21.4 million.

THE CHAIR: $21.4 million in revenue for the government. Can you, perhaps on notice, give us a breakdown of exactly how that is currently being spent and any money that has not yet been allocated?

Ms Berry: In the budget handbook for safer families it has the breakdown of the amounts, where the funding went to and what was allocated to each of the programs—well, some of the programs that I have outlined. You can have this one, if you like.

THE CHAIR: Thank you.

Ms Berry: In the next budget we will be able to properly outline how it has all been spent and allocated.

THE CHAIR: Yes, which I realise is not far off.

Ms Berry: That is right. It will be a little different because it is across a whole bunch of different directorates. It is not just a line item in education or JACS. It will be described differently. We are still working through how that will occur, because it is different from anything else that the government has ever done, and being accountable to the levy—

MS CODY: Minister, you mentioned that the programs run across all of the directorates, across all of government. How will you be reporting, given that fact?

Ms Berry: Through the budget and through the work in the setting up of the family safety hub. That will be main reporting line back to government. It would be through the safety hub. We will set it up across directorates like a line item. I think that is the idea, so that you can very clearly see where the commitment is going, how it is being spent and how it is coming out of the levy. Have I got that right? Have I explained that well enough?

Ms Wood: Yes. I could add that one of the roles of my office is to have that oversight across government of how the safe families package is being implemented. We are collecting implementation reports to see that everything is on track and to identify whether there are any problems and where we may need to intervene. As part of that we are also collecting data on expenditure that we can report through the budget. I have one additional piece of information for the committee: the revenue from the levy itself is $19.1 million but the package is $21.4 million. So there were some additional resources applied to the package.

MS CODY: I want to ask the minister or Ms Wood how the government arrived at the final response, given that there were far more recommendations than agreed to.

Ms Berry: It was a very complex process. The government thought very carefully about how we responded to the recommendations in the three reports. Rather than responding to them individually, we came up with a response that was a holistic response across all of the directorates rather than individual responses through different directorates. Then, of course, we created the position of the coordinator-general and a minister focused specifically on domestic and family violence.

Ms Wood: I would add that obviously I came into this role after government had responded. But looking across the three reports, there are some really common themes and some really common issues that are raised in each of them. I have gone back to all of the reports. In our work we are still drawing on the insights of each of them, because there are slightly different insights in each of them. But leadership, cultural change, the capacity of the front-line workforce, information sharing—those themes are consistent across them all. Those themes inform the major initiatives under the safer families package.

MR STEEL: You have outlined some of the initiatives that the ACT government announced in the budget. What is the federal government doing? The committee is trying to get a sense of what gaps there are and what further work needs to be done in the longer term as well. Are you able to provide a sense of what the federal government is doing here in the ACT?

Ms Berry: The federal government and the ACT government have a partnership agreement, the national partnership agreement for homelessness. That agreement expires at the end of this year. That will provide some significant issues for the community and for the services in the ACT that provide domestic and violence support to women and families if we do not get some certainty on that agreement and about the continuation of that work.

This could affect any government. At the moment we have this incredibly frustrating issue in that we have raised awareness of this very big problem all across the country. The federal government has been working closely with states and territories on that work and it has been important work. But all we have now is a massive amount of reporting, because of the awareness that we have raised, and no funding from the federal government to take into account that additional cost. We do not think it is increased incidences; there is just increased reporting.

THE CHAIR: Can I clarify that? Earlier on when this matter was raised there was a federal package. That was just after Malcolm Turnbull took over federally, wasn't it? There was an initial package.

Ms Berry: Yes, it was pretty much awareness-raising.

THE CHAIR: Was it? I thought there was something about changing locks on people's houses so that they could stay in their own homes.

Ms Berry: The funding went to the women's safety package and there was some funding to the women's legal service. Did you ever come along to that?

THE CHAIR: Yes. I was at the announcement.

Ms Berry: Anyway, there was funding for that but there has been no funding delivered to services on the ground.

THE CHAIR: Can you quantify roughly—I know you would want a lot; we all want a lot—what the territory expects, needs or hopes for?

Ms Berry: Oh, wow; a lot.

THE CHAIR: I know that, but every line of government is now dealing with this matter. The incidents are being reported and reported. We all think that is a good thing, as you say. Maybe not now, but can you perhaps substantiate some of the things you are hoping for?

Ms Berry: Yes, I think that is—

THE CHAIR: Not necessarily now.

Ms Berry: No, you are right. There is a lot more funding that could go into this, but a whole-of-government and community response is needed on this. It is all across of government, not just within the justice response. It is not just about locking people up

and it is not just about being the ambulance after it happens. The question is: "How do we as a community take responsibility for this and change the culture of domestic and family violence in our homes?"

THE CHAIR: If there was money given to you, what are the first five things you would use it for? What are the next five things, perhaps? Can you provide something like that and the vague costs of them? If there is going to be assistance from across the board to get this money going, it would be good to have some vague quantification of it, if that is possible.

Ms Berry: We will do our best.

THE CHAIR: Have a think about it and see what you can do.

Ms Berry: We will try.

MR STEEL: One of the areas of commonwealth and ACT funding is to community legal centres. My understanding is that, despite some cuts to Legal Aid and community legal centres that were announced in the 2014-15 budget, there was some additional money put back in. But are the community legal centres still going to receive a net cut as a result?

Ms Berry: Yes, they will.

MR STEEL: Do we know how much that is for different services in the ACT?

Mr Pryce: I do not have the exact number at hand.

THE CHAIR: Perhaps you can take that on notice.

MR STEEL: By the 2014-15 federal budget, I mean.

Ms Berry: We can say what we funded. Have we got a national partnership agreement for legal centres? We might have to take some of that on notice.

MR STEEL: If we could get that information across the financial years, that would be very good: probably from 2014-15, but right through into the four years from the last federal budget. It relates to the ACT government in the sense that we fund these centres as well. It is an area of shared responsibility for both governments. It is important to get a sense of where they are losing funding, particularly in an area of need like this.

MS LEE: Minister, I refer to page 17 of the JACS report. One of the priorities for JACS for the coming year has been outlined as:

> … enhancing the Director of Public Prosecutions' (DPP) capacity to institute and conduct prosecutions of alleged FV perpetrators so that the DPP's ability to contribute to co-ordinated criminal justice responses to FV victims is strengthened.

Yesterday we heard from John White, the Director of Public Prosecutions. Here and in his report he stated that resourcing in his office is at critical levels. How does that marry with your priority to ensure that the DPP has sufficient resources to be able to deal with the increase in FV matters?

Ms Berry: Our initial goal is to reduce it so that the DPP does not actually have much of a workload at all.

THE CHAIR: Ride the wave.

Ms Berry: Yes. We want to stop people going—

MS LEE: Of course. I think everyone is in the same boat.

Ms Berry: We want to stop perpetrators. We want to support perpetrators so that they do not end up in our prison system, and we want to make sure that victims are well supported.

MS LEE: That is a given.

Ms Berry: I think the DPP has been strengthened quite a bit through the budget announcements. I have the figure here: $1.3 million over four years to strengthen the criminal justice responses to alleged perpetrators of family violence. That is an additional three full-time equivalents, for 2016-17 and 2017-18, with 2.5 ongoing. Sorry, here we go: it is $2.325 million for a specific team in the DPP, three FTE equivalent, to represent the office to progress the retrial of David Eastman, and additional funding for four-year supplementation to the DPP, totalling $1.7 million, from 2012-13 to 2015-16. They have had significant growth in their funding. I accept that they are probably facing the same kinds of pressures that everyone else is because of the problems that we have.

Mr Pryce: As I said in answer to a question from the committee in the previous session, I am working with the DPP on doing a resourcing review to inform the Attorney-General on any future needs.

THE CHAIR: That is right.

MS LEE: Will that involve, for example, working within whatever budget funding the ACT government has provided and perhaps a reallocation of resources to prioritise FV?

Mr Pryce: It will be a broad review to determine, hopefully, a resourcing model to assist government in making its budget decisions. It will look at the efficiencies of the office, to make sure that they are getting the best bang for their buck for government.

THE CHAIR: To add to that, one of the specific concerns that was raised was the ability of the DPP to have input into the program of legislative change because of what they are dealing with on a regular basis. Perhaps that could be given specific consideration: not just that they are functional but that they should have a specific allocation to ensure that it happens. That would feed back into what can be done here

to change and make the system better.

MS LEE: What the director was saying yesterday was that, unfortunately, because he and the deputy and the assistant were required to do so much litigation work—

THE CHAIR: They were tied up in court.

MS LEE: it was not leaving much time available for them to engage in high-level law reform work. Perhaps, as you say, minister, the focus should be on making sure that we prevent that. It would probably be beneficial for the Director of Public Prosecutions to have a bit of freedom and extra resources and, in time, to be able to have an input into the law reform that goes on in this area. I think that was the point that he was making.

Mr Pryce: Obviously I have spoken to Mr White. I understand his concerns, and we have spoken about that, but we do work closely with the office of the DPP. The change to the bail review legislation is an example of an initiative that came from the DPP, and we have responded.

THE CHAIR: Excellent.

MRS KIKKERT: A review of the Australian component of the international violence against women survey found:

> … abusive males with alcohol or drug problems inflict violence against their partners more frequently, are more apt to inflict serious injuries, are more likely to be sexually assaultive, and are more likely to be violent outside the home than abusers without a history of substance abuse.
>
> In addition, alcohol is estimated to be involved in up to half of partner violence in Australia and 73 per cent of partner physical assaults.

What are the current statistics for the ACT, and in what percentage of domestic and family violence occurrences in the ACT does alcohol in particular play a role?

Ms Berry: I might have to take some of that notice and see if there are any figures on it. Alcohol related violence and injuries are not really in this portfolio. I did hear—

THE CHAIR: Calvary.

Ms Berry: that Calvary, yes, and the Canberra Hospital are doing a study on that to identify the injuries that occur from not only violence but also falling down stairs, or other kinds of injuries that have resulted from alcohol abuse. What I do know is that for most of the offences that the police are called out to, often in that person's family, directly or indirectly, there has been some connection with domestic and family violence. We know that in some way it is affecting pretty much every kind of issue that the police respond to.

Ms Wood: Yes, minister. I would just add that there is a lot of work still to be done nationally on data around the characteristics of family and domestic violence and the circumstances and context. A lot of that work is happening through the COAG

implementation process, under the national plan. There is a particular piece of work that is looking at some common indicators for perpetrator interventions and how we measure the impact of what we are doing on people who use violence and whether we reduce recidivism. All jurisdictions are agreeing to a common set of indicators.

As well as that, the ABS, the Australian Institute of Health and Welfare and the federal Department of Social Services are doing a joint piece of work on data across all aspects of domestic and family violence. Clearly, there still is quite a way to go to get all the data that we would like, but there is some really good work happening at the moment to bolster that. Even where we cannot report on everything that we think is important at the national level, we are all agreeing to set it as an aspiration and work towards it.

THE CHAIR: Yes.

MS LE COUTEUR: Minister, you mentioned earlier the family safety hub. Can you tell me exactly what that is? It could be almost anything. It could be a website, it could be a refuge. I do not know what it is. And what progress have you made towards that, whatever it is?

Ms Berry: I will let Ms Wood respond, if Ms Wood would like to respond to that, because she has been doing most of the work in consulting with anybody that will be engaged in it. She has also been working closely with the Victorian government, as they are setting up their safety hubs as well.

Ms Wood: You are right. The family safety hub is a broad concept and could be implemented in a range of different ways. There was work that happened before I came into this role and a lot of work has been done since with stakeholders on how we approach the co-design process for the family safety hub. A really important part of the government's commitment is that it is to be co-designed, which means it needs to be informed by the experience of people who have been affected by violence and people who have experienced the service system when they have been affected by violence. There was some work in August, a major stakeholder workshop that looked at the full range of opportunities for the family safety hub and the kinds of roles it could play. The overarching driver is a mechanism to better integrate the supports we provide to people affected by domestic and family violence.

THE CHAIR: So that they do not have to tell their story 500 times?

Ms Wood: Exactly, yes, and to better integrate and improve the way we assess risk and help people with safety planning. It is bringing together a range of information that can support better service delivery, including better, earlier intervention and better, earlier identification of people who might be at risk.

There are a range of ways you could approach that. If you look across other states and territories, Victoria is developing a particular model for its family safety hub. South Australia has a longstanding model of bringing people together that looks a bit like our FVIP in the justice system. That is a bit broader, but they are evolving that as well. We are talking to all the different states about how they are approaching their own hubs, and we have also talked to the New Zealand government about the

establishment of their vulnerable children's hub, which has some similar objectives.

THE CHAIR: Excuse my ignorance, is the family safety hub a physical building?

MS LE COUTEUR: That was what I was asking. What is it?

THE CHAIR: Is it a building or is it a process or is it a place to call? What is it?

MS LE COUTEUR: What is it?

THE CHAIR: Do we know what it is yet?

Ms Wood: We do not definitively know what it is yet. Certainly, in talking to stakeholders, there was a lot of concern about it being a physical place.

THE CHAIR: Because then everyone knows when you have been there.

Ms Wood: A new front door. I have talked to a lot of stakeholders in the last couple of months, and one thing that is really clear is that there are people whose first contact with the service system is to come to a crisis service because they are in crisis and they are seeking support for domestic and family violence. There are a whole lot of people who seek help in other ways and start with something like the health service or a child and family centre, their GP or maybe the school.

THE CHAIR: Might it work a little like the one contact point?

Ms Wood: Pretty much, yes.

THE CHAIR: Whoever you go to, you will get access to the whole suite?

Ms Wood: Yes.

THE CHAIR: And everyone who takes people in or people who access it will then be included in the system?

Ms Wood: Yes.

Ms Berry: It is that but also the government and all the directorates, and in the reports—

THE CHAIR: It is everyone's responsibility?

Ms Berry: In the reports there was that disconnect between everything. It just was not working together. That is what the safety hub is about: everybody working together more to resolve this issue, having that kind of wraparound support for a family, which could include a multiple of services but also goes across directorates.

THE CHAIR: Very briefly on that—I do not know if it answers your question, Ms Le Couteur—when will we have a better idea? What is the idea: getting the hub up and functioning in 12 months time? What is the plan?

Ms Wood: We are working through the co-design process at the moment, and the objective is to have a model developed this financial year that could at least be piloted in the next financial year. We know that, as we implement something that we are calling the family safety hub, we are going to need to —

THE CHAIR: You have to improve it. Absolutely.

Ms Wood: We will have to test it and refine it.

MS LE COUTEUR: I will just ask about the co-design process. Does that include people who have been affected by sexual violence?

Ms Berry: Yes.

Ms Wood: Yes, it does. And we have particularly been talking to the Canberra Rape Crisis Centre about how we bring in the experiences of people who have been affected by sexual assault—

THE CHAIR: They are the experts.

Ms Wood: and how we, across all of the people affected by all kinds of violence, do that in a way that looks after their wellbeing but allows them to share their stories and their experiences. We are doing that.

THE CHAIR: I have one final wrap-up question. I know that the language in this area is improving. We are talking about family violence, intimate violence, children, parents and this type of thing. Is there an effort also to include men who are victims or people who have different sexual identifications, as both victims and perpetrators? If we talk about underreporting, it could be said that violence against men by women is probably one of the least reported areas.

Ms Berry: In fact, the reporting of that is increasing as well.

THE CHAIR: In a way I am glad the reporting is increasing, but it is one of our culture's taboos.

Ms Berry: That is right.

THE CHAIR: I wonder if that is being included.

Ms Wood: It is. Our guiding principle in the way that we are approaching the co-design for the family safety hub is that it is for the people who are most vulnerable to domestic and family violence and who we find hardest to reach with existing services—people who are less likely to come forward. That includes Aboriginal and Torres Strait Islander women and families.

THE CHAIR: Ethnic groups?

Ms Wood: Yes, culturally and linguistically diverse.

MS LE COUTEUR: Women with a disability?

Ms Wood: Women with disability.

THE CHAIR: The elderly?

Ms Wood: Yes. and the LGBTIQ community. We are looking at men's experience as well. It has been raised with us and we are looking at ways we could do this safely: how do we look at children's experience without being able to actually talk to children directly?

THE CHAIR: It is a fine line.

Ms Wood: Yes.

THE CHAIR: Thank you very much for appearing before the committee. We will draw to a close. I raise with you the fact that we have not finished this conversation.

Ms Wood: No.

THE CHAIR: Though the time was short, we really look forward to having more of that conversation. We conclude this part of the hearing. Minister, thank you for appearing before the committee today with your officials.

Before closing the public hearing, I need to make a couple of statements about questions on notice. Answers to questions taken on notice should be provided to the committee office within three business days after receipt of the uncorrected proof *Hansard*, day one being the first day after the uncorrected proof *Hansard* is sent to the ministers via the committee office.

All non-executive members may lodge questions on notice, which should be received by the committee office within five business days after the uncorrected proof *Hansard* is circulated, day one being the first business day after the uncorrected proof *Hansard* is sent to the ministers from the committee office. Responses to questions on notice should be provided to the committee office within five business days of receipt of the question, day one being the first business day after the questions are sent to the ministers by the committee office.

On behalf of the committee, I would like to thank all witnesses who appeared before the committee today. When available, a proof transcript will be forwarded to witnesses to provide an opportunity to check the transcript and suggest any corrections. I formally declare the meeting closed.

The committee adjourned at 4.14 pm.