



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into annual and financial reports 2019-2020
and ACT budget 2020-2021](#))

Members:

**MR J HANSON (Chair)
DR M PATERSON (Deputy Chair)
MS J CLAY**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 25 FEBRUARY 2021

**Secretary to the committee:
Ms B McGill (Ph: 620 70524)**

By authority of the Legislative Assembly for the Australian Capital Territory

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

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Amended 20 May 2013

The committee met at 9 am.

Appearances:

ACT Integrity Commission

Adams, Mr Michael QC, Acting Commissioner

THE CHAIR: Good morning, Commissioner. Welcome to the public hearing of the Standing Committee on Justice and Community Safety into annual and financial reports and estimates. We are combining the two. It is unusual, in that estimates have previously been inquired into by a select committee. It is being done in this way as a consequence of COVID, and we will see how it progresses. The proceedings are being recorded and transcribed, and are being broadcast. If we have any questions taken on notice, we will try and lock that in so that you are aware that you have taken something on notice. You have five days to reply.

Commissioner, there is a pink privilege statement that should be on your table.

Mr Adams: I have read it.

THE CHAIR: It was provided; are you aware of its contents?

Mr Adams: Yes.

THE CHAIR: That being the case, we do not have opening statements because we are limited for time. Mr Cain, you have shown such eagerness to come here bright and early that I invite you to ask a question. I will defer my question to you.

MR CAIN: Commissioner, I make reference to the Integrity Commission annual report for 2019-20, and pages 26 and 27 in particular. According to that, as at 30 June 2020, the commission had 76 complaints on hand, of which two have progressed to a full investigation. My first question is: how many have proceeded to a full investigation?

Mr Adams: I made a note of this. As at 1 July, we received 87 reports. At present we have three active investigations, nine preliminary inquiries, of which five are active; three are suspended—but only temporarily; we will be making them active shortly—and one is yet to be allocated.

MR CAIN: What is the common nature of complaints received, if indeed there is some commonality about the complaints?

Mr Adams: I am not sure that I would describe this as a majority, but a significant number of them deal with complaints relating to promotions, appointments and matters of that kind where the complainant attributes bad motives. In all of those matters, we referred them back to the relevant employing body, because they simply did not reach the threshold of corruption seriously warranting any of our resources to be used. That would be the largest single group.

There are others relating to land transactions of various kinds, involving, for example, the department of housing selling a property. We have about a quarter—perhaps more, but something like a quarter—which are complaints about commonwealth bodies, so we do not have jurisdiction over them. There are odds and sods of complaints about conflicts of interest, some of which are significant and warrant preliminary inquiry, at least, and some of which are inconsequential—but a not insignificant tranche of matters.

MR CAIN: On that first category that you mentioned, have any of those complaints regarding appointments or promotions turned into an investigation?

Mr Adams: No, we have not; not one of them has warranted it so far. One can hypothesise circumstances where they might. In this business, I do not want to overstate this, but a nose twitch is a useful tool, in the sense that there is nothing on the surface, but you think it is worthwhile digging, because often, when you pull on a piece of string, you find there is actually something worth looking at. You have to be careful about too peremptory a dismissal, even of these matters, because they can involve conflicts of interest; they can involve favouritism that does have policy consequences. But, as it happens, none of those that we have had have warranted investigation.

MR CAIN: In terms of dismissal, is that a peer-reviewed process? Obviously, you are the commissioner, or acting commissioner.

Mr Adams: As you point out, really, it cannot be a peer-reviewed process. Until this time—don't forget that I only came in at the beginning of February this year, and I understand this was the process—what happens is that there is a report to a panel which involves the CEO, the chief investigator, our legal director and the commissioner. Decisions about dismissal would be made at that level.

Obviously, the legal power to do so must be the commissioner's, but it is done in a consensus way; and if there is serious debate, you reconsider. That is essentially the process. We do not formally have a review process. This is, to some degree, a difficult matter to negotiate, because you must inform the people, of course, who are making the complaint that their complaint has been dismissed. We do tell them that if they have any new or other material, of course, the matter would be reconsidered; but it is not an open-ended invitation for a review; otherwise one goes in circles.

DR PATERSON: In terms of corruption prevention, what would you identify as a key vulnerability for the ACT?

Mr Adams: I am too early in this job to identify that, except generically. The ACT is not an original or new animal, and integrity commissions have been around in this country for a while. One can make some general statements. The two that come to mind, which are true generally—again, I can only make generic statements—are conflicts of interest and record keeping. Those are often the two focal points around which corruption works.

Of course, record keeping works in two directions; that is, when you do not have records which you expect, you suspect that there are reasons for that which may not

be good ones. An integrity commission is not entirely, and should not be looked at as, a destructive entity. You are also looking to where a complaint is made, and you are able to say, “There is nothing to see here; this was people acting properly.” You want also to be able to say that because you want to be able to assure people as well. Record keeping enables you to do that, so it has more than one function. Conflicts of interest, of course, arise in multifarious ways, but they are a focal point, often, for corruption. That, I would say, would be my answer to your question.

MS CLAY: You have highlighted record keeping and conflict of interest in the annual report as an area that is poorly understood and regularly mismanaged.

Mr Adams: I must say, when I read that, I think it was badly drafted. I did not write it. There were instances that provoked those considerations, but I think what was intended was to say, “These are what we find generically are likely to have this outcome.” In other words, they are likely to be regularly overlooked and inadequately dealt with.

MS CLAY: That is not based on what you have seen; that is just—

Mr Adams: It is partly based, yes. Naturally, I have been rather too busy to go back and explore. I have assumed, and I do, I think, assume rightly, that there was a proper basis in the material that was before the commission—of course, not only complaints but community interaction and informal discussions. This was designed, really, as a warning, and because we find it in all organisations that integrity commissions investigate. We saw enough to prompt this warning, and I think that was the intended sense of it. It was perhaps not as clear as it could have been.

MS CLAY: What sorts of educational training or regulatory tools—

Mr Adams: We are only—

MS CLAY: How are you planning on improving—

Mr Adams: I am sorry; I did not mean to interrupt you. We are only at the start of that kind of outreach. We do have community meetings planned. We do have a full-time senior officer, a relatively senior officer, dealing with this area. I have reached out to the relevant public service unions to have meetings about processes and to get a feel for how they are reacting to complaints. They get many complaints, of course, from their members, mostly dealing with their employment, but not entirely dealing with their employment issues. In the next week or two I am hoping to meet with the PSUs and the head of the public service, then progressively with the agencies. I have to bear in mind that I am only acting for six months; nevertheless, some things can start to work.

We do not have a handle on what processes government agencies presently have to deal with corruption or corruption cognate issues. We have no doubt that they do. They must because that is just part of proper management; but quite what they are, we still do not know. That is because we have not reached out yet for that material.

As a result of the allocation of PIDs work, though, to us, we have now a statutory

obligation to ensure that their processes for dealing with PIDs, which are essentially complaints about internal wrongdoing, will provide a mechanism for us to progressively inform ourselves. What will happen is that we will find, as ICAC did in New South Wales, that you have a wide variation of different approaches. A small agency with limited resources will obviously have a different approach to managing this problem as distinct from a large agency. Some agencies, though small, are perhaps at the riskier end, because they are handling substantial amounts of money or property.

That will be unfolding, and I cannot tell you, as I sit here, that we have yet informed ourselves of those processes. But that is an essential part of what we will be doing, and we will be attending to it as soon as the mountain of material on my desk gets down to a reasonable level and enables me to look beyond a week.

MR CAIN: Commissioner, you made reference a little earlier that you would not have expressed something in the report as you saw it written.

Mr Adams: Yes.

MR CAIN: Have you come across any other Integrity Commission procedures that you feel are in need of substantive review?

Mr Adams: No. My comment was an expression of cast of mind. I did not intend it to be a criticism. One has ways in which one prefers to express matters and other people, quite reasonably, have different ways. I was not intending that as a criticism. The fact is that Commissioner Cowdroy, with the assistance of Mr Hoitink, has set up, if I can say so, an excellent organisation. I think that everything is well in place. It needs sharpening, I think, in certain areas. It needs some focus in the sense that very thoroughgoing processes have been put in place.

My feeling—again, it is a question of cast of mind—is that we can short-cut a number of those processes and still get a good outcome. It is a dynamic process, I think, of leadership and the staff who are gaining increased experience every day with the issues, coming back to me and to Mr Hoitink with their notions also of how things can be improved. It is necessarily a developing process, but I think that they did a superb job setting this organisation up.

MS CLAY: I am very interested in the community of practice that was in the annual report. It looks like a really good way to plug into quite a lot of expertise that is already here. Has that body met yet?

Mr Adams: It has met, in September last year—before my time. We are about to have another meeting, in March.

MS CLAY: Will that be twice-yearly?

Mr Adams: I think that we are hoping to make it more frequent, but you do not have a meeting for the sake of having a meeting. Everyone is too busy for that. What will happen is that, as we have these meetings—one of the points of it is to empower other people to get engaged in the integrity process. As they do that, things which were out

of focus come into focus. Things which they had not seen as important, now are seen as important. That provokes consideration, and we will seek from them whether it would be useful to have a meeting. You can have meetings about particular issues as well. It does not have to be a general meeting each time.

MS CLAY: Is that body likely to bring in some of the other experts in the field, like the Australian Institute of Criminology and some of the experts at the ANU?

Mr Adams: It is too early to say, but probably not. The reason is my own cast of mind. Academic research is interesting, but what I have found when interacting with academia is that they are less interested in helping you and more interested in obtaining information for their own research, which is perfectly legitimate and it is exactly what you would expect, but it almost never results in any practical utility for the organisation.

It is an interesting conversation, and you do not want to cut yourself off from it. When I was commissioner at LECC, I went to a number of conferences and benefited from the legal research which they got from other organisations; but that would not be high on my list of priorities. If we came across particular research about issues relevant to us, we certainly would reach out and tap into them.

MS CLAY: There might be some particular areas, and I am not across your field the way that you are, but some of the use of big data and some of the modern techniques for screening might well come from a field of research where it is not coming from an operational body.

Mr Adams: I agree with that potential. I know that data analytics is an important research tool for all law enforcement organisations. However, it is a developing field, and I have not heard of research—and I keep my thumb on the literature—that is particularly useful in this area.

Transparency International have done some work in that area, but they are focused much more on the international scene, and, not surprisingly, on at-risk governance. I am not being critical, of course, but they tend to take their eyes off Australia because we are in the top 10 or 12; the problems are further away. I think they have explored the use of that data. The trouble is that, in problematic regimes, data is not collected, for the very reason that it is not wanted to be seen.

MR CAIN: The annual report, on pages 26 and 27, advises that of 26 corruption reports seven were referred to external committees and no reports were withdrawn. To where were the seven reports referred?

Mr Adams: I cannot tell you as I sit here. Can I take that on notice and let you know?

MR CAIN: Certainly. I think you have confirmed that, for reports that were dismissed, the applicant was advised of the dismissal.

Mr Adams: Yes. I understand it. I am not personally aware of it, but that is the process.

MR CAIN: I see Mr Hoitink is nodding his head there in confirmation.

Was there any ability for appeal of the dismissals?

Mr Adams: Not formally. We tell people to come forward if they have fresh and significant material; we do not tell them as such that you can appeal. There is not much point in appealing; since I make the decisions, it is appealing from Caesar to Caesar. The reality of the matter is that if someone sought a review and there was no additional information, I would not rehearse an argument, so I would not be interested in reconsidering it.

MR CAIN: Is the decision to dismiss an application reviewable in the Supreme Court under judicial review?

Mr Adams: I doubt it. There would be procedural problems with doing so.

MR CAIN: I might put that on notice and perhaps get a formal response.

Mr Adams: All right. I do not mind giving a legal opinion—I have been doing it for 45 years—but just off the top of my head, in this area? Judicial review is messy, but I will give you a more precise answer if I can.

MR CAIN: Thank you.

THE CHAIR: Without identifying any particular cases or individuals, do any of the matters that are ongoing in one form or another involve the executive or are they all within directorates? Are there any ministers' offices that are the subject of any of these ongoing investigations?

Mr Adams: The answer I give to you is that there are matters already in the public arena where the relevant committee has referred the matter to the commission.

THE CHAIR: Yes.

Mr Adams: Does that answer your question?

THE CHAIR: Yes, that does; but beyond those matters that have been referred by other committees—

Mr Adams: I feel that it is not appropriate for me to answer that question; I am sorry.

THE CHAIR: That is fair enough. That is perfectly reasonable.

Mr Adams: One has to say that there is always the risk of that.

THE CHAIR: Okay.

DR PATERSON: I am interested in the difference between an inquiry and a full investigation. In an inquiry, do you interview both parties or multiple parties? Or is it just a desktop-based investigation?

Mr Adams: Some of them are desktop; some of them involve interviewing people. The fundamental difference is that we cannot use our coercive powers. We can only use those powers when we have a full investigation. That is the fundamental distinction.

MS CLAY: I am interested in the public interest disclosure review.

Mr Adams: So are we.

MS CLAY: That was designed to improve PID, but also to make sure that there were no overlaps with your legislation.

Mr Adams: Yes. The accent of PID is not what would otherwise be a corruption—

MS CLAY: Yes.

Mr Adams: I think the reason for that is that there are protections built into our act when we have complaints about corrupt conduct. We are working now on our guidelines, which have to be put up on our website. Some of them are notified; but, generally, the public know.

It has to be understood that the PID works in a background of well-developed employment and public agency law. First of all, if I can use the old language, public servants have a duty to disclose to their superiors wrongdoing or bad management. It is an implicit part of their contract of employment. They have that duty. Secondly, management has a duty to ensure that an employee who is doing their duty is not the subject of retribution or any kind of negative response. Those rights exist already in the law.

The PID process is a more elaborate process of disclosure and protection, but it takes place in that context. Of course, corruption complaints do not entirely come from within the public service; they come from members of the public. If those that come to our commission resulted in any kind of negative consequences, that would be almost certainly an offence under the Integrity Commission Act. Also, I think that corruption itself would fall within the definition of corruption in the act, with potentially serious consequences.

So those complainants are protected. Then you have the PID regime, which deals with non-corruption matters. Of course, one can move into the other; it is a moving feast to some degree.

MS CLAY: I would have thought so. I would have thought that the same evidence or information might lead to new outcomes.

Mr Adams: It might. Yes, of course; but primarily—subject to an exception, which I will come to in a moment—we do not investigate PIDs. We check whether something is or is not a PID. The matter is referred to the relevant body for investigation. We can oversee that investigation. With some we would; with some we would just wait for the conclusion and see whether the conclusion was right. It

depends on the kind of case.

Our role is essentially supervisory. The system is not designed to provoke Integrity Commission investigations; but there are provisions in section 19(2) which say that if a public interest disclosure relates to a public sector entity other than a Legislative Assembly entity—essentially members—the Integrity Commission must investigate the disclosure or refer it to the head of a public sector entity, Head of Service, ombudsman and so on. In other words, the act provides that, one way or another, it has to be investigated.

The cross-linking between the limits to our jurisdiction in our own act and this general power of investigation will have to be explored, but primarily, as a policy matter, I would take the view that we would investigate where there was either patently some corruption allegation or potentially a real risk or likelihood of a corruption element. Under all this legislation, you could run the public service if you really wanted to. We certainly do not want to go there.

THE CHAIR: We will have to leave it there, members, because of the time. Thank you very much, Commissioner and CEO, for attending today. A couple of questions on notice were taken; I will get you to make sure that the answers to those are provided to the committee secretary within five days. Members, if you have any further questions, have them put on notice within five days.

Mr Adams: Can I just say that aside from the fact that it is obvious that many hours of innocent pleasure can be had discussing matters of this kind, if any members of the committee wish to come and talk informally with me, visit our office and talk to staff, they are more than welcome.

THE CHAIR: We may organise that as a committee down the track.

Mr Adams: Certainly.

MR CAIN: I may organise to do that on my own.

Mr Adams: Any MLA who has an interest in our work is very welcome.

Short suspension.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

ACT Emergency Services Agency
Whelan, Ms Georgeina, Commissioner
Wren, Mr Howard, ACT Ambulance Service

Justice and Community Safety Directorate
Glenn, Mr Richard, Director-General

THE CHAIR: Minister and officials, thank you very much for attending today. I remind you that we are being recorded and the proceedings transcribed. You should have been sent the pink privilege card and I ask you to acknowledge it when you first speak.

Mr Gentleman: Yes; we were emailed the card by the secretary.

THE CHAIR: I want to start with the Orroral fire and Namadgi. The spark point was the helicopter; that has been well litigated. The helicopter was there looking for a place to land so that it could do its business of dropping firefighters or conducting reconnaissance. Are there places that are designated as helicopter landing sites? If helicopters are going to be used as part of fighting fires or preventing fires in the ACT, do we have sites in Namadgi that are regularly cleared and prepared so that helicopters can land safely without sparking a fire? If we do, are they known and are they mapped?

Ms Whelan: I acknowledge the privilege statement that was emailed to me earlier.

There are several helicopter landing points throughout our area of responsibility. However, given the enormity of the Orroral Valley fire and also the fires to the west of the ACT—the Mary’s Hill fire and the Dunns Road fire—and the fires to the south-west of the ACT, it was determined that it would be appropriate to undertake reconnaissance for additional landing zones. A decision was made to undertake several reconnaissance trips, not only to identify additional landing zones, which proved to be very successful for us in defeating the Mary’s Hill fire, but also to revisit the landing zones where we had an opportunity to ensure that they were safe for landing.

THE CHAIR: Given that Namadgi burned in 2003 and a lot of it again was burned in 2019-20, have we now got a system whereby, expecting that there will be another fire—we know it will happen; it is just a matter of when—there is now a whole series of landing zones in preparation so that if helicopters need to be used, they are already there, they are already prepared, and they are safe from initiating any sort of fire? Is that work being done or going to be done?

Ms Whelan: Two things are underway. The first one, which is complete, was our

very extensive lessons learned program, where we identified that what happened nationally in the 2019-20 black summer was new for most jurisdictions in terms of the close working relationship with defence and also the extensive use of aerial assets nationally. The work is underway to identify that that is a key lesson that has come out.

The second and most critical part is the ongoing and deliberate development of relationships with defence, in our case with the task force that is attached to the ACT, working with them not only for us to understand what our requirements are and how we can best utilise defence but also for the chief of the Rural Fire Service and all of our plans and operations staff to better understand ongoing preparedness and the maintenance cycle.

MS CLAY: I am also concerned about the role of defence in this. We have seen that in Brisbane, too, where they started another fire in a live fire exercise. At this stage, I have a lot more faith in ESA and PCS; apparently they are trained and they understand that you do not land in those sorts of conditions. I have been told quite strongly by the stakeholders that they would not have done it, that this would not have happened with ACT staff. Are you confident that all the work you are doing with defence is likely to mean that by next summer we have trained defence staff who have the same level of care and the same level of knowledge about what we do and do not do in different areas?

Ms Whelan: I cannot answer for defence, but I can outline the work that we are doing with defence and the checks and balances that I or my incident controllers would put in place for future events.

For example, we have recently exchanged correspondence with the Deputy Chief of Army to more formalise our training programs. Our task group is with the 5th Brigade, which is based in Holsworthy, in Canberra-based units. We have been undertaking some ongoing training with our staff. We are entering into a very deep cycle of incident management training and exercise planning; we will invite defence personnel to participate in those programs.

The second thing is that we all learned from the Orroral Valley fire. I am very confident from the exchange of information that I have had with defence, on their lessons learned program from their review of the event, that some learnings are on the way.

As I said, I cannot guarantee what defence will do, but I can say that the checks and balances that we have put in place—as we have nationally—would ensure that we would not be in a situation where that kind of event would be likely to occur. I cannot say never, but I can say it is unlikely.

I point out, too, that we did not ask defence to land at that particular point in Orroral Valley. It was not a directed task from my incident controller to land in that particular spot on the day; that was a tactical decision made by the pilot.

DR PATERSON: Defence has done their lessons learned; we have done our lessons learned. Do they align? Are there lessons that have been learned between the different

agencies where we can learn from each other's lessons?

Ms Whelan: I believe so. I say that for two reasons: the ongoing relationship that ESA has maintained with our defence counterparts and the relationships at AFAC level. There has been a lot of work between AFAC and defence to engage across commissioners and chief officers nationally, including the exchange of information and training programs. The work that defence is doing in identifying dedicated task groups and task forces means that there can be habitual relationships. It is subject to jurisdictions developing those habitual relationships, but, from an ACT perspective, our work is well underway.

DR PATERSON: Relationships are ongoing and there are always ups and downs. What sorts of checks and balances are in place to ensure that if there is another big fire in eight years time, this constant interaction and engagement with defence is continued?

Ms Whelan: It comes down to two things: firstly, the systems that leadership will put in place in any organisation and practising those systems; and secondly, that the agency has longevity of memory. First and foremost, I characterise ESA as a learning agency. I think we demonstrated that in 2019-20 when we applied lessons from 2003. We have invested heavily in our operations and planning team within the ESA and also within the Rural Fire Service. I believe that we have evolved as an agency and we have the staff and assistance in place that will ensure that. I also am very confident that we have systems in place above the ESA that hold us to account and have checks and balances to ensure that the systems we have introduced or enhanced since 2019-20 will be maintained.

DR PATERSON: If you could outline the hazard reduction burns and the challenges with them in the ACT?

Ms Whelan: Obviously, the lead on hazard reduction is EPSDD; so I will not speak on their behalf but I will speak on behalf of the agency. We work very closely with EPSDD on the workload for the bushfire operations plan. I sign off on that on an annual basis. EPSDD are the lead in hazard reduction. As you are aware, there are a number of complexities, particularly in relation to climate as it relates to safety for hazard reduction burns. What I can say is that in the last 12 months the issue for us was access to hazard reduction burns to contribute to the undertaking but also to provide training benefit for our Rural Fire Service staff. We have seen an increase in participation from the Rural Fire Service with EPSDD in undertaking hazard reduction burns.

In addition to that, we realised through our Farm FireWise program that there is great opportunity for us to work very closely with the leaseholders, and so in the next couple of months, subject to the weather, our chief officer of the Rural Fire Service has planned to undertake 12 hazard reduction burns to support our rural landholders and support our Farm FireWise program.

Mr Gentleman: If I could add to that too, I think, from the royal commission into bushfires and the work that we have done internally with ESA and EPSDD, we see hazard reduction burns as just part of a toolkit, and there are many other opportunities

to remove fuel load and ensure that we have safer opportunities for the future for Canberra. You would have heard, probably in the press or from me, that we are looking at an all-hazards approach, particularly with ESA—not just bushfires—but we are seeing more change in weather conditions, more storms, that we need to be prepared for into the future. It is just part of a toolkit.

THE CHAIR: Minister, you referred to the royal commission. There have been calls for a royal commission into the 2020 fires. You have rejected those calls. Can you outline the reasons?

Mr Gentleman: There was a bushfire commission.

THE CHAIR: Yes, but a coronial, sorry.

Mr Gentleman: Coronial?

THE CHAIR: Coronial inquiry, my apologies.

Mr Gentleman: We did not have any deaths in the ACT.

THE CHAIR: They can be instigated without, though. You do not see the requirement?

Mr Gentleman: No. I think the work that the royal commission has done and the review the ESA has done were very informative. We have made many changes from the report and the recommendations from that. We accepted all the recommendations from Assistant Commissioner Johnson's review and I think that that work now needs to be rolled out.

MS CLAY: I was pretty concerned about a smoke apocalypse during the fires and we heard that it led to 31 direct deaths. That has come through from a few sources—the ABC, the environment commissioner and a few other places—and it is probably going to lead to a lot more illness and deaths in time. We do not really know what the outcome of that will be. It will be very hard to measure. I want to know what measures the government has taken to manage our future smoke events in terms of air testing, safe havens, any other procedures that we have put in place so that we can actually deal with that properly next time.

Mr Gentleman: We certainly looked at where we might be able to allow people to go and gather in a safe area that was air-conditioned, for example. We looked at different opportunities at schools, halls across the ACT, but monitoring can be done, of course, through the EPA. It is really a Health-led matter for the future, I think, and Health were looking at the aspects, as you have just indicated, of deaths for example, and people that suffer from smoke inhalation. So we would be working with Health as well to see what we can provide for the future.

MS CLAY: You would not consider that it would fit into our emergency systems? We did not declare a state of emergency. I am wondering if we might do that next time with a smoke event, given that we had no deaths from the fires but we did have 31 deaths from the smoke. It was a fairly major deal.

Mr Gentleman: Certainly, if Health indicates to us that it should be an emergency, we will work with them.

MS CLAY: Is that an active conversation at the moment so that we are prepared?

Mr Gentleman: It is something that we consider.

Ms Whelan: Since the 2019-20 event, we have been working very closely in our operations and planning area with all government directorates on how we would work through both the appreciation and planning processes for a variety of events. Certainly there is the mechanism in place in terms of broader emergency planning to bring together the subject matter experts, which I think is what would then trigger advice to government in a very timely fashion to make that call.

Mr Glenn: If I can just add to that, the top level of the ACT's security and emergency management is, of course, the Security and Emergency Management Committee of cabinet. Sitting underneath that is the Senior Officials Group, which consists of all directors-general, the chief executive of Canberra Health Services, representatives from utilities and a representative from the defence force. That is the primary body in the event of any form of emergency emerging in the ACT that provides advice to government about the need for activating mechanisms under the Emergencies Act or otherwise to deal with a threat to the community.

MS CLAY: But it did not activate a state of emergency in the last event? That existed but it was not activated?

Mr Glenn: The circumstances that gave rise to the state of alert, and subsequently the state of emergency in 2019-20, started with smoke, started with the fires in our region, the threat to the ACT and then, of course, moved into the situation with the Orroral Valley fire, which changed the dynamic quite significantly in terms of the threat to property and life.

Ms Whelan: A consequence of our understanding of the smoke impact was the key reason for the strong recommendation and subsequent cancellation of the fireworks, for that very reason.

MS CLAY: Yes, I remember. I think that was very sensible.

Ms Whelan: Yes.

MS CLAY: I know not every jurisdiction took the same decision and that looked imminently sensible, frankly.

THE CHAIR: Minister and commissioner, there seems to be a spat, a disagreement, between you and the Bushfire Council. I am interested in that because obviously they have a view that is somewhat different from yours on a number of matters. Can you explain what are those differences between you and what we are doing about that? I assume that they are established to provide advice to the minister, and the advice is not always followed. But then the letter that you have sent has been litigated in the

media and seems to have caused some upset in certain areas. Can you explain in a factual way what are the points that the Bushfire Council has raised with you and with which are in disagreement?

Mr Gentleman: Can I just open firstly and say that it is my strong view that ESA and the Bushfire Council have a very good working relationship. They certainly have a good relationship with the ACT government. We take on board the expert advice that the Bushfire Council offers but we also have different avenues of advice as well. We are receiving expert advice from different avenues and we will use that advice as well.

I think ESA continues to meet with the Bushfire Council. I do, not for the whole meeting, generally go there for each meeting at the beginning of council meetings and listen to the council and we do take on board their views, certainly.

THE CHAIR: Just on that, is the Bushfire Council responsible to you as minister or to you as commissioner? Whom does it report to?

Mr Gentleman: Yes, it reports to me.

THE CHAIR: It reports to the minister?

Mr Gentleman: Yes.

Ms Whelan: And in accordance with the terms of reference, I may seek advice from the council.

Mr Gentleman: That is right.

THE CHAIR: Could you provide us with a copy of the terms of reference? I am sure that they are available somewhere.

Mr Gentleman: Yes. I looked at them about two weeks ago. Certainly.

THE CHAIR: Do you have anything to add to that?

Ms Whelan: To be honest with you, I did not see the exchange of correspondence as a spat; I saw it as an appropriate action to underpin what is a constructive relationship which I wish to continue. I have had a working relationship now, as the commissioner, for 15 months with the Bushfire Council. I openly invited them to our incident management room during the 2019-20 bushfire season and I also brief them on a regular basis.

My correspondence is on the freedom of information log and is easily accessible for anybody to read. What they will see in there is my desire to ensure that we continue to work constructively. My issue has never been with the advice that the council provides. I remain very confident with that advice. My issue was the manner in which the information or the conversations were occurring.

THE CHAIR: You are not disagreeing with issues that they have raised, just the manner in which they were raised?

Ms Whelan: In particular—and there are some issues which we will agree to disagree on, and that is the whole idea of advisory councils—and as the minister has mentioned, we will reach out to a number of subject matter experts to receive advice, not just solely.

THE CHAIR: Those matters that you are agreeing to disagree on, can you provide them, perhaps on notice or something like that, or explain to us what is it where there is that disagreement? The Bushfire Council has a view and ESA and the government have a different view. I am just curious what that is.

Ms Whelan: From my perspective, it is not my understanding that we have a disagreement on technical issues. We do have a disagreement, though, on the way in which they are assessed in terms of risk and priority, for me as a commissioner and the tasks that I am undertaking. I am happy to provide that because we run a very comprehensive log of all actions that we undertake and advice provided to us by the Bushfire Council.

MS CLAY: I was wondering what work we are doing in our planning system and in the development of Canberra to make sure that our buildings, our houses, our suburbs, our evacuation centres are a bit more climate ready for fire risk, extreme heat, smoke—all those emergencies that we are likely to see a bit more of?

Mr Gentleman: You have the planning minister before you at the moment and again this afternoon. I can say that we are well prepared and we have taken into account what we have seen as climatic change and the change to weather that would impact the ACT, including hazardous events such as bushfires, wind, those sorts of things and storms as well. That is embedded into our planning system for the future. When we look at new suburbs, for example, we ensure that the edge of those suburbs is appropriate for combatting fire or being able to allow ESA to go in to combat fire. For example, I think Denman Prospect is a really good example where, on the western edge where we would see fire come to the ACT, we have asked the developer to do some work there in removing debris, ensuring that access can be made for ESA, for example. Of course, the construction of buildings into the future means that we need to ensure that they are not a fire hazard but are safe buildings for people into the future.

MS CLAY: They will need to be not merely fire resistant but heatwave and smoke resistant as well. There are going to be a number of different emergencies that might affect those.

Mr Gentleman: That is right.

MS CLAY: Is that review work that is being undertaken right now or do you think those standards are already appropriate?

Mr Gentleman: A number of those standards are in place already. The Building Code of Australia ensures that there are a number of safety standards within buildings. We are changing the way that construction occurs and are looking at materials which are much more fire resistant than we have had previously. We did have a lot of timber

buildings in the ACT which, of course, are not very fire resistant. We have moved away from those to materials that are much more fire resistant.

THE CHAIR: Just to prove that it is not all about bushfires, if we can turn to ambulance response times, the annual report shows the accountability indicator for priority 1 incident response. The target is eight minutes and the estimated outcome is just slightly over that. Can you explain why it is not meeting that target and what is being done to make sure that in future times we do meet those targets?

Ms Whelan: If you do not mind, I will ask the chief of ACTAS to come forward for the technical response.

Mr Gentleman: While Howard Wren is coming forward, can I just say that we do have some of the best response times in the country. ACTAS is doing a fantastic job, and during the COVID situation as well, in ensuring that when they pick up and drop off patients at the emergency department it is all in a safe manner.

Mr Wren: I acknowledge that I have read the statement. Would you mind repeating your question?

THE CHAIR: The incident response times, the priority 1s, are slightly over target. I am just wondering why that is and what is being done to make sure that in future years—I think it is three years in a row now that we have failed to meet that target—we do.

Mr Wren: I can just echo what the minister said. We actually do have some of the best response times in the country. What that indicates is that that eight-minute target is extremely difficult for anyone to meet. We are consistently at the second rank in terms of this. Nobody meets that and nobody has met it for any number of years. It is a very, very aspirational target in the first instance.

In terms of what we are doing about it, in the financial years leading up to 2020 we have put on an additional 45 paramedics. It takes a little while for those additional staff to have an impact on response times because they were recruited in those years; but that is fundamentally how we are addressing it. The government has funded those additional resources and we are hoping to see the impact of that over the next 12 months.

In addition, we are also changing some rostering practices to make sure that we have the maximum number of resources available at what we now know, with a reasonable degree of accuracy, are our peak workload times.

THE CHAIR: I understand that there have been incidents where there was a lack of crew during various shifts. Is that the case? If so, that is being remedied then, is it?

Mr Wren: Yes, there have been a number of shifts where we have fallen below the minimum number of crews that we want. In the first instance, we will always look to fill those shifts on overtime. If we have fallen below that minimum number, it is because people have not accepted that overtime and we do not have the capacity to force people to do overtime. We do not do that. Over the past couple of years there

has been a percentage of shifts that have fallen below minimum crewing. Again, one of the outcomes from a roster review is that we will attempt to address that by increasing the number of crews when they are most needed, based on historical workload.

The other issue is that 75 per cent of the shifts where we do fall below minimum crewing are night shifts. We are just about to increase the number of resources on a night shift.

THE CHAIR: With regard to bypass policy, at various stages, my understanding is, Calvary has been put on bypass by TCH. What is the process for that and what has been happening?

Mr Wren: Bypass is still a relatively uncommon event. However, there are two ways that a hospital will go on bypass. Most commonly it is that they contact us and request to go on bypass. They are required to, obviously, liaise with the alternative hospital, because we do not want both of them going on bypass at the same time. There is a communication process for that; and, most commonly, that will be Canberra Hospital.

There is an alternative process which is very, very rarely used; and that is that the ACT Ambulance Service can put a hospital on bypass ourselves if we believe that we cannot clear crews sufficiently. Then there is a process for us to do that. Again, we have to liaise with the alternative hospital to make sure that they are prepared to accept those patients.

THE CHAIR: Have you done that in recent times?

Mr Wren: Yes, we have done it once, I think in January.

THE CHAIR: What was the cause of that?

Mr Wren: It was simply that Calvary were extremely busy and we could not clear ambulances out of Calvary.

THE CHAIR: What impact is that then having on time frames to get patients to the hospital for treatment?

Mr Wren: If someone is a critical patient, for example, and they are located at the hospital which is on bypass, they will still go to that hospital. More correctly, bypass is termed stable patient redirection, which means that only people whose condition allows it will go to the further hospital if that is the requirement. Someone who is really, really ill or someone whose condition always dictates that they need to go to Canberra Hospital because there are certain services that are only located there will still go there. This is quite a constrained process. It does not tend to make a huge deal of difference to individual patients.

DR PATERSON: What are the conversations that happen after there has been this bypass activated? Is there a discussion and reasons why? Are there lessons to be learned from this when a bypass is called?

Mr Wren: It is probably not the case to say that there are lessons learned because it is very much dictated by the circumstances that led to that. In the normal course of events, the senior doctor at the receiving hospital's emergency department—they are usually known as the admitting officer—will ring the ambulance duty manager and they will have a conversation. It will be confirmed that the alternative hospital is willing to accept patients and then we will activate the bypass.

A hospital-initiated bypass is usually for four hours. An ambulance-initiated bypass is only for two hours in the first instance. If either party in either circumstance wishes to extend it, then we repeat that process and repeat the contact.

MS CLAY: Can I ask a sup on ambulance callouts? I am just wondering if you are able to provide any data on the call-outs per suburb during the last heat events that we had. Do you keep that data?

Mr Wren: I would have to take that on notice.

MS CLAY: Yes, I would like you to.

Mr Wren: Specifically which areas were you interested in?

MS CLAY: I would like to see the data on each suburb. The reason for it is that in 2017 the Assembly got some very interesting heat mapping done and that actually matches up quite nicely with our tree canopy coverage. You have got suburbs like Lawson that have the lowest tree canopy coverage and reach the highest temperatures at 44 degrees and I would really like to see if there has been any analysis done on predicting the areas where we know we are going to have a problem in the next heat event.

Mr Wren: What time frame would you like?

MS CLAY: During any of our extreme heat—

Mr Wren: Across the summer?

MS CLAY: Yes. Any of our extreme heat events during 2019 and 2020. Is that okay?

Mr Wren: Yes, we will take that on notice.

THE CHAIR: Given the time frame, we might take other questions for ESA on notice. There were a couple of answers that you were going to provide for us.

Ms Whelan: Yes.

THE CHAIR: If members have any questions, we will put them to you within the next five days. I would have liked to have had more time. We might look at that for the next hearings, given the breadth and complexity of the agency. Thank you very much, Commissioner and Minister. Minister, you do not get off lightly. You stay here in another guise; but to you and your staff, may I say thank you very much for all the hard work that you are doing. It is often the case that people seek to find fault and

criticise, and to an extent we do that in this committee too because that is our job, but I acknowledge the very hard work that you and your staff and volunteers do and I thank you on behalf of the committee for all of that.

Ms Whelan: Thank you, Chair; thank you, committee. We may add to the data for you also on the extensive hazards training package and survival plans that we do provide out to the community in relation to that. I think it would be very informative as well.

MS CLAY: That would be great, thank you.

THE CHAIR: Thanks.

Ms Whelan: Thank you.

Short suspension.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Corrections, Minister for Industrial Relations and Workplace Safety, Minister for Planning and Land Management and Minister for Police and Emergency Services

ACT Policing

Gaughan, Mr Neil, Deputy Commissioner Australian Federal Police, and ACT Chief Police Officer

Chew, Commander Michael, Deputy Chief Police Officer

THE CHAIR: CPO, welcome. Can I confirm that you and your gang agree to the privilege statement?

Dep Commissioner Gaughan: Yes, thank you.

THE CHAIR: Anecdotally at least, there seems to be an issue with incidents in my neck of the woods as the local member in Weston Creek and Molonglo. There was obviously the tragic death at the skate park late last year, but that is not limited. A large number of members of the community came out talking about a variety of other incidents, break-ins and so on. Can you discuss that with the committee? Is it the case that you are seeing a bit of a surge in that area? If so, what is it and on notice maybe you could quantify that with incident reports and so on.

Dep Commissioner Gaughan: We will table some incident reports for the committee's information. I think that, overall, the last financial year actually saw a decrease in crime across the territory. I think it is fair to say we put that down to the impact of the pandemic and the fact that less people were actually out and about. So I think that is probably a statistical anomaly that we would have to put an asterisk next to in future years when we look at crime rates in 2019-20 because certainly they are down.

The other thing that links to an increase in crime in any area of population growth is that very issue of population growth. As Molonglo continues to grow in population, we are going to see an increase in reportable crime. I have been a police officer on and off in the territory for 37 years; I worked in Tuggeranong when it was basically a satellite city of Canberra with only two suburbs that were populated, and we saw a significant increase in crime in Tuggeranong as the population grew, and likewise in Gungahlin.

Through the new police services model and things such as that, we are adapting our model of policing to ensure that we adequately address the concerns of the community. I note a new residents committee has been established in Molonglo, and I look forward to my officers and, indeed, myself engaging with them on some of their concerns.

THE CHAIR: Population growth I accept is a significant part of this. You referred to Tuggeranong and Gungahlin. Both of those have police stations dedicated to those areas, whereas Molonglo is being serviced at this stage from Woden, as I understand,

and maybe others are then called in, so it is a little more ad hoc. That has implications in terms of crime prevention and response times. We are seeing across the ACT population growth, but police numbers are still well below per capita police numbers in other jurisdictions. I accept there are some peculiarities to the ACT in that, but we have not seen police numbers keeping pace with that population growth, in particular in that new growth area. What are you going to do to make sure that we are staying on top of crime, particularly in Molonglo, and then as that flows out of Molonglo into that fringe of Weston and Duffy and Holder?

Dep Commissioner Gaughan: There are a number of aspects to that issue. Firstly, we are working with ACT government and the directorate in relation to a strategic accommodation plan which will look at what the footprint of ACT Policing, from a bricks and mortar perspective, looks like in the next 20 to 30 years. That is really important. We currently have five police stations servicing a population of around about 450,000. The population will grow, as you said. Is five police stations the right model for a jurisdiction of this size and are they in the right place?

It is a 10-minute drive from Woden Police Station to the City Police Station. Do we need to look at the geographical footprints of those police stations to ensure that they are in the right place? The plan will look at that. This will be the first time that we have ever had a plan in relation to our strategic accommodation, so that is a really positive step forward. I thank the government for doing that and working with Richard Glenn and the people at JACS to actually achieve that.

As far as what we are doing, going forward, we got additional funding from the government in relation to the police services model, which will look at tackling crime in a different way. We are also looking at doing things online. There is a raft of solutions to this issue; it is not just one solution.

We talk about police numbers all the time. It is very difficult to compare the territory with any other jurisdiction in the country because our population is fairly compacted to a very small part of the territory. I always hear people talk about the numbers of police in a place like Tasmania. The fact is, it is three hours between their biggest cities—here it is literally 10 minutes and I can move patrols around very quickly.

With the police services model in the 2019-20 budget we have received an extra 68.8 FTE and almost \$34 million; 28 positions are already filled and another 23 police officers are graduating from the college tomorrow. They will be operational in the ACT in three weeks, so things are underway.

It does not stay stagnant. We need to be adaptive and continue to change the way that we deliver our service to the community. It is a very well-educated community. My expectation is that the way that we deliver services in 20 years will look fundamentally different to the way that it does today.

THE CHAIR: Going, firstly, to the strategic accommodation plan, what is the time frame for that? When are you likely, Minister, to be able to articulate what that plan is?

Mr Gentleman: The plan will be ongoing. As the CPO has indicated, we have

population growth in Canberra. We have the growth in police numbers and a different way of doing things with the PSM. So we will look at the accommodation that we have at the moment, what we need for the future and you will see results out of that. You will see stations coming forward, you will see different ways of policing. With the PSM, we want to see more police actually out in the community and not physically at the station.

I will take on board your comments earlier about crime statistics in different jurisdictions and where there are police stations and where there is not. There does not seem to be a relationship with crime stats as to where a police station is in a geographical sense. Crime seems to be spasmodic in a geographical sense. We learn from that as we go forward, but the key thing is that the government is investing in accommodation for police well into the future and we are looking at new ways of doing it. Intelligence-led policing means that we can do things in a more effective way.

THE CHAIR: Just on the broader number issue though, looking at annual reports back to 2013-14 and then forward, we are just not keeping up with population growth. As the population is growing, the number of police has not kept up with that. When the incident occurred at the skate park in the lead-up to the campaign and we were all out and about, all of a sudden police started appearing in Weston Creek. The view from the community was that, “Well, finally we see some police; we haven’t seen police around here for years. It takes a death for us to see police around here.” So it matters to the community to have police out there to prevent and to respond quickly. How do you respond to the shortage of numbers? There are times when it has been reported publicly that police did not respond to an issue because of staffing issues.

Dep Commissioner Gaughan: I think that it gets back to the whole issue of we need to do things smarter with what we have got. If you ask any police commissioner across any jurisdiction whether they want more numbers, they will say yes. The reality is we have to operate within a certain budget, and we do that in a very constructive way working with ESA and others to ensure that we adequately address some of the issues.

We do respond to trends. As you said, Mr Hanson, when there was an issue there in Weston Creek, we responded accordingly. That has been happening for the 37 years that I have been working in the territory, and that is to be expected. We have the ability, through some of our targeting teams, to address particular issues as they arise. We had a spate of SMVs and burglaries over Christmas and early new year, and we responded with a task force that addressed that problem. So we adapt as things emerge, and that is what the community expects us to do.

It is a juggling act; I am not going to sit here and say that I am flushed with resources and I have the ability to be everywhere at every time. We had a very serious murder in Page over the weekend and that has had an impact on our crime resources and we have had to manage that as well. I suppose that is why I get paid the big bucks—to manage those resources on a daily basis and attack crime problems as they come up and to do so in a flexible and responsive manner; and by the way that the men and women of ACT Policing respond to those matters, I think that the community is very well served.

Mr Gentleman: If you look at the results, Mr Hanson, they are incredibly good for ACT Policing in bringing crime statistics down across the ACT. That has been happening now over a 10-year period. You see the trend down; you see the growth in population but the trend of crime is going down. So they are doing a very effective job.

DR PATERSON: I am really interested in what the community-centric engagement will look like in relation to the police services model and what people can expect to see on the ground?

Dep Commissioner Gaughan: Those teams have started, but the impacts of the pandemic have not helped us to get out there in the community and start to share some of the experiences we have with them. But it is trying to tackle the problem at its root cause and trying to address some of the generational issues that we have with some families that continue to be involved in recidivist activity across the territory. It will be about working with the community to try to solve some of the community's problems.

It is also important when we do this that we do not look at it just through the policing lens. It is important that we use services across all ACT directorates to solve the problem. Through my experience, sometimes it does not actually start out as a justice problem; it might start out as a health problem or a housing problem or even an education problem. So we have to work with everyone to address the issues and come together to find a solution. To be frank, I think that the best solution in most instances is not justice; it is something previous to that.

DR PATERSON: Recognising the really good work the PACER model has been doing, I am wondering how the police engage with the agencies in terms of their conversations?

Dep Commissioner Gaughan: I think I spent the first six months of my CPO-ship getting out and meeting people. I spent time with ACTCOSS and Aboriginal liaison groups. I have a board that advises me on ATSI issues and I spend a lot of time talking to them on concerns. We are all about community engagement. Again, the pandemic has not helped us to do that as much as, and as effectively as, I would like, so we have moved things online. I did a community forum late last year, where I engaged the community online. It was a fantastic result. We had a great buy-in from the community.

I hope in the next little while to do things like Coffee with a Cop again and get out there. We need to be part of the community. This is something that I try to sell to my officers—you have got to listen to the community and get their concerns. What we have done with PACER is a really good example of directorates working together to achieve a greater outcome for the community, and I think that the success of PACER speaks for itself.

We are trying to do something similar in the family violence space, where we are going to work with the other directorates, the Domestic Violence Crisis Service, Legal Aid and the Human Rights Commission to name but a few, to come up with a better solution for how we deal with that. Again, we have to tackle the root cause of the problem. Once someone is involved in a physical altercation in the family violence

situation, it becomes a justice issue. Let's try and deal with it before that.

DR PATERSON: There has been a significant increase in the use of conducted electrical weapons. I note that the report states that there has been an increase in training and that this may reduce the use of firearms. I am wondering why there is an increased use of tasers and is anything happening to reduce that?

Dep Commissioner Gaughan: There is no doubt that there has been an increase in the use of tasers. There has also been a decrease in the use of firearms and chemical sprays. Probably there are two issues with the tasers. The first one is that there has been an increase in use because there has been an increase in distribution, so now every police officer in the territory has a taser.

The other thing is that we count a use as being as soon as it is taken out of the holster. That is classified as a deployment, so that is a stat. Then when it is aimed at someone, it is the same, and then when it is actually discharged. It is all one motion. So as soon as it comes out of the holster, it is classified as a deployment. I am not going to go into details in relation to things that have occurred in the territory because some of them are the subject of criminal processes, but there is no doubt in my mind that taser deployments have actually stopped people being shot.

So whilst there has been an increase—I concede that—we are continuing to review our training in relation to ensuring that they are used properly. The beauty of the taser is that every time it is taken out of the holster, the camera goes on if it is not already on. So we are able to see the circumstances in which the taser is deployed and we are able to then see if it was deployed inappropriately or, indeed, was an excessive use of force. We are then able to rectify any issues as they happen, as we are not waiting for a process to conclude.

For instance, my deputy has viewed the taser deployment that occurred on the weekend in relation to the issue in Page and he is comfortable that that was done appropriately, and that is happening in real time. I can give the committee some comfort that, whilst there has been an increase in use, there has been no loss of life.

THE CHAIR: We actually had a motion in the Assembly calling on the increase for those specific reasons, to reduce the firearm discharges.

Dep Commissioner Gaughan: It has been very successful.

THE CHAIR: I am very happy to hear that that is the case.

MS CLAY: I have a few questions about our vulnerable road users. We have seen some accidents and we are trying to encourage active transport, so it is a bit of a problem. The ministerial direction asks ACT Policing to improve road safety, with an emphasis on reducing road trauma experienced by vulnerable road users. So I am wondering what sorts of additional resources you have committed to the road policing team to support that?

Dep Commissioner Gaughan: It is not just road policing that does this sort of issue. It is a community engagement issue, so all of ACT Policing is involved in education

in relation to it. It starts in school. It starts very early on in relation to how people behave with vulnerable road users. We work across the community. There are a lot of education processes. You have probably seen what we do there in that regard. That is ongoing throughout the entire calendar year. Now, obviously, in the lead-up to Easter we will do a lot of work in relation to that, with people travelling et cetera.

Our engagement in relation to the community encompasses a whole raft of issues—not just crime, which I have already spoken about, but also road safety. The road trauma in the territory that we have now, compared to where it was 20 years ago, is significantly reduced. A lot of that is due to education. A lot of it is due to the fact that our roads are better et cetera, but the fact is that education of our community has increased and those national campaigns around things like putting your seatbelt on have been very successful.

But it is a work in progress. It never stops. We never get to the position where we can, hand on heart, say, “We have succeeded.” We do not succeed in this town until we have zero fatalities. We are a long way from that. Last year was six. This year we are already two. So we have got to keep working on that. The vulnerable road users this year were motorbike riders, the subject of both fatalities. So it is a work in progress.

MS CLAY: I would say zero fatalities is a great goal but we want to prevent accidents too. I have recently been speaking to a constituent who was in quite a serious one. He has lifetime damage, which is what typically happens with a vulnerable road user and a car. One person walks away; the other person rarely does, even if they have not died. So I am interested in knowing how many full-time investigators you have got allocated to the collision investigation and reconstruction team and whether, if a collision involves a vulnerable road user, you use a specialist team, in the same way that you use a specialist team when you are looking at other complex crimes.

Dep Commissioner Gaughan: We will take it on notice in relation to the numbers because I do not have them ready. People are thoroughly looking for them. We will attend a collision if there is a fatality, if there is an injury where a person requires transportation to hospital, if it is blocking the roadway or is a danger, or if any person is suspected to be in breach of the peace—in other words, if they are likely to be aggressive with each other or there is an allegation of drug use.

In relation to collisions, they will attend primarily the ones where there is serious injury. Injury defined under our process is a person that is admitted to hospital. It is not classified as a person that goes to hospital with an injury and then is later discharged from emergency. It is someone that is actually admitted to a hospital and stays overnight or, unfortunately, is a fatality. That is the criterion for our accident squad to attend a collision.

MS CLAY: If somebody is subsequently admitted to hospital and has surgery, they would not trigger that?

Dep Commissioner Gaughan: It would depend on how long after and whether the accident had already been investigated by another patrol at the time. In the hypothetical situation you just put to me, I would be surprised if that matter had not

been concluded before we became aware of someone being in hospital; but the investigation is basically underway from the time our patrol attends.

MS CLAY: When you are providing the other information on notice, could you add in the total number of accidents involving vulnerable road users, and what percentage of those did involve the collision investigation and reconstruction team? Is it possible to include that?

Dep Commissioner Gaughan: We will try. I cannot give the committee a guarantee that we will have that granularity of data, but certainly we can provide high-level data in relation to that. We will see what we can come up with—noting that it could be a manual interrogation.

MS CLAY: Thank you.

THE CHAIR: Minister, I am not sure if it is within the policing area or who is going to manage it, but the \$10 million in the budget for the mobile phone system to capture people using mobile phones—that is not within policing?

Mr Gentleman: No.

THE CHAIR: Which area is it?

Dep Commissioner Gaughan: That will be TCCS.

THE CHAIR: I will follow up with them.

Outlaw motorcycle gangs: can you give me an update on progress following the death last year? Where are we at?

Dep Commissioner Gaughan: Commander Chew might have some more detail but I will start. One thing that the team has done successfully, which was well underway before I started, is some fantastic work in relation to targeting the OMCGs and reducing the numbers, and I am sure that Commander Chew will have that detail.

OMCG members are obviously not very discreet in relation to their criminal activity. So, to some extent, whilst they are concerning the community because they are so overt, my personal view is that I need to be focusing more on the organised crime groups I cannot publicly see that are involved in bringing methamphetamine and cocaine into the territory. So we have also got some significant work underway with organised crime groups, which cause a larger impact to the community than OMCGs. I will hand over to Commander Chew to provide that data.

Cmdr Chew: I acknowledge the privilege statement. As the CPO said, Taskforce Nemesis, which was introduced with support from the government in funding, has really targeted organised crime, particularly the outlaw motorcycle gangs, to a stage where that has been very successful. We have seen about a 50 per cent reduction in the numbers of people who are affiliated with outlaw motorcycle gangs in the territory now. That has come about through a variety of disruption strategies and some high-profile arrests that are currently before the court in relation to some of the high

officeholders of those outlaw motorcycle gangs. If you attack the organised crime side of it and the hierarchy of those criminal gangs, then you affect the ongoing recruitment, membership et cetera, so it has been very successful.

For 2020 there were 29 criminal gang members charged with 47 offences, and we seized nine firearms. We are currently doing some work in the space around the firearms landscape for the territory, because we had another incident a couple of nights ago where another firearm was seized at an incident. That was not related to outlaw motorcycle gangs but that is something that they do use through the intimidation tactics that they employ to promote their business.

So with the Nemesis taskforce, and more broadly across the organised crime groups, I think that we have been very successful so far.

THE CHAIR: With regard to the number of, specifically, OMCGs, is it still four that are active in the ACT or has that reduced?

Cmdr Chew: There are still actively four recognised outlaw motorcycle gangs. The membership is around 30 or 40 across those four within the ACT.

THE CHAIR: That is the patched members, is it, and then you have a greater number of affiliates and associates?

Cmdr Chew: That is the patched members, yes. There are nominees and associates that sit in the back end.

THE CHAIR: Do you quantify that as well or you do not know?

Cmdr Chew: A lot of it is based on intelligence. There is no actual hard evidence in our dealings with those groups as to who their associates or nominees are until they become patched members.

THE CHAIR: With regard to other organised crime groups, have you identified particular groups? I assume that it is often related to drugs and perhaps other things. Could you give us a bit of an outline of who those other groups are, where they are coming from and what their operations are?

Cmdr Chew: It is quite, I think, transnational in its nature. There are some local criminal entities and criminal identities that are part of those organised groups from a broader Australian and international perspective. We only have to go to the recent operation out of Bungendore, where we seized over 300 kilos of illicit substances from an importation. Local Canberra people, community members, were involved in that organised crime group and that importation. So they are out there for sure. We are working our best to identify those and disrupt them and not allow them to bring their drugs into the ACT—or Australia, for that matter.

THE CHAIR: Is organised crime predominantly about drugs or is there another area particularly of—

Cmdr Chew: It is across the spectrum of criminal offending, from high-level fraud—

there are organised crime groups now targeting the commonwealth government incentive programs under COVID, from a fraud perspective. There are illicit drugs. There are organised crime groups in the child sexual offences groups and the online component of that. So it is across every crime group, because the organised crime groups are about making money and there are a variety of ways to make money out of the community and the governments of the day.

DR PATERSON: A lot of organisations have been asked to look into their internal workplace cultures, often as a result of media attention, particularly male-dominated workplaces. I am wondering what ACT Policing is doing to self-reflect on internal workplace culture and what measures are in place to address or improve complaint processes.

Dep Commissioner Gaughan: There are probably a few things in that question. Firstly, you will probably recall that some years ago previous Commissioner Colvin did a review into the AFP's culture. This was done by Elizabeth Broderick. There were a series of recommendations, known as the Broderick review, which are in the process of being implemented and continue to be implemented.

We have our professional standards area, which looks at complaints that are made against police. The Ombudsman oversees us, as does ACLEI, so we have significant oversight there. We also have internally a welfare network, where we have senior officers, experienced officers, that talk to our staff about any particular issues that are affecting them in the workplace. We also have a thing called 'Safe Place', which is an area where people can go and raise issues around sexual discrimination or harassment or bullying, and that has been quite successful over the last five to six years in dealing with some of those things.

We are also conscious of the fact that to get the right culture in the organisation we probably need to change who we recruit and who we employ in the AFP. So we are on a bit of a journey at the moment in relation to changing the diversity of the organisation. Whilst the most obvious one is diversity in relation to having more females, and there is a lot of work to do there, it has to be broader than that. I mean, if we go back to the principles of policing, we have to represent the community that we police. Therefore, we need more Aboriginal and Torres Strait Islander employees; we do need more people that come from other linguistic backgrounds; and we need people that have disabilities. We need to represent the community that we police, and there is a lot of work to be done there. We are slowly getting there. Our female recruitment has definitely increased over the last three to four years. You have only got to walk the streets of Canberra now to see that there are a lot of young ladies out there proudly wearing the badge. So that is a good improvement for us; but these things cannot be static.

One of the things that we need to get better at is recruiting. We have a program underway at the moment being done by a consultancy firm in Sydney to look at how we target people to become members of ACT Policing. From my perspective, we need to look at people within the community or close to the community so that they will actually stay here. Mr Hanson has been in this Assembly for a long time. The people that come to ACT Policing stay here for a while, then go somewhere else and—a bit like me as deputy—come back. I want people to stay here long term. The best way to

do that is to recruit from the region—not just Canberra but Queanbeyan, Yass, the south coast—to get people to stay here and actually be part of the community. We are getting to the stage, with the population growth going on, that there are plenty of opportunities in ACT Policing to stay within—there is a lot of work still to be done but we are going in the right direction. I hope that the next staff survey in relation to people broadly in ACT Policing will show that there has been improvement in many of those areas.

Mr Gentleman: There are some very good online resources if you go to the AFP site on how to apply for a job with ACT Policing and the AFP.

THE CHAIR: I will bear it in mind.

MS CLAY: I am really pleased to hear about the community policing direction that you are moving in. I think that it is a great complement to our restorative justice and it is a much better way to deal with problems. You mentioned in your earlier answer that there are a lot of ways that we can make our roads safer; it is not simply dealing with an incident when it happens. Have you had thoughts and reviews about slower speeds, the built environment, better-lit infrastructure or whether we need to do more to get vulnerable road users away from the road environment by providing other facilities—that sort of broader picture that it fits in, as well as the education of the community?

Dep Commissioner Gaughan: That is probably a question better answered by one of the other directorates that manage roads. I reflect on my own experience as a police officer many years ago. I worked in the accident squad; I did three years there. We used to have 30 fatalities a year in the '80s and '90s. Now we are down to six or seven. A lot of that was because the roads got better, education improved, people started wearing their seatbelts and there was more no drinking and driving. Education is really important. Our road system became much more user friendly, with right angles at every intersection and proper bike paths. There is a lot to be said for infrastructure improvement in relation to road safety, but it is also about education and enforcement. Traffic enforcement needs to be a key of this. If people are doing the wrong thing, we need to put them before the court or fine them.

MS CLAY: How do you feel you are going with enforcement at the moment?

Dep Commissioner Gaughan: Again, during the peak of the pandemic we saw—and it was not just here in the territory—significant increases in high-range speeding. They were caught. We have discussed this within the group and I have discussed it with some of my national colleagues as well. Some of it was probably a release. We think that some people were actually on the road speeding because that was their release. Now, it is stupid and inappropriate, but the psychological impacts of being locked in a house for 14 days and then getting out—and the pubs and clubs were not open—was potentially a release to some people. It was something that impacted not just here in the territory but in every Australian jurisdiction. High speeds went through the roof.

MS CLAY: That is interesting.

DR PATERSON: I note that you have a current campaign going to address speeding. It is something that comes up a lot, particularly around the suburban streets. Constituents raise it and I know that in my own house you can hear people going past. It is about education. How do we educate the public that these are the speed signs and the dangers of speeding?

Dep Commissioner Gaughan: One of my deputies was on 106.3 this week talking about things such as that. I have been on 666 a few times. We get on the radio quite a lot—2CA and 2CC—and we are on Facebook. One thing that we really rely on is the community telling us what is happening. With a particular issue, which I think is the one you are alluding to, the community advised us via Facebook—and we monitor Facebook—that there was a particular speeding issue in one street. We went and fixed it because we attended. That is why we need that community feedback, that loop.

We cannot be everywhere. The community needs to be our eyes and ears. We work very closely with Crime Stoppers, obviously, and Neighbourhood Watch in relation to these issues. I have met them and spent some time with them, but we do require people to give us information either through our website or through our different community hotlines.

DR PATERSON: Even if they do not have a licence plate number or something, they can call.

Dep Commissioner Gaughan: Yes. If we get half a dozen complaints about an issue in a particular street, if you do not see a police car there, you will certainly see one of the other directorates' speed vans. We are responding to what the community tells us, and we have to.

DR PATERSON: Great.

THE CHAIR: On the issue of road safety, roadside random drug testing and alcohol testing, how is that going at the moment? Has it been affected by COVID?

Dep Commissioner Gaughan: It was, because we were not doing any through a fairly significant period of time because of the concerns about potential transmission to the officers. We basically stopped it, but we are back up again. I think that our overall hit rate—Mick might have the stats there—in relation to drug testing is pretty consistent and has been for a number of years. I think that we are pretty much spiking back up. I might leave it to the deputy to provide the stats.

Cmdr Chew: Thanks, CPO. Yes, it has been relatively consistent over the last five years, around 1.1, 1.2 per cent of tests—persons charged per number of tests completed. In the last six months of last year, it cranked up to 1.9 per cent again.

THE CHAIR: Is that drugs or is that alcohol?

Cmdr Chew: That is drugs.

THE CHAIR: That is drugs.

Cmdr Chew: Sorry, that is alcohol. In relation to drug driving, the proportion of tests to persons charged has been relatively consistent, around 20 to 25 per cent. In the last six months of last year, it jumped to 29.5 per cent.

THE CHAIR: So we are either flatlining or going up. What are we doing to try and send a message that it is unacceptable, because that number does not seem to be decreasing?

Cmdr Chew: It certainly comes back to the piece that the CPO has talked about—about education and identifying to the community the possible outcomes of driving when impaired or driving when distracted. The possible outcome is that you kill yourself or you kill someone else on the road. Again, it is that education process. It is about using intelligence, having the community provide that information to us and then building a picture of those particular locations within Canberra that may have a higher proportion of drug driving than other areas in Canberra.

THE CHAIR: That has increased to 29 per cent. Can you break down what those drugs were? Was it cannabis or methamphetamine or opioids?

Cmdr Chew: For the same period of that 29 per cent, of the number of tests—

THE CHAIR: Maybe you can take it on notice. I am after a breakdown of the increase and what the increase is in. Is there a particular drug that is prevalent or is it that across the board we are seeing a decrease in opioid, an increase in cannabis or vice versa? What is happening there?

Cmdr Chew: For the same period of that 29 per cent, 84 related to THC only—that is the active ingredient in cannabis—which is a 29 per cent increase over the previous year. Ninety-nine related to a combination of THC and methamphetamine, which was a decrease of 20 per cent. Six returned a combination of THC and MDMA, which was a 108 per cent increase. Five of those tests were a combination of all three, so meth, MDMA and THC, which was down 28 per cent. What we are seeing is a combination of drugs probably becoming more prevalent, but predominantly around methamphetamine and the cannabis THC.

THE CHAIR: Brilliant. If you could just give me that on notice as well, please.

DR PATERSON: Can I ask a supplementary?

THE CHAIR: You can, but we have to be quick. Maybe the question needs to be quick and the answer needs to be quick.

DR PATERSON: Okay. Just on the subject of not testing during COVID, we had a relatively short lockdown period. If, in future, we had a longer lockdown period, is there any talk of alternative strategies to address drink and drug driving if we cannot test people?

Cmdr Chew: We can always test people. It is just a matter of, with those lockdowns, how many people are out there to be tested. If there are fewer cars on the road, of course, your hit rate, or your proportion of positive results, is going to be higher

because there are not as many cars on the road. If people are choosing to undertake those types of behaviours, they will probably come to notice more.

It is also about providing a safe environment for people around the potential of transmission. The vaccination will go a long way to address that, I think, going forward. We have got to protect our people as well. I am sure that everyone at some time, hopefully, will have been random breath tested. It is an exchange in quite a personal space between the officer and the driver of the vehicle. The strategy will always be there, that we will be out there targeting the areas based on intelligence and information and based on the number of road users.

THE CHAIR: On that note, I was tested on Christmas Eve, late at night. There were a lot of officers on the road working hard. I appreciate their—

Dep Commissioner Gaughan: That is good to hear. Thanks, Mr Hanson.

THE CHAIR: keeping us safe. I will take this opportunity on behalf of the committee to thank you and all your officers, sworn and the other staff, for the work that you do to keep us safe. I appreciate that it is a difficult job and that on some occasions you may want more resources as well and that is always going to be a challenge. Thank you.

Dep Commissioner Gaughan: Thank you.

THE CHAIR: You have now got five days, Minister, to get those questions on notice to the committee—if you could, please—and committee members have got five days to get questions to you. You are now free to go. The minister will be back as the Minister for Corrections in about 15 minutes. Thank you very much.

Dep Commissioner Gaughan: Thank you.

Hearing suspended from 10.45 to 10.59 am.

Appearances:

Gentleman, Mr Mick, Manager of Government Business, Minister for Planning and Land Management, Minister for Police and Emergency Services, Minister for Corrections and Minister for Industrial Relations and Workplace Safety

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Peach, Mr Jon, Commissioner, ACT Corrective Services

Goodman, Ms Therese, Assistant Commissioner, Community Corrections, ACT Corrective Services

THE CHAIR: Welcome and to all your staff as well. I will just go through some administrative matters before we commence with questions. Can I just make sure that you have all seen the CBR app out there and done your CBR thing? Great. These proceedings are being recorded and broadcast. Can I just make sure that you are aware of the pink privilege statement? You should have been emailed it, and you are aware of its contents?

Mr Gentleman: Yes.

THE CHAIR: That's great. We have got about an hour, so that is good. Ms Kikkert has made an appearance, so I will give you my first question, Ms Kikkert.

MRS KIKKERT: Thank you, Chair.

THE CHAIR: Mrs Kikkert, sorry.

MRS KIKKERT: I appreciate that, Chair. Thank you. I refer my question to page 179 of the annual report, with the subheading "ACT Inspector of Correctional Services—healthy prison review of the Alexander Maconochie Centre 2019". Minister Mick Gentleman, just a few days ago you sent out a media release saying that you have a chair for the committee who will be overlooking the recommendations from the healthy prison review. May I ask how much will she be getting paid?

Mr Gentleman: You can, yes, but I have not got the detail of it off the top of my head. I will have to ask Mr Glenn.

Mr Glenn: Ms Nixon will be paid a rate of \$2,000 a day; \$2,000 plus GST.

MRS KIKKERT: \$2,000 a day?

Mr Glenn: A day.

MRS KIKKERT: Right. She is the chair of this committee for 12 months; correct?

Mr Glenn: Twelve months.

MRS KIKKERT: Will the new oversight committee be spending any time implementing the recommendations from the 2019 healthy prison review mentioned

in the annual report?

Mr Glenn: The oversight committee will be assisting with the implementation of a range of recommendations from reviews, as well as looking at issues to do with staffing, training, staff culture and those sorts of issues. It will not be directly implementing—it is an oversight committee—though it will be providing guidance and direction to the work of corrections to implement those recommendations.

MRS KIKKERT: Okay. Please help me understand this. I read the recommendations from the healthy prison review and they specifically clarified a few areas that staff need to be trained on. Why is your government so incompetent with just applying that special training rather than paying someone \$2,000 a day to implement the training? It is already there—it is crystal clear—in the recommendations. This is an incompetence on your part, Mick Gentleman. Why can't you just implement it without paying someone else?

Mr Gentleman: We have seen a number of recommendations from different reviews over a number of years and we have not seen them instituted. This oversight committee brings some power, if you like, to those recommendations and a way of using the tools that we have within corrections to implement those recommendations. It is not new. Oversight committees have been used in situations in other jurisdictions before and also in the ACT. They are a tool that can be used by government to ensure that recommendations are met.

MRS KIKKERT: So you are saying that the recommendations of the Inspector of Correctional Services are not powerful enough for you to implement them straightaway?

Mr Gentleman: No. They are certainly recommendations that we have accepted and we need another enforcement tool to ensure that they are implemented.

MRS KIKKERT: Was Ms Nixon the first candidate that the government extended the offer to?

Mr Gentleman: I asked the directorate to look at candidates that would be suitable for the position.

MRS KIKKERT: Was there anyone else considered before Ms Nixon was approached?

Mr Glenn: There was advice provided to government on a range of possible appointees.

MRS KIKKERT: Were any of them previous inspectors of correctional facilities?

Mr Gentleman: We would have to look at the list, I think.

MRS KIKKERT: Okay. What is Ms Nixon's corrections background?

Mr Glenn: Ms Nixon has a very broad public sector background as Commissioner of

Victoria Police and as head of the Victorian bushfire recovery agency. She has also had extensive dealings with corrections in Victoria in her police role. She is a very experienced, senior public sector leader who will bring really important skills to this oversight group. It is not specifically about her direct experience in corrections. It is about her ability to bring people together and to provide guidance and leadership to the oversight group.

Mr Gentleman: I think one of the skills that really came to the fore, in my view, was her work particularly with rostering and understanding shiftwork patterns, both within NSW Police and Victoria Police. We have seen issues of rostering and attendance for shifts occur across AMC. I have been a roster clerk in the past and I understand—as the commissioner would too—how difficult it is to implement rosters that are suitable for the job that we need staff to do but also are suitable for the staff themselves to ensure that they can have the appropriate family time and be remunerated correctly as well.

MRS KIKKERT: Mr Glenn, you mentioned that she has extensive experience in the Victorian bushfire agency and how she dealt with that and also with the police force in Victoria. Are you aware that she appeared in front of two royal commissions?

Mr Glenn: Not specifically, Mrs Kikkert. I imagine she has appeared in front of royal commissions in the course of her career, but I do not have particular knowledge of that.

MRS KIKKERT: Are you aware that she appeared in front of one royal commission on a statement of the culture and Victorian police leadership, because she was the commissioner at that time? The report from the royal commission says:

Much of the conduct demonstrated by individual officers could not have occurred without critical failures of leadership and governance in Victoria Police—in particular an ineffective command and governance structure; and a pervasive and negative cultural emphasis, led from the top down, on getting results with insufficient regard to the serious consequences for the rights of individuals and the proper administration of the criminal justice system.

Are you aware that they are actually talking about Christine Nixon, who you have just hired to chair this committee—that the royal commission found her incompetent of being the commissioner of the Victoria Police?

Mr Glenn: I do not think that is what the royal commission said and that is not what the passage you just read said.

MRS KIKKERT: This is the final report summary from the royal commission report.

Mr Glenn: In any event, Mrs Kikkert, I think it is difficult at this point to be having a discussion that goes to allegations against Ms Nixon. Ms Nixon is not here and she is not available to respond to those. What I can say is that she is a very senior and well-respected public sector leader and she carries great weight and has a very good skill set that is going to enhance the work of this oversight committee.

THE CHAIR: We might leave this line of questioning, Mrs Kikkert. You will get

another opportunity. We will move to a substantive question from Dr Paterson.

DR PATERSON: On page 69 of the annual report, with respect to custodial operations, it says:

With a strong focus on rehabilitation, the AMC engages actively with the private and community sectors in the ACT to promote positive rehabilitative ...

Can you outline some of those activities and what that looks like?

Mr Peach: I acknowledge the privilege statement. We do a whole range of activities to try and rehabilitate and reintegrate people into the community. From the moment people come into our custody, our whole intent is to look at how we can prepare them for release.

We do activities including education, the delivery of offender behaviour programs, and the delivery of industry and work placements. Some of those are services that we provided from ACT Corrective Services; some of those are services that we outsource to community organisations. We have an extensive list of people that we engage with in service delivery. They include people like the Women's Centre for Health Matters and Directions ACT. There are a whole range of people.

We work actively with the offender or the detainee to identify what their needs are through the risk-needs-responsivity framework, highlighting their needs. We then address their needs through interventions. Our sentence management team work with the offender to identify those. As they go through their sentence we work with them to try and reduce the risk so that when they return to the community they will be less likely to commit further crime.

DR PATERSON: Is there work that is done with the families? When people come out of AMC they go back into the same environment, so is there work that is done on the other side as well?

Mr Peach: ACT Corrective Services, unfortunately, does not engage with the families as much as perhaps we would like to. There is certainly a gap there. We recognise that if we return a detainee into the same environment that they have come from, there is obviously an ongoing effect of that. We do work with families in the throughcare element, in the sense that we engage with them, but our actual focus is on the offender. There would need to be more of a whole-of-government approach to really engage with families.

MS CLAY: There has been a bit of a push down in Victoria to start collecting data on ex-detainee deaths. Does the ACT Sentence Administration Board collect data about people who die while they are on parole?

Mr Peach: You would have to ask the Sentence Administration Board. I do not believe so, but it would be data that they would keep.

MRS KIKKERT: Following up on the previous line of questioning, I mentioned that Ms Nixon appeared in front of two royal commissions. The one that I mentioned

earlier was in regard to a legal scandal that happened in Victoria when she was the commissioner of the police force there. I am quite surprised that you are unaware of what people have said was one of the biggest legal scandals in Australia. To date, because of those actions following the royal commission's findings, two prisoners have now been released because of the scandal that Ms Christine Nixon was supposedly involved in. I am very surprised that you did not do the background checks on her. I just want to say—

Mr Gentleman: Chair, I think it is a bit rude to be making allegations about somebody that we have hired to do this particular job—

MRS KIKKERT: It is somebody that you are—

Mr Gentleman: without her being able to respond.

MRS KIKKERT: Chair—

THE CHAIR: I take your point, Minister. This goes to the appointment of someone. I think that Mrs Kikkert is following up on the appointment and the eligibility, and the appropriateness for that role. But I would caution you, Mrs Kikkert—

DR PATERSON: Based on media reports.

THE CHAIR: There are statements from royal commission reports and so on.

MRS KIKKERT: These are facts.

THE CHAIR: As I understand it, it is not just media assertion. But I would caution you, Mrs Kikkert, to be careful with your line of questioning. I accept your point, Minister. I will let you proceed but I am mindful of your point.

MRS KIKKERT: Yes. I am also very mindful of how much Christine Nixon is getting paid by the taxpayers. Canberrans are paying \$2,000 a day for this individual to do a job that many in your directorate can also do. What is the comparison between the payment to Christine Nixon and someone senior in your directorate?

Mr Gentleman: Could you clarify the question?

MRS KIKKERT: How much is she getting paid as opposed to how much someone very senior in management in your department is getting paid, and could that person do the job that you are asking Christine Nixon to do? They also have many staff that could help them out.

Mr Gentleman: It is a different job, Mrs Kikkert. The implementation team, under the leadership of Christine Nixon, will bring people from different aspects of corrections and it will involve different aspects of people across the ACT to implement the change that is required at the AMC. It is not a job that our senior officials would be doing; it is in a different context, if you like. In regard to the payment, it is an appropriate sum that we look at for chairs of particular oversight committees in other jurisdictions. It is not out of the blue.

MRS KIKKERT: One of the main concerns in AMC is the culture—the environment that is currently there at the AMC. The royal commission stated:

... a pervasive and negative cultural emphasis, led from the top down, on getting results, with insufficient regard to the serious consequences for the rights of individuals and the proper administration of the criminal justice system.

Do you still have confidence that Nicole Nixon, who is chairing this committee, will be able to change the culture in AMC when she herself has demonstrated in front of a royal commission that she is unable to do that?

Mr Gentleman: The person we have employed is Christine Nixon—

MRS KIKKERT: Christine Nixon.

Mr Gentleman: and I am very confident that she will be able to chair the oversight committee and bring about the changes that we are looking for at AMC.

THE CHAIR: We will leave that line of questioning there, Mrs Kikkert. The Inspector of Correctional Services appeared before this committee last week. He raised a number of issues. You are probably aware of the issues that were raised. On each of those issues, how are you responding? The three that stuck in my mind included the female prisoners—the fact that they have been moved from the cottage to a high-security facility where they are now more visible to male prisoners and they are not in the accommodation that was envisaged. What is being done on that issue?

Mr Gentleman: Can I open by saying that I do not think, when the AMC was first constructed, that it was envisaged that we would have these numbers of detainees, both female and male detainees. We have had to work quite effectively in ensuring that we can supply safety for those detainees in different circumstances. Mr Peach, as the commissioner, has done a very good job of ensuring that we can do that. It is a live matter to me that we do have women very close to male detainees, and the impact that that can have. It is something that I have talked to the directorate and Mr Peach about, in looking at what we can do to change that in the future. It is a work in progress, if you like.

THE CHAIR: There is no resolution; you are still trying to work out what you are going to do here. That does not sound like a solution; that sounds like you are working on something but it is unclear what that is.

Mr Gentleman: Yes, we are working on a solution, but we have not resolved that issue yet. We are looking at options for the future and at what we can do to provide safe accommodation for women detainees.

THE CHAIR: With regard to data and the CORIS system, the inspector suggested that in other jurisdictions the inspector can get that data without having to wait for correctional services to provide it and that, at the moment, the inspector experiences a significant lag between requesting that data and it being provided. Do you have a resolution in that regard?

Mr Peach: The CORIS system is obviously a new system for us which, when we are able to implement it, which will be later this year, will be able to resolve the issues that the inspector raises. The unfortunate position we have been in is that the system we currently have is a very dated system. It does not allow us to get the datasets that we need to be able to produce the information. All of our data entry for the requirements that the inspector seeks is manual entry.

Through the HPR recommendation, we have managed to create the reports that we can print off for the inspector, as we need to. I would not necessarily agree that there is a lag time, but the reality is that there does need to be a request for us to do that. The inspector does not have the ability to press a button and print it himself. But when that request is made, we can turn that around very quickly.

THE CHAIR: In other jurisdictions there is an ability for the inspector to be the person that presses the button. Are you looking at the feasibility of that occurring so that they can essentially generate their own reports without having to go through the department?

Mr Peach: The inspector currently has access to our client information systems. In terms of our IT, he is able to access our data now. What he cannot do is press a specific button and get the actual reports that he wants in any comprehensive manner. If the decision, when we roll out the CORIS system, is that he gets access to that then, yes, he would be able to do that.

THE CHAIR: Who makes that decision? Is it you or is it the minister?

Mr Peach: That decision, I would imagine, would come through my office. It has not even been considered yet because we need to get the CORIS system up and running and see what elements of that system can be provided and what cannot.

THE CHAIR: There might be technical reasons as to why that could not occur but, philosophically, would you be open to it?

Mr Peach: Philosophically, there is no reason why not. He already has access to our data now.

THE CHAIR: It is really about technical impediments that potentially need to be worked through?

Mr Peach: Yes.

THE CHAIR: The other issue is that of remandees and sentenced prisoners being put together. The comments are that, essentially, they are all being treated the same, and they should not be. Why are they being treated the same—unless you dispute that—and what are you going to do to remedy that?

Mr Peach: Yes, they are, for all fundamental purposes, being treated the same. The challenge we have in the AMC is that when it was built it was not predicted how many remand prisoners we would have. As of today, we are operating at about 39 per

cent of our detainee population being on remand. Of course, when you put that in the context of there being insufficient space to move those and keep them as different cohorts, along with all the remaining cohorts we have, it becomes a specific challenge for us to be able to manage that population.

Depending on how you break it down, we can work out that the AMC has anything up to 20-plus cohorts of detainees at one point. Managing that in one prison is significant; it is challenging. If you have people that present a risk to one person, or present risks across, we have to manage that on a daily basis. The practicalities of that mean that we are not able to put that sort of split in place. We are absolutely cognisant of the issue, but because of the high levels of the population we cannot feasibly manage that within the AMC now.

In terms of what we have done, as you would be aware, two years ago the inspector did his review into remand detainees. One of those recommendations was to create some policy around this. As you would be aware, I listened to the inspector's comments on Friday. We do have a policy and, where practical, we use it. It really is around trying to respect the rights of remand prisoners, as opposed to anything we can really do that is concrete.

On the same note, while we talk about treating people equally, in other jurisdictions there are also some occasions where remandees are actually dealt a harder hand because they are remanded. They may get more time out. Some of them may get to wear their own clothes and things, but they are not able to access services as freely as sentenced prisoners can.

With the exception of offender behaviour programs, we allow all of our detainees to access all of our services. The reason we do not permit remandees to access offender behaviour programs is because there is a presumption of guilt on them when they go away and do it. We cannot put somebody on a sex offender charge in a sex offender treatment program until, obviously, they are proven guilty.

We acknowledge that we cannot separate them at the moment. We try to make sure that they are afforded as much opportunity as we can. For example, only detainees are allowed a visit within 24 hours of coming into the centre. All other detainees will have to go through the usual booking processes. Remandees can. So there are a range of things in that policy that we do, but the practicality is that we cannot, at this moment, meet that requirement.

THE CHAIR: What body of work is being done, if any, to remedy that over the long term? This has been occurring since 2009 in one form or another. Is this going to be ongoing? Will there be a point in time at which we are able to say that remandees are now separate from sentenced prisoners or will we just keep going like this?

Mr Gentleman: No, it is something that we are looking at. We are also working with women in AMC and looking at what we can do for them in future. It is an ongoing piece of work. We have not yet developed a resolution, but we are certainly on track.

THE CHAIR: On the issue of the numbers that were anticipated, in terms of remandees and sentenced prisoners, in the initial design of the prison, there was an

inquiry conducted, I think, in 2010, after the prison had been established. A lot of these documents were looked at, as well as subsequently. In the original design of the prison, it was anticipated that the numbers would be not dissimilar to what actually has been put in. The scale was that it might be here, or it might be over here. But if you go back and look at the likely number of prisoners, it actually reflects what is in the jail. I would invite you to look at those numbers so that you do not keep coming back to this committee and saying, “It’s well beyond what we anticipated.” If you look back prior to the prison opening, it is not beyond what was anticipated. I just make that point.

Mr Gentleman: It is certainly beyond what was originally built, though.

THE CHAIR: Than when it was originally built; I agree with you on that. It was built for a certain number of prisoners, but the original scoping, and the original analysis that was done, said there would be this number of prisoners. We built the jail too small, and we are paying the price for that. What needs to be addressed is that this government decided to build a jail that was a bit too small for the anticipated numbers, rather than for them to say, “The numbers are surprising.” I make that point so that we do not have to keep correcting the record.

Mr Glenn: Mr Hanson, there was a different assumption about the mix of detainees that would be in the facility. The working presumption was that there would be far more low-security detainees. That is not what has happened in reality. Mr Peach has more detail.

Mr Peach: There is a significant difference, if you look at the figures regarding what we actually have now, from a security perspective, and what was originally planned—a very big disparity in that. While I acknowledge your comments, the other issue we have is that we never planned for the number of cohorts we have, which makes it challenging.

The problem, of course, with having one prison within the territory is that we do not have the ability to move people out when we have problems, or when we have gang relationships et cetera. Canberra is a very small community. People do know each other outside, and they bring a lot of those problems into the prison. The separation issues alone mean that, for safety and security reasons, we have to mix groups all together, and that has a very dire impact.

THE CHAIR: I think we would all agree that that is unsatisfactory. Minister, have you looked, potentially, to alleviate this problem, at re-engaging with New South Wales on a more limited scale than we did previously? Particular cohorts could go to maximum security—whichever cohort it may be—in New South Wales.

Mr Gentleman: Yes, we have. I can indicate that we have transferred some to New South Wales in a temporary manner while we do some repairs around AMC. We are looking at the ability to look at transferees when we can, while ensuring, of course, that families are still able to visit, and that they have that opportunity. It would only ever be, I think, on a temporary basis while we do repairs to AMC.

THE CHAIR: Can you, on notice, provide me with the numbers, in terms of how

many, when, and, within any security parameters, where they have gone?

Mr Gentleman: Yes.

THE CHAIR: Also, what is the cost of doing that and what is the level of security? Are they maximum security or minimum; are they remandees and so on? That is so that we get a sense of how that is being managed.

Mr Gentleman: We can, but there are security aspects as well.

THE CHAIR: Yes, I appreciate that.

DR PATERSON: My question is in relation to the COVID lockdown, or harder restriction periods. Were there positive things or changes that came out of that—or negative? What about drugs going into the prison? Did that stop? Were there any changes there? Are there things in that change of practice that, going forward, might continue?

Mr Peach: It is fair to say that the landscape over the last 12 months for ACT Corrective Services has been very different from what we have seen before. I need to commend my staff for the way they responded to COVID-19, in implementing some of the things that I will talk about now.

The first impact, obviously, has been in our visits area. COVID-19 automatically meant that we had to move to stopping family visits and social visits almost immediately. We ceased visits on 22 March 2020, and we were able to turn around very quickly and start implementing Zoom audiovisual visits by 27 March. We only lost two visit sessions altogether through that period. To be able to do that, to trial, test and implement the technology in five days, was amazing.

Of course, that in itself has had some significant benefits for us. Not only have detainees managed to continue with family ties, but there have been a range of people that they were not in contact with—whether because of the tyranny of distance or people living overseas—that they can now have contact with.

Talking about the contraband, it has also stopped people, where there have been threats to and intimidation of people to bring drugs into the prison. They, of course, have now been free of those threats and that intimidation, because they could not visit. That is probably the biggest one. We have done a range of other issues as well. Obviously, one of the first things that happened was that our service providers were unable to attend at the prison and deliver services. We had to fill that void somehow, because, as we know, prisoners that are bored and restless cause problems.

We increased our programs by delivery of self-paced intervention booklets. Throughout COVID we had lots of detainees really focusing on cognitive change and work like that that they could do in their own cells et cetera. We worked extensively with Justice Health services to make sure that we had very strong guidelines for both staff and detainees coming into the prison to stop the potential for COVID-19 entering the jail. So far that has been very successful.

There were significant challenges with the court systems. Obviously, courts were bringing in their own restrictions around who could and could not attend. We repurposed almost every telephone line that we had in a room, and almost every video opportunity we had, so that we could keep courts running. That, again, was very successful.

In terms of lessons learned, certainly there are things like the Zoom visits that we will want to continue with. There are also the options we have for the greater use of audiovisual technology. There are lots of opportunities for that. We were delivering programs to people in prison from the community side by audiovisual link. There were some really good initiatives.

In terms of contraband specifically, the first thing that we saw was a decrease in it. One of the main routes of contraband entering the prison is usually the visits area. Of course, that does have an impact, because we then saw a number of attempts to throw things over the fence. We had reports of drone technology trying to be used in the area.

We had to change our operating parameters away from front-entrance visits prevention to more observation, in making sure that our cameras are being used more effectively around the jail and that our intelligence is being used a lot more effectively. In the last few months we have had successful captures where we have been advised early, shall we say, that a package is coming. Of course, we have been able to intercept those.

Yes, we have seen a difference regarding contraband. We have seen different attempts. I do not think we can measure it because we never know exactly how much gets brought in, unfortunately. I would love to be able to answer that. Obviously, that is a constant challenge for us.

For all intents and purposes, we have managed COVID-19 in as much of a business-as-usual prospect as we possibly can. I want to reiterate that our staff have been dealing with their own issues through COVID-19, as the community has, but we have also been dealing with essentially 450 people in the prison who have no control, who have family problems outside, and their stressors are elevated. I can only commend ACT corrections staff on the way they have gone through that process. They have done an absolutely amazing job.

MS CLAY: For a while, we have had a greater focus on community programs rather than extending the prison. I want to know whether you are planning on continuing that. If so, which community programs do you think have been working? Do you have any new ones that you think we need or that you have in development?

Mr Gentleman: I do not think we need to remove any of the community programs. I think we will keep those going. We will certainly be looking at what we can do in a physical sense at AMC. If there is an opportunity to assist community programs to reintegrate people back into society, to help rehabilitate those detainees and to ensure that they do not re-enter the justice system, we would certainly be looking at that.

MS CLAY: Are there any particular areas or programs that you have coming up?

Mr Peach: The biggest reform that we hope to drive through this year is the concept of integrated offender management. From the day that a detainee enters our custody, it is very much focused, as I mentioned earlier, on release preparedness. The planning for that detainee starts almost in that first week or two of their being put into custody. Obviously, they need an adjustment period. It is about finding a better way to sequence our programs in terms of what we deliver in our interventions. We can focus on reducing risk. We are also looking at a strength-based approach, so that we can start focusing on a detainee's strengths, their desire to change and what will motivate them to change.

Throughout their period with us, no matter how long it is, if we sequence it right, we can turn somebody out in the end that has greater opportunities than they have now. It is about acknowledging that the justice system is about more than just corrections; it is about actually changing the lives of people. Our approach is very much about making that positive difference. If we can take people that are, for all intents and purposes, in risk factors, and are scoring failures and grade Es, if we can turn those up to Cs and Ds, and hopefully beyond it, in some cases, we can start making a real difference to those people.

It goes back to the previous question around, first of all, reducing risk—looking at the key risk factors that are there. Secondly, once we can reduce the risk to a sufficient level, what is it about somebody's life that brought them into custody in the first place? What were the key factors that brought them to us? How do we start to give them the opportunity to build that strength in their lives so that they can go out and lead a meaningful and contributory life?

Integrated offender management will really give us that. It will mean that we have fewer touch points with a detainee. At the moment, through their corrections experience—not necessarily just the AMC—they can have seven or eight different people case managing them at different times, which means that the same person is telling the same story to seven or eight different people along the way.

We really want to minimise that so that they have the same case manager or two case managers across the community and we can work with them constantly and keep that real effort there, be able to track the difference and, of course, build the relationship. We build the trust in that way as well.

MS CLAY: Yes, that does sound sensible. I am wondering whether a community program might need that integrated family—

Mr Peach: Absolutely.

MS CLAY: If that is a gap at the moment, that might be something that needs to be developed.

Mr Peach: We are certainly seeing it with detainees, with the links with children. We have done some work with the children, but not as much as we would like to do. In 2018, when we created the women's and children's services coordinator, part of that role was to start working with children. Unfortunately, it has been consumed by the issues that we have had in managing female offenders at the moment.

There is certainly space for us to do more. We do some. We work very much with SHINE. I think there is a lot more that can be done. With respect to the impacts of having children, the impact on primary carers and the responsibility that they feel when they get out, having that connection—as it is with maintaining family ties—can be a significant contributor to people not coming back to us.

Mr Glenn: These programs integrate with the government’s broader Justice Reinvestment program and the other initiatives that have been developed there. Some of them are in the corrections space and some of them are linked but are outside the corrections space and managed by my directorate—things like bail support programs, and Yarrabi Bamirr justice reinvestment, which is a family-centric process.

There are a range of those and, ideally, they integrate for people who are at risk of touching the justice system, those who have exited the justice system and who we are seeking not to re-engage with, and those who are moving in the middle. That is the broad program.

DR PATERSON: On recidivism, how responsive are the programs that are offered to people? If they go back into the prison, are they doing the same thing again or are the programs able to adapt so that they say, “Where didn’t it work last time? How do we engage you this time?”

Mr Peach: We are not that sophisticated. We introduced a program evaluation framework approximately two years ago which is still in its infancy, in embryonic stages. Our programs are pretty much replicated from other systems. They come almost as an off-the-shelf product. At this point in time they are not as adaptable. If we took somebody through a sex offender treatment program, the integrity of the program is the integrity of the program. It is not individualised; I guess that is the message.

As to whether that is really achievable in a corrections space, I have to be honest with you: I have never seen it done that comprehensively. There are lots of things we can learn, from National Disability et cetera, in doing the individualised services. Again that is very much a funding model. We get programs that are designed for 10 or 12 people at a time. We have group programs. We have very little capacity for that one-to-one, individualised service. It is extremely costly, as you would be aware.

DR PATERSON: In terms of dealing with people with mental health issues, are there services like counselling or treatment services that are offered to people in prison?

Mr Peach: First and foremost, Justice Health services work with us, and forensic mental health, which deal with the acute cases. They will be able to answer that question. We also have capacity within the prison to deal with mild and moderate cases. We have counselling available there.

MRS KIKKERT: When will the full rollout of CORIS be completed?

Mr Peach: I am anticipating it will be finished by the end of this calendar year.

MRS KIKKERT: Will it be ready by the time the inspector does his next healthy prison review?

Mr Peach: That will depend on when the inspector does his review. I would like to think so.

MRS KIKKERT: Since the contract has been signed, have there been any variations to the contract? If so, what is the variation?

Mr Peach: I would have to take that on notice.

MRS KIKKERT: Okay. On 3 December, I asked multiple questions on notice and none of them has been answered. I am deeply disappointed about that. Did that have something to do with the data that is currently at AMC—that you were not able to answer those questions?

Mr Gentleman: The questions that you provided to me on notice were provided to the directorate. The directorate gave me advice on the number of resources it would take to answer those questions and advised that I should write to you and suggest that we could do this by providing a full briefing to you. I know that you have had a couple of briefings before on the AMC and a visit. You have not taken up the offer of the briefing, but it is still there if you need it. The question was about resourcing and the amount of time it was going to take to answer all those questions.

MRS KIKKERT: With all due respect, none of the briefings are recorded. Constituents and Canberrans would like to have those questions that I put on notice recorded. That is why we have questions on notice. One of them was about how an inmate loses his privileges. I do not see how it would require great resources for your staff to take that up.

Mr Gentleman: It was the totality of the questions. I think it was the largest number of questions on notice ever received by a minister.

MRS KIKKERT: Kudos to me. I have noticed in the past that quite frequently when I ask multiple questions on notice, some of them are answered and some of them are respectfully answered with, “I am sorry we cannot answer that due to resources.” That is completely understandable, but your answer to me was completely disrespectful. I was trying to hold you accountable for your actions as the Minister for Corrections, but you answered no questions whatsoever. One of the questions was very simple and could be answered. With others you could say, “I am sorry; due to lack of resources we are unable to answer the questions.”

THE CHAIR: Mrs Kikkert, I remind you that there are provisions within the standing orders for you to litigate this matter in the chamber. I suggest you look at that. If you have specific questions that have not been answered and you want to put those to the minister, please do so, but in terms of litigating the issue of why you have not received answers, I invite you to do that in the chamber rather than in this committee.

MRS KIKKERT: I have a question on detainees. Section 44(2) of the Corrections Management Act states:

The director-general must also ensure that convicted detainees are accommodated separately from non-convicted detainees.

There is also a section that says:

However, the director-general may give directions for different accommodation of a non-convicted detainee if the director-general suspects, on reasonable grounds, that is necessary to ensure the safety of the detainee or anyone else.

How many detainees are at AMC and how many are detainees that the director-general gave directions to accommodate with convicted detainees?

Mr Gentleman: We answered that question earlier.

Mr Glenn: We have answered the question on numbers.

THE CHAIR: There were some specific questions there in terms of—

MRS KIKKERT: It was in terms of—

Mr Glenn: The exercise of the discretion?

MRS KIKKERT: Yes: who gave the direction to put the detainee with the convicted prisoner. It says in the act that it should be done by the director-general. Is it done by you?

Mr Glenn: No, it is not done by me.

MRS KIKKERT: Are you the director-general?

Mr Glenn: Yes, I am.

MRS KIKKERT: So it is not done by you?

Mr Glenn: All of those powers are able to be delegated; most of the operational decision-making at the AMC is delegated to the commissioner and other officers within the AMC.

MRS KIKKERT: I do not see that in the act, though. Could you please help me find where in the act it is delegated. It says in the act:

However, the director-general may give directions for different accommodation of a non-convicted detainee if the director-general suspects, on reasonable grounds, that is necessary to ensure the safety of the detainee or anyone else.

It does not say anything about delegating that decision to Jon Peach or anyone else; it says that you are responsible for that direction.

Mr Glenn: Mrs Kikkert, there will be other provisions in the Legislation Act, and elsewhere, which create the structure for the delegation of powers that are provided in

legislation. We can provide that if you like.

MRS KIKKERT: If you could provide that, that would be wonderful.

THE CHAIR: Mr Glenn, could you provide that specific reference to the committee.

Mr Gentleman: It is section 20 of the Public Sector Management Act.

THE CHAIR: Mr Peach, could you provide the number of times that you have exercised that discretionary or delegated power.

There have been calls at various stages and commitments by the government for a needle and syringe program that have not eventuated. How many individuals of the AMC that you are aware of have been tested and found to have hep C or another disease as a consequence of sharing needles? Do you have that data?

Mr Peach: We would not have that data. It would be probably more appropriate for Justice Health services to comment on that.

THE CHAIR: Justice Health services would have that? Okay. I will refer that to them.

Lockdowns have been an ongoing issue; prisoners have been locked down for pretty extended periods. Have you experienced lockdowns within the last year or two? If so, how many and why?

Mr Peach: Lockdowns are a frequent occurrence in any prison across Australia. As in any other prison, we experience lockdowns quite routinely. They can be for a combination of issues. There can be insufficient staff on a day, particularly if we have a number of people that are off sick or unavailable for work. They can be because we have had an incident and we have had to lock down to make it safe and secure so that we can move on. They can be because we have hospital escorts to take out and therefore that impacts on our staff. There are a whole range of different reasons why they occur.

In November 2019 we had a significant lockdown following an emergency. In November 2020, when we had an incident, we had a very short lockdown. Yes, we do have lockdowns. We can have lockdowns on a daily basis where a particular unit is locked down to make sure that all the rest of our services can continue if we do not have sufficient resources on that given day.

THE CHAIR: Can you provide on notice the number of lockdowns over the last 24 months or so, the reason for the lockdown and the duration of the lockdown.

DR PATERSON: I am interested in what the women in custody reference group has recommended and how you have gone with implementing those recommendations.

Mr Gentleman: I am sorry?

DR PATERSON: Is there is a women in custody reference group? And how are you going with implementing what they have come up with so far?

Mr Peach: There are two. As a consequence of Mr Rattenbury's work about two years ago, we established a women's reference group, noting that we had not got the accommodation right for where we wanted to be. I commissioned a women's reference group to talk to our external partners about what we could do initially—accepting the location and the services that we have—with our current service providers to make it more amenable and more appropriate, noting that there was no longer term plan for female detainees at that point.

That was the first one. It came up with a range of issues. For example, we created a garden space outside so that the ladies could have more access to open air. There were additional programs put in. We worked very much with the community services providers, particularly the Women's Centre for Health Matters, to look at what we could provide. We had Beryl Women Inc come into the service and provide their programs. That was the women's reference group.

Alongside that, we have developed a women offenders framework, which is a fairly extensive research framework that tells us not just what we are going to do but the fundamental way we want to support and manage females in custody. This is born from correctional practice over probably 20 years. We have not been specific around gender-based programs for 15 years. Best practice will say that essentially all we did was take a male-based program, transfer it over, rebadge it and try to implement it. Of course, that does not work.

The women offenders framework starts getting to the crux of what we need to do differently. That is around it being trauma informed, with better supports, acknowledging the different journey that most women offenders have made to come into custody before they arrive with us. That piece of work is being finalised now. We are hoping to launch that in the coming weeks or months. That will come out very shortly.

DR PATERSON: Will that be a paper or a report?

Mr Peach: It will be a document that outlines the ACT Corrective Services intent of work over the next five years to address some of the challenges that we have in managing and supporting female offenders. Out of that will come an operational framework. That will show very clear actions saying what we are going to do. Our framework is about how we want to do it; that will say, "This is what we will do to deliver that."

DR PATERSON: Which of the external groups were you working with? You mentioned that the reference group led you to working with some of the external women's groups. Do you know which ones they were?

Mr Peach: There are a range. We have had Canberra Community Law, the Women's Centre for Health Matters and Beryl. It is extensive. I am more than happy to provide a list of them if that will help.

DR PATERSON: Yes; that would be useful for me.

MRS KIKKERT: This question is on the full policy review. In 2018 Minister Rattenbury promised a full review of all ACTCS policies and procedures. This was to be completed by mid-2019. The government's response to the healthy prison review in 2019 pushed this project to June 2020, then again to December 2020. It is still not done. Why has it not been completed?

Mr Peach: The challenge we had was that all our policies, as you would appreciate, are extensive documents; they are notifiable, and so are our procedures. Every document that we have is a policy underlying hazard procedures. At one point, we were pretty much putting out a new policy every 10 days, on average. The pace of change that that requires for Corrective Services, for our staff, is phenomenal.

To do that and drive that implementation properly—as much as we would like to review all 80 or so policies, we have to do it in a measured way that allows our staff to understand the policy, take it on and be able to adapt to it. It requires consultation with external agencies, with our CPSU colleagues and with our employees. We have slowed the policy program down simply to make sure that our communication consultation is done properly rather than putting in policies where, essentially, we can throw them out today or tomorrow and people are not going to adhere to them. With some of those policies, we have to make sure that staff are appropriately trained to deal with them.

That is what caused the delay. But, again, I go back to my comment that when our systemic changes occur every 10 days, that is a significant piece of work that we have to work closely with our staff to do. The amount of change and reform in Corrective Services has been on for three years; it continues to go forward. It is unprecedented. We do not have the ability to stop all our operations and just reinvent the wheel; we have business as usual to maintain while we implement those as we go. That is what has caused the delay.

Mr Gentleman: We do acknowledge that this is challenging. We will be working with staff on the implementation. The blueprint change will help us do that. It is a lot of pressure, as the commissioner was saying, but we are intending to go through with it.

MRS KIKKERT: Can I ask to have questions answered on notice about the policies that have been implemented since the review of 2018 and what needs to be done?

Mr Peach: Sure.

MRS KIKKERT: And your time line for when that will be achieved.

Mr Peach: Absolutely. I can also say that we have approximately seven policies that are left to be completed; we are very far down the review. But we can find those on notice.

THE CHAIR: Do you manage community corrections orders?

Mr Peach: Yes.

THE CHAIR: How many people are currently on community correction orders?

Mr Peach: I do not have the exact figures today, but we can provide those for you.

THE CHAIR: Okay. Looking at *RoGS*, the *Report on Government Services*, there has been a decline in the completion of community corrections orders over the last decade or so. Is that your experience? And what are the reasons that they are not being completed?

Mr Peach: I think I should defer to my colleague, who will be able to speak much more comprehensively than I will on community corrections orders.

Ms Goodman: In relation to the completion of community corrections orders, there are many factors that contribute to an offender not completing their order. They may reoffend. They may not meet obligations within the period. Particularly for community service work, if they have not completed hours within the specified time, that is considered a breach. Often, for those matters, they will go to court and the court will give them an extended period to complete the hours. So though it is a negative in the numbers, they end up coming back to us to complete their community work part of it.

THE CHAIR: If there is a breach, you will identify the breach?

Ms Goodman: Yes. We identify an alleged breach and the court then makes a determination.

THE CHAIR: You do not just say, “No, you have breached.”

Ms Goodman: No.

THE CHAIR: It goes back to court and the court makes the decision about whether to continue that community corrections order or impose a custodial sentence. Is that right?

Ms Goodman: It depends where they are on the sentence hierarchy. Sometimes it would depend on their offence and why they have breached. If their sentence is escalating, their crimes are escalating, it is getting more serious, sometimes they will get a custodial sentence. Different jurisdictions, especially if you are comparing national data, have different tolerances to that sentencing behaviour. Some jurisdictions are quite strict in relation to how they apply those rules; some jurisdictions are more lenient. ACT courts tend to take into consideration lots of other factors when they do re-sentencing, including the offender and their circumstances—maybe more than a bigger jurisdiction that operates more like a machine.

THE CHAIR: Could you take on notice the number of people on orders and the number that—

Ms Goodman: I could probably answer in rough terms.

THE CHAIR: Okay.

Ms Goodman: Community corrections orders can go from about 1,100 to—we have had up to about 1,400, but in the last few years it has been around 1,100.

THE CHAIR: You may or may not be able to answer this, but in terms of those orders, what is the percentage that end up with a custodial sentence?

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

THE CHAIR: Okay.

Ms Goodman: It might be difficult. It would have to be one on one; you would have to look at each one.

THE CHAIR: Oh, would you?

Ms Goodman: Yes. The system we have now is basic, like a fancy access database. It has the front end and it is a data dump, but the extract and back end are often manual into either SQL or Excel. And then to quality assure it et cetera, to make sure it is correct, you often need operations and the data people working together to make sure it is accurate.

THE CHAIR: And CORIS will fix that?

Ms Goodman: It will fix it, but over time. Obviously, with reports et cetera, and checking the quality and all that as you implement them and go through them—any IT system will take two years or so to get in.

THE CHAIR: The court system that I have been asking for has taken about a decade now, so I hope you can—

Mr Glenn: Not quite a decade.

THE CHAIR: I am always get told, “Next time we will have that available,” and I am always disappointed.

Ms Goodman: The product we have comes from overseas and is a COTS product, off the shelf. There is a very big disparity between how much information Australian jurisdictions want to know about their business compared to overseas. We have to build a lot of our stuff, and it is extensive compared to other jurisdictions, just because they are very much internally led on their KPIs et cetera and there is not that much interest from external parties.

MS CLAY: I assume that the difference in Australia is because we have a bigger focus on restorative justice?

Ms Goodman: No; I think there is just a lot more oversight. We have HRCs; we have courts; we have bodies like theirs.

MS CLAY: Whereas the American prisons are privatised.

Ms Goodman: Yes; they are pretty much run by themselves.

MS CLAY: With the new data system, with CORIS, do you think you will be setting a baseline when you bring that in? Will you be able to compare the data from CORIS with the previous data quite fluidly?

Ms Goodman: It should. The measures should be exactly the same because the counting rules are national rules.

Mr Gentleman: Chair, could I correct the record regarding Mrs Kikkert's assertions about the findings from the royal commission on Christine Nixon. I can advise that I have just read through 111 recommendations from the royal commission and they make no mention against Ms Nixon by name.

THE CHAIR: Minister and commissioner, thank you very much for attending. There are a number of questions that were taken on notice, and members of the committee have five days to provide you with additional questions.

On behalf of the committee, I thank you and your staff for the work you are doing. I appreciate that it is difficult out there and that you are trying to manage a Rubik's cube in the sense of trying to juggle remandees and sentenced people, and male and female people, different categories of prisoners. I wish you all well with that endeavour and thank you for the work that you and your staff are doing.

Short suspension.

Appearances:

Steel, Mr Chris, Minister for Skills, Minister for Transport and City Services and Special Minister of State

Justice and Community Safety Directorate
Glenn, Mr Richard, Director-General

THE CHAIR: Minister, can I confirm that you are across the privilege statement?

Mr Steel: Yes, I acknowledge it and have read it.

THE CHAIR: The Special Minister of State is a new portfolio. This is the first time any Special Minister of State has appeared before a committee. Can you give me an outline of what you do and what you are responsible for?

Mr Steel: That is outlined in the administrative arrangements which are on the ACT Legislation Register website, so I refer you to those. In the JACS portfolio it primarily covers electoral reform, racing and freedom of information.

THE CHAIR: Is there a reason those particular portfolios have been divested?

Mr Steel: That is a matter for the Chief Minister. I have raised that in previous committee inquiries in relation to the Chief Minister's portfolio as well.

THE CHAIR: So it is more of a Chief Minister's decision than—

Mr Steel: The Chief Minister allocates portfolio responsibilities. It would not be the first time that a minister other than the Chief Minister has taken up portfolio responsibilities within the CMTEDD agency.

MS CLAY: Minister, there were 122 FOI applications in 2019-20. Full access was only granted in 19 of those cases, which strikes me as quite low. Does that indicate that Canberrans are particularly eager to lodge their FOIs or does it mean that we are not really providing good enough access?

Mr Steel: There are a range of reasons why access may not be granted in a particular case. I will hand it over to Justice and Community Safety officials to provide further detail on that.

Mr Glenn: As the minister says, there are a range of reasons for not providing full access to an FOI request. One very common one is around the privacy of particular individuals, so directorates will quite often redact names and telephone numbers of junior officers, for example, from documents. There is also the third-party consultation process.

The Ombudsman's comment on the first year of operation of the FOI Act was that he wished to examine some of the causes for that degree of redaction. In the latest report the Ombudsman has identified that there is still a degree of that activity happening,

but it is slightly less. I think he mentions that it is often in the privacy space, rather than the significant mass redaction of information.

The scheme permits the analysis of the data to be provided. I think of one recently where access might not have been granted in full to a document because parts of the document fell outside the request, so it was not actually relevant or pertinent to the request that was made. Elsewhere there might be privacy reasons and then, of course, there are a range of other exemptions that exist within that.

MR CAIN: Administrative reform number 3, at page 14 of the online version of the parliamentary agreement, is for increasing open and transparent access to government information, thereby reducing the need for freedom of information applications. Will that require any legislative changes to the Freedom of Information Act?

Mr Steel: That is something we will continue to look at. The government's position is that where information can be provided we should provide that publicly. There are a range of different ways we do that through the government information portals. I will hand over to Mr Glenn to provide further information about how we proactively provide information to the community so that they do not have to lodge requests for basic government data, for example, and other information as well.

Mr Glenn: Directorates make information available through their own websites and shared portals to be able to proactively release information. Obligations to do so exist within the FOI Act now, but there is also a general cultural beast that says if we have information that is of use to the community then it should be shared with the community, and there are a range of mechanisms by which that can happen.

One can get into a discussion with FOI applicants to work out what they actually want, and often it is not necessary to use the FOI system at all if you can satisfy the need of the person asking for information without going through the entire process. That is a really fast and efficient way to deal with that particular scenario.

MR CAIN: So, apart from what you have just mentioned about perhaps having to negotiate an FOI application and seeking a more efficient way to deliver the information, are there other concerns under the current FOI administration that is leading to this reform, and are FOI applications a problem?

Mr Glenn: No, FOI applications are not a problem. I think it is part of the evolution of openness and transparency around government information. You have seen the shift over time from the introduction of FOI legislation in various forms. The current act has a very pro-disclosure stance embedded within it. But it is part of a continuum of activity that says, "Well, if we can have more openness, if we can provide more information proactively in the ordinary course of doing business, then that is a good thing to do." That does not imply that there is a problem with FOI; it is simply part of a continuum of reform going on across jurisdictions.

MS CLAY: I am really pleased to see that the default setting is to publish and for transparency. I used to work in the public service and certainly saw while I was there that we were moving more and more towards publication rather than withholding. Having said that, one of the most frequent stakeholder and constituent queries I get is

for information. To me, it often looks like information that I would have thought would be in the public domain already—waste audits, environmental assessments and reports, draft consultant reports, land management reports, quite a lot of documents commissioned by the Assembly that, for whatever reason, do not appear on a website. None of them would be sensitive and all of them look like they should be in the public domain.

How do we make sure we are publishing everything that does not have a good reason not to be, and what is the secret code is for an MLA like me or for a constituent to say, “Can we please have this one? And by the way, next year when you do it and the year after can you just put it straight on the website so that I do not have to ask again?”

Mr Steel: If there is a specific list of things you think need to be published, you can send it through and I am happy to consider that and raise it with the relevant agency.

MS CLAY: My office might keep a log of the things and send it through.

Mr Steel: It will depend on what the documents are. Some of them may be being considered actively by cabinet in relation to a policy decision. Whether they can be released will depend on what the document is and the circumstances of what it is being used for.

MS CLAY: It might also be helpful if there could be a list of documents pending. Often people know that there is a report coming because they have submitted to it or have fed into it, and sometimes it takes 18 months. It might be good to say, “Soon to be published,” and then we would not have to go through the whole rigmarole.

Mr Steel: There are a large range of documents so I am not sure about the administrative burden that might be involved in trying to anticipate whether documents will exist in the future.

Mr Glenn: To a general point about communication about how particular projects are tracking, there is both whether a document is published and then whether it can be found. I know directorates do a lot of work on their own websites—and certainly we are doing that on ours—to make it easier for people to locate particular documents that are published. We certainly get requests from members of the community for items that are on the website and we take that as a learning to say, “Well, if someone’s looked and they haven’t found it and they’ve had to ask then we need to something about that.”

DR PATERSON: In your internal data are there differences between directorates in terms of whether particular directorates attract more FOI requests, or the types of requests where the information can be given out and it is already available? Does that identify for you where a gap is in getting the information out to the public?

Mr Glenn: There are probably a couple of things in there. In terms of FOI requests, there are certainly different rates of requests to different directorates, and the community safety directorate receives the largest number. Interestingly, they are probably the most complicated because they will go to children and others who are receiving services.

There is a community of practice amongst the FOI practitioners within government. I know they share information about whether we are getting requests under the formal system for things that should be proactively released or could be dealt with differently. That is an ongoing conversation; I do not have any more detail on that.

DR PATERSON: Can you talk a little about the cyber attacks that the ACT government experienced in 2019-20?

Mr Steel: I will hand over to Mr Glenn to provide some further detail, but we know that this is an emerging risk not only for our government but for a whole range of subnational governments as well. The ACT is not immune from those attacks and it is something we need to continue to develop our capability in to make sure that we are responding to those emerging threats.

Mr Glenn: We will seek someone from the Chief Digital Officer's office who will know the technical answers to the question. At a higher level though, we know there is increasing activity from state and non-state actors seeking to penetrate cyber systems around the place. There is public reporting that shows an uptick of that in the COVID scenario. We know that the arrangements in the ACT for ACT systems have been robust. I will not go further than that; that is outside of my expertise and responsibility.

We continue to engage at a national level with groups that are working on cyber issues. So there is both "What is the threat environment looking like in the cyber world?" and also "What are the technological responses that need to be put in place?" You will have seen some very significant investment by the commonwealth in their cyber security areas, so that is an ongoing intergovernmental discussion.

DR PATERSON: Given that the commonwealth would be at the forefront of picking these things up, how do we go about facilitating the relationship with the commonwealth to ensure that they are sharing information?

Mr Glenn: There are standing intergovernmental groups both at ministerial and at officer level. We also maintain active engagement with the Australian Signals Directorate and the Cyber Security Centre. And we have in the last 18 months, I think, had a very useful presentation from the head of the ASD to the security and emergency management senior officers group. That is the most senior officers group in the emergency management structure. The ASD talked to us about what they are seeing in the threat environment and where the commonwealth policy settings are going in terms of cyber security.

MS CLAY: I am interested in the uptick during COVID of cyber attack and fraud. Is that part of the normal cycle of fraud going up during a recession or is that opportunity or because of stimulus payments?

Mr Glenn: I have not done any analysis personally. It is probably on the technical side, as opposed to the policy side for me. We simply noted that there was that change. As the police witnesses said in an earlier hearing, opportunism drives a lot of the activity of organised criminality, so there was increased activity online. But the

broader reason for an increase in malicious cyber activity is not something I could comment on directly.

Mr Steel: We can take that one on notice. The Chief Digital Officer appeared before another committee to provide some—

THE CHAIR: If you have got anything to add to that it would be useful.

Mr Steel: Yes.

MS CLAY: The ACT Ombudsman oversees FOI administration and if somebody has a complaint about FOI, they would go to the ACT Ombudsman. Is that working effectively at the moment?

Mr Steel: Having not been in the role for all that long, I will hand over to Mr Glenn to provide some insight into our work with the Ombudsman, but there is a relatively close relationship. The Ombudsman has been involved in the FOI practitioner discussions about how we can work within government agencies to make sure that the processes are working effectively for the agencies but also for the Ombudsman, who is overseeing the system.

Mr Glenn: Before I start the answer, I will, for the committee's interest, note that I was the deputy commonwealth Ombudsman at the time that this function was first discussed. I set up some of their stuff, so I have a particular view about how good it is.

We have a very effective relationship with the Ombudsman on FOI. They have been proactive in assisting us in the implementation process of the new scheme and in monitoring its work over time. The Ombudsman's reporting is very comprehensive and provides us with good data about how we are going.

Equally, the Ombudsman has been actively involved in adjustments to the scheme as we have embedded it. We worked out how it works and found ways of streamlining it so that we can get information out in a more effective and efficient way. They were very helpful in suggesting items.

There were some amendments that proceeded in 2019, through the Assembly, which made some adjustments to the system to take away administrative barriers where we saw that we were getting administrative churn in the process which was taking away from the actual activity of getting information out to applicants.

In terms of people's experience of the complaints process with the Ombudsman, I think there are relatively few complaints that have gone through. I do not have any direct experience of that, but I take some heart from the fact that we are able, between directorates and the Ombudsman's office, to resolve most issues that come up. That is a measure of an effective complaints handling process. That is one that I think is a good one.

MS CLAY: In some jurisdictions we have a dedicated information commissioner, but in the ACT we do not.

Mr Glenn: Yes.

MS CLAY: Do you think that the system we have at the moment is doing its job?

Mr Glenn: I think the Ombudsman is a really good mechanism to do that for us. To paint the complete picture of information oversight in the ACT, we have an arrangement with the Office of the Australian Information Commissioner to provide the privacy commissioner role. That sits outside the minister's responsibilities, but it sits within JACS. We have a direct relationship with the ACT Ombudsman on FOI. Both of those work in different ways, but they are quite complementary in the way that they work. I have good confidence in the ACT Ombudsman's ability to assist us to improve our processes on FOI.

MR CAIN: I want to go to elections, the administration of Elections ACT. In the parliamentary and governing agreement—it appears at about page 17 of the online version—the government has committed to:

Include in the post-election Electoral Act Inquiry terms of reference an examination of options to reduce the risk of potential foreign interference or influence over ACT election processes and political parties.

Has this examination taken place?

Mr Steel: This was, as I understand it, built into the inquiry on the terms of reference which is now underway in the Assembly. Those matters will be considered as part of that inquiry. It is not something I want to comment on, because the Assembly committee will look at that and then we will consider their recommendations once they have undertaken their inquiry.

THE CHAIR: That is an inquiry that is being undertaken by this committee. I am just getting the secretary to check the terms of reference to see if that is in there. That aspect is not in the terms of reference.

Mr Steel: I think the terms of reference includes “any other matter”.

THE CHAIR: It may have in the terms of reference in the Assembly, but online it is not saying “any other matter”. I am told that it does include any other matter. It is not a specific term of reference.

MR CAIN: I might make the comment that that seems unusual, given that it has been particularly highlighted in the parliamentary and governing agreement.

Mr Steel: Yes. We will not be seeking to look at it ahead of the inquiry taking place. We are interested in seeing the outcomes of the inquiry before we bring forward any legislative change.

THE CHAIR: I am told we are looking at the electronic voting.

MR CAIN: Obviously it is open to the committee to look at that particular aspect, as actually outlined in the parliamentary agreement.

Mr Steel: It is certainly not up to me to determine what the committee inquires into.

THE CHAIR: It would be open to us with any other matter, so should someone in their submission provide evidence to us on those issues, we will look at that. There are a broad range of issues that this committee will be looking into. But that is a separate inquiry. It is not in the specific terms of reference for that inquiry.

MR CAIN: On the same page, with reference to the agreement, there is a commitment to:

Introducing legislation that bans any donations from foreign sources, to apply to all parties and candidates

What is the status of this legislation?

Mr Steel: As I have mentioned before, we are looking forward to hearing from the committee with their recommendations about matters relating the Electoral Act. We will consider those recommendations before we take forward any legislative reform.

MR CAIN: Are you saying that, absent the committee inquiry, the stated priorities within the agreement would not have any traction? Is that what you are suggesting?

Mr Steel: I think they are absolutely relevant, but first we want to see a proper inquiry into the conduct of the 2020 ACT election. On that basis, the recommendations that will no doubt be made by the committee will be considered by the government in any further legislative reform, as well as the matters that have been outlined in the parliamentary and governing agreement. We are not intending to pre-empt the committee inquiry by bringing forward anything earlier than that.

MR CAIN: It seems already front of mind, though.

Mr Steel: There are certainly a few issues that many parties have flagged in relation to the 2020 election. It is appropriate, given the nature of this policy area, that all parties consider those issues, and the inquiry is the best place for that consideration to occur at first instance.

DR PATERSON: Is it correct that community facilities and management of community facilities falls under you?

Mr Steel: It does, but within the CMTEDD portfolios. Those matters have already been considered in the previous hearing.

MR CAIN: I have another Electoral Commission related question. Minister, what involvement do you have in Electoral Commission matters in your role as assigned minister under the administrative arrangements of the Electoral Act?

Mr Steel: The Electoral Commission have a major role in this space. It is quite different from other areas of government because of their independence. It is around electoral reform. The government will be looking at potential reforms that come out

of the inquiry and whether we bring forward legislation that may be developed by JACS, based on the recommendations of that committee and what the government agrees to coming from that committee.

The views of the ACT Electoral Commission will no doubt be put forward to that committee inquiry as well. I will meet with the commission; I intend to meet with them on a semi-regular basis. I have already met with them about a property matter specifically and in relation to their transitioning to new premises. I will continue to meet with them to hear about any issues that we may be able to address.

MR CAIN: What involvement will you have in future discussions about electoral boundaries in the ACT?

Mr Steel: That is a matter for the Electoral Commission. There is specific legislation that they operate under with regard to redistributions.

MR CAIN: So you will not have an involvement?

Mr Steel: The government may potentially take a view on those matters, but usually it is the political parties that put forward their views in relation to electoral boundaries through the process that is run by the commission.

THE CHAIR: Minister, thank you for appearing today.

Mr Glenn: Chair, may I correct the record before we cease?

THE CHAIR: Yes.

Mr Glenn: Thank you. In answer to a question I mentioned that CSD had the most FOI requests in 2019-20. I was wrong. CMTEDD had the most and CSD had the second highest.

THE CHAIR: I am glad we clarified that. Thank you very much for attending. If there was anything taken on notice, make sure you get it in in five days. That is the last public hearing of this committee.

The committee adjourned at 12.27 pm.