

STANDING COMMITTEE ON LEGAL AFFAIRS

Report on Annual and Financial Reports 2005-2006

MAY 2007

**Report 5**



## Committee membership

|                        |                                                                         |
|------------------------|-------------------------------------------------------------------------|
| Mr Bill Stefaniak MLA  | Chair, 8 December 2004 – 19 September 2006                              |
| Mr Zed Seselja MLA     | Chair (Appointed 19 September 2006, elected<br>Chair 22 September 2006) |
| Ms Karin MacDonald MLA | Deputy Chair                                                            |
| Dr Deb Foskey MLA      | Member                                                                  |

## Secretariat

|                   |                          |
|-------------------|--------------------------|
| Ms Robina Jaffray | Secretary                |
| Ms Lydia Chung    | Administrative Assistant |

## Contact information

|           |                                                                                        |
|-----------|----------------------------------------------------------------------------------------|
| Telephone | 02 6205 0199                                                                           |
| Facsimile | 02 6205 0432                                                                           |
| Email     | <a href="mailto:committees@parliament.act.gov.au">committees@parliament.act.gov.au</a> |
| Website   | <a href="http://www.parliament.act.gov.au">www.parliament.act.gov.au</a>               |

## Resolution of Appointment

On 7 December 2004 the Legislative Assembly for the Australian Capital Territory resolved to establish a general purpose standing committee, called the Standing Committee on Legal Affairs:

to perform the duties of a scrutiny of bills and subordinate legislation committee and examine matters related to community and individual rights, consumer rights, courts, police and emergency services, corrections including a prison, governance and industrial relations, administrative law, civil liberties and human rights, censorship, company law, law and order, criminal law, consumer affairs and regulatory services.

## Terms of Reference

On 17 October 2006 the following resolution was passed by the Legislative Assembly:

That:

- (1) the annual and financial reports for the calendar years 2005 and 2006, and the financial year 2005-2006 presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004* stand referred to the standing committees, on presentation, in accordance with the schedule below;
- (2) notwithstanding standing order 229, only one standing committee may meet for the consideration of the inquiry into the calendar years 2005 and 2006 and 2005-2006 annual and financial reports at any given time; and
- (3) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

The following annual and financial reports were referred to the Standing Committee on Legal Affairs:

- ▢ ACT Electoral Commission
- ▢ ACT Ombudsman
- ▢ ACT Policing
- ▢ Public Advocate of the ACT
- ▢ Department of Justice and Community Safety
- ▢ Office of the Director of Public Prosecutions
- ▢ ACT Emergency Services Authority
- ▢ ACT Human Rights Office
- ▢ Independent Competition and Regulatory Commission
- ▢ Legal Aid Commission
- ▢ Public Trustee for the ACT
- ▢ Victims of Crime Support Program.

## Table of contents

|                                                                                        |    |
|----------------------------------------------------------------------------------------|----|
| Committee Membership.....                                                              | I  |
| Resolution Of Appointment.....                                                         | II |
| Recommendations .....                                                                  | IV |
| 1 INTRODUCTION .....                                                                   | 1  |
| 2 AGENCY REPORTS .....                                                                 | 3  |
| 3 SOME CONCLUDING COMMENTS .....                                                       | 19 |
| APPENDIX A: LIST OF HEARINGS AND WITNESSES.....                                        | 21 |
| APPENDIX B: SUPPLEMENTARY INFORMATION AND<br>ANSWERS TO QUESTIONS TAKEN ON NOTICE..... | 23 |

## **RECOMMENDATIONS**

### **Recommendation 1**

The Committee recommends that the Government undertake a comprehensive review of the victims of crime legislative regime.

### **Recommendation 2**

The Committee recommends that smaller agencies be permitted to contribute to the annual report of the Department of Justice and Community Safety and not be required to prepare a report of their own.

# 1 INTRODUCTION

- 1.1 The annual reports of all ACT Government agencies were referred to the standing committees of the ACT Legislative Assembly on 17 October 2006.
- 1.2 Annual reports of the following agencies were referred to the Legal Affairs Committee:
  - ▢ ACT Electoral Commission
  - ▢ ACT Ombudsman
  - ▢ ACT Policing
  - ▢ Public Advocate of the ACT
  - ▢ Department of Justice and Community Safety
  - ▢ Office of the Director of Public Prosecutions
  - ▢ ACT Emergency Services Authority
  - ▢ ACT Human Rights Office
  - ▢ Independent Competition and Regulatory Commission
  - ▢ Legal Aid Commission
  - ▢ Public Trustee for the ACT
  - ▢ Victims of Crime Support Program.
- 1.3 Public hearings were held on 2 and 3 November 2006. A full list of participants is at Appendix A.
- 1.4 The Committee has no comment to make on the following reports:
  - ▢ Independent Competition and Regulatory Commission
  - ▢ Public Trustee of the ACT
  - ▢ ACT Ombudsman

## Purpose and intent of annual reporting

- 1.5 The primary function of annual reports by government agencies is to report to the ACT Legislative Assembly on the work of the agency for the financial or calendar year under review. From an accountability perspective, annual reports are an important means through which the Legislative Assembly can review the activity of the Executive and complement the work of the estimates committee process in scrutinising the operations of government.

- 1.6 The public hearing process provides Assembly Members with a timely opportunity to seek clarification about issues raised in annual reports. All transcripts of proceedings can be accessed on the Assembly Internet site - [www.parliament.act.gov.au/committees](http://www.parliament.act.gov.au/committees).
- 1.7 The content and structure of annual reports must comply with two primary sets of requirements:
- ▢ statutory requirements which define the form and content of the financial statements and other information which must be included; and
  - ▢ the Chief Minister's Annual Reports Directions, updated regularly, which deal with both content and presentation of information.
- 1.8 Annual reports are assessed each year by the Institute of Public Administration [ACT Division] against formal criteria as follows:
- The assessment method for IPAA (ACT)'s awards consists of two main elements:
- (a) Compliance with formal guidelines and requirements; and
  - (b) Internationally acknowledged attributes of good quality reporting.
- Reports must demonstrate compliance with government and parliamentary guidelines or mandatory requirements as a minimum standard to be considered for an award.<sup>1</sup>
- 1.9 As noted in the previous report on annual and financial reports, given the comprehensive nature of the IPAA's assessment the Committee considers that its limited resources are better utilised by focussing on program effectiveness and the ability for the Assembly and its committees to be informed about the level of effectiveness on appropriate reporting about government programs. The Committee has focussed, therefore, on issues of program management and reporting of that program management, rather than concentrating on an assessment of annual reports referred to it for compliance against formal guidelines.

---

<sup>1</sup> Institute of Public Administration Australia [ACT Division], *Judges Report 2003-2004*, p 5

## 2 AGENCY REPORTS

### ACT Electoral Commission

2.1 The ACT Electoral Commission is an independent statutory authority with responsibility for the conduct of elections and referendums for the ACT Legislative Assembly and for the provision of electoral advice and services. While the Commission's overall responsibility is to the ACT electorate, the Commission also provides specific services to:

- The Attorney General
- Members of the Legislative Assembly
- Political parties
- Election candidates
- ACT Government agencies
- The media
- Special interest groups.

2.2 The functions undertaken by the ACT EC include:

- Conduct of elections
- Electoral education
- Maintenance of the register of political parties
- Conducting redistributions of electoral boundaries
- Ensuring the accuracy of the electoral role
- Provision of services to other organisations on a fee-for-service basis.

### Resources

2.3 A major issue for the Commission, as for many of the smaller agencies in this portfolio, is the level of resourcing of the office. There is currently a permanent staff of five who undertake the range of functions required of the Office under the Electoral Act, through multiple functions being performed by part of a

position as opposed to entire sections in other agencies.<sup>2</sup> While the Electoral Commission staffing level is comparable on a per capita basis to other jurisdictions, the Committee was advised that challenges arise, given the need to employ a base level of staffing.<sup>3</sup> The Committee notes that, the Commission is a very small agency, with a permanent staffing level of four<sup>4</sup>.

Notwithstanding, the staffing level, the Commission is nonetheless required to undertake a full range of functions. This means that staff in small agencies such as the Commission, assume a greater range of responsibilities than would be required of them in a larger agency. There are inherent challenges for agencies and staff of such agencies as a result of this.

### **Appointment of part time commissioners**

- 2.4 Another issue of concern to the Electoral Commissioner was the failure, to date, to appoint part-time commissioners, without whom no redistribution committees could be appointed. Re-distribution committees generally commence their proceedings approximately two years prior to the next election. At the time of the hearing no part time commissioners had been appointed, consequently the 'long and detailed' process of redistribution as set out in the Electoral Act, could not be commenced.
- 2.5 Subsequent advice from the Electoral Commissioner indicated that commissioners had been appointed taking permanent effect from 31 March 2007, with interim commissioners appointed in December 2006. The redistribution process commenced formally in December 2006 with the Redistribution Committee currently considering public suggestions and comments, and a proposed redistribution to be published shortly. The public has 28 days to make further comment on the proposed redistributions.

#### *Impact of Amendments to the Commonwealth Electoral Act 1918*

- 2.6 An issue of some concern to the Electoral Commissioner was the Commonwealth Government's changes to the enrolment provisions of the Commonwealth Electoral Act 1918 and the implications of those changes for

---

<sup>2</sup> Transcript of Evidence, 2 November 2006, p 45

<sup>3</sup> Transcript of Evidence, 2 November 2006, p 45

<sup>4</sup> Elections ACT, ACT Electoral Commission Annual Report 2005-2006, p 3

the ACT. At present, the ACT automatically takes up any changes made to the Commonwealth Electoral Act in relation to enrolment provisions.

- 2.7 One group of amendments are to current enrolment procedures, specifically the closing of the rolls on the day the writs are issued and amendments to the actual method of enrolment.
- 2.8 The Commonwealth has changed the procedure for getting on the electoral role from a relatively simple one, whereby a person is required to complete a form, which is witnessed by another person to a three tiered system:
- Anyone with a driver's licence can fill in an electoral enrolment form, giving their driver's licence number and sign it. It does not need to be witnessed;
  - Those people without a driver's licence are required to produce an identity document from a list of specified identity documents and have it witnessed by a 'qualified' person;
  - If a person does not have a driver's licence and does not have an identity document, they are required to have their enrolment witnessed by two persons already on the electoral role.<sup>5</sup>
- 2.9 Another amendment which has implications for the ACT electoral role is the dates for closure of the electoral role:

The other change that the commonwealth have made to the enrolment process is to close the electoral roll for federal elections on the day of the issue of writ for new enrolments and for people moving from one electoral division to another. People who are moving within an electoral division have three days after the issue of writ to update their enrolment details, which I think is probably going to confuse people. That does not apply to ACT elections because we have fixed terms and our close of rolls is provided for in our Electoral Act. That has not been affected.

What concerns me about that process is that, typically in that current arrangement under the Commonwealth Electoral Act, people have a week between the issue of writ and the close of rolls in which to update their enrolment. Typically hundreds of thousands of people take advantage of that week to update their enrolment or to enrol for the very first time. Because the

---

<sup>5</sup> Transcript of Evidence, 2 November 2006, p 48

commonwealth is cutting that period short, there will no doubt be some people who will miss out who would otherwise have corrected their enrolment. The fact that our election is a year after the commonwealth election will mean, quite possibly, that our roll will not be in as good a shape as it might have been if people were correctly enrolled after the commonwealth election.

- 2.10 Because many people enrol at the last minute, the changes mean that many people will miss out on enrolment once the writs have been issued.
- 2.11 While the Government has accepted the Electoral Commissioner's advice that the amended enrolment process is something that needs to be accommodated, given the undesirability of having different systems for the ACT and the Commonwealth, the potential for the unnecessary disenfranchisement of people is clearly a concern.
- 2.12 The Committee notes that the Government also intends to look further at the issue of donations to political parties and financial disclosure requirements. While the ACT has its own disclosure system set out in the ACT Electoral Act 1992, in the past, the ACT has always amended its disclosure provisions to remain in step with the Commonwealth Scheme, with the same disclosure thresholds. This has meant that parties registered at both the Commonwealth and ACT levels could submit a common return.
- 2.13 However, the Commonwealth has now raised the reporting limit to \$10 000, from a threshold of \$1 500, before disclosure is required. The difficulty for the ACT is that a party registered at both levels, can submit a return under the Commonwealth Electoral Act, with a \$10 000 threshold, while a party registered in the ACT alone must submit a return, based on the \$1 500 threshold.<sup>6</sup> The ACT Government is considering whether to break the nexus on these amendments to the Electoral Act, with a view to ensuring that the bar for financial disclosure in the ACT system remains at current levels for all political parties.<sup>7</sup>

---

<sup>6</sup> Advice received from the ACT Electoral Commissioner, 30 April 2007

<sup>7</sup> Transcript of Evidence, XX November 2006, p XX

## **ACT Emergency Services Authority**

- 2.14 The ACT Emergency Services Authority, now Agency, has undergone significant structural change since the publication of the 2005-2006 annual report. There has been a change of status from a stand alone statutory authority to an agency formally incorporated into the Department of Justice and Community Safety [JACS] from 1 July 2006. For ease of reference, this report will refer to the ESA or the Agency.
- 2.15 One of the issues addressed in the annual report is a commitment to ensuring the ESA stays within its budget. During public hearings the Minister and Agency were questioned about the inability of the ESA to stay within its budget over the previous two financial years. Cost overruns in the order of 10% per annum, or more than \$13 M over the two financial years had been reported. The Committee is pleased that the Agency has publicly stated its commitment to cost control and will continue to monitor the Agency's performance in this critical area.
- 2.16 Other matters considered by the Committee included:
- The TRN/Firelink
  - Inter-agency communications
  - Operational capability and resourcing levels
  - Sustainability and the environment
  - The location of the communications centre at Canberra Airport.

### **FireLink**

- 2.17 The Committee explored the FireLink program and its operability to date. Firelink is a vehicle location and short text messaging system, which enables the ESA to have a snapshot of the deployment locations of all its vehicles at any one time. The system took a little longer to become fully operational than originally envisaged. One of the difficulties highlighted by the ESA was the coverage issue, which was to be resolved by the deployment of some additional hardware. In the short term, relay vehicles would be used instead of towers, with the ESA advising that it anticipated having towers installed at the two major problem areas, Mt Tennant and Mt Clear, by the end of the financial

year 2006-2007. The ESA advised that one of the difficulties with the installation of a tower at Mt Tennant was getting 240 volt power to the site and doing so in an economical way.

## **Inter-agency communications**

2.18 Questioning also investigated the ability of the ESA to communicate with the AFP in times of emergency. The ESA explained that the two organisations had separate systems and the ESA did not have access to the AFP network.

However, the ESA further advised that:

... when we have incidents we have a number of set procedures which are always in place. Those include the establishment of a forward command post, where we place our lead people in the field who would be running the tactical side of the operation. They stand side by side to ensure that, rather than just radio communications, they work together and plan together to get the right operational outcome.

If an incident management team has been established, the AFP will always provide us with a liaison officer. That liaison officer is in direct communication at headquarters at Curtin. In the incident room we have a direct telephone link which takes us into the police operations centre or their communications centre as necessary. Should the POC—the police operations centre—be operating, the ESA will provide the relevant liaison officers into the AFP.

We have a very well-established and well-practised network of communication between the agencies. At operational level it works very well in the field and then again from a support perspective where we are running large incidents. We have practised these recently as part of the latest counterterrorism operations to make sure that the liaison network and the linkages, which are I guess both hard through communications and soft through the people, work as effectively as we can make them.<sup>8</sup>

2.19 The ESA elaborated on liaison arrangements both with agencies within the ACT and with incoming task forces.

## **Operational capability and resourcing levels**

2.20 The Committee expressed concerns about potential trade-offs in operational

---

<sup>8</sup> Transcript of Evidence, 3 November 2006, p 70

capability as a result of the findings of the functional review and subsequent cost cutting measures. The Minister responded, advising:

- Funding for emergency services had grown by over 40% since 2003;
- The level of resourcing available for emergency services was significantly larger than three years previously;
- The Government believed the level of expenditure was adequate to meet the needs of the community.<sup>9</sup>

2.21 The Minister further advised that the ESA is undertaking some benchmarking work to assess how other services perform in other jurisdictions to assess the ACT's level of effectiveness in terms of cost.<sup>10</sup>

## **Sustainability and environment**

2.22 The Committee expressed concern that the annual report did not appear to deal adequately with the issue of sustainability and environment. In response to Dr Foskey's query about the level of specialist expertise utilised in the development of the Strategic Bushfire Management Plan, the Minister advised:

The role of land managers is absolutely crucial and the advice of land managers is a very important input in developing the fire management regime.

Given that a large part of the ACT is national park, the role of Environment ACT is very important and their advice is regularly sought and used in making assessments about the fire management regime. The bushfire council also has a role to play and it has on it a range of experts from a range of backgrounds to assist in making decisions about the fire management regime as well, and that includes people with significant environmental expertise. That advice is drawn upon and used in making these assessments.<sup>11</sup>

2.23 The Committee was further advised of the following practical examples, where environmental and sustainability issues were addressed:

---

<sup>9</sup> Transcript of Evidence, 3 November 2006, p 76

<sup>10</sup> Transcript of Evidence, 3 November 2006, p 76

<sup>11</sup> Transcript of Evidence, 3 November 2006, p 83

- A full environmental impact statement and an archaeological assessment was being undertaken before the Mt Tennant tower was erected;
- Before undertaking roadside burns in 2005 the ESA dealt with all the associated land management agencies to get advice on JS layers for rare and endangered species, rare and endangered vegetation;
- The ESA and JACS were a sponsor of the Bushfire Cooperative Research Council.<sup>12</sup>

## Relocation of ESA Headquarters to Fairbairn

- 2.24 In relation to the Government's decision to relocate the ESA headquarters to Fairbairn under a leasing arrangement with Capital Airport Group, the Minister advised that there was an extensive range of issues still to be worked through, including awaiting advice from the CAG in relation to the condition and age of some of the buildings and the outcome of an examination of the staffing profile in order that precise accommodation needs could be identified.<sup>13</sup>

## ACT Policing

- 2.25 The ACT Government obtains community policing services from the AFP under a contractual arrangement with the Commonwealth Government and the AFP. ACT Policing, a division of the AFP, under the Chief Police Officer of the ACT, provides the following services for the amounts indicated:
- crime and safety management - \$81 206 000;
  - traffic law enforcement and road safety - \$6 560 000;
  - prosecution and judicial support - \$6 034 000; and
  - crime prevention - \$4 111 000.<sup>14</sup>
- 2.26 During the hearing, the Committee pursued the following matters:

---

<sup>12</sup> Transcript of Evidence, 3 November 2006, pp 84-85

<sup>13</sup> Transcript of Evidence, 3 November 2006, p 89

<sup>14</sup> Purchase Agreement, p 5, [http://www.jcs.act.gov.au/eLibrary/act\\_community\\_policing.html](http://www.jcs.act.gov.au/eLibrary/act_community_policing.html)

- Complaints statistics and the new complaints procedures under the Law Enforcement Integrity Commissioner Bill 2006 and the Law Enforcement Integrity Commissioner (Consequential Amendments) Bill 2006;
- Suburban policing strategy;
- Crime statistics.

2.27 Given that the Committee will soon table a report dealing specifically with ACT Policing, the Committee will not comment further in this report on matters relating to ACT Policing.

## **ACT Human Rights Office**

2.28 The Human Rights Office [HRO] is an independent statutory agency with a brief 'to foster a human rights culture in the ACT through developing community understanding and acceptance of human rights, and the elimination of discrimination'<sup>15</sup>. The HRO is included within the Department of Justice and Community Safety for administrative purposes.

2.29 The major issues considered by the Committee included:

- The impact of the outcome of the functional review on the HRO and its agglomeration into a single entity from separate entities;
- The consequential reduction in funding and potential for undermining the Office's capacity to carry out its statutory responsibilities;
- The new youth detention facility and human rights considerations;
- A comprehensive review of the Discrimination Act to be undertaken in the next financial year.

## **ACT Legal Aid Commission**

2.30 The ACT Legal Aid Commission is an independent statutory authority, which 'aims to maximise the ability of people, especially the financially disadvantaged, to access the justice system by providing varied legal services

---

<sup>15</sup> ACT Human Rights Office, *Annual Report 2005-2006*, p 6

through in-house salaried lawyers and lawyers in private practice'<sup>16</sup>.

2.31 Major issues pursued with the Commission included:

- Tendering out of child representation work;
- The ongoing decline of numbers of experienced legal practitioners prepared to take on legal aid work;
- The level of 'bad debts' and accounting treatment of those debts;
- Sentencing reforms, including the implications of the possible extension of restorative justice practices into the adult legal system;

2.32 The Committee placed on record its appreciation for the work done by the retiring Director of Legal Aid, Mr Chris Staniforth.

## Department of Justice and Community Safety

2.33 The Department of Justice and Community Safety [JACS] 'seeks to ensure a fair civil and criminal justice system and a safe community in which people's rights and interests are respected and protected'<sup>17</sup>. The Department comprises the following divisions:

- Policy and regulatory division
- ACT law courts and tribunals
- ACT government solicitor's office
- Registrar-General's office
- ACT parliamentary counsel's office
- ACT corrective services
- Corporate services.

2.34 Major issues pursued with the Department included:

- The purchasing agreement with the AFP for policing services and trends in property crime;

---

<sup>16</sup> ACT Legal Aid Commission, *Annual Report 2005-2006*, p 8

<sup>17</sup> Department of Justice and Community Safety, *Annual Report 2005-2006*, p 2

- Corrective services including the ACT prison project [Alexander McConachie Centre] and related matters such as occupancy numbers, proposed new policies and strategies for the Centre, costs of operating the Centre and origin of prisoners;
- Matters relating to the bushfire inquest, the timing of the report and costs of counsel;
- Auditor-General's report on courts administration and implementation of the recommendations;
- Progress towards new civil unions legislation;
- The regulation and training of the private security industry;
- the Victims Support Scheme;
- Increases in hardship applications to the Essential Services Consumer Council;
- Operation of the Mental Health Tribunal and report of the Official Visitor.

## Public Advocate of the ACT

2.35 The Public Advocate undertakes the statutory responsibilities set out in the Public Advocate Act 2005, which requires the Public Advocate to promote the rights of and monitor services provided to people with a disability, children and young people, and also to represent forensic patients<sup>18</sup>. The Public Advocate also has responsibility for the promotion of community education about the functions of the office.

2.36 The committee considered the following matters:

- The effects of the new legislation of 1st March 2006, with a focus on the location and monitoring of any gaps in services;
- The need for legislative change to address the anomalous situation in the ACT where next of kin is unable to act for the purpose of medical directive. All other states allow next of kin to make decisions at times of medical emergencies;

---

<sup>18</sup> Forensic patients are people who have a disability and are involved in the criminal justice system.

- Efficiency measures and budgetary constraints affecting/reducing level of service (no increase in staffing over the past 10 years + numbers and complexity in guardianship increasing);
- the approximately 40% increase in visits to people with mental illness/dysfunction held in remand + increasing resources needed to deal with these;
- monitoring and auditing of the Office for Children Youth and Family Support;
- The lack of mental health residential/in-patient facilities for youth, which are currently using adult in-patient facilities or Sydney facilities.

## Office of the Director of Public Prosecutions

2.37 The role of the Director of Public Prosecutions is to determine whether or not to continue or initiate the prosecution of matters referred by the AFP and ACT public sector regulatory agencies; to conduct the prosecutions and any subsequent appeals.<sup>19</sup>

2.38 Issues considered by the committee included:

- The DPP's office's relationship with the Supreme Court;
- Resourcing constraints.

### Relationship with the Supreme Court

2.39 The DPP commented very directly in his annual report on adverse reflections on his office from the Supreme Court bench over a period of time and on the number of directed acquittals in the Supreme Court over the past two years, both of which, the DPP argued, had the potential to undermine the integrity and professionalism of his Office. He stated:

The words I chose to put in my report were chosen very carefully and what I said was that there is an appearance; that the challenge is that our work—not our individuals but our work—seems to be met with antipathy. I'm not one who feels sour grapes at decisions I don't like, but the issue of our relationship with the Supreme Court is a complex one, for a combination of a whole range of factors. As I'm sure the committee would know, the appeal process is not one that is—appropriately I say—as available to me as

---

<sup>19</sup>

Director of Public Prosecutions, Annual Report 2005-2006, p 5

it is, for instance, to a defendant. I can't appeal against an acquittal. There are proper but quite limited strictures on the appeals against sentencing and so, of course, there are situations where decisions are taken with which I don't agree; but I have no capacity to test those.<sup>20</sup>

- 2.40 The DPP canvassed the desirability of an appeal mechanism whereby he could pursue on appeal a matter which he considered had been decided incorrectly at law:

One of the options would be a limited but expanded right of appeal from acquittals, for instance where there is an issue of law at stake, equivalent to, for instance, the appeal process that is available in Western Australia, in Tasmania, in Canada and a number of other countries, so that where there is a possibility of a decision at law that has been made that is wrong that can be reviewed. At the present time there is a mechanism for such a review but it's one that doesn't have any consequence in terms of the decision being changed, and the difficulty with that, of course, is that then the community is left with the position where the law might have been seen to be wrong and yet nothing can be done about the actual circumstances.<sup>21</sup>

- 2.41 The other matter directly referred to by the DPP was the apparent negative perceptions of his Office by the Supreme Court:

The other issue is that I regularly get feedback from my prosecutors and they feel when they go to court often as though there is no enthusiasm for them being there, as though they're engaged in an undesirable dispute or a tolerated but unwelcome necessity. Again, whether they have accurately assessed the reception that they get, it is something that needs to be fed back and this is a mechanism for feeding it back. As a result of this, the chief justice and I have had an exchange of letters and correspondence. We've got a meeting next week and we will discuss the matter. I've raised it but I have a statutory obligation to report to the government and the community on the environment in which we operate. There have been challenges in my office, there have been challenges about obtaining and retaining staff, and there are challenges about the environment in which we work and it's important that the community understands what we see as

---

<sup>20</sup> Transcript of Evidence, 3 November 2006, p 117

<sup>21</sup> Transcript of Evidence, 3 November 2006, pp 117-118

part of that environment.<sup>22</sup>

- 2.42 The DPP considered that the professionalism of his Office was being undermined and that the impact on staff was detrimental. He advised that he was having discussions with the Chief Justice about the matter in the near future.<sup>23</sup>

## Victims of Crime Support Program

- 2.43 The Victims of Crime Support Program is a support program to 'establish a standard for the proper treatment of victims of crime within the ACT criminal justice system. Under the legislation, the *Victims of Crime Act 1994*, there is a position, the Victims of Crime Co-ordinator, which has been established to ensure that 'justice is delivered efficiently and effectively to victims of crime in the ACT and that the needs of victims of crime are appropriately catered for by the criminal justice process. The position is administered within the Magistrate's Court. There is also a Victims of Crime Financial assistance program set up under a separate act, the *Victims of Crime Financial Assistance Act 1983*.
- 2.44 A major issue for the Coordinator expressed in the annual report was 'a concern about the resources available to fulfil the statutory duties contained with the *Victims of Crime Act 1994*' and 'the capacity of the Office to fulfil the statutory duties of the Domestic Violence Project Coordinator under the *Domestic Violence Agencies Act*'.<sup>24</sup> Both functions are filled by the same person. The report states:

The situation remains chronic and seriously compromises the capacity of the Victims of Crime Coordinator [VoCC] to fulfil the functions of the independent statutory advocacy.<sup>25</sup>

- 2.45 The report calls for a review of the *Victims of Crime Act 1994*. The Committee reminds the Assembly that, in August 2004, it tabled a report on the Victims of

---

<sup>22</sup> Transcript of Evidence, 3 November 2006, p 118

<sup>23</sup> Transcript of Evidence, 3 November 2006, p 118

<sup>24</sup> Victims of Crime Support Program, *Annual Report 2005-2006*, p 5

<sup>25</sup> Victims of Crime Support Program, *Annual Report 2005-2006*, p 5

Crime (Financial Assistance) Amendment Bill 2003, recommending to the Government 'a comprehensive review of the *Victims of Crime Act 1994*, the *Victims of Crime Financial Assistance Act 1983* and Regulations'. To date the Government has not responded to that report and no further action has been taken on the recommendations contained in the Committee's report.

- 2.46 The Committee considers that the issues remain relevant and in urgent need of attention. The Committee therefore urges the Government to reconsider the report of the Standing Committee on Legal Affairs, tabled in August 2004, and undertake a comprehensive review of the legislative scheme underpinning the Victims of Crime Support Program.

## **RECOMMENDATION 1**

- 2.47 **The Committee recommends that the Government undertake a comprehensive review of the victims of crime legislative regime.**



## 3 SOME CONCLUDING COMMENTS

### Resourcing constraints

- 3.1 The Committee noted in its previous report on annual reports the difficulties current resource constraints imposed on many agencies, particularly such organisations as the Office of the Public Advocate, the Electoral Commission and the Victims of Crime Support Program, ie small, labour intensive operations, with few options to generate efficiency dividends without cutting staff. The Committee notes that such constraints necessarily restrict the type and quantum of services provided by these agencies and also compel the agencies to rigidly prioritise services, given the breadth of their statutory responsibilities. The Committee is concerned that continued tight funding and staffing constraints will continue to impact adversely on ACT residents, who will have available to them fewer and more limited services than are available in the rest of Australia.
- 3.2 One mechanism by which limited resources can be directed to core functions is to allow the very small agencies to contribute to the Departmental annual report, instead of requiring them to produce an individual report. The Committee considers that there may be considerable resource savings in such a reform. A proliferation of annual reports where a single report would suffice is to no one's advantage.

### RECOMMENDATION 2

- 3.3 **The Committee recommends that smaller agencies be permitted to contribute to the annual report of the Department of Justice and Community Safety and not be required to prepare a report of their own.**

### Websites

- 3.4 During the course of consideration of annual reports, the Committee has needed to access other source material, including websites. The Committee is

concerned that some websites do not appear to be appropriately maintained. Websites need to contain accurate information. They are the first port of call for many inquiries, both from the general public and from within the public sector.

3.5 The Committee considers that websites should be, at a minimum:

- easy to access and user friendly;
- accurate and up to date.

3.6 For example, the Department of Justice and Community Safety's website links to the Emergency Services Agency website are no longer operational. It is necessary to use the search function to get to the ESA website as neither the "services" nor "agencies" buttons are linked to the website. It is also difficult to find any information about the new administrative arrangements which affect JACS and the ESA so profoundly on the website.

3.7 Agency websites are often going to be the first point of contact for many people. The Committee, therefore considers that it is incumbent on all agencies to continually assess their websites, to ensure that they are appropriately maintained and updated. The Committee will continue to monitor this aspect of agency operations through the annual report process.

Zed Seselja MLA

Chair

[15 May 2007]

## Appendix A: List of Hearings and witnesses

*2 November 2006*

Corbell, Mr Simon, Attorney-General, Minister for Police and Emergency Services

Department of Justice and Community Safety

Leon, Ms Renee, Chief Executive

Phillips, Mr Brett, Deputy Chief Executive

Joyce, Mr Phillip, Acting Courts Administrator

Ottrey, Ms Jeanne, Executive Officer, Corporate Services

Phillips, Ms Anita, Public Advocate

Clifford, Mr John, Acting Parliamentary Counsel, Parliamentary Counsel's Office

Garrison, Mr Peter, Chief Solicitor, Government Solicitor's Office

Brown, Mr Tony, Fair Trading Commissioner and Acting Executive Director, Office of Regulatory Services

Krajina, Ms Danielle, Acting Registrar-General, Office of Regulatory Services

Jory, Mr Derek, Director, Justice Planning and Procurement, Legal Policy Division and Acting Senior Director, Legal Policy Division,

Ryan, Mr James, Executive Director, ACT Corrective Services

Paget, Mr John, Director, Prison Project, ACT Corrective Services

Watchirs, Dr Helen, Human Rights and Discrimination Commissioner

Matcham, Mr Ray, Senior Assistant Ombudsman, ACT Ombudsman's Office

Brown, Ms Vicki, Senior Assistant Ombudsman, ACT Ombudsman's Office

Caruana, Ms Jane, Victims of Crime Coordinator

Essential Services Consumer Council

Sutherland, Mr Peter, Chairperson

*3 November 2006*

Corbell, Mr Simon, Attorney-General, Minister for Police and Emergency Services

Emergency Services Agency

Clement, Mr Trevor, Acting Commissioner

Paulsen, Mr Ken, Chief Officer, ACT Ambulance Service

Maguire, Mr Chris, Acting Chief Officer, ACT Fire Brigade

Ross, Mr Michael, Chief Officer, ACT Rural Fire Service

Graham, Tony, Chief Officer, ACT State Emergency Service

Harper, Mr Matthew, Director, Emergency Management Operations

Crowhurst, Ms Moira, Acting Chief Finance Officer

Rixon, Ms Sue, Manager, Human Resources

## ACT Policing

Fagan, Ms Audrey, ACT Chief Police Officer  
Williams, Mr Paul, Director Corporate Services

## Director of Public Prosecutions

Refshauge, Mr Richard, Director of Public Prosecutions

## Department of Justice and Community Safety

Leon, Ms Renee, Chief Executive

## **Appendix B: Supplementary information and answers to questions taken on notice**