

STANDING COMMITTEE ON JUSTICE AND COMMUNITY
SAFETY

Report on Annual and Financial Reports 2007– 2008

JUNE 2009

Report 1

Committee Membership

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Ms Mary Porter AM MLA	Deputy Chair
Ms Meredith Hunter MLA	

Secretariat

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Resolution of appointment¹

On 9 December 2008 the Legislative Assembly appointed a Standing Committee on Justice and Community Safety 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 11 December 2008 the Legislative Assembly referred the annual and financial reports for the calendar year 2008 and the financial year 2007–2008 presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 2004* to the Assembly's Standing Committees as set out in a schedule.²

¹ Legislative Assembly for the ACT, *Minutes of Proceedings*, Tuesday 9 December 2008, p 13

² Legislative Assembly for the ACT, *Hansard*, Thursday 11 December 2008, p 307

Abbreviations

a/g	acting
ACAT	ACT Civil and Administrative Tribunal
ACT	Australian Capital Territory
ACTESA	ACT Emergency Services Agency
ACTEW	Territory owned corporation which provides energy, water and wastewater services to the ACT
AER	Australian Energy Regulator
AFP	Australian Federal Police
ALS	Aboriginal Legal Service
AMC	Alexander Maconochie Centre
ANU	Australian National University
CCTV	closed circuit television network
CEO	Chief Executive Officer
CFU	Community Fire Units
COAG	Council of Australian Governments
DPP	Director of Public Prosecutions
EPIC	Exhibition Park in Canberra
ICRC	Independent Competition and Regulatory Commission
JACS	Department of Justice and Community Safety
ORS	Office of Regulatory Services
PTACT	ACT Public Trustee
RAPID program	Recognition and Analysis of Plates Identified program
RFS	Rural Fire Service
SES	State Emergency Service
TAMS	Department of Territory and Municipal Services

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RECOMMENDATIONS

RECOMMENDATION 1

2.3 The Committee recommends that the Department of Justice and Community Safety improve the design, and print and binding quality of its future annual and financial reports.

RECOMMENDATION 2

2.13 The Committee recommends that around-the-clock and real-time monitoring of the CCTV network begin as soon as possible and as funding permits, in those areas where community safety is most at risk.

RECOMMENDATION 3

2.27 The Committee recommends that the Attorney General report to the Assembly by the end of 2009 on the value of outstanding fines owed to the Territory, and on what progress had been made with improving the rate of collection of fines.

RECOMMENDATION 4

2.35 The Committee recommends that ACT Corrective Services and ACT Health provide a briefing to the Standing Committee on Justice and Community Safety on the detoxification facilities and services available in ACT correctional facilities.

RECOMMENDATION 5

3.21 The Committee recommends that the activities of the Snowy Hydro SouthCare Helicopter, including the number of its missions, be reported more thoroughly in future departmental annual reports.

RECOMMENDATION 6

4.7 The Committee recommends that the ACT Government investigate establishing a system of water charge rebates for households, where it can be demonstrated that a family or individual will be adversely affected by water pricing due to the number of people in the household, or a family member's disability or illness. This may be similar to the rebate for electricity and gas that currently exists under the Community Service Obligations.

RECOMMENDATION 7

4.16 The Committee recommends that the Human Rights Commission provide an update to the Committee every three months on progress with

the upgrading of its case-management system for health complaints, until the system is established and functioning effectively.

RECOMMENDATION 8

4.19 The Committee recommends that the Attorney General engage in a thorough consultation about proposed amendments to the *Discrimination Act 1991* (ACT), including racial harassment and religious vilification, before bringing the legislation forward.

RECOMMENDATION 9

4.25 The Committee recommends that the Public Advocate for the ACT offer to brief the Standing Committee on Health, Community and Social Services on the conclusions of the Public Advocate's analysis of service provision for people discharged from the psychiatric services unit.

RECOMMENDATION 10

4.28 The Committee recommends that the ACT Government, including the Public Advocate of the ACT and the Public Trustee for the ACT, investigate the feasibility of establishing a register of enduring powers of attorney in the ACT.

RECOMMENDATION 11

4.45 The Committee recommends that the Attorney General ask the Office of the Director of Public Prosecutions to develop a fee-for-service proposal for the delivery of training courses to the Australian Federal Police on prosecution procedures.

1 INTRODUCTION

Referral of the inquiry

- 1.1 On 11 December 2008 the Legislative Assembly referred the following annual and financial reports for the calendar year 2008 and the financial year 2007–2008 to this Committee:³
- ACT Electoral Commission;
 - ACT Human Rights Commission;
 - ACT Ombudsman;
 - ACT Policing;
 - Department of Justice and Community Services including the Emergency Services Agency;
 - Director of Public Prosecutions;
 - Independent Competition and Regulatory Commission;
 - Legal Aid Commission (ACT);
 - Public Advocate of the ACT;
 - Public Trustee for the ACT; and
 - Victims of Crime Support Program.⁴
- 1.2 The annual reports referred to the Committee cover the portfolio responsibilities of the Attorney General, the Minister for Corrections and the Minister for Police and Emergency Services.

Conduct of the inquiry

- 1.3 The inquiry process provides an opportunity for Assembly Members to seek clarification about issues raised in annual reports.

³ Legislative Assembly for the ACT, *Hansard*, Thursday 11 December 2008, p 307

⁴ Legislative Assembly for the ACT, *Hansard*, Thursday 11 December 2008, p 307–311

- 1.4 The Committee held public hearings on 18 February, 19 February, 27 February and 12 March 2009. Witnesses who appeared before the Committee at public hearings are listed at Appendix A. The full transcript of public hearings is available on the Assembly website at <http://www.hansard.act.gov.au/hansard/2009/comms/default.htm>.
- 1.5 The Committee met in deliberative meetings on 13 May 2009 and 24 June 2009 and adopted the report on 24 June 2009.

Purpose and intent of annual reports

- 1.6 Agency reporting requirements are set out in the *Annual Report (Government Agencies) Notice 2008*.⁵ This Notice includes the Chief Minister's Annual Reports Directions (the Directions) which are issued under the *Annual Reports (Government Agencies) Act 2004*. As key accountability documents concerning management performance, annual reports reflect on the year's performance, achievements and outcomes. They are also a concise way of accounting for the expenditure of public monies.
- 1.7 Agencies account for management performance through Ministers to the Legislative Assembly and the wider community. Since annual reports are tabled in the Assembly, they are historical documents on the public record, and are available for use by stakeholders, including educational and research institutions, the media and the public. Annual reports are also key reference documents, and documents for internal management.
- 1.8 As specified in the *Directions*, annual reports should be 'an objective account, primarily to the Legislative Assembly, of *how* the entity has performed during the reporting year'.⁶
- 1.9 The Directions also specify that an effective annual report will:
- provide a clear picture of the agency's purpose, priorities, outputs and achievements;
 - focus on results and outcomes – communicate the success or otherwise,

⁵ Annual Reports (Government Agencies) Notice 2008 (No 1) (repealed) NI2008-225, accessible at <http://www.legislation.act.gov.au/ni/2008-225/default.asp>

⁶ *Chief Minister's 2007–2010 Annual Report Directions*, p 7

including shortfalls, of the agency's activities in achieving ACT Government policy outcomes in the reporting year, while accounting for the resources used in the process;

- discuss results against expectations – provide sufficient information and analysis for the Assembly and community to make a fully informed judgement on agency performance;
- clearly identify any changes to structures or functions of the agency in the reporting period and explain changes in performance over time;
- report on agency financial and operational performance and clearly link with budgeted priorities and financial projections as set out in annual Budget Estimate Papers and the agency Statement of Intent and Corporate Plan;
- provide performance information that is complete and informative, linking costs and results to provide evidence of value for money;
- discuss risks and environmental factors affecting the agency's ability to achieve objectives including any strategies employed to manage these factors, and forecast future needs and expectations;
- recognise the diverse needs and backgrounds of stakeholder groups and present information in a manner that is responsive to the maximum number of users while maintaining a suitable level of detail;
- comply with any specific legislative reporting requirement; and
- comply with the *Annual Reports (Government Agencies) Act 2004* and the Chief Minister's Annual Report Directions.

1.10 Annual reports may also be assessed by the Institute of Public Administration (ACT Division) against criteria which include:

- compliance with formal guidelines and requirements;
- internationally acknowledged attributes of good quality reporting; and
- compliance with ACT Government and parliamentary guidelines of mandatory requirements as a minimum standard to be considered for an award.⁷

⁷ Institute of Public Administration Australia [ACT Division], *Judges Report 2003–2004*, p 5

2 DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY

- 2.1 The Department of Justice and Community Safety (JACS) provides services that aim to protect the rule of law and human rights, protect and preserve life, property and the environment, provide effective emergency management, and implement and enforce legislation covering regulatory functions of government. While many of the agencies considered in this report produce their own annual reports, all of them, barring ACT Policing, fall within JACS' area of responsibility.
- 2.2 The Committee notes that many of the annual reports that it considered were well laid out with thoughtful content. Many of the smaller agencies produced very effective annual reports. The Committee was disappointed, however, with the standard of the JACS report. The text, in blue, was difficult to read and tended to merge with headings. Tables frequently crossed pages and at times became detached from their headings. The binding of the report was inadequate and did not survive the repeated use required during Committee consideration. The Committee suggests that JACS should reconsider its approach for its next annual report.

RECOMMENDATION 1

- 2.3 **The Committee recommends that the Department of Justice and Community Safety improve the design, and print and binding quality of its future annual and financial reports.**

Restorative justice

- 2.4 The Committee enquired about the operation of the *Crimes (Restorative Justice) Act 2004 (ACT)*. In the reporting year nearly 300 young offenders had been referred under the Act in relation to 597 offences. Of the cases finalised during the year, 121 agreements were complied with, and six were not complied with. The reported 95 per cent compliance rate was an improvement on the 90 per

cent rate of the previous year.⁸ The Committee was pleased to hear that a review had also indicated a decrease in recidivism and a high level of satisfaction by both offenders and victims with the process. The Committee looks forward to the ACT Government's proposals to extend the program to adult offenders.⁹

Aboriginal Justice Agreement

- 2.5 The ACT Government is proposing to enter into an Aboriginal Justice Agreement with the Aboriginal Justice Centre in relation to the provision of justice services to members of the ACT Indigenous community.
- 2.6 The Aboriginal Justice Centre is an independent community based association incorporated under the *Associations Incorporation Act 1991* (ACT). It has been provided funding under a three-year Service Funding Agreement which began in the 2006–07 financial year. The Agreement requires the Centre to report every six months against agreed performance indicators and to provide an annual audit report, and other financial reports.¹⁰
- 2.7 The aim of the proposed Agreement is to have agreed objectives incorporated in service-level agreements with relevant organisations. Issues being discussed include 'the needs of youth, family violence, rehabilitation, transition and post-release programs from prison, access to legal services, mental health and drug and alcohol support programs'.¹¹ ACT Policing, the courts, Corrective Services and other agencies have been involved in discussions.
- 2.8 A whole-of-government working group has been established to oversee the development and negotiation of the Agreement. It includes the Aboriginal Justice Centre and the ACT's Indigenous elected body. The timeframe for the commencement of the Agreement is not fixed due to the need for extensive consultation, but it may be towards the middle of 2010.¹²

⁸ ACT Department of Justice and Community Safety, *Annual Report 2007–08*, pp 15–16

⁹ Legislative Assembly for the ACT, Standing Committee on Justice and Community Safety, *Transcript of Evidence*, 19 February 2009, p 21

¹⁰ Attorney General, Mr Simon Corbell MLA, Answer to question on notice, 24 March 2009

¹¹ *Transcript of Evidence*, 19 February 2009, p 23

¹² *Transcript of Evidence*, 19 February 2009, p 23

Closed circuit television (CCTV) network

2.9 The Committee asked about the CCTV network. The Minister noted that all cameras were operating in Civic and had recently been upgraded. The network is monitored on an 'as needs' basis by ACT Policing. The Minister advised:

The government at this stage does not provide funding to ACT Policing to monitor the network on an ongoing 24-hour-a-day basis. The situation for some time has been that the network is monitored on an as-needs basis by the police. For example, the police can choose to monitor the network in real-time at times of major gatherings in the city, for example, New Year's Eve, when they use it to assist their foot patrols. At all other times the information is simply recorded and can be recalled as and when needed for evidentiary purposes or for the purposes of police investigations.¹³

2.10 The Minister advised the Committee that an audit committee had advised that satisfaction with the system had improved as new cameras had been installed and the new contract arrangement provided for more reliable and responsive maintenance to rectify faults quickly.¹⁴ The network was being expanded with additional cameras in Civic and new cameras in Manuka (including Manuka Oval), Kingston and Exhibition Park in Canberra (EPIC). Installation would be complete by the end of the financial year, except for EPIC which should be complete by the end of September 2009.

2.11 The network will be monitored from the Winchester Police Centre and recordings will be accessible both on site and at Winchester. Recordings are kept for 30 days.¹⁵

2.12 The Committee notes that the 2009–10 ACT Budget provided \$1.624 million over four years for monitoring CCTV systems in place in Civic, Manuka and

¹³ *Transcript of Evidence*, 19 February 2009, p 24

¹⁴ *Transcript of Evidence*, 19 February 2009, p 24

¹⁵ *Transcript of Evidence*, 19 February 2009, pp 23–26

Kingston during peak periods.¹⁶

RECOMMENDATION 2

- 2.13 **The Committee recommends that around-the-clock and real-time monitoring of the CCTV network begin as soon as possible and as funding permits, in those areas where community safety is most at risk.**

Building projects

- 2.14 The Committee notes that the Attorney General advised the Select Committee on Estimates on 25 May 2009 that a feasibility study for a new Supreme Court building had been completed and was being considered by Government. One option was to use the site of the existing building, subject to an assessment of any heritage and other planning constraints. The Attorney General advised that until a decision was made about the location for the proposed new building, a definitive answer on the future of the existing Supreme Court building could not be given. He said:

What I would say is that, if the government takes the view that it is not appropriate or not feasible to redevelop the existing site, the building will need to be retained and will need to be upgraded and put to another use. That would most likely be a use associated with the legal precinct. It may, for example, be private chambers for law firms; it may be a range of community uses yet to be identified.¹⁷

- 2.15 The Attorney General also advised the Select Committee on Estimates that work was progressing on establishing a new forensic medical centre at Phillip to replace the old mortuary facility at Kingston.¹⁸
- 2.16 A contract has been let for the refurbishment of parts of the ACT Health Building at 1 Moore Street in Civic, including for accommodating the ACT

¹⁶ Minister for Police and Emergency Services, Mr Simon Corbell MLA, 'Investing in community safety in Canberra nightspots', Media release, 5 May 2009; *Budget Paper 1: Speech*, p 15

¹⁷ Legislative Assembly for the Australian Capital Territory, Select Committee on Estimates 2009–2010, (Reference: Appropriation Bill 2009–2010), *Transcript of Evidence*, 25 May 2009, p 807

¹⁸ Legislative Assembly for the Australian Capital Territory, Select Committee on Estimates 2009–2010, (Reference: Appropriation Bill 2009–2010), *Transcript of Evidence*, 25 May 2009, p 803

Civil and Administrative Tribunal (and other parts of JACS). Design work was underway in April, and the project was expected to be completed by the end of September 2009, at an estimated cost of \$2.9 million.¹⁹

ACT Government Solicitor

- 2.17 The Committee asked about the decline in the number of opinions the Government Solicitor's office was producing. The Chief Solicitor said that this gradual decline had been caused by a combination of requests for advice being more complex and requiring more time to complete, and better filtering at the departmental end to ensure that advice was really required before being requested.²⁰
- 2.18 The Government Solicitor has stopped doing conveyancing for ACT Housing and the Land Development Agency. These agencies were paying the Government solicitor for this advice so it made more sense for them to procure this from private firms allowing the Government Solicitor to redeploy resources to other priorities.²¹

Essential Services Consumer Council

- 2.19 The Committee noted the concerns of the Essential Services Consumer Council that its absorption into the ACT Civil and Administrative Tribunal (ACAT) would remove their advocacy role for utilities consumers. The Attorney General said that there had been no substantive changes to the underlying legislation and that ACAT would be able to raise systemic issues with the Minister just as the Council could.²² Section 174 of the *Utilities Act 2000* (ACT) requires the ACAT to indicate systemic problems in relation to the ACT and bring them to the Minister's attention.²³

¹⁹ Project Coordination Pty Ltd, 'Level 4, 1 Moore Street Fit Out (\$2.90 m)', accessed 22 June 2009 at <http://www.projectcoord.com.au/Latest_News.htm?Page=news>

²⁰ *Transcript of Evidence*, 19 February 2009, pp 36–37

²¹ *Transcript of Evidence*, 19 February 2009, p 37

²² *Transcript of Evidence*, 19 February 2009, pp 37–38

²³ Attorney-General, Answer to question taken on notice, 25 March 2009

Office of Regulatory Services

- 2.20 The Committee noted that there had been complaints about the Office of Regulatory Services (ORS) being located in Fyshwick. The Attorney General noted that the previous location for the Registrar of Births, Deaths and Marriages in Civic had problems with a lack of short term parking. The Fyshwick site was identified as a site already owned by the Territory that would be suitable for a significant part of the functions of ORS. It has much better parking facilities although public transport access is not as good. Officials noted that registration of events could take place by mail and that the move was more of an issue for land titles clients, although this has been partially addressed by the provision of online land titles searching.²⁴
- 2.21 The Committee asked about fireworks regulation. Officials explained that there were 364 applications to licence individual fireworks for sale in 2007–08. Each of these applications was assessed to ensure that the firework met the relevant criteria. At the end of the firework period ORS audits the books of all firework sellers to ensure that regulations were complied with such as evidence of date of birth checked and customer signature taken. Of the 18 000 sales of fireworks in 2008 there was an error rate of 1.73 per cent in the receipts.²⁵ The Dangerous Substances Regulation 274 sets out the penalties relating to consumer fireworks, the highest of which are fines of \$3 000 for an individual or \$15 000 for a corporation.²⁶

Retirement village regulation

- 2.22 The Committee asked about the licensing of retirement villages. The Attorney General replied that they were regulated by Commonwealth licensing arrangements. The Territory's role was with the code of practice that protected consumers. If there is an alleged breach of the code ORS investigates it and tries to reach a mutually agreed finalisation of the matter. Officials noted that the code particularly focussed on financial matters and where there is a dispute over the setting of fees, the matter is referred to an accountant for

²⁴ *Transcript of Evidence*, 19 February 2009, pp 42–43

²⁵ *Transcript of Evidence*, 19 February 2009, pp 45–46

²⁶ Attorney-General, Answer to question taken on notice, 25 March 2009

audit purposes, and an independent arbiter can be appointed to set the fees.²⁷

Brothel and escort industry regulation

- 2.23 The Committee asked about the regulation of brothels and sole practitioner escorts – of which there was a total of about 30 in the ACT. Officials explained that in the ACT operates a registration regime for sole practitioners. ORS keeps a register of brothels and a register of sole practitioners, but an individual working in a registered brothel does not have to be registered. Registration must be renewed annually and upon registration proprietors must provide evidence of good character in relation to police checks and past records. ORS generally refers any complaints about the industry to the police. ORS has no inspectorate role apart from its occupational health and safety role through Workcover. ACT Health has some responsibility in relation to health management.
- 2.24 The Attorney General said that it is important to note that this is a legal activity in the ACT and the regulatory approach is based on this fact. The Committee acknowledges this, but notes that it is an industry that can pose dangers to vulnerable individuals, including those underage or with irregular immigration status. The Committee welcomes the advice that ACT Policing consider they have a good understanding of what is occurring in the industry and that the Commonwealth Department of Immigration and Citizenship is across issues of illegal immigrants working in brothels. The Committee may seek briefings on these matters at a later date.²⁸

Unrecovered fines

- 2.25 The Committee expressed concern about the large number of outstanding fines owed to the Territory. The Attorney General explained that this issue was the responsibility of the courts, and the Department of Territory and Municipal Services (TAMS) which was responsible for traffic regulation. Many of those who have outstanding fines have already had sanctions applied, such as having licences and registration suspended, but still refuse to pay and

²⁷ *Transcript of Evidence*, 19 February 2009, pp 50–51

²⁸ *Transcript of Evidence*, 19 February 2009, pp 52–58

continue to drive. New technology available to ACT Policing now makes it easier to identify these individuals while they are on the road. JACS is reviewing options in this area to improve compliance and payment rates. Imposing a prison sentence for unpaid fines is undesirable as imprisonment creates a further cost to the community.²⁹

- 2.26 The Committee notes that the 2009–10 Budget provides \$1.4 million over four years for enhanced fine enforcement. This initiative is intended to increase the recovery of court-imposed fines. Voluntary community service will also be available as an alternative to the payment of a fine.³⁰

RECOMMENDATION 3

- 2.27 **The Committee recommends that the Attorney General report to the Assembly by the end of 2009 on the value of outstanding fines owed to the Territory, and on what progress had been made with improving the rate of collection of fines.**

ACT Corrective Services

- 2.28 The Committee asked about the cognitive behavioural change program being run at the periodic detention centre. The Minister for Corrections and officials explained that the program is an extension of what will be run at the Alexander Maconochie Centre (AMC). It aims to get offenders to address their offending behaviour and develop skills to think through situations where they might reoffend. The ACT program is not big enough to have anything more than anecdotal success at this stage but the approach is well supported by research in other jurisdictions.³¹
- 2.29 The Committee asked about the recruitment and training of custodial officers for the AMC. Officials noted that every officer would have human rights training. The Minister said that the ACT Government had been careful to try and avoid importing undesirable cultures from other correctional institutions. The AMC would have about 50 per cent experienced officers and 50 per cent

²⁹ *Transcript of Evidence*, 19 February 2009, pp 46–47

³⁰ ACT Government, Budget 2009–2010, *Investing in our Community: Budget Paper 2*, p 40

³¹ *Transcript of Evidence*, 27 February 2009, pp 90–91

greenfield officers. Experienced officers need to be helped to shift to a different approach for the AMC. All applicants were put through screening, including psychological testing, to ensure they were appropriate for the job. Every recruit has had to do the 10 week training course regardless of prior experience.³²

- 2.30 Officials noted that there was a trend towards increased training in Certificates III and IV in correctional practice. Achievement of certificates is now linked to pay increments. There has also been a growth in people doing diploma courses and there are now 15 staff who have begun a degree course. This study is funded by JACS.³³
- 2.31 The Committee asked about services for post release prisoners. The Minister acknowledged that this was a significant issue in that there were currently former prisoners who were being released into the community who were clients of a number of government and non-government community service providers but it was difficult to assess where there were gaps in this service provision. The AMC will work on a 'through care' model with an exit plan developed when the person first enters the AMC. This will provide for opportunities to work on building up skills during the sentence and then having an effective handover to community organisations who will be assisting with a person's ongoing needs upon release.³⁴
- 2.32 The Committee asked about plans for a chapel at the AMC. Officials explained that there was funding for a chapel, procurement was likely to begin shortly, and the intention would be to complete it around mid 2010. In the interim there are multipurpose spaces at the AMC that can be used for chaplaincy services.³⁵

Detoxification facilities and services in ACT correctional facilities

- 2.33 The Committee understands that the ACT Government, through the Alcohol and Other Drug Policy Unit, ACT Health, is currently undertaking a review of

³² *Transcript of Evidence*, 27 February 2009, pp 91–94

³³ *Transcript of Evidence*, 27 February 2009, pp 95–96

³⁴ *Transcript of Evidence*, 27 February 2009, pp 97–99

³⁵ *Transcript of Evidence*, 27 February 2009, pp 99–100

detoxification services in the ACT. The Committee is interested in learning about the detoxification services and facilities available in all ACT correctional facilities.

2.34 The Minister advised the Committee that:

All detainees are assessed by the nurse upon admission to the Alexander Maconochie Centre to determine their immediate medical requirements including any detoxification services that may be necessary.

Depending on the results of the initial assessment (which includes the determination of the seriousness of any substance withdrawal), the detainee may be moved to the remand or sentenced area, the Crisis Support Unit or to hospital.³⁶

RECOMMENDATION 4

2.35 **The Committee recommends that ACT Corrective Services and ACT Health provide a briefing to the Standing Committee on Justice and Community Safety on the detoxification facilities and services available in ACT correctional facilities.**

³⁶ Information provided by a/g departmental liaison officer, Ms Toni Hunt, 24 June 2009

3 ACT POLICING AND EMERGENCY SERVICES AGENCY

ACT Policing

- 3.1 ACT Policing is a business unit of the Australian Federal Police (AFP) and is responsible for the delivery of community policing services to the ACT. ACT Policing is accountable through the annual Purchase Agreement between the Minister for Police and Emergency Services, the Chief Police Officer for the ACT and the Commissioner of the AFP.
- 3.2 The Committee asked about ‘enabling expenses’ referred to in the Independent Auditor’s report.³⁷ The Acting Chief Police Officer of the ACT, Commander Close, explained that those expenses related to services purchased from the AFP such as forensics, training, IT support and legal support. These were reviewed in a ‘rebasings’ exercise several years ago to ensure that they were accurate. A review of that exercise has suggested that a further \$1.4 million, over and above what is in the purchase agreement, needs to be paid to the AFP for providing those services to the ACT Policing. Forensics services were a significant factor in the increased costs. ACT Treasury and the AFP are discussing this increased cost.³⁸
- 3.3 The Committee asked about the Gungahlin and Belconnen Police Stations. The Minister for Police and Emergency Services explained that funding for a new Belconnen Police Station adjacent to the Winchester Police Centre had been approved. The architects currently have a development application lodged with the planning authority. It is expected that the new station will be ready for occupation by early 2011. No decision has yet been taken on what use the site that is currently occupied by the Police Station will be put to when it

³⁷ ACT Policing, *Annual Report 2007–08*, p 29

³⁸ *Transcript of Evidence*, 12 March 2009, pp 105–106

becomes vacant.

- 3.4 Police began staffing the Gungahlin Police Station 24 hours a day from February 2009. There are an additional two patrol cars operating out of that station.³⁹
- 3.5 The Committee asked about the watch house review and the transfer of responsibility for the regional watch house from the North district to prosecution and judicial support. Commander Close advised that the shift of responsibility provided a more independent focus on watch house management. All recommendations arising from the joint review of watch house practice by the AFP and the Commonwealth Ombudsman, including those listed as outstanding in the Annual Report, have been implemented.⁴⁰
- 3.6 The Committee asked about the Recognition and Analysis of Plates Identified (RAPID) program. Commander Close explained that RAPID works by recognising number plates and matching them with 'vehicles of interest' to Police or with those TAMS has listed as unregistered or uninsured. The information is given to officers in almost in real time so that they can stop the vehicle and check the name of the person driving the vehicle, who may be a 'person of interest'. The system has already led to the identification of a significant number of unlicensed, unregistered or uninsured drivers which the research suggests are disproportionately involved in accidents causing fatalities and serious injuries.⁴¹
- 3.7 The Committee asked about the key performance indicators related to public perception. The Minister noted that perceptions are very important to community safety – if a person does not feel safe they will not be able to engage fully as a citizen in the community. He noted that fewer Canberrans than the national average are concerned about being a victim of violent crime, despite an increase in violent crimes, and more Canberrans than the national average are concerned about property crime even though that is at an all-time low. The Minister noted that he has directed the Police to engage in 'high

³⁹ *Transcript of Evidence*, 12 March 2009, pp 107–108

⁴⁰ *Transcript of Evidence*, 12 March 2009, p 112

⁴¹ *Transcript of Evidence*, 12 March 2009, p 117

visibility policing'.⁴²

ACT Emergency Services Agency

3.8 The Emergency Services Agency includes the ACT Ambulance Service, the ACT Fire Brigade, the ACT State Emergency Service and the ACT Rural Fire Service. The eight priorities for the Agency's three-year business plan listed in the annual report were:

- operational capacity
- industrial relations
- governance enhancement
- risk based resource allocation
- training
- fleet and facilities management
- headquarters development
- public awareness⁴³

3.9 The Committee asked about the ACT Government's response to the 2003 McLeod report's⁴⁴ recommendations on access to bushland through fire trails, particularly in Namadgi national park. The Minister for Police and Emergency Services noted that the Government had accepted those recommendations and had undertaken a significant program of fire trail access upgrade and improvement. These matters were primarily the responsibility of the land manager (Parks, Conservation and Lands in the case of Namadgi) while ACT Emergency Services Agency (ACTESA) had an audit role. The audit is based on ensuring compliance the strategic bushfire plan and the bushfire operational plan. The Committee asked about access between Uriarra and Piccadilly Circus, where some volunteers had reported locked gates. The Minister informed the Committee that that was a matter for the land manager but that it was open to the public except when closed by snow. In general the bushfire plan calls for rapid attack of outbreaks in the nature reserve.⁴⁵

⁴² *Transcript of Evidence*, 12 March 2009, pp 120–121

⁴³ Department of Justice and Community Safety, *Annual Report 2007–08*, p51

⁴⁴ Ron MacLeod, *Inquiry into the Operational Response to the January 2003 Bushfires in the ACT*, 1 August 2003

⁴⁵ *Transcript of Evidence*, 12 March 2009, pp 124–126; , and answer to question taken on notice, c 7 May 2009

- 3.10 The Committee asked about emerging challenges for the ACTESA. The Commissioner noted that due to the prolonged drought the bushfire season had been extended by four to eight weeks in south-eastern Australia in recent years. In the ACT the extended season had impacts on budgeting for more aircraft, and staff and volunteers needing to be rostered and on stand up for longer. Canberra's ageing population profile may increase the need for more efficient technologies and for more volunteers, as people become less able to defend their properties. An older population may also produce fewer volunteer fire-fighters.⁴⁶
- 3.11 The Committee asked about Community Fire Units (CFU) and the Farm Firewise program. The Minister said that the CFU program had been very successful. In the last approximately 12 months an additional 10 CFUs had been established and the Government's election commitment is to establish a further 12. The Farm Firewise program has 36 participants out of 145 rural leaseholders but the ACT Government expects about 85 per cent participation by next summer.⁴⁷
- 3.12 The Committee asked about ACTESA's new headquarters at Fairbairn, the capital budget for which is approximately \$12.6 million. The project includes construction of two buildings, including a purpose-built headquarters, and refurbishment of an existing building for use as a logistics store. The buildings are at the detailed drawing stage. They will be built by the airport to ACTESA specifications and then leased by ACTESA from the airport. Since 2006 ACTESA has been renting six buildings from the airport, but only occupies one building.⁴⁸ Full occupation is expected by the end of 2010.⁴⁹
- 3.13 In March 2009 the Committee was advised that the logistics store (building 183) was being refurbished and may be occupied 'as early as' December 2009.⁵⁰
- 3.14 In response to a question taken during the inquiry by the Select Committee on Estimates, Mr Corbell MLA, in his capacity as the Minister for Police and

⁴⁶ *Transcript of Evidence*, 12 March 2009, pp 126–127

⁴⁷ *Transcript of Evidence*, 12 March 2009, pp 128–129, answer to question taken on notice, c.7 May 2009

⁴⁸ *Transcript of Evidence*, 12 March 2009, pp 130–131

⁴⁹ *Transcript of Evidence*, 12 March 2009, p 130, and answer to question taken on notice, c 7 May 2009

⁵⁰ *Transcript of Evidence*, 12 March 2009, p 130

Emergency Services, advised that \$6.34 million had been spent on Fairbairn between December 2006 and June 2009. He said that the monthly rental for the seven buildings leased by the ESA was \$183 283.29 as at the 1 March 2009, up from \$176 390.75 in 2008. That rental was in accordance with the Heads of Agreement with the Canberra Airport Group, and the ACT Government Solicitor's Office had been involved in the preparation of both Heads of Agreement and leases for the buildings at Fairbairn.

3.15 In relation to which buildings were rented and occupied, and rented but unoccupied, Mr Corbell advised:

Occupied	Unoccupied
<ul style="list-style-type: none"> ▪ Air Support Operations Centre/ Hangar 48, 2–4 Point Cook Avenue 	<ul style="list-style-type: none"> ▪ the Simulation and Training Centre (B65) 40 Laverton Avenue ▪ Training Classrooms (B297) 7 Pearce Avenue ▪ EM Task Force & Simulation Training Centre (B53) 17–19 Point Cook Avenue ▪ HAZMAT (B207) 20 Amberley Avenue ▪ Carport Storage (B148) 18 Amberley Avenue

3.16 Minister Corbell advised that Building 183, 17–19 Amberley Avenue was being refurbished in accordance with the Second Heads of Agreement.

3.17 The Minister also advised that the buildings which would be phased out under the Second Heads of Agreement were the Simulation and Training Centre (B65), Training Classrooms (B297), Air Support Operations Centre/Hangar 48 EM Task Force & Simulation Training Centre (B53), HAZMAT (B207), and Carport Storage (B148).⁵¹

3.18 The Committee asked about the ACTESA station relocation feasibility study. The Minister explained that he had received the report and that it would go to

⁵¹ Answer to question on notice accessed 22 June 2009
<<http://www.parliament.act.gov.au/downloads/issues-papers/Corbell%20Police%20and%20Emergency%20Services%202009.pdf>>

Cabinet for consideration. The report looked at providing optimal coverage and response times for fire and ambulance services and recommended the relocation of some older, less well-situated stations. The Minister told the Committee that the ACT Government intends to engage with the community on options before taking final decisions. Most Rural Fire Service (RFS) and State Emergency Service (SES) sheds would be unaffected, but some relocation had been recommended. The Commissioner said that existing stations will have all 'high risk' areas in health and safety and building compliance 'up to scratch' following work funded from the third Appropriation Bill.

Snowy Hydro SouthCare Helicopter

- 3.19 In response to a question about the location of the base for the Snowy Hydro SouthCare Helicopter, the Minister said that the base would remain at Symondston, and would be enhanced. The Government was considering locating other helicopters that the ACTESA contracts for the bushfire season at Symondston also.
- 3.20 It was noted during the hearing on 12 March 2009 that the annual report does not provide statistics on the number of SouthCare deployments, the number of missions, and what the missions were for. Information was provided that Snowy Hydro Southcare undertook 328 missions in 2007–08, and reference was made to the SouthCare company annual report.⁵²

RECOMMENDATION 5

- 3.21 **The Committee recommends that the activities of the Snowy Hydro SouthCare Helicopter, including the number of its missions, be reported more thoroughly in future departmental annual reports.**

⁵² *Transcript of Evidence*, 12 March 2009, p 139. cf. An answer to a question taken on notice cites a figure of 398, c. 7 May 2009

4 OTHER AGENCIES

Independent Competition and Regulatory Commission

- 4.1 The Independent Competition and Regulatory Commission (ICRC) determines prices for regulated industries, approves access arrangements, and arbitrates disputes on access to infrastructure. The ICRC also provides advice on competitive neutrality complaints and on government-regulated activities. The ICRC also has responsibilities under the *Utilities Act 2000* (ACT) including licensing utility services and ensuring compliance with the legislation's codes of practice and licences.
- 4.2 The Committee heard that following notional changes to the national energy market, 'quite a major part of the work of the Commission' had been transferred to the Australian Energy Regulator (AER), in particular those areas relating to the distribution of electricity and gas in the ACT.⁵³ The ICRC retains responsibility for setting the transitional franchise tariff, a tariff that applies for people who do not want to go to a competitive negotiated contract for electricity.
- 4.3 The Committee asked about how the feed-in tariff would affect the ICRC and the now nationally regulated pricing scheme. Senior Commissioner Mr Paul Baxter explained that the AER set the distribution charge and that this charge was likely to flow through to individual consumers. The ICRC is required to set the transitional franchise tariff prior to 1 July 2009, before the AER determines the distribution charge and before the feed-in tariff is finalised. The Attorney General noted that officials were still working with the ICRC to ensure the feed-in tariff does not result in price shocks.⁵⁴
- 4.4 Regarding water pricing, the Senior Commissioner noted that the draft

⁵³ *Transcript of Evidence*, 18 February 2009, p 1

⁵⁴ *Transcript of Evidence*, 18 February 2009, pp 3–4

principles developed by the National Water Commission are very much in line with existing ACT policy.⁵⁵

- 4.5 The Committee asked about the impact of water pricing on low income families. The Senior Commissioner noted that in 2008 the ICRC had determined a five-year price path for water and wastewater services, after releasing several discussion papers. The price path, which the Commission recognised as a 'blunt instrument', did not link water consumption prices to household circumstances. The Senior Commissioner suggested that 'targeted government support' for households in financial difficulties was a better way of ensuring that households in need are 'helped to deal with those costs that they have to face'.⁵⁶ The Senior Commissioner noted the difficulties created by being unable to know if an individual household was in financial need. The ICRC has tried to give a pricing signal so that above a certain level people consider reducing their consumption levels but acknowledges that this may adversely affect large families.
- 4.6 The Committee is concerned to learn that some families, such as large families, may be disadvantaged by future water pricing. It also recognises that there are other circumstances where a family may consume larger amounts of water than the norm, such as families with members who have a disability that require, for instance, frequent laundering of bed linen, and the like, on a daily basis.

RECOMMENDATION 6

- 4.7 **The Committee recommends that the ACT Government investigate establishing a system of water charge rebates for households, where it can be demonstrated that a family or individual will be adversely affected by water pricing due to the number of people in the household, or a family member's disability or illness. This may be similar to the rebate for electricity and gas that currently exists under the Community Service Obligations.**
- 4.8 The Committee inquired about the ICRC's most recent determination on the

⁵⁵ *Transcript of Evidence*, 18 February 2009, pp 4–5

⁵⁶ *Transcript of Evidence*, 18 February 2009, p 5

cost of water and wastewater, particularly as it related to capital works and environmental externalities. The Minister advised that the water abstraction charge reflected the cost of managing water resources and their catchments; not all of the costs associated with resource use and catchment management.

- 4.9 In relation to the five-year price path and future anticipated major capital works or operating costs, the Senior Commissioner advised that the price path had included consideration of the Cotter Dam and Angle Crossing / Murrumbidgee to Googong pipeline, as those projects were advanced and could be considered. But the ICRC had not subjected the proposals to convert water from the Molonglo treatment works and return it to the Cotter system, and to buy up licences from the Murrumbidgee and transfer water up into Tantangara, to a cost-effectiveness / cost-benefit analysis. Should the government make a decision on those projects during the period of the current price determination, the ICRC would then assess them. Only if water re-use was clearly demonstrated to be the most efficient way of delivering the additional water needed, or the water security that was being claimed, then the ICRC would allow the cost of the re-use proposal 'to pass through into prices'.⁵⁷ Until then, those proposals would not be reflected in water prices.

ACT Human Rights Commission

- 4.10 The Human Rights Commission comprises the:
- Children and Young People Commissioner;
 - the Disability and Community Services Commissioner;
 - the Discrimination Commissioner;
 - the Health Services Commissioner; and
 - the Human Rights Commissioner.
- 4.11 At the time of the publication of the agency's annual report these five positions were filled by three people. After the former Disability and Community Services Commissioner and Children and Young People Commissioner, Ms Linda Crebbin, left the Commission, Mr Alasdair Roy was appointed as the Children

⁵⁷ *Transcript of Evidence*, 18 February 2009, p 7

and Young People Commissioner for six months in 2008, and the position was advertised for filling in early 2009. The Health Complaints Commissioner, Ms Mary Durkin, was given responsibility for disability and community services. The Human Rights Commissioner and Discrimination Commissioner, Dr Helen Watchirs, advised the Committee that traditionally the Disability and Community Services Commissioner was also appointed as the Health Complaints Commissioner. In February 2009 it was unclear as to whether this allocation of responsibilities would continue.⁵⁸

- 4.12 The Attorney General announced the appointment of Mr Roy as the Children and Young People Commissioner on 19 June 2009.⁵⁹
- 4.13 The Commission seeks to resolve complaints, undertakes its own reviews, inquiries and audits, provides advice and promotes discussion and education about its areas of expertise.
- 4.14 The Committee asked how the Commission addressed health services complaints. The Children and Young Persons Commissioner noted that the Commission had, since February 2008, met at a senior level with ACT Health officials on a quarterly basis.⁶⁰ Discussion at these meetings is robust and the quality and timeliness of ACT Health's responses to complaints is increasing. The ACT has seen a decline in health services complaints.⁶¹
- 4.15 The Committee asked about the Commission's procurement of a case management system. The Commissioners noted that the existing database was old, unstable and designed primarily for health complaints but that it had been a long process getting it replaced. The tender process was unsuccessful so the system needed to be designed. The Committee is concerned that this project remains within budget and would appreciate updates as this project progresses.⁶²

⁵⁸ *Transcript of Evidence*, 18 February 2009, p 16–17

⁵⁹ Simon Corbell, MLA, 'Media Releases, 'Children and Young People Commissioner Appointed', 19 June 2009

⁶⁰ Attorney-General, Answer to question taken on notice, 25 March 2009

⁶¹ *Transcript of Evidence*, 18 February 2009, p 10

⁶² *Transcript of Evidence*, 18 February 2009, p 12

RECOMMENDATION 7

- 4.16 **The Committee recommends that the Human Rights Commission provide an update to the Committee every three months on progress with the upgrading of its case-management system for health complaints, until the system is established and functioning effectively.**
- 4.17 The Committee asked about the Commission’s proposal to review the *Discrimination Act 1991 (ACT)*. The Annual Report outlines nine areas for reform including adding socio-economic status and physical appearance as protected attributes, replacing ‘spent conviction’ as a protected attribute with ‘irrelevant criminal conviction’, protections against racial harassment and religious vilification, and a statutory duty to prevent discrimination and promote equality.⁶³
- 4.18 The Attorney General said that these amendments were under consideration. Some, such as the definitions of union membership and spent convictions and adding physical appearance as a protected attribute, could be dealt with under a JACS bill. Other proposed changes, such as additional protections around racial harassment and religious vilification, are more substantive and would require a different process.⁶⁴

RECOMMENDATION 8

- 4.19 **The Committee recommends that the Attorney General engage in a thorough consultation about proposed amendments to the *Discrimination Act 1991 (ACT)*, including racial harassment and religious vilification, before bringing the legislation forward.**

ACT Ombudsman

- 4.20 The ACT Ombudsman is an independent statutory officer who considers complaints about the administrative actions of ACT Government departments and agencies. The Ombudsman also makes submissions to the ACT

⁶³ See ACT Human Rights Commission, *Annual Report 2007–2008*, pp 10–11 for the full list

⁶⁴ *Transcript of Evidence*, 18 February 2009, p 14

Government on legislative and policy reform.

- 4.21 The Committee asked about the decline in the number of complaints received by the Ombudsman. The Ombudsman explained that under earlier legislation all complaints to the Australian Federal Police had to be recorded by the Ombudsman whereas now complaints about less serious issues can be resolved by the AFP with complainants only referred to the Ombudsman if they are dissatisfied with the AFP process.⁶⁵ In terms of the type of complaints to the Ombudsman generally there was a marked increase in approaches to the Ombudsman about ACT Corrective Services, from 94 in 2006–07 to 155 in 2007–08. It will be interesting to follow this trend in light of the opening of the Alexander Maconochie Centre.
- 4.22 The Committee asked about complaints about the way ACT Housing was calculating rental rebates. The Ombudsman noted that these were cases where ACT Housing had admitted that its staff had not understood the complexity of the issues. There was a need for further guidance. The Ombudsman has not advanced an own motion investigation into this issue at this stage because there have been no further complaints.⁶⁶

Public Advocate of the ACT

- 4.23 The Public Advocate of the ACT has responsibility for matters related to guardianship and substitute decision making, and is responsible for advocacy on behalf of adults with a disability and children and young people.
- 4.24 The Committee asked about Office's analysis of service provision for people discharged from the psychiatric services unit (PSU). The Public Advocate, Ms Anita Phillips, explained that the analysis intended to look at the kind of follow-up people received once discharged from the PSU and how often they ended up back in the PSU. The analysis had been complex and not all data had been available but the analysis should be complete by the end of April 2009.⁶⁷

⁶⁵ *Transcript of Evidence*, 19 February 2009, p 59

⁶⁶ *Transcript of Evidence*, 19 February 2009, pp 61–62

⁶⁷ *Transcript of Evidence*, 19 February 2009, p 64

RECOMMENDATION 9

- 4.25 **The Committee recommends that the Public Advocate for the ACT offer to brief the Standing Committee on Health, Community and Social Services on the conclusions of the Public Advocate’s analysis of service provision for people discharged from the psychiatric services unit.**
- 4.26 The Committee asked about the Advocate’s guide to enduring power of attorney. The Public Advocate noted that their office, along with the Office of the Public Trustee, had distributed 7 000 copies of the guide *The Power to Choose* in the last 12 months. The Public Advocate explained that there was currently no register of enduring powers of attorney in the ACT but that her office intended to investigate whether it was feasible to establish one.⁶⁸
- 4.27 The Committee notes that with the ACT’s ageing population the need for such a register is increasing; a point made by the Public Trustee. The point at which enduring powers of attorney come into effect are frequently confusing and traumatic times for the family and friends of those involved. A register would assist in ensuring the affected person’s wishes are made known to immediate family, and necessary service providers, at an early stage.

RECOMMENDATION 10

- 4.28 **The Committee recommends that the ACT Government, including the Public Advocate of the ACT and the Public Trustee for the ACT, investigate the feasibility of establishing a register of enduring powers of attorney in the ACT.**
- 4.29 The Public Advocate has increasingly been called upon to act as Guardian of Last Resort. There has been an 84 per cent increase in persons receiving this service since 2004. The Public Advocate received additional recurrent funding in the 2007–08 Budget for additional staff to meet increased workload.

⁶⁸ *Transcript of Evidence*, 19 February 2009, p 65

Victims of Crime Support program

- 4.30 The Victims of Crime Support program includes the Victims of Crime Coordinator, whose mission is to enhance the response of the criminal justice system to victims of crime, and Victim Support ACT which provides assistance services to victims of crime. The Attorney General noted that a review of the *Victims of Crime Act 1994* is being scoped within JACS.⁶⁹
- 4.31 The Committee asked about the Government's 2007 measure of adding a levy to parking fines and some court matters to fund increased services to victims of crime. The Attorney General said that the funds from the Victim Services Levy go into the consolidated revenue but that the Government had increased the funding of the victims support scheme by \$500,000 per annum.⁷⁰ The levy is \$10 on traffic infringement notices and court imposed fines. Victim Services Levy revenue for 2007–08 was approximately \$15,000 on court fines and \$415,000 on traffic infringement notices.⁷¹
- 4.32 The Committee asked about problems with collecting and storing victim information. The Victims of Crime Coordinator noted that this was a vexed area that had been overcome in some other jurisdictions by requiring the Police to pass the information across to victims support or allowing victims support to access the police database. The Attorney General noted that these issues will be looked at as part of the review of the Act.⁷²

Legal Aid Commission of the ACT

- 4.33 The Legal Aid Commission provides legal aid services to ensure that vulnerable and disadvantaged people receive legal services to assert or defend their rights, seek to develop community understanding of the law and seek reform of laws that adversely affect those they assist.
- 4.34 The Committee asked about the relationship between the Legal Aid

⁶⁹ *Transcript of Evidence*, 19 February 2009, p 68

⁷⁰ *Transcript of Evidence*, 19 February 2009, p 69

⁷¹ Attorney-General, Answer to question taken on notice, 25 March 2009

⁷² *Transcript of Evidence*, 19 February 2009, p 70

Commission and the Aboriginal Legal Service (ALS). The CEO of the Commission, Mr Andrew Crockett, explained that they now had a memorandum of understanding (MoU) with the ALS to jointly fund a position in Canberra that can work on family law matters but also cross the jurisdictional boundary with New South Wales and handle care and protection matters. Since the establishment of this position there has been an increased understanding within the Indigenous community of the ways the ALS can assist. Mr Crockett said in relation to the jointly funded position, that it had:

... enabled the ALS in Canberra to expand its services considerably, because, as you may know, it is predominantly a criminal practice. Many Indigenous clients will not approach the ALS if it is a family law matter because it is perceived as a criminal practice. They often have a conflict anyway. So having this position is starting to build up within the Indigenous communities in the ACT and surrounding region a realisation that the ALS can assist them in a broader range of matters than used to be the case.⁷³

- 4.35 The Committee asked about the current funding model that requires Commonwealth funding to be used only on Commonwealth matters. The CEO noted that the funding model added complexity and that the national body of legal aid directors was lobbying for a move back to the pre-1997 model where the funding from all the jurisdictions went into one legal aid fund, and could be spent regardless of jurisdiction. The Attorney General noted that the Territory was supportive of such a move but that it was up to the Commonwealth to put forward its alternative model.⁷⁴

Public Trustee for the ACT

- 4.36 The Public Trustee for the ACT (PTACT) provides trustee services to the ACT Government and community. These services include wills, enduring powers of attorney, estate and trust administration and funds administration.
- 4.37 The Committee asked about PTACT's ethical investment policies. The Public

⁷³ *Transcript of Evidence*, 19 February 2009, p 71

⁷⁴ *Transcript of Evidence*, 19 February 2009, pp 71–72

Trustee explained that as no ACT Government money is exposed to the equities market ethical investment issues do not arise. Asked about investment in public housing the Public Trustee noted that they had done this in the past. The area was very resource intensive and came with a lot of risks and was no longer considered a suitable investment for the Public Trustee.⁷⁵

- 4.38 The Committee asked about PTACT's memorandum of understanding with JACS. The Public Trustee explained that PTACT had levels of accountability to both JACS and Treasury. While the relationship with Treasury was well governed by a statement of intent the relationship with JACs was now on a clearer footing with the MoU which covered areas like training, legal advice and media contacts.⁷⁶

Director of Public Prosecutions

- 4.39 The principal role of the Office of the Director of Public Prosecutions (DPP) is to determine whether or not to initiate or continue the prosecution of matters referred to them by police or regulatory agencies and, if so, to fairly conduct the prosecution and related proceedings.
- 4.40 The Committee asked about the trend of people exercising their right to have matters dealt with in the Supreme Court rather than in the Magistrates Court Act. The DPP explained that currently defendants could elect to have matters heard in the Supreme Court if they were indictable and carried a penalty of more than 12 months imprisonment, but that this was set to change.
- 4.41 The Committee notes that under 2008 amendments to the *Magistrates Court Act 1930* (ACT), the threshold had been increased for matters that must be dealt with in the Magistrates Court. Now offences with a maximum penalty of up to 2 years' imprisonment and property offences involving up to \$30,000 must be dealt with in the Magistrates Court.⁷⁷

⁷⁵ *Transcript of Evidence*, 19 February 2009, p 74

⁷⁶ *Transcript of Evidence*, 19 February 2009, p 75

⁷⁷ See: Crimes Legislation Amendment Bill 2008

- 4.42 The Committee asked about the DPP's budget. The Attorney General said that the issue had been raised with him and would be considered as part of the budget process. The DPP noted that extra staff was part of the answer to challenges facing the DPP but more technology, more training and better liaison with the courts were also important. The DPP also noted the need to work on morale in the office.⁷⁸
- 4.43 The Committee notes that there have been concerns about the performance of the DPP raised in public fora for some years now. Continued problems with turnover and low morale in the office will undermine public confidence in the criminal justice system. While some improvements can be made in reorganising the office and new management techniques there still appears to be a need for greater funding. The Government's funding for additional police officers will inevitably lead to an increase in the number of prosecutions and further pressure on the DPP. The Committee therefore welcomes the announcement of additional funding for the DPP announced in the 2009–10 Budget.
- 4.44 The Committee asked about the provision of free training to the AFP on prosecution procedure. The DPP noted that the training provided great benefits to the ACT community, particularly in areas such as domestic violence. He also acknowledged, however, that AFP gets a considerable benefit from the ACT Policing training that is then used by the AFP in federal contexts, and that he has suggested to the AFP that they should make a greater contribution to training their own officers.⁷⁹

RECOMMENDATION 11

- 4.45 **The Committee recommends that the Attorney General ask the Office of the Director of Public Prosecutions to develop a fee-for-service proposal for the delivery of training courses to the Australian Federal Police on prosecution procedures.**
- 4.46 The Committee asked about changes in the trends for some charges. The DPP gave the opinion that there was no particular significance in the rise in assault,

⁷⁸ *Transcript of Evidence*, 19 February 2009, p 77

⁷⁹ *Transcript of Evidence*, 19 February 2009, p 79

hinder and resist arrest charges but that the increase in the number of charges for sex offences against children does seem to be part of a pattern, probably due to better reporting and more sensitive investigation.⁸⁰

- 4.47 The Committee asked about the gap between the number of sex offence charges and the number proven. The DPP acknowledged that this did reveal an ongoing issue with how sex offences were dealt with and it was a problem for DPPs across the country. He hoped that the sexual assault reform program would improve those figures. The Attorney General noted that that program, to come into effect on 30 May 2009, provided a whole range of changes including measures to reduce the number of times witnesses need to give evidence and preventing those accused of sexual assault from personally cross examining their alleged victim.⁸¹

⁸⁰ *Transcript of Evidence*, 19 February 2009, pp 79–80

⁸¹ *Transcript of Evidence*, 19 February 2009, p 80

5 CONCLUSIONS

- 5.1 The Committee has made various recommendations in relation to evidence presented to it.
- 5.2 The Committee thanks the relevant ACT Government Ministers and accompanying departmental and agency officers for providing their time and expertise as witnesses at its public hearings for this inquiry.
- 5.3 The Committee also acknowledges the contribution of departmental and agency officers who provided supplementary information to the Committee which assisted its understanding of the many issues being considered. The Committee has some concern however, that many questions without notice and questions taken on notice were not received from the Attorney General's office until late March, and some in May 2009, instead of within the agreed timeframe of 10 working days. The Assembly's scrutiny mechanisms and committee inquiry processes are important to good Territory governance, particularly since the ACT is a unicameral legislature, and the Committee trusts that agency and ministerial staff appreciate the need for more timely responses.

Vicki Dunne MLA

Chair

24 June 2009

APPENDIX A: Witnesses at public hearings

The following witnesses appeared before the Committee on the dates listed:

18 February 2009

- Mr Simon Corbell MLA, Attorney General
- Mr Paul Baxter, Senior Commissioner, Independent Competition and Regulatory Commission (ICRC)
- Dr Helen Watchirs, Human Rights and Discrimination Commissioner
- Mr Alasdair Roy, Children and Young People Commissioner

19 February 2009

- Mr Simon Corbell MLA, Attorney General
- Mr Renée Leon, CEO, Department of Justice and Community Safety (JACS)
- Mr James Henry, Senior Director, Security and Emergency Management Branch, JACS
- Ms Helen Child, Courts Administrator, ACT Law Courts and Tribunals Administration, JACS
- Mr Peter Garrisson, Chief Solicitor, ACT Government Solicitor, JACS
- Ms Sarah Byrne, Executive Director, Legislation and Policy Branch, JACS
- Ms Danielle Krajina, Acting Executive Director, Office of Regulatory Services, JACS
- Mr Brett Phillips, Executive Director, Office of Regulatory Services, JACS
- Professor John McMillan, ACT Ombudsman
- Ms Louise MacLeod, Senior Investigation Officer, ACT Ombudsman
- Ms Anita Phillips, Public Advocate, Public Advocate of the ACT
- Ms Patricia Mackey, Principal Advocate, Individual and Systemic section, Public Advocate of the ACT
- Mr Brian MacLeod, Principal Advocate/Guardian, Guardianship section, Public Advocate of the ACT
- Ms Robyn Holder, Victims of Crime Coordinator, Victims Support ACT
- Mr Andrew Crockett, CEO, Legal Aid Commission of the ACT
- Mr Andrew Taylor, Public Trustee, Public Trustee for the ACT
- Mr Jon White, Director of Public Prosecutions

27 February 2009

- Mr John Hargreaves MLA, Minister for Corrections
- Mr James Ryan, Executive Director, ACT Corrective Services, JACS
- Ms Renée Leon, Chief Executive, JACS

12 March 2009

- Mr Simon Corbell MLA, Minister for Police and Emergency Services
- Cmdr Leanne Close, Acting Chief Police Officer, ACT Policing
- Mr Paul Williams, Director, Corporate Services, ACT Policing
- Mr Gregor Manson, Commissioner, ACT Emergency Services Agency, Department of Justice and Community Safety

APPENDIX B: Questions on notice / taken on notice

The table below lists the subjects in relation to which answers were provided to questions taken on notice during a public hearing, or following submission on notice after a hearing. A copy of the question and response may be obtained from the Committee Secretary on request:

Question
Mrs Dunne: CCTV operations at Canberra Stadium 7 February 2009
Mrs Dunne: records of requests for CCTV footage
Mrs Dunne: budget for Victim Services Levy
Ms Hunter: ACT Civil and Administrative Tribunal oversight of operation of <i>Utilities Act 2000</i>
Ms Porter: client satisfaction performance targets Human Rights Commission
Mrs Dunne: meetings of the Health Services Commissioner and ACT Health executives
Mrs Dunne: ACT Ombudsman Service Agreement with ACT Government
Ms Porter: complaints about retirement villages
Ms Hunter: sale of fireworks offences
Mrs Dunne: location of Office of Regulatory Services
Mrs Dunne: completion date for Forensic Medical Centre, Kingston
Ms Porter: JACS cross-cultural training
Ms Porter: learning and development policy
Committee ⁸² : Community fire units
Committee: Protective Security Handbook
Committee: Exercise Capital Impact outcomes and lessons learned
Committee: Aboriginal Justice Centre reporting and acquittals
Committee: assessment of effectiveness of legislation
Committee: SARP report recommendations

⁸² Questions attributed to the Committee would have been asked by one or more Members of the Legislative Assembly during a public hearing or subsequently on notice through committee correspondence. Further information about the questions and responses will be provided on request to the Committee Secretary.

Committee: JACS & ANU ARC Linkage project on human rights
Committee: Community legal education
Committee: Prisoners Legal Service
Committee: Community Legal Education Officer
Committee: Legal Aid staff recruitment
Committee: elder law issues
Committee: Legal Aid staff secondments to Human Rights Commission
Committee: consultation on utilities' customer accounts
Committee: retail prices for electricity customers
Committee: retail electricity prices in Victoria
Committee: overseas experience with electricity retail price deregulation
Committee: impacts of electricity retail price deregulation
Committee: residential electricity supply contracts
Committee: differences in electricity customer prices and services
Committee: marketing of negotiated contracts
Committee: franchise tariff
Committee: effects of competition in retail electricity sector
Committee: definition of non-contestable and franchise customer
Committee: pricing structure of water
Committee: update on progress with Green Power scheme
Committee: energy utilities levy and former licence fee
Committee: consultation process for variation of consumer protection code
Committee: content of variation of consumer protection code
Committee: ICRC setting of Transition Franchise Tariff
Committee: greenhouse gas emission reporting
Committee: compliance with greenhouse gas abatement scheme
Committee: retailer non-compliance with ACT Greenhouse Gas Abatement Scheme
Committee: employer obligations re family-friendly arrangements
Committee: Human Rights Commission functions not progressed due to budgetary constraints
Committee: JACS support to HRC
Committee: model litigant guidelines
Committee: ACTEWAGL Retail
Committee: utility consumption and debt
Committee: vulnerable utility clients and community service obligation

Committee: complaints against Actew/AGL
Committee: illegal drugs
Mrs Dunne: Exercise Capital Impact
Mrs Dunne: Snowy Hydro SouthCare
Mr Smyth: deployments to Victoria
Mr Smyth: Bushfire Operational Plans and access for the road between Uriarra and Piccadilly Circus
Mrs Dunne: rent on buildings and space at Fairbairn
Mrs Dunne: breakdown of the project expenditure for the refurbishment and the buildings at Fairburn
Ms Hunter: Farm FireWise program
Mrs Dunne: fire trail review
Ms Hunter: ACT Rural Fire Service call-outs
Ms Hunter: definition of substantiated complaint
Mrs Dunne: audit of report
Mrs Dunne: juvenile restorative justice
Committee: Transition Franchise Tariff (TFT) extensions
Committee: Future of the TFT beyond the end of June 2009
Committee: AEMC advice on the impact of studies in SA and Vic
Committee: changes to the ACT's utilities regulation
Committee: AMC zero tolerance policy and facilities available to women prisoners
Mrs Dunne: prosecution and judicial support
Mrs Dunne: media
Mrs Dunne: watch house behaviour
Mrs Dunne: Police and Citizen's Youth Club
Mrs Dunne: Project STOP
Mrs Dunne: Torch relay
Mrs Dunne: Financial statements
Mrs Dunne: Decline in drug offences
Mrs Dunne: police pursuits
Mrs Dunne: Indigenous policy liaison
Mrs Dunne: MoU with OCYFS
Mrs Dunne: detoxification services and facilities in ACT correctional facilities
Mrs Dunne: refurbishment of JACS units in ACT Health building, 1 Moore Street, Civic