



LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY

The 1998/99 Annual and Financial Reports of the Department of Justice and Community Safety and Related Agencies

**Report No. 8 of the
Standing Committee on Justice
and Community Safety**

February 2000

Resolution of Appointment

That—

The following general purpose standing committees be established to inquire into and report on matters referred by the Assembly or, matters that are considered by the committee to be of concern to the community...

...a Standing Committee on Justice and Community Safety to examine matters related to administration of justice, legal policy and services, registrar and regulatory services, electoral services, consumer affairs, corrective, emergency and police services and fair trading and any other matter under the responsibility of the portfolio minister.

Legislative Assembly for the ACT, *Minutes of Proceedings*, No.2, 28 April 1998, p 15.

Terms of reference

On 2 September 1999, the Assembly resolved that the annual and financial reports for the financial year 1998-99 presented to the Assembly pursuant to the *Annual Reports (Government Agencies) Act 1995* stand referred, on presentation, to the relevant standing committee for inquiry and report.

Committee Membership

Mr Paul Osborne MLA (Chair)

Mr John Hargreaves MLA (Deputy Chair)

Mr Harold Hird MLA

Mr Trevor Kaine MLA

Secretary: Ms Fiona Clapin

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SUMMARY OF RECOMMENDATIONS

Recommendation 1

12.The committee recommends that future annual reports include information on the progress made in achieving objectives and targets specified in the Budget Papers.

Recommendation 2

14.The committee recommends that the Internet site for the Department of Justice and Community Safety be improved so it is more user-friendly and includes all relevant, up-to-date performance documents such as annual reports.

Recommendation 3

18.The committee recommends that the full version of the KPMG report on ACT community policing activities be made available to the Standing Committee on Justice and Community Safety.

Recommendation 4

31.The committee recommends that:

- (i)** the ACT Magistrates Court continue to implement strategies to reduce the number of unnecessary adjournments; and
- (ii)** details of these strategies and their success be included in future annual reports of the Department of Justice and Community Safety.

Recommendation 5

34. The committee recommends that the Government consider implementing recommendation 5 of the Report on the Inquiry into the Children's Services (Amendment) Bill 1998 with the aim of improving the public accountability of Children's Court.

Recommendation 6

36. The committee recommends that ACT Corrective Services consider highlighting its commitment to rehabilitation and restorative justice as 'guiding principles' in its vision statement.

Recommendation 7

42. The committee recommends that the ACT Government consider allowing representatives of Prisoners Aid the same access to detainees at Belconnen Remand Centre as that permitted for the Official Visitor and religious representatives.

Recommendation 8

50. The committee recommends that the AFP:

- (i) investigate strategies for increasing the number of random breath tests in the ACT;**
- (ii) include a performance measure in the 1999/00 AFP annual report which benchmarks the efficacy of ACT random breath testing with that of other Australian jurisdictions; and**
- (iii) include analysis of changes in drink driving trends based on scientific data (such as evaluation of the contribution of public education campaigns) in the 1999/00 AFP annual report.**

Recommendation 9

52. The committee recommends that the ACT Government:

- (i) investigate ways of improving overall coordination of anti-drink driving policies and strategies; and**
- (ii) consider producing a report which consolidates all relevant data on drink driving in the ACT.**

Recommendation 10

61. The committee recommends that the 1999/00 AFP annual report include an explanation for the apparent discrepancy in the clear up rates for theft and recovery of stolen motor vehicles.

Recommendation 11

73. The committee recommends that the Attorney-General provide a response to the Ombudsman's suggestion that an administrative review committee be established to oversight ACT review bodies.

Recommendation 12

81. The committee recommends that future annual reports relating to the Criminal Injuries Compensation Scheme include consolidated, tabulated information on the numbers of cases, types of assistance (financial and counselling), total payments and average payments made during the current and preceding year for categories such as:

- location of crime;**
- employment category of victim;**
- gender of perpetrator and victim; and**
- type of crime (eg assault, sexual assault, armed robbery etc).**

Recommendation 13

90. The committee recommends that the ACT Government make more concerted attempts to recover funds from perpetrators of crimes where victims have been awarded compensation or assistance under the criminal injuries legislation.

Recommendation 14

91. The committee recommends that future annual reports relating to the Criminal Injuries Compensation Scheme include:

- (i) tabulated information on the number of cases in which a perpetrator was charged and where a perpetrator was convicted;**
- (ii) the amount recovered from perpetrators for the current year and previous two years (for comparative purposes) by category such as type of crime, location of crime etc; and**
- (iii) a performance indicator which compares the adequacy of the ACT Government's efforts with the recovery level achieved by other Australian jurisdictions.**

Recommendation 15

92. The committee recommends that the ACT Auditor-General inquire into and report on the adequacy of the ACT Government's attempts to recover money from perpetrators of crime where victims were awarded compensation under the Criminal Injuries Compensation Scheme, including:

- (i) analysis and evaluation of recovery work done for all 1998/99 cases and for those of the preceding five years;**
- (ii) evaluation of decisions on whether to pursue recovery of funds from perpetrators; and**
- (iii) benchmarking of ACT performance against that of other states.**

Recommendation 16

102. The committee recommends that the Minister for Justice and Community Safety provide the Standing Committee on Justice and Community Safety with information on:

- **the number of individuals who received legal aid funding for matters related to the hospital implosion;**
- **the amounts paid for each person; and**
- **whether they were private citizens or public officials.**

Recommendation 17

106. The committee recommends that the Government give high priority to developing and implementing strategies to reduce the level of heroin addiction amongst Quamby detainees, particularly indigenous detainees.

Background

1. In September 1999, the Legislative Assembly agreed that relevant 1998/99 annual and financial reports would be referred to portfolio committees for inquiry and report.¹ Previously, this work was done by a select committee on estimates.

2. The Government justified this change on the basis that it will allow an annual report to be examined by the committee with expertise in that particular portfolio and that it allows a greater level of scrutiny of the department.² This change is consistent with recommendations made in the Report of the Select Committee on Governance.

3. The annual and financial reports considered in this inquiry are listed below:

- Department of Justice and Community Safety, volumes 1 and 2;
- ACT Ombudsman;
- Electoral Commissioner;
- Australian Federal Police;
- Legal Aid;
- Community Advocate;
- ACT Human Rights Office;
- Criminal Injuries Compensation Act 1983;
- Public Trustee;
- Director of Public Prosecutions.

¹ *Weekly Hansard*, 2 September 1999, pp2773-2777.

² *Weekly Hansard*, 2 September 1999, pp2774.

Conduct of the inquiry

4.The committee held three public hearings during which the Minister and relevant officials were questioned about the contents of the 1998/99 annual and financial reports of the Justice and Community Safety portfolio. (See Appendix A for details) Some questions were asked 'on notice'. The Minister was requested to provide responses to questions on notice within three working days.

5.The opportunity to examine annual and financial reports in-depth is appreciated by the committee. In particular, the opportunity to question officials on the details of programs and policies has assisted the committee gain a better understanding of Government activities in the Justice and Community Safety portfolio. This should result in the enhancement of the committee's ability to scrutinise Government decisions in future inquiries.

6.The committee considers it is appropriate to make two types of recommendations. The first category relates to the quality, detail and transparency of information included in the reports; the second category relates to the policy directions revealed in consideration of the reports.

General comments

7.Overall, the quality of the reports for the Justice and Community Safety portfolio was considered to be good. One general comment is that annual reports should include detailed information comparing like categories from one year to the next. It is 'comparability' which makes annual reports useful for scrutinising and evaluating the implementation of Government policies. While both qualitative and quantitative information are important, the committee found that reports which included well-chosen categories of quantitative data covering at least two years were particularly useful.

8.Another important criterion for the assessment of annual reports is how well the information relates to objectives in the Budget Papers.

9.In its examination of reports, the committee compared statements in budget papers with statements in annual reports, to test the success of the Government in meeting its stated objectives. It found that some annual reports did not contain sufficient information reporting on the success or otherwise in meeting stated objectives in the relevant Budget Papers.

10. For example, the 1998/99 Budget Papers stated that one of the 'highlights of strategic and operational issues to be pursued' is 'structural reform of public sector law and justice services'.³ Officials were questioned on the meaning of this and agreed that the term 'is very generic and perhaps a little bit obscure'.⁴ The committee had difficulty in assessing the Government's progress in achieving this objective as the relevant annual report did not include a section which reported on the implementation of objectives outlined in the Budget Papers.

11. The committee considers that the Government should ensure information is included in annual reports which directly relates to statements of objectives and targets in the Budget Papers.

Recommendation 1

12. The committee recommends that future annual reports include information on the progress made in achieving objectives and targets specified in the Budget Papers.

13. While this inquiry did not actively seek direct input from the public, it did receive suggestions from ACTCOSS on how ACT annual reports can be improved. It is suggested that those responsible for producing annual reports for Justice and Community Safety agencies consider ACTCOSS's proposals as outlined in *The Government Report Card, Submission to the Chief Minister, Chief Minister's Annual Report Directions for 1998/99*. (July 1999) The committee particularly urges the Justice and Community Safety agencies to improve the accessibility of their annual reports. It is noted that the Internet site for the Department of Justice and Community Safety does not compare well with other ACT departments, such as the Chief Minister's Department and the Department of Treasury and Infrastructure in content and user-friendliness. Currently, the site does not have the 1998/99 annual report of the Department of Justice and Community Safety or the annual reports of most related agencies. The committee supports ACTCOSS's call for this site to include all recent annual reports, Budget Papers, Purchase and Ownership Agreements and Statements of Intent.

³ 1998/99 Budget Paper, p167.

⁴ *Transcript*, 30 November 1999, p56.

Recommendation 2

14.The committee recommends that the Internet site for the Department of Justice and Community Safety be improved so it is more user-friendly and includes all relevant, up-to-date performance documents such as annual reports.

DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY

KPMG report on police services

15.The Department of Justice and Community Safety's annual report states:

KPMG was commissioned to provide a report on the types of community policing activities and did so in November 1998.⁵

16.In response to a request from the committee for a copy of the KPMG report, an official advised the Government would need to check with the Commonwealth on whether this report could be released to the committee. This was because the report includes information on Commonwealth operations in the ACT, in addition to ACT-specific matters.

17.The committee received a copy of the Executive Summary of the report in February 2000. The committee wishes to receive a copy of the full report. If the Commonwealth has concerns about the release of confidential information relating to Commonwealth operations, it is suggested these sections be blacked out.

Recommendation 3

18.The committee recommends that the full version of the KPMG report on ACT community policing activities be made available to the Standing Committee on Justice and Community Safety.

⁵ Department of Justice and Community Safety, *1998/99 Annual Report*, vol 1,p45.

Southcare helicopter

19.The committee was pleased to note that during 1998/99, the Southcare helicopter completed 130 missions at which 41 were primarily medical missions, 80 were medical retrieval missions and 9 were search and rescue missions.⁶ This is excellent for a newly established service.

20.It was noted that the ACT Government's financial commitment to the Southcare helicopter was not as great as anticipated. In 1998/99 the ACT Government's contribution was \$85,940 compared to a budget allocation of \$110,000.⁷ The Minister for Justice and Community Safety advised the Government was working on further developing the sponsor base so that, in the future, the ACT Government's financial contribution could be lower.⁸

Firefighters overtime payments and total numbers

21.The committee ascertained that the cost of Fire Brigade overtime payments decreased to \$343,000 in 1998/99 from \$509,000 in the previous year.⁹

22.In answer to a question on notice, the committee was informed that the full time equivalent number of firefighters for 1997/98 was 285 as at Pay 26 in 1997/98.¹⁰ It appears that the number of firefighters has decreased with the Department of Justice and Community Safety Annual Report reporting only 276 firefighters in 1998/99.

⁶ *Transcript*, 30 November 1999, p40

⁷ *ibid*

⁸ *Transcript*, 30 November 1999, p41

⁹ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 8 December 1999, Answer to question on notice (excluding the cost of the overtime payment recovered from NSW for assistance provided for hail storm damage)

¹⁰ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 8 December 1999, Answer to question on notice

Comcare premium

23. The committee observed that the Comcare premium fell in 1998/99. According to officials this was the result of a lot of concerted effort and reflected a significant reduction in claims and the cost of claims.¹¹ According to officials, a lot of work has gone into prevention and assisting people return to work.¹² In response to a question on notice the Government provided the following information:

Workers Compensation Premium	1997/98	1998/99
Legal Policy	70,331	59,453
Director of Public Prosecutions	20,475	25,972
Government Solicitor's Office	16,307	21,296
Parliamentary Counsel's Office	10,868	16,290
Registrar General's Office	46,773	25,671
Electoral Commission	6,852	3,272
Magistrates Court	58,773	61,689
Community Advocate	6,566	8,007
Supreme Court	31,640	23,830
Corrective Services	188,750	110,400
Ministerial and Corporate Services	14,889	16,484
Human Rights Office	1,859	2,607
Commissioner for Land and Planning	2,764	3,236
Emergency Services Bureau	775,000	547,114

¹¹ *Transcript*, 30 November 1999, pp 47-8

¹² *ibid*

24.The committee congratulates those responsible for these improvements, in particular Corrective Services and the Emergency Services Bureau.

Increase in ambulance transport fee

25.The committee questioned officials about the increase in ambulance transport fees from \$232,000 to \$895,000.¹³ The response was:

On the ambulance fees the accounting treatment utilises that the accounts are recognised at the time they are billed and that if people come forward and provide evidence of belonging to a fund that the fee is not collectable and then they are written back. The adjustment that was made for the current year, in 1998/99 was actually done in the current year and so that \$895,000 is actually an overstatement of revenue for 1999 because of that write-back of the uncollectable amounts.¹⁴

Ambulance debtors

26. The 1998/99 annual report of the Department of Justice and Community Safety also recorded a fall in the number of ambulance debtors. In 1998 there were 3023 debtors with \$665,000 owing. In 1999 this had dropped to 1442 debtors with \$317,000 owing. The committee was interested in whether the reduction was due to effective debt collection or write-offs.¹⁵ The Minister for Justice and Community Safety advised:

The 1997/98 write-off for 3,023 debtors/\$0.665m covered three years to December 1998 that was the result of a major review of the debtors system. The 1998/99 write-off of 1,442 debtors/\$0.317m included the period January-July 1998 and normal 1998/99 clearances.¹⁶

¹³ *Transcript*, 30 November 1999, p46 in reference to Department of Justice and Community Safety, *1998/99 Annual Report*, vol 2,p21.

¹⁴ *Transcript*, 30 November 1999, p47

¹⁵ *Transcript*, 30 November 1999, p50.

¹⁶ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 8 December 1999, Answer to question on notice

Benchmarking of ACT court system

27. In light of recent negative press about the ACT Magistrates Court's performance in a national benchmarking exercise, officials were questioned about the reasons for this alleged poor performance.¹⁷ It was explained that some of the comparative figures were misleading. For example in the ACT, electronic traffic infringement notices are dealt with by the Motor Registry and cost about a dollar each to process. Unfortunately for the ACT, these were not included in the national benchmarking data for the ACT because they do not go through the courts. However they were included for Victorian and other jurisdictions and made their figures look much better by comparison.¹⁸ The committee was advised that future figures should show an improvement with the ACT court system now coming about the middle of other Australian jurisdictions.

28. It was noted that the ACT had been lagging in introducing more modern case management techniques in the criminal jurisdictions. Officials advised that work was being done to rectify this situation.¹⁹

29. The 1998/99 annual report of the Department of Justice and Community Safety records an increase in the number of Magistrates Court criminal listings from 72,585 in 1996/97 to 77,972 in 1997/98 to 85,815 in 1998/99.²⁰ While some of this increase can be explained by one matter (2,000 fail-to-vote prosecutions listed twice account for 4,000 of the 1998/99 total), officials acknowledged that too many cases are adjourned too often.²¹

30. The committee believes that serious attempts must be made to reduce the number of unnecessary adjournments in ACT courts.

¹⁷ The benchmarking was conducted by the Productivity Commission in *Report on Government Services* 1999, Feb 1999.

¹⁸ *Transcript*, 30 November 1999, p57.

¹⁹ *ibid*, p58

²⁰ p43.

²¹ *Transcript*, 30 November 1999, p59.

Recommendation 4

31. The committee recommends that:

- (i) the ACT Magistrates Court continue to implement strategies to reduce the number of unnecessary adjournments; and**
- (ii) details of these strategies and their success be included in future annual reports of the Department of Justice and Community Safety.**

Children's Court

32. It was noted that the number of children's matters had increased significantly over the past two years. In 1996/97 there were 2,695 children's court cases and by 1998/99 there were 3,314 cases. This trend was not reflected in adult cases. The Minister for Justice and Community Safety advised the committee a dedicated full-time children's court magistrate would be appointed soon.²²

33. To improve the transparency of information on the operation of the Children's Court, the Government is urged to implement recommendation 5 made in the Standing Committee on Justice and Community Safety's report, *Report on the Inquiry into the Children's Services (Amendment) Bill 1998*. This recommendation sought the production of an annual report consolidating data on children's court matters such as:

- information on training undertaken by magistrates such as the number of training hours and types of training;
- feedback from children and young people and relevant community and government agencies about their perceptions of the children's court;
- waiting times for court cases including length of time from initial listing to resolution;
- the number of magistrates hearing each case; and
- the number of hours spent on Children's Court matters by the Children's Court Magistrate.

²² *Transcript*, 30 November 1999, p60.

Recommendation 5

34.The committee recommends that the Government consider implementing recommendation 5 of the Report on the Inquiry into the Children's Services (Amendment) Bill 1998 with the aim of improving the public accountability of Children's Court.

Corrective services vision

35.The question of what should be included in ACT Corrective Services vision statement was discussed during the public hearing. Following its in-depth work on the inquiry into the establishment of an ACT prison, the committee suggests the Government include reference to principles of rehabilitation and restorative justice in the vision statement.

Recommendation 6

36.The committee recommends that ACT Corrective Services consider highlighting its commitment to rehabilitation and restorative justice as 'guiding principles' in its vision statement.

The ACT prison project

37.In October 1999, the committee requested a comparative cost/benefit analysis on the financing and establishment of public and private prisons.²³ The committee was pleased that the Minister for Justice and Community Safety informed the committee during the hearings that this analysis would be provided by the end of 1999.²⁴ However it is noted that at the time of writing (February 2000), the cost/benefit analysis is yet to be received.

38.Officials also advised that the timetable for the prison project comprises:

- the appointment of a consultant team to manage the tender process by February 2000;²⁵

²³ Standing Committee on Justice and Community Safety, Report No. 4 (Oct 1999) *The Proposed ACT Prison Facility: Philosophy and Principles*

²⁴ *Transcript*, 30 November 1999, p64.

²⁵ *ibid*

- 12 months for drawing up tender documents and calling and assessment of tenders; and
- 12 months for commissioning and constructing the prison.

39. The Minister for Justice and Community Safety also gave evidence that the community consultation committee overseeing the design and construction of the prison would be established either late 1999 or early 2000. He envisaged the membership would include a representative of ACTCOSS, the AFP, Prisoners Aid, at least one church representative, and possibly someone from the ACT Parole Board, amongst others.²⁶

Belconnen Remand Centre- Access for Prisoners Aid

40. The committee is aware that there have been some changes recently in the level of access permitted for representatives of Prisoners Aid to detainees at Belconnen Remand Centre. During the public hearing an official confirmed that the previous representative of Prisoners Aid was also the Official Visitor and so had more extensive access to prisoners similar to that allowed for religious representatives. This access has recently been restricted now that the representative of Prisoners Aid is no longer the Official Visitor.²⁷

41. The committee believes that representatives of Prisoners Aid should be permitted similar access to detainees as that allowed for the Official Visitor and religious representatives. Such access is justified as it could relieve stress experienced by detainees and therefore reduce pressures on staff and management.

Recommendation 7

42. The committee recommends that the ACT Government consider allowing representatives of Prisoners Aid the same access to detainees at Belconnen Remand Centre as that permitted for the Official Visitor and religious representatives.

²⁶ *Transcript*, 30 November 1999, p68.

²⁷ *Transcript*, 30 November 1999, p70.

AUSTRALIAN FEDERAL POLICE (AFP)

Random breath tests

43.The AFP's 1998/99 annual report reveals that the number of random breath test conducted during 1998/99 fell significantly from 142,894 in 1997/98 to 103,936 in 1998/99.²⁸ The number of persons dealt with for exceeding the prescribed concentration of alcohol fell from 949 in 1997/98 to 633 in 1998/99.²⁹

44.It was put to the Acting Chief Police Officer that there may be a relationship between increase in the number of patrols (from 40 in 1997/98 to 66 in 1998/99) and the fall in the number of random breath tests conducted.³⁰ The Acting Chief Police Officer responded that while the number of patrols increased, so did the overall workload and this would have had an impact on the number of random breath tests conducted. He also pointed out that the idea behind the model of increased patrols was for each patrol to conduct random breath tests. He suggested that the winter conditions may have had an effect and that the numbers of those caught may have decreased because the public has responded to education campaigns against drink driving.³¹

45.Evidence was received that there are two broad approaches to random breath tests. The first is high profile testing on major roads like Northbourne Avenue where 500-600 people can be tested in one hour and the second is back street testing where 10-12 people are tested in one hour. The Acting Chief Police Officer advised that both types were necessary to provide a deterrent effect.³²

46.While the committee supports the increase in the number of patrols, as it increases the police presence on the streets, it has some concerns about the reduction in random breath tests. While the success of strategies to reduce drink driving cannot be judged by the number of random breath tests alone, the large reduction in testing in 1998/99 could indicate a problem with either the level of police resources, the way in which they are organised or the priority given by AFP management to reducing drink driving.

²⁸ AFP 1998/99 Annual report, p 13.

²⁹ *ibid*

³⁰ *Transcript*, 30 November 1999, p15.

³¹ *Transcript*, 30 November 1999, p16.

³² *ibid*

47.The committee suggests that the ACT Government give greater priority to evaluating the current policies designed to deter drink driving with a view to providing more coordination and direction for relevant agencies (such as the AFP) on drink driving policies and programs.

48.The committee is aware that other jurisdictions produce detailed reports on drink driving which include data on numbers and types of offences, penalties imposed, ethnicity and gender breakdowns and information on repeat offenders.³³ The ACT Government should consider producing a publication which includes this type of detailed information on drink driving. As well as providing useful information for the community, this could assist the AFP in planning and evaluating its strategies for deterring drink driving.

49.The committee also suggests that future AFP annual reports include more detail on drink driving trends. They should also include comparative information, such as benchmarking with other jurisdictions to make random breath testing data more meaningful.

Recommendation 8

50.The committee recommends that the AFP:

- (i) investigate strategies for increasing the number of random breath tests in the ACT;**
- (ii) include a performance measure in the 1999/00 AFP annual report which benchmarks the efficacy of ACT random breath testing with that of other Australian jurisdictions; and**
- (iii) include analysis of changes in drink driving trends based on scientific data (such as evaluation of the contribution of public education campaigns) in the 1999/00 AFP annual report.**

Recommendation 9

51.The committee recommends that the ACT Government:

- (i) investigate ways of improving overall coordination of anti-drink driving policies and strategies; and**
- (ii) consider producing a report which consolidates all relevant data on drink driving in the ACT.**

³³ For example SA Attorney-General's Department, Office of Crime Statistics, *Drink Driving Report No.1 Offences finalised in the Magistrates Court of South Australia* 1995,

Review of Commonwealth Policing Agreement

52. In the 1998/99 Budget Papers, the Department of Justice and Community Safety's 'statement of issues to be pursued' includes completion of the Commonwealth review of policing arrangements for the ACT. A question was asked about the progress on this matter.³⁴ The Chief Executive of the Department of Justice and Community Safety advised that this matter had still not been finalised. He stated their objective was to achieve an agreement before Christmas 1999.³⁵ He added that the Government was pursuing it on the basis of two components-the major overarching agreement which contains their policy objectives and the other part which contains the purchaser/provider annexure.³⁶

53. The committee notes that at the time of writing (February 2000), this agreement has still not been finalised.

54. While the committee recognises that these types of negotiations are complex and necessarily time-consuming, it is of the view that the negotiations for the Commonwealth Policing Agreement have been particularly slow. One consequence of this is an inadequate accountability framework. This issue has been of concern to the committee since the beginning of the Fourth Assembly.

The supervised injecting place

55. The Acting Chief Police Officer was asked whether he will issue a direction to police officers not to lock up people in light of the Government's plans to issue a direction to the Director of Public Prosecutions not to prosecute people using the injecting place.³⁷ The Acting Chief Police Officer responded:

There will be a direction. Well, the bottom line is, and the Commissioner has said it and so has the Chief Police Officer, that if there is an offence committed under the circumstances of drug related offences, we will act on it. No one will be telling us not to do our job. It is as simple as that.³⁸

³⁴ *Transcript*, 30 November 1999, p17.

³⁵ *ibid*

³⁶ *ibid*

³⁷ *Transcript*, 30 November 1999, p18.

³⁸ *ibid*

56. These comments highlight the potential problems associated with the establishment of a safe injecting place.

AFP clear-up rate for offences

57. The 1998/99 AFP annual report reveals that the number of offences reported increased by 8% in 1998/99 over the previous year.³⁹ In the same period the clear-up rate decreased. In 1998/99 of 44,503 offences reported, only 10,411 were cleared.⁴⁰ This compares to 1997/98, where of 41,130 offences reported, 11,359 were cleared.⁴¹

58. The committee questioned police officials on the fall in the clear-up rate. The Acting Chief Police Officer was asked whether this result could be attributed to resource issues and responded that he could not determine whether this was the case or not.⁴²

59. It would be useful if future annual reports could include analysis of changes in clear-up rates.

Trends in traffic offences

60. During the public hearing, it was pointed out that there was an inconsistency between the figures on recovery of motor vehicles and clear up rates. The AFP annual report (page 9) identifies an 80 per cent recovery of stolen vehicles but the appendix shows a clear-up rate of 250 out of 3073. The explanation provided to the committee was that many cars are recovered but the offenders not identified. It is suggested that the 1999/00 annual report include this explanation.

Recommendation 10

61. The committee recommends that the 1999/00 AFP annual report include an explanation for the apparent discrepancy in the clear up rates for theft and recovery of stolen motor vehicles.

³⁹ AFP 1998/99 Annual Report, p8.

⁴⁰ *ibid*

⁴¹ *ibid*

⁴² *Transcript*, 30 November 1999

Impact of speed cameras

62.The committee was interested in receiving information on the impact of speed cameras. Officials advised the AFP has noticed a downturn in speeding offences and that there is clear evidence the cameras have had a deterrent effect.⁴³ It would be useful if the 1999/00 AFP annual report could include detailed analysis of the impact of speed cameras on speeding offences.

The number of AFP compensation claims

63.According to the 1998/99 AFP annual report, the number of compensation claims by AFP officers increased from 33 in 1997/98 to 71 in 1998/99. A note explained that 1998/99 actually referred to 1 March 1998-28 February 1999.⁴⁴ The increase was attributed to a change of practice where AFP stopped paying medical bills.⁴⁵

64.The committee considered that correct data should have been included for the full two financial years to enable proper comparison.

Transposed training data

65.The committee questioned the accuracy of training data on page 48 of the AFP's annual report which indicated that only 64 staff were trained in 751 courses conducted. The Minister for Justice and Community Safety advised that these columns were transposed and the correct figure should be 751 staff trained in 64 courses.⁴⁶ He further advised that a corrigendum will be published.⁴⁷

⁴³ *ibid*

⁴⁴ *AFP 1998/99 Annual Report*, p47

⁴⁵ *ibid*

⁴⁶ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 8 December 1999, Answer to question on notice

⁴⁷ *ibid*

ACT OMBUDSMAN

Problems with tenders

66. During public hearings, the committee explored the concerns raised in the Ombudsman's annual report about systemic problems with tenders.⁴⁸ The Ombudsman's report stated:

I am concerned that complaints about a range of agencies have indicated that there may be systemic problems with the calling of tenders, tender assessment and contract management matters.⁴⁹

67. Officials from the Ombudsman's office advised that some of these concerns would be addressed in investigations by the ACT Auditor-General during the next 12 months.⁵⁰ The committee was also informed that the Ombudsman has provided a submission to the ACT Legislative Assembly's Select Committee on Government Contracting and Procurement addressing some of these issues.⁵¹

Inquiry into management of detainees and training of custodial officers at Belconnen Remand Centre

68. The Ombudsman's annual report states their report on the management of detainees and training of custodial staff at Belconnen Remand Centre has been referred to the Chief Executive of the Department of Justice and Community Safety for comment.⁵²

69. In response to a question from a committee member about the progress of this inquiry, officials advised they had received a response from the Chief Executive Officer and were considering it.⁵³

70. This committee will continue to monitor this issue.

⁴⁸ ACT Ombudsman, *Annual Report 1998/99*, p 3.

⁴⁹ *ibid*

⁵⁰ *Transcript*, 30 November 1999,

⁵¹ *ibid*

⁵² ACT Ombudsman, *Annual Report 1998/99*, p 4.

⁵³ *Transcript*, Tuesday 30 November 1999, p3.

Potential overlap in review mechanisms

71.The Ombudsman's annual report raises the issue of potential overlap, delay, confusion and possibly inconsistent outcomes in the review agencies in the ACT.⁵⁴ The report suggests there is potential, with the proliferation of review bodies, for some individuals to engage in 'forum shopping', thus tying up scarce resources.⁵⁵ Officials gave examples of potential overlap in the roles of the Official Visitor, the Community Advocate and the ACT Ombudsman in relation to ACT Corrective Services.⁵⁶

72.The Ombudsman's annual report suggests a suitable response to this may be the establishment of an administrative review committee to play a coordinating role, provide a forum for administrative review bodies to discuss issues of mutual interest and provide advice to the Attorney-General.⁵⁷ The committee will be interested to see the response of the Attorney-General to this suggestion.

Recommendation 11

73.The committee recommends that the Attorney-General provide a response to the Ombudsman's suggestion that an administrative review committee be established to oversee ACT review bodies.

Complaints about AFP officers

74. The Ombudsman's report noted:

Lat year I reported a consistent theme in AFP complaints had been a lack of client focus with rudeness and poor treatment of the public being the major areas of concern. These issues continue to be the main causes of complaints to my Office during 98/99.⁵⁸

75.The committee questioned officials about the AFP's response to these complaints and was informed that all complaints are recorded on officer's

⁵⁴ ACT Ombudsman, *Annual Report 1998/99*, p 5.

⁵⁵ *ibid*

⁵⁶ *Transcript*, Tuesday 30 November 1999, p4.

⁵⁷ ACT Ombudsman, *Annual Report 1998/99*, p 6.

⁵⁸ ACT Ombudsman, *Annual Report 1998/99*, p 19.

employment record. AFP management monitor trends in the kinds of positions or jobs that attract complaints as some do more than others. Where an individual might be attracting more complaints than normal, that can be the trigger for counselling, or further examination of what may be giving rise to these complaints, or the supervision arrangements that apply in that area.⁵⁹ The Acting Chief Police Officer noted that record keeping of complaints against AFP officers shows if there is a trend or a behaviour pattern or welfare problem which needs to be addressed.⁶⁰ He noted that in the past year, at least 6 officers had been assisted with welfare problems identified through analysis of complaint trends.

76. The committee chair questioned officials from the Ombudsman's office on whether individual police officers would have records kept by the AFP on all complaints against them.⁶¹ Officials advised that all complaints are recorded in terms of whether they are substantiated, unsubstantiated or incapable of being either substantiated or unsubstantiated.⁶²

77. The Minister for Justice and Community Safety advised that only 3% of complaints received in 1998/99 were substantiated⁶³ and that there are an:

extraordinarily large number of what are frankly termed frivolous complaints about the police made every year. I get a read-out each month or so of the types of complaints that have been made and there is a huge number of what I would frankly call try-ons, that go on all the time where the circumstances are investigated in a preliminary fashion by the police by internal investigations and are not pursued because clearly and obviously the complaint does not have any substance. For example a large number of people who receive traffic offence notices make complaints and I have no doubt at all that a large number of them make those complaints on the assumption that if they lodge a complaint there might be a greater propensity to waive the fines. So I think we should treat the volume of such matters with a little bit of care and caution.⁶⁴

78. Although some members of the committee remain concerned about the fairness of police having to carry records of unproven complaints, the committee was satisfied by assurances from officials that the AFP handles complaints with the upmost care.⁶⁵

CRIMINAL INJURIES COMPENSATION SCHEME

⁵⁹ *Transcript*, 30 November 1999, p6.

⁶⁰ *Transcript*, 30 November 1999, p13.

⁶¹ *ibid*

⁶² *Transcript*, 30 November 1999, p7.

⁶³ *Transcript*, 30 November 1999, p10.

⁶⁴ *Transcript*, 30 November 1999, p9.

⁶⁵ *ibid*

79.The committee is impressed with the quality of information provided in the annual report of the *Criminal Injuries Compensation Scheme*, in particular the inclusion of detailed case histories. The report describes the details of each case considered under the scheme during the financial year. This information has been extremely useful for those interested in understanding how the scheme operates in practice. This level of detail should be continued in future annual reports.

80.However, the committee would like to see the quality of the report further enhanced by the inclusion of tables of consolidated information indicating trends in numbers and financial payments made by certain categories. This type of information was provided to the committee during its inquiry into the Victims of Crime (Financial Assistance) Amendment Bill 1998 and it was extremely useful. So that the context of the information would be clear, it is suggested that comparative information on the preceding year also be included.

Recommendation 12

81.The committee recommends that future annual reports relating to the Criminal Injuries Compensation Scheme include consolidated, tabulated information on the numbers of cases, types of assistance (financial and counselling), total payments and average payments made during the current and preceding year for categories such as:

- **location of crime;**
- **employment category of victim;**
- **gender of perpetrator and victim; and**
- **type of crime (eg assault, sexual assault, armed robbery etc).**

Cost recovery from perpetrators

82.Under the Criminal Injuries Compensation Scheme, the Government has the power to recover some money from perpetrators of crime where victims have received compensation payments under the scheme. Neither the annual report of the Department of Justice and Community Safety or the annual report of the Criminal Injuries Compensation Scheme reveals any information on how much money has been collected from perpetrators. The committee pursued this issue during public hearings and in a question on notice.

83. In response to a question on notice, the Minister for Justice and Community Safety advised that during 1998/99 only \$540 was collected from 2 perpetrators.⁶⁶ This was out of a total of \$6,650,370 paid under the scheme in 1998/99.⁶⁷ This equates to a recovery rate of .00008% or \$8 for every \$100,000 paid to victims of crime. The Minister advised that the figures for 1997/98 were unavailable as the files were being archived and it would be too costly and time-consuming to retrieve the files.⁶⁸

84. The committee acknowledges that there are major impediments in collecting this money because a large number of perpetrators remain unidentified and of those who were identified, many had not been charged or convicted. But it is concerned that the ACT Government has been able to collect so little money from perpetrators of crimes. It is also disappointing that the amount collected is not included in annual reports and the Government was unable to provide details of the amount collected in 1997/98.

85. The Minister's evidence that 'statistics on recovery of CIC awards are not routinely kept' also indicates a problem.⁶⁹ This means that the efficiency and effectiveness of the recovery program is not being monitored or evaluated by senior management. It appears that no individual official has overall responsibility for recovery of funds from perpetrators.

86. The Registrar advised that the number of cases where charges had not been laid could be identified as the ones in the report dealt with by the Registrar, ie 267 out of 539 or 53% in 1998/99.⁷⁰ This presumably leaves 272 cases where charges had been laid. The Minister advised that for every case, officers in his department assess the chances of recovery of money.⁷¹

87. During its inquiry into the Victims of Crime (Financial Assistance) Amendment Bill 1998, the committee learnt that Victoria was making good progress in recovering assets and funds from perpetrators.⁷² Recent reports indicate that NSW recovers approximately 3% of funds from perpetrators.⁷³ It would be useful if the ACT investigated the success of strategies employed by other Australian jurisdictions and included comparative benchmarking information in the relevant annual report.

⁶⁶ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 13 December 1999, Answer to question on notice

⁶⁷ Criminal Injuries Compensation Scheme 1998/99 *Annual Report*, p17.

⁶⁸ Correspondence from Mr Gary Humphries to Mr Paul Osborne, 13 December 1999, Answer to question on notice

⁶⁹ *ibid*

⁷⁰ *ibid*

⁷¹ *Transcript*, 3 November 1999, p9.

⁷² Evidence received from Ms Judith Dixon the Chief Executive Officer of the Victorian Referral and Assistance Scheme in a private briefing

⁷³ Sydney Morning Herald, 11 December 1999, Editorial

88.The committee believes it would be a useful exercise for the ACT Auditor-General to conduct an objective analysis of the adequacy of the ACT Government's attempts to collect funds from perpetrators of crimes. This would result in greater transparency of information about Government activity, would aid the evaluation of the Government's recovery activity and may reveal hitherto untapped revenue sources.

89.Even in the context of changes to the criminal injuries legislation which will reduce the Government's future financial payments to victims of crime, the ACT Government and the ACT taxpayer could benefit from improvements in the recovery rate where payments have been made in previous years.

Recommendation 13

90.The committee recommends that the ACT Government make more concerted attempts to recover funds from perpetrators of crimes where victims have been awarded compensation or assistance under the criminal injuries legislation.

Recommendation 14

91.The committee recommends that future annual reports relating to the Criminal Injuries Compensation Scheme include:

- (i) tabulated information on the number of cases in which a perpetrator was charged and where a perpetrator was convicted;**
- (ii) the amount recovered from perpetrators for the current year and previous two years (for comparative purposes) by category such as type of crime, location of crime etc; and**
- (iii) a performance indicator which compares the adequacy of the ACT Government's efforts with the recovery level achieved by other Australian jurisdictions.**

Recommendation 15

92.The committee recommends that the ACT Auditor-General inquire into and report on the adequacy of the ACT Government's attempts to

recover money from perpetrators of crime where victims were awarded compensation under the Criminal Injuries Compensation Scheme, including:

- (i) analysis and evaluation of recovery work done for all 1998/99 cases and for those of the preceding five years;
- (ii) evaluation of decisions on whether to pursue recovery of funds from perpetrators; and
- (iii) benchmarking of ACT performance against that of other states.

ELECTORAL COMMISSIONER

93. The Electoral Commissioner has appointed a Redistribution Committee to look at Assembly electorates, with the next redistribution is due to commence 'as soon as practicable' after the first Saturday in October 1999.⁷⁴

94. The Electoral Commissioner was questioned on whether the committee has been appointed, if the review has been undertaken and when will it be completed. He responded that the first meeting would be on 1 December 1999, they would probably not invite public submissions before February 2000 and he expects to release a final report around August 2000.⁷⁵

95. The Electoral Commissioner was also questioned about the likelihood of introducing electronic voting for the next ACT election. The Commissioner gave evidence that the proposal was still with the Minister for his consideration and would require additional funding commitment from the ACT Government.⁷⁶

96. The Electoral Commissioner also responded to a question on the Robson rotation system. He advised the Commission had recommended an increase in the number of Robson rotations for the next election as a way of solving problems experienced with the last election in a submission to an Assembly committee. The Government has not yet responded to that

⁷⁴ ACT Electoral Commission, *Annual Report*, p2.

⁷⁵ *Transcript*, 30 November 1999, p13.

⁷⁶ *ibid*

report.⁷⁷ The Minister advised that he is anxious to move on those reforms.⁷⁸

LEGAL AID COMMISSION

97.The annual report of the Legal Aid Commission reports that:

Tension between competition for funding for criminal law and family law matters became particularly critical in the latter half of the year with requests for funding for expensive Commonwealth criminal matters which could not be met if even modest levels of Legal Aid and family law matters were maintained. The issue remains to be resolved.⁷⁹

98.The committee urges the Government to continue to lobby the Commonwealth Government on this matter and the need for an 'expensive case' scheme.

99.The committee received evidence of legal aid funds being directed away from women with a 6% shift toward men in the last 4 years.⁸⁰ Officials explained this was consistent with a national trend. Changes in Commonwealth law have given more opportunities for non-custodial parents (usually men) to take matters to court.⁸¹

100.The committee has some concerns about trends in legal aid expenditure particularly in light of changes introduced by the Commonwealth over the past few years. It may consider inquiring into this matter in greater depth in the year 2000.

101.Evidence was also presented that Legal Aid expenditure relating to the hospital implosion was \$453,185 and that future expenditure will not exceed \$40,000.⁸² The committee was interested in receiving a more detailed breakdown of this expenditure. The *Legal Aid Act 1977* prohibits the release of names of individuals who have received legal aid funding. However the committee believes it is entitled to receive information on the number of individuals who were funded through Legal Aid and of these how many were private citizens and how many were public officials.

⁷⁷ *Transcript*, 30 November 1999, p14.

⁷⁸ *ibid*

⁷⁹ The Legal Aid Commission 1998/99 *Annual Report*, add page

⁸⁰ *Transcript*, Friday 3 December 1999, p 19

⁸¹ *ibid*

⁸² Correspondence from Mr Gary Humphries MLA to Mr Paul Osborne MLA, Response to a Question on Notice, 13 December 1999.

Recommendation 16

102. The committee recommends that the Minister for Justice and Community Safety provide the Standing Committee on Justice and Community Safety with information on:

- **the number of individuals who received legal aid funding for matters related to the hospital implosion;**
- **the amounts paid for each person; and**
- **whether they were private citizens or public officials.**

COMMUNITY ADVOCATE

103. During the public hearing, the committee discussed problems facing older people in Canberra. The Community Advocate suggested that one of the greatest areas of ignorance or denial in the community relates to the abuse of older people by their carers. The Community Advocate expects this to become a bigger issue as this population increases in size. She also highlighted the lack of suitable accommodation options for older people such as hostel accommodation, nursing home accommodation, respite accommodation and dementia specific accommodation.⁸³ The committee was concerned about this and will continue to monitor the Government's progress in this area.

104. One of the most serious issues revealed during the hearings was noticeable increase in drug use, particularly heroin, in younger and younger children. An official from the Office of the Community Advocate advised that the overwhelming majority of indigenous young people in Quamby are heroin users.⁸⁴ Furthermore, indigenous youth at Quamby have a higher rate of heroin use than non-indigenous youth and it is harder to engage services for them. The committee was informed:

The cycle of returning to Quamby for indigenous young people is one that is very difficult to break in terms of the accommodation options...there are very, very few indigenous specific accommodation options with(in) the ACT. There are very, very few

⁸³ *Transcript*, Friday 3 December 1999, p33-4

⁸⁴ *Transcript*, Friday 3 December 1999, p38

indigenous specific workers who are tailored to work with indigenous young people and there are certainly very, very few indigenous specific drug and alcohol agencies.⁸⁵

105. The Government should, as a matter of high priority, be developing strategies to address these serious issues. Apart from the enormous social costs associated with heroin use, it will also inevitably lead to significant financial costs for the community in the future if funds are not directed to address these problems now.

Recommendation 17

106. The committee recommends that the Government give high priority to developing and implementing strategies to reduce the level of heroin addiction amongst Quamby detainees, particularly indigenous detainees.

ACT HUMAN RIGHTS OFFICE

107. The committee was informed that the Discrimination Commissioner has taken on a much bigger role in terms of community education in the past year, with sessions on discrimination, sexual harassment and the *Discrimination Act*. The level of complaints is similar to the previous year and the leading cause of complaint relates to disability. Disability complaints include those relating to employment matters, children and education and access to buildings.⁸⁶

⁸⁵ *Transcript*, Friday 3 December 1999, p39

⁸⁶ *Transcript*, Friday 3 December 1999, p40-41

DIRECTOR OF PUBLIC PROSECUTIONS

108. The committee explored the issue of the safe injecting place at some length with the Director of Public Prosecutions (DPP). The problems of giving a direction to the police force about where people could be arrested was considered in the context of the AFP being directly accountable to the Commonwealth rather than to the ACT. The DPP informed the committee he did have some concerns about legal issues relating to the safe injecting place.⁸⁷

Paul Osborne MLA

Chair

7 February 2000

⁸⁷ *Transcript*, Monday 6 December 1999, p10.

Appendix A: Public Hearings

TUESDAY 30 NOVEMBER 1999

ACT Ombudsman
Electoral Commission
Australian Federal Police (ACT Region)
Department of Justice & Community Safety volumes 1 and 2

FRIDAY 3 DECEMBER 1999

Criminal Injuries Compensation Act
Legal Aid
Community Advocate
Public Trustee
Human Rights Office

MONDAY 6 DECEMBER 1999

Director of Public Prosecutions

