

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON LAW AND SAFETY

**INQUIRY INTO THE ADEQUACY OF YOUTH DIVERSIONARY
PROGRAMS IN NSW**

At 814-815, Parliament House, Sydney on Tuesday 8 May 2018

The Committee met at 9:15 am

PRESENT

Mr Geoff Provest (Chair)

Ms Steph Cooke (Deputy Chair)

Mr Edmond Atalla

Ms Jenny Leong

Mr Damien Tudehope

The CHAIR: Good morning. Thank you for attending this public hearing of the Committee on Law and Safety. Today's hearing is the second hearing in conjunction with the Committee's inquiry into the adequacy of youth diversionary programs. My name is Geoff Provest. I am the chair of the Committee and the Member for Tweed. With me today is Deputy Chair of the Committee, Ms Steph Cooke; Mr Damien Tudehope, the Member for Epping; Mr Edmond Atalla, the Member for Mount Druitt and Ms Jenny Leong, Member for Newtown.

This morning the Committee will hear from Assistant Police Commissioner Mr Joseph Cassar, and the Chief Executive Officer of Youth Action. The Committee will then break for morning tea before hearing from the New South Wales Mental Health Commissioner and the Advocate for Children and Young People. Following lunch, we will hear from representatives of the Department of Justice NSW, including a specific representative from Juvenile Justice. I thank all witnesses for making themselves available to appear today. The Committee has resolved to authorise the media to broadcast sound and video excerpts of the public proceedings. Copies of the guidelines governing the coverage of those proceedings are available. I now declare the hearing open.

JOSEPH CASSAR, Assistant Commissioner, Capability, Performance and Youth Command, NSW Police Force, sworn and examined

The CHAIR: I welcome the Assistant Commissioner Joseph Cassar. Thank you for appearing before the Committee today. Before we proceed, do you have any questions regarding the procedural information sent to you relating to witnesses and the hearing process?

Mr CASSAR: No, I do not.

The CHAIR: Would you like to make a brief opening statement before the commencement of questions?

Mr CASSAR: I provide the following comment in addition to the written submission provided by the NSW Police Force. The NSW Police Force directs a substantial amount of resources into youth at risk, young people and crime prevention, and continues to foster a strong relationship with relevant partner agencies. The NSW Police Force is of the view that an interagency approach is integral to effectively addressing complex issues facing many young people who come into contact with police. Early intervention, although not solely the responsibility of the NSW Police Force, is at the core of a number of prevention and diversion programs implemented across the organisation, with a whole-of-government response required to tackle the issue.

The NSW Police Force approach to youth diversion and relevant programs aims to address youth offending and victimisation through prevention, intervention and partnership. The NSW Police Force has recently drafted the 2018 to 2022 NSW Police Force Youth Strategy, which details how we will meet these priorities. Commissioner Michael Fuller, APM, since taking command of the NSW Police Force in 2017, has made youth diversion a key priority for New South Wales Police. In the past nine months, in support of this priority, the following activities have occurred. The first is the appointment of an Assistant Commissioner to take the lead on the response of the NSW Police Force to youth within New South Wales. This occurred on 1 August 2017 and since this time I have been committed to reviewing the NSW Police Force practices and strategies associated with youth diversion and the engagement of young people.

The second is the establishment of the Youth Crime Prevention and Early Intervention Board, chaired by me, with membership at Director level from other government agencies, including Family and Community Services, Education, Health, Justice, the Department of Premier and Cabinet, and Treasury. The terms of reference for this board include exploring opportunities to link up databases across agencies more effectively, and to establish strategies which see a coordinated response to youth at risk of becoming entrenched within the criminal justice system.

The third is the establishment of a strategy which sees greater coordination of policing resources dedicated to working with police on youth programs and to work more effectively with the 63 Police Citizens Youth Clubs [PCYC] across the State—their resources and their collective program. The Commissioner and I have been working on a Six-Stage Strategy, which aims to divert youth from becoming entrenched in a life of crime. This strategy will see greater referral pathways which identify and include a greater capacity for police and other government agencies to identify and refer youth who are reoffending or are at risk.

The strategy establishes a process that sees greater ability and more timely connection of at-risk youth with government agency support. It involves a local multi-agency approach to sharing information and formulating action plans that aim to provide a collaborative approach to those identified as at-risk youth or young offenders. The strategy provides programs and youth-case officers support through the PCYCs or other government programs. The commissioner's strategy aims to provide youth with employment opportunities, which instil pride, ownership and a sense of contribution for the young person, their social network and their community. In my role as the Commander of Capability, Performance and Youth Command, I have also reviewed and re-engineered the Youth Command into the now Youth and Crime Prevention Command, which provides the NSW Police Force with a greater capacity to develop and progress strategies for New South Wales police.

We now see greater local awareness and connectivity between police and youth at the command level. There is an awareness that prevention is a priority and early engagement and diversion strategies will be a priority for all police to pursue when considering action involving youth. I have facilitated a review of the NSW Police Force compliance with the Suspect Targeting Management Plan [STMP]. This review now sees New South Wales police implementing a statewide process that sees any proposed STMP who is under the age of 12 years old to be first progressed or reviewed by me prior to being considered as the subject of a target action plan. It is our objective to ensure that any young person who is proposed should have first been considered for every available alternative strategy that sees the young person diverted into other positive programs and

associated activities. Compliance with these arrangements is a priority for the NSW Police Force, hence monitoring enhancements are now in place that give my command the capability to review the State's STMPs to ensure no young person under the age of 12 is the subject of a target action plan without my prior assessment and approval.

In my role I also continue to engage and work with the President of the Children's Court, Judge Peter Johnstone; the Advocate for Children and Young People, Andrew Johnson; and members of the Youth Crime Prevention and Early Intervention Board to identify and address challenges associated with youth diversion. In my view this is, and will continue to be, a process of continual improvement for all agencies to achieve. I am also a member of the PCYC Board, the Their Futures Matter Implementation Board, the Serious Young Offenders Review Panel, the Juvenile Justice Advisory Council and the Joint Protocol Steering Committee and the chair of the NSW Police Force Youth Advisory Group. I use my involvement and influence in these groups to continue to progress options that aim to divert youth from becoming entrenched in the criminal justice system.

The CHAIR: Thank you. I will ask a few questions and then we will open it up to the Committee to ask some as well. The Committee heard that the NSW Police Force Suspect Targeting Management Plan conflicts with the principles and practices of youth diversion in policing and is used disproportionately against Aboriginal people. Could you please comment on that; and what do you say to calls for the police to discontinue applying STMPs to people under the age of 18?

Mr CASSAR: The purpose of the STMP is to implement a process in areas that have been identified as experiencing or being exposed to a higher volume of a particular crime. It has the input from local police. It is a process that identifies individuals who may be contributors to that particular situation and from there police implement a plan that aims to deter and divert that individual from committing crimes in a particular place. Insofar as the comments made with respect to people on the STMP program under the age of 18, there is a good percentage of that group who are responsible for crimes within our communities. It is a priority for the NSW Police Force to maintain a safe environment for our communities. That does not mean that it is not an opportunity for us to do a health check in regard to certain strategies or programs occurring within the NSW Police Force, one being the STMP program. Hence in the early stages at the later end of last year I initiated a review of our compliance with the STMP program.

Now we see a process where it is not to say that anyone under the age of 12 cannot be on the Suspect Targeting Management Plan but that it is my expectation—and, in fact, the expectation of the Commissioner of the NSW Police Force—that every possible option is explored and put in place prior to going down this path. That means there has been positive engagement with the proposed youth, and consideration and an approach to put them onto programs that will build their self-esteem and put them into a positive direction. That is why we have the process in place where any command or officer proposing to put a young person aged 12 years and under onto the Suspect Targeting Management Plan will need to go through the normal channels of doing the risk assessment approval by their local area commander and it will be reviewed and if I deem it necessary then I will approve it. But that said, it will be an absolute last resort and it will be in the interest of our community.

The CHAIR: A young person must admit an offence before police can issue him or her with a caution under the Young Offenders Act. Some of our stakeholders argue that this requirement stops young offenders from being diverted from the criminal justice system. Should this threshold be lowered?

Mr CASSAR: Under the public admissions scheme we have grown to a position where New South Wales police are able to offer the young person the opportunity to make that admission so that we can proceed by way of a caution and the admission will not be used in any other form of proceedings against them. In recent times we have been able to look at strategies to increase our compliance insofar as not only offering but also capturing and recording the number of youth who have been afforded that opportunity, with a view of increasing the numbers that are afforded the opportunity under the public admission scheme. If there was an opportunity for us to move forward and there were instances where we were able to proceed by way of caution for children, based on the fact that there was no admission but there was overwhelming evidence, I think it would be in the best interests of our communities to follow that path.

Ms JENNY LEONG: I want to explore the STMP program further. Could you clarify what the review process you spoke of in your opening statement looks like from your perspective and what you are assessing when you undertake the review? Are you only reviewing people under the age of 12 or people under the age of 18?

Mr CASSAR: No, the changes to our practices relate to children under the age of 12. I mentioned that we have enhanced our capability at any point for me to check statewide compliance across New South Wales to ensure that there is no child under the age of 12 on the STMP program, and if there was that I would be aware of

that. We can and we will be doing that on a weekly basis. I can say definitively as of midnight the night before last, the youngest person on the STMP program was 13 years of age. Moving forward, the Commissioner would like to see us moving towards a higher age bracket of 13 and 14. There are a number of strategies we have in place, which I mentioned, through our activities on the Youth Crime Early Intervention Board, to progress positive opportunities in diversionary programs and a whole-of-government approach to capture all the youth coming under the process before we even consider them for the STMP program.

Ms JENNY LEONG: If I may clarify, are you reviewing weekly any young people on the STMP list who are under 12 years of age? Do they go on the program and then you make an assessment, or can they not be put on the program without your approval? Is it possible for a person under the age of 12 to be on the program?

Mr CASSAR: You asked a couple of questions, and my answer will address them. I can say definitively that the youngest person on the STMP program as of midnight the night before last was 13 years of age. There have been a number of communications with all police in the State. They know that if they intend to put a child who is 12 or under on the STMP program, they first need to go through the process and attain a sign-off by me. Only a person in my position will sign off on putting a child who is 12 or under on the program to say, "I agree that the child should be on the STMP program."

Ms JENNY LEONG: Given that a child aged 12 or under is below the threshold for criminal responsibility, how on earth do they go on the program list? In what circumstances would that be possible, given the courts would hold that the child is below the age of criminal responsibility?

Mr CASSAR: The whole purpose—

Ms JENNY LEONG: I appreciate that discussions of this Committee will look at recommendations about stopping any juvenile from being on this program, and we will discuss diversionary programs for persons aged 12 to 18. I am probing a lack of understanding of how someone can be on a program when they are below the age of criminal responsibility, because this seems unclear.

Mr DAMIEN TUDEHOPE: It seems to me that there is a fundamental misunderstanding in that question. You can be on an STMP without facing a charge.

Mr CASSAR: That is exactly right, and you can be charged if you are under the age of 12 under certain circumstances.

Ms JENNY LEONG: In such a scenario, what has the young person not done to be on that program?

Mr CASSAR: To get to a point where I would sign off and approve a child aged 12 or under to be on the STMP program, there would have had to have been a series of very serious offences, and maybe even a bail determination when the child is subject to charges and bail conditions. Before they get to that point, I would be engaged with them through our Youth and Crime Prevention Commands with our PCYCs. In the first instance, there would be a meeting to set up communication, and I would need to be convinced that this is the absolute last resort to provide a safe environment for the community. Then we would talk about some of the action, and maybe the STMP program for a younger person would include engaging the mother and father.

It would include me, as the first port of call, meeting the child and having communications with the child to say we will be working with our school liaison police and the school principal to make sure the child is attending school. It would look at opportunities to engage the individual in activities in the PCYC if the child does not want to consent to taking part in a program. That would be the last resort. Where we are at the moment, the youngest child on the program is 13 years old. I would hesitate to say that we will not put a child under the age of 12 on the program, because there could be circumstances in our current environment that may warrant that situation, but that would be very rare.

Ms JENNY LEONG: You mentioned that there was an internal review of the STMP program.

Mr CASSAR: That was a review in regard to our compliance with the guidelines, yes. That was conducted by the Directorate of our Intelligence Unit. They directed a review of the same parameters as the report that was put out by the Youth Justice Coalition, I think, to investigate the environment out there.

Ms JENNY LEONG: Is that review available for the Committee to look at?

Mr CASSAR: I do not have that review.

Ms JENNY LEONG: Can you take on notice whether we are able to see the findings of the review?

Mr CASSAR: I can take that on notice. Generally speaking, the outcome of that review provided us with percentages of youth and adult offenders. It provided us with an opportunity to do a health check on that particular process and say that we are now in an environment where we have a greater capability to provide

support to our youth in regard to youth diversionary programs. We have an Assistant Commissioner in charge of the programs and a Board chaired by myself with multi-government agencies. We have a Six-Stage Strategy that the Commissioner is driving. We do not need to go down the paths of STMP as a priority; we now look at getting youth into strategies that use a whole-of-government approach to support the individual and to provide them with opportunities to go into programs. At the end of those programs there is an opportunity for some to get employment.

Ms JENNY LEONG: Many of the submissions talk about the disconnect between the STMP program and other positive diversionary programs that are being run. In relation to the recommendations of the review, I understand the statistics around the STMP program are not shared with the Bureau of Crime Statistics and Research [BOCSAR] and are not publicly available.

Mr CASSAR: That is correct.

Ms JENNY LEONG: Has there been a review of the effectiveness of the program? Is there evidence of any kind to show the effectiveness of the program for people under the age of 18? We have seen reviews of other programs that are offered.

Mr CASSAR: I am not aware of any reviews that would quantify such a response. I can provide just anecdotal comment. A local area command runs a process that has STMPs on the system. There is an obligation to go through the risk assessment process and to involve the local police. The local area also has to establish a target action plan and record actions within the management system, which is reviewed at the fortnightly tasking and deployment meeting to a point where they review the effectiveness of the target in connection with what they are doing and the crimes that are occurring. Then they make a determination to continue, suspend or cancel the program.

Ms JENNY LEONG: To clarify, are you aware of no assessment of the effectiveness of this youth diversionary program?

Mr CASSAR: It is not really a youth diversionary program.

Ms JENNY LEONG: We are in a challenging position because we have seen public reviews of other diversionary programs that exist, but we do not know what the impact of the STMP has been found to be. It is therefore difficult for this Committee to make an assessment of whether the STMP is working in contradiction to the other programs.

Mr CASSAR: In answer to your question, I am not aware of any evaluation of the STMP. There has been feedback from the local area commands that it is an effective strategy. When we look at using the STMP to target repeat domestic violence offenders, it has been found to have a very positive impact on reducing the frequency of domestic violence.

Mr DAMIEN TUDEHOPE: It is effectively a community safety program as opposed—

Mr CASSAR: To a program.

Ms JENNY LEONG: Diversionary.

Mr CASSAR: Yes.

Mr DAMIEN TUDEHOPE: Community safety is its primary emphasis.

Mr CASSAR: That is right.

Ms JENNY LEONG: It is important to check that it involves police checking in on people, visits to their homes, those kinds of things as well? This is an area of challenge in the juvenile justice space. My understanding is that all the research and evidence and the other police programs that are run are about trying to limit the amount of intersection between young people and the criminal justice system, as one of the largest risks is them engaging continually in the justice system. Before a young person has committed a crime or been found guilty of a crime this will create a connection between them and the criminal justice system, is that correct? They can have regular home visits from police and other things before they engage in any criminal activity?

Mr CASSAR: I cannot say definitively that that is not an action but, generally speaking, the actions that I am seeing when we relate to juveniles as opposed to adults, adults would have bail conditions associated with them being on the plan. That gives us the capability to do bail checks and visit them at home. With young people, the interaction is more engaging the youth liaison officer from the local area command to go and speak to that child in a positive sense. Interaction with police is not always a negative strategy. An action item might be to encourage police to interact with the young person. That means if they see them at 2.00 a.m. on the street, they stop and engage them to find out what they are doing, bearing in mind the age of the child. When we talk

about contact with the young person, predominantly that is the contact, more so than checking to see if they are home—unless they are on a curfew.

Ms JENNY LEONG: In relation to the review, was there any assessment done of the proportion of young Aboriginal people who are on the STMP program and was that noticeably higher or lower than the average population?

Mr CASSAR: I told you we have that checking mechanism that I can see in any given week where we are at. We do have the capability to see the proportion of Aboriginal to non-Aboriginal. Where we are at the moment, it is not far off 50:50 per cent.

Ms JENNY LEONG: Is that 50 per cent Aboriginal, 50 per cent non-Aboriginal?

Mr CASSAR: It is wavering on that.

Ms JENNY LEONG: Significantly higher than the general population.

Mr CASSAR: It is 50:50 per cent.

Ms JENNY LEONG: But the Aboriginal community does not represent 50 per cent of the general population.

Mr CASSAR: Yes.

Ms JENNY LEONG: I appreciate that.

Mr EDMOND ATALLA: The President of the Children's Court has advocated full-time liaison officers in each of the local area commands. Do you have a view on that, given that you are responsible for youth on behalf of the Commissioner?

Mr CASSAR: Yes. There are a number of boards that I sit on with the President of the Children's Court and we speak a lot on a regular basis about any emerging issues with the view of me addressing it from a policing point of view. We have 80 youth liaison officers across the State. We do aim, like any other position within the NSW Police Force, to have that position filled. Unfortunately, due to the nature of our occupation, police are subject to injuries and take leave, whether it is paid or unpaid. We encourage local area commands to backfill that position if they have the capability and to cross train in those areas. That said, if we do not have it in the local area command, under my command of youth and crime prevention, I have that capability through 40 school liaison police across the State, as well as police within the Youth Command, to provide additional support. That is part of my restructure of the Youth Command to the Youth and Crime Prevention Command; it is greater connectivity with the local area commands and the youth liaison officers to make sure that we are providing the command and support so they can provide the support to their local communities.

Mr EDMOND ATALLA: Putting vacancies aside, is there a position in each command?

Mr CASSAR: Yes.

Mr EDMOND ATALLA: There is?

Mr CASSAR: Yes.

Mr EDMOND ATALLA: Every command has a youth liaison officer? Some are vacant.

Mr CASSAR: I would say yes at this stage because under the re-engineering we have seen a consolidation of a number of commands. There may have been smaller commands that did not have an allocated youth liaison officer. I will have to take the question on notice to give the Committee a definitive answer. We have 80 youth liaison officers and generally speaking more liaison officers than local area commands. There are a few commands that have more than one. I am pretty confident in saying just about all of them would have and in fact, under the consolidation, all of them would have now.

Mr EDMOND ATALLA: Mission Australia suggests that amalgamation of local area commands across the State reduces the number of youth liaison officers. Do you have a comment on that?

Mr CASSAR: I can say that the NSW Police Force has not reduced the number of youth liaison officers.

Mr EDMOND ATALLA: If there were two commands with two liaison officers, when they are amalgamated does that reduce to one?

Mr CASSAR: No. As far as we record, there is a SAP position, which is a personnel position, allocated. For example, traffic and highway patrol have a specific one, the crime prevention officer, and youth

liaison does. We have not reduced any of those personnel numbers. If we started with 80, today we still have 80 youth liaison positions.

Mr EDMOND ATALLA: Given your responsibility for the PCYC, the Committee has heard that the programs offered by the PCYC clubs across the State vary and there is no consistency between the programs. Do you have a comment on that, and are you working towards consistency?

Mr CASSAR: Yes. The chief executive officer [CEO] for the PCYC is Dominic Teakle. We have a detective inspector who works in his main office at Whalan and there are a number of police there. The objective there is to have that strong working relationship and to address any issues as they emerge. The reason there is a large variation of programs out there is that there is a variation of communities out there with varying demands on what types of programs they need. Generally speaking, all the PCYC programs involve a number of core components: health and nutrition, physical exercise and education. If there is an area that wants to run a program in regard to domestic violence, violence or cybercrime, then there would be a program that could be tailored to that.

What we are doing under the Commissioner's Six-Stage Strategy that we have been working on—and are not too far off rolling out statewide—is looking at using those programs more collectively as a toolbox-type set-up to be able to create a best practice to say, "If you have this particular issue within your community, then here is a program for you that you can dovetail into the overall strategy."

Mr EDMOND ATALLA: You are saying that each program is custom tailored for the geographical area?

Mr CASSAR: Not in all cases, but that is why there is a variation. For example, traditionally the Hornsby PCYC's strong activity was boxing. Now it has morphed into boxing, basketball, futsal, soccer and table tennis. There is an opportunity to involve the local youth who may have an interest in table tennis to incorporate that activity.

Mr DAMIEN TUDEHOPE: And gymnastics.

Mr CASSAR: And gymnastics; that is right, absolutely.

Ms STEPH COOKE: Under the Young Offenders Act, a young person can be handed a caution by police only three times.

Mr CASSAR: Correct.

Ms STEPH COOKE: Some stakeholders have argued this is an arbitrary limit. Should a court be given discretion to hand out a caution where a young person has already been cautioned by police three times? Alternatively, should police be able to hand out an unlimited number of cautions in appropriate circumstances?

Mr CASSAR: I certainly believe there are benefits to explore the scope of increasing the number of cautions beyond three, under certain circumstances. I believe that there needs to be a limit on the number of cautions. Generally speaking, I see that there is greater value in conferences than cautions because there is an outcome. I think you would get feedback from other people in that regard too.

Ms STEPH COOKE: The Committee has also heard that a greater range of offences should be able to be dealt with under the Young Offenders Act 1997 in appropriate cases. Do you have any comment?

Mr CASSAR: There is certainly scope to provide consideration. Our societies and our environments have changed significantly. The NSW Police Force would embrace the opportunity to comment should we go down that path.

Mr DAMIEN TUDEHOPE: I take you back to the STMP. In circumstances where there are Indigenous hotspots, to what extent are Indigenous police officers used to engage with those communities?

Mr CASSAR: The NSW Police Force does not have a policy to dictate that. That said, in areas where there are opportunities as local area commanders we look to use our resources as effectively as we can.

Mr DAMIEN TUDEHOPE: And that includes Indigenous police officers having interactions with those families?

Mr CASSAR: That is correct. A number of commands have Aboriginal liaison officers, not Indigenous police officers. They will not be used to issue cautions or to have conferences. Their primary focus is to establish positive relations between the local area command and their Aboriginal community.

Mr DAMIEN TUDEHOPE: STMPs bridge the gap between diversion and community safety. Is that correct?

Mr CASSAR: It is a strategy that is available to police. I am not making reference to youth in this regard. In the more serious cases, I believe they provide us with an effective strategy to monitor, to influence and to encourage those who may be otherwise involved in criminal activity not to partake in it.

Mr DAMIEN TUDEHOPE: There are other diversionary programs—for example, Youth on Track is a diversionary program.

Mr CASSAR: There are a lot of diversionary programs.

Mr DAMIEN TUDEHOPE: PCYCs are diversionary programs and liaison officers generally are trying to direct people into those programs before any community safety issues are embraced.

Mr CASSAR: Are we talking about the youth again?

Mr DAMIEN TUDEHOPE: Yes.

Mr CASSAR: There is a whole bucket of programs and activities. We have 40 school liaison police officers. Their task is to go to high schools to talk about relevant crimes, such as cybercrime, bullying and going into licensed premises as they get closer to adulthood. That is more of an engagement with a view to crime prevention in the longer term. When we talk about individuals at risk, I believe we need to look at not only police but also a whole-of-agency approach to ensure we are providing support that diverts the individual from engaging in that sort of activity as they get older.

Mr DAMIEN TUDEHOPE: That is right, and coming into contact with those programs does not mean you have committed a crime.

Mr CASSAR: That is exactly right.

Mr DAMIEN TUDEHOPE: It is whether you are assessed as being at risk. In fact, Youth on Track is predicated upon an assessment that someone is at risk.

Mr CASSAR: That is right. It is usually a referral from the police, and that is why they go through that risk assessment.

Mr DAMIEN TUDEHOPE: What is your assessment of that program?

Mr CASSAR: I work very closely with the Director, who is on the board I chair. They had a board meeting yesterday and, believe it or not, there was a presentation on Youth on Track for 10 minutes. I certainly see merit in it, and I look forward to the evaluation. I see a lot of positives. There is certainly a place in the strategies of all agencies working together to be able to feed into it or to support it in some way—for example, through our PCYCs.

Mr DAMIEN TUDEHOPE: Who currently feeds into it? Which agencies feed into it?

Mr CASSAR: Juvenile Justice has the lead role in it. The NSW Police Force is the primary referral point because we have the greatest interaction with individuals. There is that capability for—

Ms STEPH COOKE: Schools.

Mr CASSAR: Yes, I stand corrected. Our Computerised Operational Policing System [COPS] have that capacity. If it is captured by another officer, it will be automatically referred to Youth on Track. However, if it comes from a youth liaison officer, a specialist in that field, they tend to take priority.

Mr DAMIEN TUDEHOPE: Do the youth liaison officers case manage that themselves?

Mr CASSAR: No, our whole involvement is in the referral process into Youth on Track. We do not have much involvement beyond that unless they go down the path of using a PCYC.

Mr DAMIEN TUDEHOPE: So if you were looking to expand referral into Youth on Track, it would certainly involve—

Mr CASSAR: Police, Education.

Mr DAMIEN TUDEHOPE: Where else would you expand? There is Family and Community Services.

Mr CASSAR: Yes, Family and Community Services, and I believe NSW Health would have a good opportunity to make referrals. They would be the key players.

Mr DAMIEN TUDEHOPE: What happens when someone is referred into the program? What is the strategy around case managing that young person?

Mr CASSAR: The Director of Juvenile Justice is best placed to answer that question only because they are the gatekeepers or controllers of the program.

Mr DAMIEN TUDEHOPE: Is there a report back to the police?

Mr CASSAR: Only that I am invited to a meeting by one of the directors of Youth on Track to take stock of how it is going. Local area commands do not get a great deal of feedback. The feedback I have been getting at my level is that it is all positive.

Mr DAMIEN TUDEHOPE: I refer to bail conditions that attach to young people. Are you satisfied that, in granting bail to young people, magistrates have sufficient options in terms of the conditions that attach to bail?

Mr CASSAR: There are sufficient options. I cannot comment on certain cases, but I believe there are a number of options. My only concern is instances where the child may not have a home. It is disappointing to see that they cannot be bailed to somewhere because they do not have a home to go to.

Mr DAMIEN TUDEHOPE: I was coming to that. What would your recommendation be in relation that?

Mr CASSAR: Greater flexibility. In terms of Aboriginal communities, there would need to be feedback from the community that supports the child to find a suitable place. There are greater opportunities to bail them. At the end of the day, from a policing point of view, we would like to see a safe haven for them.

Mr DAMIEN TUDEHOPE: Rather than go to a Juvenile Justice centre, you would prefer flexibility in relation to accommodation arrangements?

Mr CASSAR: Yes.

Mr DAMIEN TUDEHOPE: I return to the STMPs. They seem to have garnered more support or interest than they probably merit. How many young people in the review you conducted recently were the subject of an STMP?

Mr CASSAR: In recent times we have been seeing about 450 across the State.

Mr DAMIEN TUDEHOPE: Young people?

Mr CASSAR: No, they are adults. About 25 per cent or 26 per cent would be under the age of 18.

Mr DAMIEN TUDEHOPE: So 100 of the 450 would be—

Mr CASSAR: Under the age of 18—no-one under the age of 13.

Mr DAMIEN TUDEHOPE: I understand that; you have been at some pains to tell us that. In respect of the 100, how is that broken down into regions?

Mr CASSAR: I would have to take that question on notice; I do not have that information available to me. I can get the information quickly only because we are looking—

Mr DAMIEN TUDEHOPE: Can you break it up into local area commands?

Mr CASSAR: The NSW Police Force can do that analysis to find out exactly where they are.

Ms JENNY LEONG: My understanding is that the STMP is not identified as a diversionary program. However, the questions the Member for Epping has asked seem to suggest there is a range of diversionary programs, including Youth on Track and the STMP.

Mr DAMIEN TUDEHOPE: No, I did not suggest the STMP.

Ms JENNY LEONG: I wanted to check. Is it your view that the STMP is a youth diversionary program?

Mr CASSAR: Can I clarify that?

Ms JENNY LEONG: Please do. I genuinely want it clarified because I had a different view.

Mr CASSAR: The STMP is a plan, not a program. It is a strategy available to the NSW Police Force; it is certainly not a program.

Ms JENNY LEONG: Is it something that is mentioned in the youth strategy that you mentioned earlier—I cannot remember the years of the draft youth strategy you mentioned. Is the STMP part of that youth strategy?

Mr CASSAR: I would have to take that one on notice. It is probably about 40 pages worth. I would have to have a look at the final draft.

Ms JENNY LEONG: The Advocate for Children and Young People has recommended training for those who work in juvenile justice to ensure that their practice takes into account how racism impacts on Aboriginal young people. Do you know whether there is any such training in the NSW Police Force and do you have any comment on that recommendation around there being more training around the impact of racism on young people within the police or more broadly as part of our approach to diversionary programs?

Mr CASSAR: There is no specific training on racism. But, that said, it is our view that we treat everyone equally. We do have training programs available to police insofar as Aboriginal awareness. In our particular culturally and linguistically diverse [CALD] communities there are established programs and our multicultural liaison officers, which for those particular police encourages a stronger relationship, as do the Aboriginal liaison officers. We have got a whole range of policies in regard to equity and treating our peers fairly and the community fairly, but nothing specific to racism.

Mr DAMIEN TUDEHOPE: In relation to that, are you aware of any allegations or suggestions that racism is endemic in the NSW Police Force?

Mr CASSAR: No. To answer your question: no, not within the NSW Police Force. At a local level there are strategies such as cultural surveys and an expectation that police establish values and behaviours frameworks to make sure that there are whole-of-command approaches to make sure that does not occur.

The CHAIR: I think there was a very successful program out west with the South Sea Islanders.

Mr CASSAR: As in Western Sydney?

The CHAIR: In Western Sydney, yes. My knowledge of it when I was Police Secretary was that it proved very successful and broke down a lot of barriers and a lot of misunderstanding.

Ms JENNY LEONG: Just to clarify, that recommendation is around the idea of the impact of racism in general on young people and the need for training around that. That recommendation of the commissioner was in relation to the impact of racism on young people.

The CHAIR: The Joint Protocol to Reduce the Contact of Young People in Residential Out-of-Home Care with the Criminal Justice System was signed and endorsed in August 2016. What strategies does the protocol adopt to reduce contact with the criminal justice system, and do you have any early indications of whether it is working?

Mr CASSAR: We sit on the Joint Protocol Committee, the Steering Committee. From a NSW Police Force point of view, there have been communications with all our police to make them aware of this as an option. There have been signs of success in some local area commands and there has been feedback from other commands that it is working. I think that is about as far as I can take my comment in regard to that.

The CHAIR: Some stakeholders have told the Committee that the use of diversionary options under the Young Offenders Act varies according to geographical location, with the police sometimes proceeding straight to charging. Do you have any comments? What could be done to increase consistency across the State in this area, and do the police need more training and have other options available under the Young Offenders Act?

Mr CASSAR: As far as Australia goes, we have a tremendous amount of resources when we talk about the capability to address youth issues and youth diversion—270 police across the whole State; 63 PCYCs. We have got officers at each of the local area commands as youth liaison officers. Since 1 August, in taking over my role, I have established that restructure that I spoke about, incorporating crime prevention into youth command. We have got a greater capability through our senior management going from only one inspector to three inspectors, one being a strategic coordinator.

The whole objective is greater marketing and engagement with all our local area commands in regard to the Commissioner's focus on diversion as a first port of call. That may have been the case historically, but moving into the future I am seeing some very positive signs of certainly an embracement by all our senior managers—being superintendents and inspectors, crime managers and sergeants—and I think it is only going to get better, because we are here to stay.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you some additional questions in writing. The replies to those questions will form part of your evidence and will be made public. Would you be happy to provide a written reply within five business days to any further questions?

Mr CASSAR: I would be more than happy to.

(The witness withdrew)

KATIE ACHESON, Chief Executive Officer, Youth Action, sworn and examined

The CHAIR: I now welcome Katie Acheson, who is appearing on behalf of Youth Action. Thank you for appearing before the Committee today. Before we proceed, do you have any questions regarding the procedural information sent to you in relation to witnesses and the hearing process?

Ms ACHESON: No, I do not.

The CHAIR: Would you like to make a brief opening statement?

Ms ACHESON: I would love to. Thank you for inviting Youth Action to give evidence today as the peak body for the 1.25 million young people and the services that support them in New South Wales. We urge the Committee on Law and Safety to keep young people and youth services at the centre of this inquiry and their future work. The non-government organisation [NGO] youth sector is core to the diversionary process. It costs \$1,500 per day, or half a million a year, to hold a young person in juvenile detention. Not only is this expensive but it has been well established that early interaction with courts and incarceration leads to poorer lifelong criminal outcomes rather than preventing them.

The NGO youth sector delivers programs that provide positive outcomes, wraparound services for young people who come in contact with the juvenile justice system or can be evaluated to be at risk of coming into future contact. Diversionary measures avoid criminalising young people while they are still developing. It is very clear that adolescence is the second most important time in a human trajectory where you can change a person's life trajectory only after the first 1,000 days—so the first 1,000 days and then adolescence. When you intervene at this point you can actually change the trajectory of a young person's life. Intervention is so key and pivotal and a great investment because of that fact.

Youth services need to be able to work strategically, focusing on outcomes for young people at the centre of their work, planning for the long term and working collaboratively with other agencies. Our consultations, however, have shown that youth services often feel alone in seeking best outcomes for young people. They face departments that operate in silos and systems that do not promote collaboration, and there are gaps in community knowledge about the impacts of outcomes on vulnerable young clients and contracts often expire very quickly. Positively, however, much of the infrastructure to support young people is already in place. Schools, youth services and successful programs executed effectively for diversionary efforts are the right conditions that are currently in New South Wales. We know it works; we just need support services, schools and the community to have more effective collaboration to create these outcomes.

As a result, Youth Action has recommended that a comprehensive training program and policy changes happen so that teachers and school staff can identify risk factors and supports for adolescents; programs to build formal linkages with schools, youth services and local diversionary programs and the local community; increase the number of student support officers in schools and support their activities; and a centralised commissioning approach to contracts. Successful supporting of young people as they move through adolescence and diverting them away from contact with the criminal justice system leads to better outcomes for young people, their local communities and their schools environments and sustains government values.

The CHAIR: That was a very informative opening statement. Referrals to Youth on Track must be made by police at schools. Should other referral pathways be considered—for example, through Health?

Ms ACHESON: Yes. The huge investment that is being made in that program would be best utilised by making the referral process more open—not just in Health. I would argue that youth support services are often seeing a wide range of young people. They can have already identified risk factors and could see the benefit of people going through that program—making it available not just to the police and schools but also to health services. Specifically targeting youth services, which already know a young person and know what would work effectively through that program would be most effective.

The CHAIR: Some young people decline to participate in Youth on Track. Do you have any comment on the possible reasons? Should attending diversionary programs or services be mandatory?

Ms ACHESON: That is a great question. For the success of youth services we know that the youth development approach is a soft entry. Acknowledging the necessity of relationships and that trust factor for young people to be able to open up about what is happening in their lives as they talk to a support worker is so important. Youth services are trained in that. In a lot of programs that target young people—particularly in diversionary programs where there is a punitive element and when they have already been in contact with juvenile justice—there is an all-or-nothing approach: you do this or you do not. There is no relationship there. There is no intentionality for that young person.

Many young people want to know how it is going to work for them and see that the people care. When the outcome for a particular program is about a juvenile justice statistic rather than about the young person—the people seeing themselves with that outcome—the program will not be as successful as it would if the young person is involved in that process and in the decision making. So I think it is really about relationships. What would probably help the program is the strengthening of the early contact stage of having well trained youth workers, who know how to make good relationships with young people quickly, being the people who are making that contact and where it is not all or nothing—you do this or you do that—because the success rates of those things are not great.

The CHAIR: There has been some difficulty obtaining referrals for Youth on Track programs, particularly through schools. How could this be addressed? Do you think it is about awareness of the people in the schools?

Ms ACHESON: Are you going to have witnesses from Education?

The CHAIR: Yes.

Ms ACHESON: One thing we hear from schools is that they feel a lot of pressure to be the entry point for everything. Teachers see their role as teaching the curriculum. The wellbeing of the student is very important but their primary objective is to teach. The complexity is that the young people that they teach have complex lives. There is a lot going on and teachers are often best placed to see the early signs. They can see when a student's behaviour is changing and those early risk factors. They are really well placed to do the referrals. A lot of government programs therefore put that process into the school and ask schools to do that.

But teachers are often not given the training to do those referrals effectively or to identify those risk factors. But there are really good training programs and systems that are already in place in schools, which we have commented on. For example, the Department of Family and Community Services has a policy—I forget the name of it—that helps. It is about child protection as a whole, but if you extended that to seeing early risk factors then the teachers who have to go through this program and are getting this training—every teacher gets it—will be able to see some of those risk factors early. Then, if local youth services and Youth on Track, for example, are included in that training process, the teachers will have the ability to identify the early risk factors and will automatically be able to see where they can channel those supports, including into Youth on Track.

One of the things we always ask is, "How can youth services or people who are working with young people, who understand what is happening to young people, work better with the schools?" It is really hard to get into schools. The whole Local Schools, Local Decisions factor makes it really difficult for there to be a whole systemic approach to anything. Youth on Track was obviously a statewide approach, but school decisions are made locally. So creating consistent pathways is very challenging, but there are ways to do it.

Mr DAMIEN TUDEHOPE: You told us earlier that it costs \$1,500 a day to keep an offender in juvenile justice. Where did you get that figure?

Ms ACHESON: That is a great question, and I knew you would ask it. My policy and advocacy person who gave me that figure is away today. I am happy to send you the reference.

Mr DAMIEN TUDEHOPE: I would like to see that reference because—

Ms ACHESON: I am pretty sure it was from Juvenile Justice but I will double check. We triple check everything we write.

The CHAIR: You have the ability to take questions on notice.

Ms ACHESON: Yes. I would like to take that question on notice.

Mr DAMIEN TUDEHOPE: We have talked about Youth on Track as being one of the diversionary programs. What other programs do you identify as being effective for diverting young people at risk away from potential offending behaviour?

Ms ACHESON: I would argue that one of the interesting things about the youth sector is that the outcomes of many of the generic youth services are diversionary. There are many programs throughout New South Wales that have diversionary aspects but would not be identified as solely diversionary programs.

Mr DAMIEN TUDEHOPE: There is PCYC for example.

Ms ACHESON: Yes. PCYC does much more than diversionary programs. They do holistic support and wellbeing. There are local youth centres and counselling services. Student support workers in schools—although they have a wellbeing aspect—do a lot of diversionary supports, before a young person has had any contact with the police or the juvenile justice system. The support workers might see them before that point or

through that point. So there are many services for young people which are in the midst of this. Just Reinvest is probably something that you are well across.

Mr DAMIEN TUDEHOPE: Yes.

Ms ACHESON: It is a renowned program that has taken a different approach to looking at offending and helping to reduce numbers, particularly of Aboriginal young people in the Bourke area. It is an exemplary program that is being looked at across the State and, I have heard, in other countries. It is useful that it recognises the fact that when you put a young person into the system a bad outcome is almost guaranteed, no matter what you do. It is not diversionary. Once they get to the point where there is contact the statistics are not great.

Mr DAMIEN TUDEHOPE: The reoffending statistics are not great.

Ms ACHESON: Yes, and their life trajectories are not great. So that contact aspect is a very good indicator of bad outcomes for lifelong trajectories. By trying to avoid that engagement, or consistent engagement, with the justice system through very early intervention—getting involved with a young person as soon as you see risk factors and putting supports in place—is when you see great outcomes. Just Reinvest has a really great evaluation program. We need to give the time to look at what is happening and then make sure we do evaluation over a number of years. I do not think we do that very well, to be honest.

There are some great programs. There is a program in Armidale called Wags the Dog. It is about bringing animals into schools where there are young people who are really struggling to stay engaged. It is about young people who are identified through suspension but it is also about criminal behaviour and pre-criminal behaviour. It helps the young people to see themselves and their personality traits in the dogs. They learn to connect and to socialise with other people. It is having great outcomes, but it is early days. Often programs are pilot programs. We have a three-year period to see what will happen if we put money into an early space before people are even at the pointy end of this kind of contact.

We do not give them money to do proper evaluations and we do not give them contracts long enough to show that it is consistent and that those outcomes are consistent. There are a number of different programs that have been really successful in New South Wales over the years. I would say that where we are lacking is that we do not follow them up, we do not continue the funding and we do not do proper evaluations throughout the time. Just Reinvest and Wags the Dog in Armidale are two regional approaches. I would be really happy to give you a list of things that we were looking at.

Mr DAMIEN TUDEHOPE: I am interested in that, but I am interested also in the evaluation issue, because lots of people apply for funding for programs that they say are going to be whiz-bang programs that are going to solve the problems of the world. I am interested in how you see an evaluation working if in fact it was funded, with a component of the funding specifically for the purposes of evaluation. Would that be a model you would embrace?

Ms ACHESON: Yes, 100 per cent. That was one of our recommendations. My old job was in international development and in most international development contracts there is a certain percentage that is put aside solely for evaluation and they give the tools to measure it in a particular way so that there is consistency for the Government about cost spending and what that looks like. It is shame, I think, that across the State we do not do that. A lot of these services and programs that are really successful have very little money—they often just barely cover the very low wages of a trained youth worker—and they just make ends meet, but there are no additional supports for tools or evaluation opportunities and resources and there is no impetus to make sure that the evaluation is continued in a consistent way.

Mr DAMIEN TUDEHOPE: Can you give me some examples of programs that have failed for that reason—programs that we have funded but we no longer fund because there has been a lack of an opportunity to evaluate their effectiveness?

Ms ACHESON: In the diversionary space, not off the top of my head. I think in the employment space there are a number different ones I can think of. I would be happy to look at some of the pilot projects that did not continue because the funding stopped. It is such a consistent thing—it is a regular cycle. Every three years something starts, it is great and then it goes away and then somebody else starts one and it is great and then it goes away.

Mr DAMIEN TUDEHOPE: I would like to see some examples.

Ms ACHESON: Sure, I would be happy to provide those. I have the reference for you—the figure came from a 2006 Productivity Commission report on youth justice services.

Ms STEPH COOKE: The Committee has heard that the rate of diversions under mental health legislation is low, despite high rates of mental health impairment amongst those who appear before the courts. Do you have any comment on that?

Ms ACHESON: Could you give me more information? Is it around the fact that young people are not getting the mental health supports relating to—

Ms STEPH COOKE: It could be. We have heard that magistrates have the capacity to divert people before them under mental health legislation but that the rate of those diversions is quite low which is interesting, given that there is a high rate of mental illness amongst the people coming before the court system as juveniles. Do you have any comment on that?

Ms ACHESON: The first question I would have is that when saying that a number of young people who come before the courts have mental health related issues, how many have been diagnosed? I think that courts would like a piece of paper and it needs to come from a particular person. A young person identifying that he or she has mental health issues would not be seen as enough. It is often about training. I think that as a general rule when we talk about mental health and young people there is a lack of understanding and a lack of service provision that is appropriate for their age and what they are experiencing at the time. Often what happens in these sorts of court situations is that the most pressing thing comes to the forefront, so the behaviour that is before the court is what is seen as the most important thing and the issues that the young person is facing and what might have led him or her up to that—and the lack of supports in place before that point—are often not taken into consideration, including their mental health.

It is incumbent on young persons or, hopefully, their support teams—which is not as common as we would like to think—to get a diagnosis, which would then be considered by the court. I think magistrates need to understand the complexities of young people's mental health and how many of them have mental health issues but have not necessarily been able to get the supports that they need and therefore do not have a diagnosis or a piece of paper that would be recognised by the courts. That creates an issue for the court system to be able to use that legislation.

Ms STEPH COOKE: The Committee has heard that a lack of drug rehabilitation services for children and young people, particularly in regional areas and in Western Sydney, is a problem. Do you have any comment on that?

Ms ACHESON: That is 100 per cent true. We do regular consultations with our youth sector and one of the things, particularly in regional areas, that comes up as a major barrier for youth services being able to support young people is the lack of alcohol and other drug support services. Rehabilitation services, particularly in regional areas, are very few and far between, hard to get into, expensive, and not always appropriate for young people. Where there is a service or support program, it might not be appropriate for the young person because it is not age appropriate. It is a very complex situation. It is costly but it is also very effective and I think it is one of the things that we as a State really need to consider how to address as an issue. We are nowhere near dealing with it.

Mr EDMOND ATALLA: I am going to follow up on Ms Cooke's question, because I was interested in that. The lack of drug and alcohol services has also been noted by the President of the Children's Court in Western Sydney. He said that it weighs heavily on their diversionary programs when someone affected by drugs and alcohol comes before them without prior treatment and that they fall into the trap of not knowing what program to put the person into. What has been done by your organisation in regard to lobbying or presenting the case for treatment centres for young people before they get into trouble?

Ms ACHESON: The need for a supportive service sector for young people is a consistent theme for us always. Early intervention has great evidence—it works. Drugs and alcohol and criminal behaviour are secondary issues for things that are going on for young people. If you get in before those things become an issue that needs treatment, it saves a whole lot of money. Keeping a young person out of gaol saves money, keeping a young person in a safe environment saves money and helping young persons with their mental health before it gets to a crisis point saves money. All of these things in the early intervention space of the investment approach are key. For us, we are always talking about how we can get young people the support that they need before they get to the pointy end. Having to attend a rehabilitation centre or having that sort of really intense intervention for a young person is the end of the ropes.

What we want to do is address the behaviour that is leading to that kind of drug misuse before it gets to that point. For us it is always about talking about how we can get to the young person before it gets to the pointy end and before they need that. But once they do we need to make sure that the services that are available are appropriate for young people and can address the needs of the young person—not just whatever is presenting.

Dealing with the misuse of a particular drug as a behaviour is one thing but if we do not deal with the underlying issues they will be back again and that is not effective for anybody. It is so important that we have service systems that work collaboratively. I think that New South Wales has a really good structure in place. We have really good systems that are already working; they just do not work very well together. It is very challenging to get the police, health authorities and the education system as well as the social sector in the same room to create effective outcomes. That is what we really need. We are putting money in, but it is about getting supports in place and, once something has happened, making sure that in working with an individual we work holistically. That is not happening with the current system.

Mr EDMOND ATALLA: I fail to understand why there is a gap in providing early intervention. Is it an issue of funding, or does the Government not prioritise it?

Ms ACHESON: It is funding, pure and simple. Statistically, the ones who scare us are the ones who are dangerous. We look at risk of serious harm, and those are scary numbers for us. When we look at the numbers of young people at risk of harm from their own families, that makes us scared. We then throw money at that target group, but then there is no more money and so we do not do early intervention. It takes a holistic leadership approach to channel some of the money into the early intervention space. Often there are reforms in health, education and family and community services, with money being pushed into what we think is the crisis end. We do not realise that by removing money from early intervention programs, we put more numbers into the other end. It takes a bit of forethought and there are years before the outcomes and the pay-offs are seen. We have to take a long-term approach. It is very challenging for departments and ministries to make the call for long-term spending, when we have cycles that are very short.

Mr EDMOND ATALLA: Young offenders currently in juvenile justice detention centres are often affected by drug and alcohol use. Do you believe they should not be in detention centres, but should be getting treatment for drug and alcohol use in residential centres? We have seen first-hand the behaviour of a person who was affected by drug and alcohol use in a detention centre.

Ms ACHESON: The reasons for most young people in juvenile justice centres are probably a lot more complex than the criminal behaviour for which they were charged. The reason might be a drug or alcohol misuse issue, and you would think that the best way for us to spend money would be to help the young person to stop the misuse, so the behaviour does not continue. However, by just treating the criminality rather than the other issues, we are going to perpetuate that cycle.

Mr EDMOND ATALLA: That is exactly what I am saying, but it does not seem to be happening.

Ms ACHESON: It is not just drug and alcohol misuse; it could be many other things. Young people experiencing violence in the home and not having any support often display violent behaviour, and they may be charged with that. That is a similar situation, where their behaviour has been birthed out of their home life, and a lack of support has led them to being criminalised for acting out. Particularly when they are young, we need to look at them as young people. They can and will grow out of this behaviour, if we put supports in place. Neurology shows that we can train them to change their lives and change the way they transition through their life, if we intervene at this point. If we do it well, we will save money from stopping their interaction with the criminal justice system in years to come. It is a bit of a no-brainer, but the hard thing is that it takes time and intervention, which takes money. We need to be brave and put money into early intervention.

The CHAIR: The Committee has visited juvenile justice facilities in Wagga Wagga, in Dubbo and in Reiby, and we have been given permission to hear directly from detainees in Reiby.

Ms JENNY LEONG: Please tell us about student support officers in New South Wales schools. We have heard that there are risks in that a lot of young people in the criminal justice system have disengaged from the education system. We realise it is good to have the student support officers, but there is a concern that there is a cohort of young people who are not affected by these student support officers because they have disengaged from the education system. Are there other ways to assist and support young people who are not connecting with their school?

Ms ACHESON: When we think about how the Government approaches intervention, we often think about how the community approaches health issues. We know that health issues are supposed to be captured by a general practitioner [GP], because a GP is a first entry point to the health system. Schools play a similar role for young people, because they are the capture point for that age group. Young people are forced into the school system until they are 17, and it is a great way for us to do early identification. Student support officers are particularly useful, and it is interesting that New South Wales came up with the idea of having these officers. Student support officers are trained youth workers whose job it is to bridge the needs of the young person in the school environment with services that can provide early support. Student support officers work with teachers

and the school system within the school system. In 2014 the Department of Education did a review of the program and found it to be super successful. We were part of the process of advocating for the program to continue to exist because of its success.

There was a budget allocation of \$51 million a year for the equivalent of 200 student support officers, so the program could be rolled out. However, through the Local Schools, Local Decisions process that money was given directly to the schools to decide how to look after student wellbeing. There is no evidence that additional students support officer roles were created. We know there are currently between 30 and 50 student support officers, but it is hard to get numbers because there has been no evaluation of the program. Student support officers have been really successful, because they help teachers who do not have the time to do early analysis. A teacher can approach a student support officer early in the piece to say that a student is acting up, and the youth worker can immediately support that young person. The student support officers have the expertise to make connections and identify the behaviour. They are also connected with the community and they know what programs are out there, for example Youth on Track.

It is a really successful program, and money has been spent on it. However, we do not have any way of making sure that the money is being spent on youth support officers. On the evaluation, when there is a program that is working well we need to investigate how to roll it out and make sure it happens. The use of money needs to be articulated, and we need to be clear that if a program is working and it has a high success rate in engaging young people to stay in school and move away from negative behaviours, we must make sure that the money allocated to the program goes to the program. Youth support officers are a great example of a program that works and has been funded, but not all the funding has gone towards it.

You asked about the other programs that are out there. Youth services in the general community are in touch with young people who are in school. When a young person is suspended, it is likely that some of the youth services are involved, whether the local community centre or a sports centre or a counselling service. There are many youth services that are in touch with the most at-risk, vulnerable and disengaged young people. That is why our organisation is so successful. We can get in touch with young people who schools have said are out of touch and nobody is supporting. We can get to them, but the question is how to get them support that they need to strengthen the choices that they make and make their decisions better for their lives. Those decisions might be going back to school or engaging with work, rather than disengaging completely and having negative behaviours.

Ms JENNY LEONG: We have visited juvenile justice centres and heard directly from young people. They have raised a number of issues in relation to their concerns about risks around access to housing and not having money for transport and therefore getting picked up by transit police when they are trying to register for benefits to get to a job interview. There are also issues raised that the first time many of those young people are seeing a dentist is when they go into a juvenile justice centre. As Youth Action is the peak body representing young people in New South Wales, what are the broader issues that you think need to be looked at in all of those elements? We would all agree it is not acceptable to say that young people need to go into a juvenile justice centre to be able to access specialised services or general health services, or deal with the fact they have homelessness issues.

Ms ACHESON: In the past 10 years youth homelessness in New South Wales has increased by 92 per cent. I do not know whether we talk about that enough. It is crazy what is happening right now. We talk about housing affordability and it gets political. What this means is that young people are not safe and do not have roofs over their heads. That creates a whole gamut of problems. There is a housing affordability crisis in Australia because of the high cost of rent. We used to talk about buying a house but now it is about, "Can I afford rent?" Rent in the past 10 years has gone up 44 per cent. It has gone up to the point where people sitting around this table would have felt some level of increase in housing costs. Imagine what it is like for a young person who is from a disadvantaged community or has additional challenges.

It is almost impossible for a young person to find rental accommodation and as a result housing insecurity for many young people is becoming a major issue for us. Services where we used to see maybe a disengagement with school or an issue with family, homelessness or risk of homelessness is automatically an issue that many services are facing. We hear it all the time from young people. The insecurity of their housing is so high with overcrowded accommodation or couch surfing. There are so many different issues that young people face rather than adults because of their lack of social supports. If they are not safe in their home or do not feel like they can be in their family home, the options they have are very different to what an adult would have. The services that are available to them are much more limited because of their age.

One of the additional elements we have to always think about is that age is a significant barrier for many young people accessing the supports they need. They may not have the skill set at the moment to know

that they can go to a dentist or how to find a dentist, or that they need to go. If they have not been told that they need that, that dental health is so important to the rest of their health, they are not going to know that until they are in a space where they are forced to go, and they say, "I didn't know I had to go to the dentist." Those additional things need to be provided within the community. It is quite possible within community services and with the system we have. Health has many great youth health services. Young people just do not know about them.

Often it is just about communication. The schools know, the general practitioner [GP] knows, the police officer who has come in contact with them knows. The transit people should ask, "Why can't you afford it? Why didn't you get a ticket today?" rather than charging them. They could also ask, "Do you have enough money to buy a ticket, or did you purposely try to rort the system because you wanted to? Is it a choice or do you actually not have enough money? Are you going to try to get a job or find a house?" It would make a huge difference if we started asking young people questions rather than charging them immediately because they broke the law.

The CHAIR: Thank you, your answers have been quite informative. On behalf of the Committee, you exhibit a high level of enthusiasm and commitment, which is to be applauded. Well done. The Committee may wish to send you additional questions in writing. The replies to those questions will form part of the evidence and be made public. Would you be happy to provide a written reply to any further questions within five business days?

Ms ACHESON: Five business days is always fine, but I will do my best and I would be happy to provide any additional information. I appreciate the fact that the Committee is doing this. I think this is a really pivotal Committee and the questions you have been asking me and the police, if we can enact this, will make a huge difference to many young people's lives. I want to express my respect and to thank you for your time.

(The witness withdrew)

(Short adjournment)

CATHERINE LOUREY, Commissioner, Mental Health Commission of NSW, affirmed and examined

The CHAIR: Thank you for appearing before the Committee. Do you have any questions relating to the procedural information sent to you regarding witnesses and the hearing processes?

Ms LOUREY: No.

The CHAIR: Do you wish to make a brief opening statement?

Ms LOUREY: Thank you very much for inviting me to appear before the Committee. This issue is key to how we fundamentally look at mental health in our community, and especially with regard to our most vulnerable, who are young people who come through various circumstances into contact with the criminal justice system and the juvenile justice system. Across Australia there is evidence that young people are having less contact with the criminal justice system. However, that does not necessarily mean that we have solved any problems, or even that the juvenile justice system is improving in its fundamental approach and workings. For many young people who are at risk of arrest and incarceration, and those already incarcerated, the lived experience of both their social participation and the criminal justice process is excruciating and unviable.

One of the big factors in this is that many of our young people live with mental health or cognitive impairments. These conditions are critical functional problems which limit their ability to constructively engage with their community and which lead them to be at risk of offending. Then, downstream in the process once they are marginalised and social and economic circumstances have caused them to be captured by the juvenile justice system, these conditions of mental and cognitive impairment limit the ability of young people to engage with diversionary programs in order to extricate themselves and to restore the viability of their position living in the community with their network, with their friends. It is not rocket science. Doing something about mental health in young people is key to addressing arrest, incarceration and post-incarceration outcomes. The potential improvements for these young human beings in the justice system and for their wider communities are very significant. To show how significant, I would like to quickly point out some sobering statistics and their implications.

Comparative surveys conducted over the past five years by the Justice Health Service found the following about young people in custody. First, it is very evident that mental illness and cognitive impairment are not a small or incidental factor in the incarceration of young people; they are at the core of the issue. In addition, 48 per cent of young people in custody had been exposed to a traumatic event, 68 per cent had experienced childhood abuse or neglect, and 17 per cent had an IQ in the extremely low range—that is, they had an intellectual disability. Aboriginal young people were three times more likely to have an IQ in this extremely low range. Secondly, 83 per cent of young people in custody met the criteria for a psychological disorder in the preceding 12 months. These kids are going through tough times. We should consider the impact of such disorders on the ability of young people to conduct their basic social interactions and to connect with their communities, their education, their families, and their networks, and how a breakdown leaves them with little option other than a pathway to offending.

Thirdly, we should consider the lifetime trajectory of abuse and that intergenerational picture. The survey indicated that 84 per cent had been in custody prior to the custodial period. Young people had previously spent a median of five times in custody. More than one in 10 children who appear in the Children's Court will end up in adult prison within nearly eight years. Nearly all Indigenous male juvenile offenders and a large majority of Indigenous female juvenile offenders reoffend. We need to do something. In the period from 2009 to 2015, the number of young people who had a parent who had been in prison increased by 20 per cent. A great proportion of young people also had unsettled accommodation and no fixed abode in the four weeks prior to custody. Their life circumstances are conspiring against them.

The inescapable conclusion is that an interplay between psychological impairment and gaps in education, employment and basic means of living are perpetuating the cultural, social and economic issues that keep marginalised communities from being transformed. Diversion for these young people is therefore fundamental to transforming their lives. Every bit of resourcing, social insight and community engagement that we put into diverting young offenders, especially through addressing mental health and cognitive impairment issues, has significant potential to reduce the rate of offending and reoffending.

What is wrong with the diversion setup in New South Wales and what do we have to do? Decision-makers in the justice process have a legislative opportunity to divert young offenders, including to mental health treatment and support programs. However, they do not use this anywhere near as much as they could. Despite the high rates of mental health issues in young offenders, only 1.5 per cent of all defendants in court proceedings are diverted under the mental health legislation. We need to support the recommendations of the New South

Wales Law Reform Commission to change the diversion framework. We need to improve resourcing for early indication assessment and advice and linkage to case management. We need to look at the effectiveness of youth diversionary programs in the period before, during and after they have come into contact with Juvenile Justice. We also need to look at the horizontal impacts of working with education, communities and schools because that is how we will come together as a community to support these young people. Most vital for me is looking at how we work with our Aboriginal and Torres Strait Islander community to support these young people who need not only support but also the opportunity to live a life that is healthy and meaningful in the community.

The CHAIR: Thank you for your very informative statement. In your submission you note that the rates of diversion under the mental health legislation are low despite the high rates of mental health impairment among those who appear before the courts. Do you have any further comments, and is there a need to train magistrates in this area?

Ms LOUREY: I do not have any further comments. However, the rates of diversion are flattening. Between 2014, 2015, 2016 and 2017 the numbers improved marginally from 554 to 556, but it is really a flat line. Do we need to educate magistrates? Yes, we do. However, we also need to educate court staff to understand that these young people have a range of issues. They may not understand that process because of their cognitive impairments. It is about understanding where the child has come from, how to support them, and the impacts of mental health and cognitive impairment on their ability to participate in the process and therefore what are the types of supports we need to assist these young people to navigate that system. The system must be more aware and more responsive. The same applies to the adult courts as well, but in this particular case diversion has a great impact. We know that for young children at age 13 diversion has a greater impact on their life trajectory than even when they come before the courts at 16. So getting in early is key.

The CHAIR: During the Committee's site visit to Juvenile Justice centres it heard that patients at mental health facilities are sometimes transferred to Juvenile Justice centres following an incident because there is not enough security in mental health facilities to manage violent incidents. The Committee also heard that there can be a shortage of mental health staff in Juvenile Justice centres. Do you have any comments?

Ms LOUREY: I do not have any specific comments. However, the inpatient units we have in New South Wales are not designed or staffed to deal specifically with children who have specific or acute behaviour challenges or issues. Where they are accommodated may not be in the best environment, and I think that is a particular area that we need to focus on.

The CHAIR: Do we have mental health staff in our juvenile justice centres?

Ms LOUREY: In our juvenile justice services I understand that there are, but I cannot speak to that positively.

Ms JENNY LEONG: Maybe following along that line, because it was one of the things that I wanted to look at, when we met with some of the young women that were in one of the juvenile justice centres they discussed the fact that they were only having access once a week to someone who was coming in to provide—and, apologies, I cannot recall whether it was psychological or psychiatric—support. In your position as the mental health commissioner, what do you think are the rights or the ability of people to be able to access that kind of mental health support when they are in the juvenile justice system? Leaving aside not being aware, what should be the normal expectation in terms of being able to access that kind of mental health support?

Ms LOUREY: It is highly important. Early intervention is the key to changing not only the trajectory of illness but to supporting that person in their own recovery and therefore being able to participate more in their own rehabilitation in that juvenile justice—and that also goes to just the opportunity for them to engage with education or other opportunities. So it is fundamental, and I think you only would have to look at some of the leaders in this area such as Professor Patrick McGorry to understand that early intervention—and it should be provided in any setting, whether it be a community setting, a juvenile justice setting, a health setting—is absolutely essential.

Ms JENNY LEONG: Basically, you have talked about the need to improve support for young people to be able to access the link to services. Can you give some examples of what you think has worked, where it is working, what are the models and what that would look like in terms of being able to identify earlier the need for young people who do need service support, how that might be best played out and if you have examples of where that has worked well in the past or pilot programs or other things that have occurred?

Ms LOUREY: I do not have that information to hand but I am happy to provide that. But when you look at this particular cohort of children or young people, what we are looking at is identification early through the education system; it could be through issues that come into child protection. There are a lot of places where

these children are already in contact with the system. So how those systems work together and network is important, and there are models that are out there that are addressing that, but I do not have the specifics at hand.

Ms JENNY LEONG: In your submission you also talk about the challenges around just limiting post-release support to justice-based criminogenic needs. Could you expand a little more on that and your concerns about it?

Ms LOUREY: What we are talking about there is that when young people are transferred back to the community, when they are released back into the community, in one sense their journey just starts again. If we want to reduce reoffending then we have to understand their whole-of-life network and the supports to move them away from criminogenic behaviour. That is about engaging them back with local networks—football, sport—about keeping them in school and also about supporting their parents, because these can be children who have lots of challenges in their life and that can come from their family unit. So especially when you refer back to the stats I was giving earlier around the number of children who have a parent who has previously been incarcerated, you are looking at that intergenerational issue.

So it is around addressing all those issues to change that trajectory for those individuals, and I think that becomes the key because by transforming that and looking at all those aspects of that young person you are giving them a leg-up into employment, and employment is the other key thing here to be connected. You have to be connected to community, education, vocational education and employment, and that does not happen in four weeks after you are back in the community; that is a longer-term issue. Therefore, it needs longer-term support.

Ms JENNY LEONG: Some of the stakeholders that have made submissions have told the inquiry that the age of criminal responsibility in New South Wales should be increased from 10 to 12 years and some stakeholders have also argued that under the age of 14 years young people should only be able to be ordered to serve a term of imprisonment in exceptional circumstances. Do you have any comments on those two age things in relation to mental health?

Ms LOUREY: The only thing I would say is that mental health and cognitive impairment has impacts which are not age specific. So it really is around their ability to understand and interpret the environment, for them to understand and interpret their own behaviour, and to understand the consequences of their behaviour, and that is not related to their age; it is related to their own developmental stage, and especially when you are looking at the early onset of mental health issues, that can be a very confusing time for children and young people. I think that is important, and that is equally as important at around age 18 as well when people become adults. You can find that there are some people who may be 18 but they do not have the capacity as an adult due to the impairments from their disabilities.

Mr EDMOND ATALLA: Commissioner, thank you for your submission. I want to follow on from the question asked by the Chair in relation to mental health juvenile patients being transferred from a mental health institution to the juvenile detention centres. Under what circumstances would that happen and what resources are required at the mental health facility so that these patients are not transferred to the juvenile justice system?

Ms LOUREY: You probably would need to speak to the Chief Psychiatrist or someone from NSW Health in regard to the specific issues. I am unaware of the numbers that are involved also. In our inpatient units in New South Wales for young people there are only a small number of units, so I would assume it is only a small number of young people who are transferred. But I make the observation that because those units are small—there are, on average, eight beds in child and adolescent units—it is not only around the capacity of the staff but also around the physical capacity of those units. Those units are small because the policy of best practice in caring for young people with mental health problems is to keep them connected with their families and their communities, and admission to an inpatient unit is the last resort.

So we do not build large child and adolescent units because we try to keep the children out of inpatient settings, to keep them in their community. So if you are having a particular set of circumstances where you have a juvenile who may have very significant behavioural or other issues, you could imagine that managing that on a very small inpatient unit has reverberations and repercussions for the other inpatients, the other children who are on that unit, as well as the ability of staff to manage that, because when you are looking at this particular cohort you also have to have people who have particular skills and expertise. So I would probably recommend that you seek more further expert advice on that than from me.

Mr EDMOND ATALLA: We have also heard that patients who are transferred to juvenile justice centres are not getting the treatment because there is a lack of mental health staff at those centres. So why would we transfer people out of a mental health facility into an area where they are not going to get the treatment? Why would that occur?

Ms LOUREY: I think what we are finding is a gap between managing behaviour and risk and access to the right clinical services and supports, and I think we need to think more about how we can transition or how we can get specialist skills to come into an inpatient unit to avoid a transfer. So I think there are other issues around what is the best-practice model of care for those particular children in those circumstances. I would also be interested to understand how that would play out in a rural setting as well, because we know that in regional and rural New South Wales there are issues generally around access to specialist care.

Mr EDMOND ATALLA: Before you transfer a patient from the mental health facility is an analysis done as to what support that person is going to get if they are transferred to a detention centre or do you just get them out of the mental health facility and it is someone else's problem?

Ms LOUREY: I cannot speak to the specifics of that, but I would say that from my understanding of how the processes work there would be an assessment; there would have to be an assessment of need to be able to support the transfer in the first place.

Mr EDMOND ATALLA: The last question I have is in relation to a submission made by the Children's Court. They have argued that the Mental Health Act needs to be strengthened to enable magistrates to divert mentally ill young people from the criminal justice system. In other words, when an offender comes before the magistrate and there is clearly a mental health issue there should be another place for diversion rather than sending them off to a juvenile justice centre. Do you have any comments in relation to that?

Ms LOUREY: We would support that. If you were to ask me what was my policy on juveniles in this area, I would just say it was a policy called "diversion, diversion, diversion." By "diversion", we are talking about wrapping children with a specific program of supports that engages with their families and their schooling. It is not just about saying, "Go off here and see a psychiatrist three times and take your medication." As we were speaking about earlier, it is around the community circumstances. When you look at the rates, 50 per cent of mental health disorders occur before the age of 15 or 16. So we have children who are in a volatile circumstance and they come into contact with the criminal justice system. They have never done this before—it is their first time—so it is a totally new landscape. At the same time, they are having thoughts or feelings that are also new to them. They have not had a mental illness before, they have never heard voices before, they have never felt this depressed or anxious before.

There is so much going on for them; that is why they need diversion to be supported so that they can get the right care and the right means to support them through the early stages of becoming mentally unwell. I was speaking to the Chair previously and I said that I had been to the forensic hospital and to the adolescent inpatient out there. That is the end of a trajectory of a very sad set of circumstances for all those individuals. When I look at the opportunity that diversion can give to those individuals and to their families—because a lot of those incidents that have become crises are around family violence—it is not possible to over-support diversion for these young people. It provides opportunities for them and for the community.

The CHAIR: That would mean strengthening the Mental Health (Forensic Provisions) Act quite significantly to allow magistrates to do that. Would you be in favour of that?

Ms LOUREY: I am not a legal eagle, but I believe that we need to look at the current legislative provisions. Do they need strengthening? Are they adequate? It is going back to your earlier point around educating and supporting to use what is already there. I think in the first step you would have to see other provisions working. If they are not then it may not necessarily be a legislative change. There may be other issues that we need to look at.

Ms STEPH COOKE: The results of the 2015 Young People in Custody Health Survey indicate that many young people are not assessed as having a disability until after they have entered detention. Is there a need for improved health screening for younger children, including within school settings?

Ms LOUREY: Absolutely. The evidence that I have been giving has always been around focusing on early intervention. For early intervention, you need to be able to understand what the circumstances are. So screening of at-risk children or children who are in at-risk families is essential. Going to your point around having assessments after you come into contact with the system, these children—this cohort of young people—will have already had flags raised at school. They would already have had issues that had come up through their lives. So it would not be the first time that they have come to the notice of our systems. It is around how we have a set of formal frameworks where we say, "This child has ticked enough boxes to require a formal assessment," rather than waiting for the young person to do something that brings them into contact with the police et cetera.

That is a real issue. When we look at programs such as the NDIS, I think there are a lot of other circumstances that we can try and bring together to support those young people to gain access to services. It is

not only around schools and their existing communities, their general practitioners et cetera; it is about getting all of those services together. Early identification, even for taking up opportunities under the NDIS, for example, is important.

Ms STEPH COOKE: You have stated that a history of trauma is common among people who come into contact with the criminal justice system, and that there is a need to increase capacity of staff to deal with this issue. Others have stressed that staff need to be cognisant of intergenerational trauma. Do you have any further comment on that? Are you able to provide any concrete examples of trauma-informed practice amongst staff?

Ms LOUREY: I can provide that for you after this if you would prefer. Trauma-informed practice is absolutely essential, I believe, to modern mental health best practice and practice across all the human services that deal with families and young children, but it is also about understanding the vicarious trauma that staff experience when they are working in these particular environments. The thing with trauma is that you have to be aware of what the triggers are for individuals. That impacts upon the therapeutic, or sometimes custodial, relationship that the people in that institution may have with these young people.

But also, as I was saying earlier, when they first come before the courts et cetera those magistrates and the court staff need to understand how their circumstances may also trigger responses from individuals. Trauma-informed practice, training and understanding for staff is important. But I would also have to say that vicarious trauma is something that we need to be aware of in staff, because if we are looking at therapeutic relationships, it is as important for the staff to be secure in the way that they are operating when they are working with children. There can be many challenges in those workplaces.

Mr DAMIEN TUDEHOPE: A lot of the observations you made in relation to screening referred to the presentation of young people before courts. Taking a step back from there, the diversion a lot earlier than that is probably important. How do we embark upon a program that is screening for mental health issues before people present to courts?

Ms LOUREY: One of the keys is around how we use our education system. We do have programs like School-Link, which go into schools to identify children at risk and other patterns of behaviour where children are presenting to school et cetera. I think that we need to focus on the communities at risk—as well as looking at individual children and families—and to have a much more formal understanding of the trajectory of those individuals. By that I mean it can be said, "That family is having particular issues" but to really understand those children, and there can be more than one child in that family, you really need to talk around how you are changing the circumstances and life cycle for the whole family unit. That is important.

How do we do that? When children are young they have a blue book—they have it stamped when they have immunisations et cetera. We cannot underestimate the role of general practitioners [GPs] in all of this. GPs see young children and young families frequently. How we engage them in that process is key. It is not only around education but also around, in one sense, the soft areas where these children engage in the community. General practitioners [GPs] are very strong gatekeepers in all of that. A parent will bring a child in because they have a cough and a cold, but that is the time when you and your GP have those other conversations around school difficulties and other things. By having a process that is much more engaged along those sorts of lines, you pick up on those flags. And then having a process where you can then have that child and that family unit formally assessed would be supportive of that individual child and the family. It really is about trying to get the child in a healthy way through to adulthood and to be engaged in education, able to get a job and all of those things that relate to offending rates and reoffending rates.

Mr DAMIEN TUDEHOPE: You are not suggesting that we have a blue book when we have regular or periodic check-ups for mental health?

Ms LOUREY: No, I am not. But what I am saying is that when children are young they have to get their immunisations so there is a process there and it is a focused process. What we need is a focused process. I am not saying we need to have a blue book, but I am saying that involving GPs and putting those questions to them—

Mr DAMIEN TUDEHOPE: What would be the trigger for screening?

Ms LOUREY: I am not a child and adolescent psychiatrist but I would say that there are many screening tools that are out there and there would be a constellation of issues, including whether you knew that a parent had been in prison, or if you knew that the family was living in poor socio-economic circumstances or that the child was not attending school regularly. There would be a constellation of factors that could trigger that.

Mr DAMIEN TUDEHOPE: Do diversionary programs such as Youth on Track have a connection with referring young people for screening?

Ms LOUREY: That is a good question and one that I am unable to answer. I do not know what the circumstances of the program are.

Mr DAMIEN TUDEHOPE: Would a child who is brought to the attention of Family and Community Services trigger a potential referral for a screening?

Ms LOUREY: Yes, that would be a way to do it.

Mr DAMIEN TUDEHOPE: Are you aware of whether Family and Community Services do in fact do that?

Ms LOUREY: I am aware that they do assessments but I cannot speak to the specifics of them.

Mr DAMIEN TUDEHOPE: There seems to be a connection between offending and out-of-home care. If out-of-home care is being arranged by Family and Community Services, should there be some sort of process as part of those referrals for some sort of mental health screening?

Ms LOUREY: Yes, and I believe that, as you say, when you understand the pathway between out-of-home care and the trajectory to offending behaviours, it is essential to get those assessments in place.

Mr DAMIEN TUDEHOPE: Ms Cooke made an observation about transferring people from the care of mental health facilities into Juvenile Justice. How often does that occur?

Ms LOUREY: I do not have those statistics. I can only imagine that it would not be very often.

Mr DAMIEN TUDEHOPE: If at all?

Ms LOUREY: What we need is the right types of services around that child. First of all, as I was saying earlier, we want to avoid children being admitted to inpatient units in the first place. We need to go back those few steps to how we support that young person in the community with their families and their schools. We need to have assessment processes that then identify their particular behavioural issues or challenges—it may be mental health and it may be the interplay of mental health and cognitive impairment. We would be looking at a particularly small set of children with very complex issues. That is what the issue is. It is about having teams that are equipped to support and provide the right interventions for children with a range of complex issues. I think that would be one of the contributors to why children would be referred or transferred on, because it is around having those right skill sets.

Sometimes what we find in the health system—and this is a general statement not specific to child and adolescent units—is an issue around the level of security that an individual needs. In our designs of mental health inpatient units we have a philosophy of least restrictive care, which may also be a function of that. Because the units are not designed to be custodial, there would be a deficiency if there was a particular need to keep a young person in a much safer environment. Of course, the issue then becomes one where there is trade-off between having a secure environment that is safe for that young person and having the right levels of mental health supports available to them.

Mr DAMIEN TUDEHOPE: I understand a situation where a magistrate, who is potentially undertrained or whatever sends a child to a juvenile justice facility when that child probably should have been referred for treatment at some mental health facility. But I am not sure I understand when it happens the other way and a referral to a mental health facility at some stage triggers a referral to a juvenile justice facility. That leads me to my next question. Is it your view that before the sentencing of juvenile offenders occurs we should be requiring a pre-sentence report on mental health issues?

Ms LOUREY: I would say that when you look at the statistics and the level of incidents of mental health and cognitive impairment that would be wise.

Mr DAMIEN TUDEHOPE: Does that mean that at every court we would need someone available to be able to do that?

Ms LOUREY: It does not have to be in every court—it can be through any other referral system that is available through the health system. But, yes, there would have to be something available, whether it was formally through the court, through the Justice Health network, or through other provisions. But the magistrates need to have all the information at hand for them to make an informed decision. I think having that information is essential to having all the facts before them.

Mr DAMIEN TUDEHOPE: When an offender is referred to a juvenile justice centre, are you aware how long they are generally there for?

Ms LOUREY: No, I am not.

Mr DAMIEN TUDEHOPE: In the average sentencing for young offenders some people are only in custody within Juvenile Justice for as little as 24 hours—some potentially for a week. But the great majority are there for a very short time. Is it the case that at most juvenile centres there are psychologists attached?

Ms LOUREY: Yes.

Mr DAMIEN TUDEHOPE: And they do a lot of work with young offenders related to the screening of mental health issues?

Ms LOUREY: The issue there is whether that information is made available to the magistrate or whether that assessment is done afterwards.

Mr DAMIEN TUDEHOPE: Yes, I agree with that. My earlier point was along the lines of when a magistrate is assessing someone for potential custodial management by a juvenile justice centre he or she should have that material available. Where would a young offender go if they need supervised mental health treatment that can be referred to by a court?

Ms LOUREY: The Justice Health system does have supports. In our local health districts we have programs and supports as well. The issue would be around having them available across New South Wales. There are always issues around access and availability outside metropolitan Sydney. It may be that we need to look at engaging more formally with other service providers, but there are lots of opportunities around how we engage with, say, headspace, for example. There are many services out there that are not necessarily already brought into the system. If we are looking at the long term, which is around having an individual back in the community, it is also a good thing to have that young person linked in to the service that can follow them through—for example, headspace goes up to age 25.

If you are looking at how to support that young person, it may be an intense period at that point in time when they are engaged with the juvenile judicial processes. But it will not stop there for them. We may have formal linkages and transitions back into the system and into the community as well it is not only around what we do at that point in time but also what to do on an ongoing basis, because these young people would be at risk.

Mr EDMOND ATALLA: Commissioner, on notice please provide the Committee with statistics on how many juveniles have been transferred from a mental health institution to a juvenile justice centre.

Ms LOUREY: I would have to decline for the reason that the Mental Health Commission does not have any powers to seek information from other agencies. I could do my due diligence in requesting that information, but I would not be able to confirm that I could provide it to you. I could do my best effort, but I do not own that data and I do not have automatic access to that data.

Mr EDMOND ATALLA: But you own the mental health institutions' data?

Ms LOUREY: No, that is their data. The Mental Health Commission does not have direct access to those data systems or funding.

The CHAIR: Juvenile Justice will be appearing before the Committee this afternoon.

Ms JENNY LEONG: I have a follow-up question concerning the length of time that young people are held in custody. Commissioner, in your submission you talk about the psychological distress caused to young people in custody. Please comment on any potential recommendation we might make that young people involved in non-violent crimes should not be held in custody, given the psychological distress it causes.

Ms LOUREY: Anything that reduces trauma and psychological distress should be supported. For those who are held in custody, we need to be mindful about not only the environment within which those young people are held but also the training of the staff who are working with them. We also need to be mindful of the therapeutic environment, which is about how we treat young people who are held in detention—even if it is just for 24 hours or a few days. We need to ensure that we do not add to their distress. That is an ongoing challenge. I speak to young people, and one of the saddest things I hear is when a young person has been admitted to an adult in-patient unit. They may be 18 or 19 and so they may still be at high school or in first year at uni and so far life has been good, but they have become really unwell. The first time they go into an adult in-patient unit they find it devastating—and that is in a health environment, which is supposed to be therapeutic and they find it devastating.

Imagine what it is like to be put into an environment that is not health focused or therapeutic in its design and in its culture. It must be so much worse. Sometimes I talk to young people and they say that one thing they will do is to make sure that they go to see their psychologist or keep taking their medication because they never want to go back to the in-patient unit again. I cannot underestimate the impact that detention has on young lives.

The CHAIR: You have partially answered this question, but we note that the boredom and lack of social inclusion and meaningful activity can aggravate mental illness. You have noted that softening the environment within Juvenile Justice centres may create a more calming setting in which staff can work constructively with detainees. Do you have specific suggestions for these changes? Committee members visited the facility at Wagga Wagga and were intimidated by the 14-metre fences and razor wire.

Ms LOUREY: An issue that I have dealt with for many years in my career is how to get the balance between risk and responsibility for young people in adult in-patient care and the therapeutic environment. There is always a tension, but we need to be creative and we can be creative in the way that we design our units. Walls do not have to have razor wire. Walls can be made from other materials. We can have murals. We can get young people involved in the design of units and hear what they think is good for them. It is around scale and the materials to make the building more home like, comfortable and familiar.

When I talk about risk, it is not only around the height of the walls or taking away all hanging points from doors, because that becomes a very stark and cold environment. It goes to fundamental things. I was talking to young people in an in-patient unit and I ask them what they would like. They said they would like a hoop to play basketball, but they were told they could not have a hoop because it would be a hanging point. They said they had a fixed barbecue outside in the courtyard so no-one can jump on it to get onto the roof. You have young people going into environments and knowing that the design is anti them.

Of course, they want to move the barbecue to get it out of the sun, for example, but they cannot because it is fixed. There is a psychological impact of going into a unit where they are know they are being treated as the lowest common denominator. That goes back to the psychological distress, self-esteem and all those other issues. This is a highly important issue, and you have probably read about it in the review of the Chief Psychiatrist released last year on seclusion, restraint and observation practices. He spoke to culture and therapeutic environments. It is a very important issue that we really need to give greater thought to.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you additional questions in writing, the reply to which will form part of your evidence and be made public. Would you be happy to provide a written reply within five business days to any further questions?

Ms LOUREY: Absolutely, yes.

The CHAIR: On behalf of the Committee, thank you for your in-depth analysis and views. I spoke before about how I have completely changed my views—as I am sure a number of Committee members have—about the good and the positive aspects. But there are other issues that we are facing.

Ms LOUREY: Absolutely. I wish you all luck with your work.

(The witness withdrew)

ANDREW JOHNSON, New South Wales Advocate for Children and Young People, affirmed and examined

The CHAIR: Thank you for appearing before the Committee today. Before we proceed, do you have any questions regarding the procedural information sent to you in relation to the witnesses and hearing process?

Mr JOHNSON: No.

The CHAIR: Would you like to make a brief opening statement before the commencement of questions?

Mr JOHNSON: I would, Chair. First, I acknowledge the traditional owners of the land, the Gadigal people of the Eora Nation, and pay my respects to elders past, present and emerging. I would also like to thank the Committee for the invitation to appear before this incredibly important inquiry today into the adequacy of youth diversion programs in New South Wales and say a very heartfelt congratulations to the Committee on going out and speaking to young people directly.

The Advocate for Children and Young People is an independent, statutory appointment which is overseen by the Joint Parliamentary Committee on Children and Young People. Therefore, we acknowledge Mr Tudehope, who is the Deputy Chair of that committee. Our mandate is to advocate for the safety, welfare and wellbeing, and voice of all children and young people in New South Wales aged zero to 24, with a focus on the needs of those who are vulnerable and disadvantaged. Our activities include direct consultation with children and young people, conducting research into children's issues, promoting their participation in activities and decision-making and—as we are doing today—making recommendations to Parliament on legislation, policy, practices and services.

Since becoming the NSW Advocate for Children and Young People [ACYP] in January 2015, I have had the great privilege of receiving direct feedback from more than 17,000 young people across the State. This includes hearing directly, face-to-face, from approximately 178 young people who were in detention at the time that we sat down and listened to them.

Supporting diversion of children and young people away from the criminal justice system is essential. It is deeply rooted in both children's rights and in the evidence of what works to reduce crime and improve life outcomes. As children and young people often tell us, they need support that addresses their multiple needs and experiences. As one young person recently told me, "We need programs so we can get a house or something to help us get a job so that when we get out it isn't like fishing in the middle of the ocean not knowing where we are meant to go. If we don't know what to do, we are just going to turn back to crime and drugs."

New South Wales has a number of diversionary programs in place, which I am sure the Committee has already heard about. Many of these initiatives are captured in the whole-of-government Strategic Plan for Children and Young People, of which 4,000 young people—including some young people in detention—set the themes and directions of. Following an extensive consultative and development process, the Plan was endorsed by Cabinet in July 2016. I acknowledge and welcome the Government's inclusion in the Strategic Plan addressing the issue of Aboriginal overrepresentation, which is a serious issue for us at the Advocate for Children and Young People, as well as many other organisations that will be presenting to the Committee.

I commend also the significant reduction in the overall number of children and young people being detained over the past several years. We acknowledge and welcome diverting young offenders from custody through hierarchy of sanctions, including police warnings, cautions, youth justice conferencing, and programs such as Youth on Track, which engage young people and their families in casework and services that are targeted at addressing their needs; funding rural residential rehabilitation services in Dubbo and Coffs Harbour to provide a comprehensive treatment program for 13 to 18 year-old clients with alcohol and drug-related problems; and providing schools in each of the Juvenile Justice centres across New South Wales to enable young people to re-engage with learning and/or to continue their education while in detention. This was something that young people often spoke to us about. They were very complimentary about the educational services they were receiving in detention. I am sure the Committee would have heard that in its consultations as well.

We also acknowledge the programs and initiatives of the police—and I am sure the Committee would have heard about the examples that are happening in Redfern with Tribal Warrior—as well as the work with PCYC, which often comes up in consultation with young people saying that that is something that is working for them. We acknowledge the new cross-government reform, Their Futures Matter, which is based on a client outcome, strong evidence and targeted services that are to be delivered based on the needs of children and young people. We also recognise and support the recent efforts of Juvenile Justice to enhance training, behaviour

management practice, transitional support through detention through caseworkers, and the establishment of the advisory committee, which I sit on.

The views of children and young people we listened to informed our submission to the Committee and will inform our testimony here today. The children and young people we have heard from have been very clear about what is and what is not working across the variety of domains relevant to this inquiry, from education to housing, to health, to justice and beyond, and their feedback has led us to develop some overarching recommendations. We heard in their own voices:

"If I had more support I reckon more kids would stay in school and survive through schools, not drop out",

"PCYC helps a lot. Helps you stay off the street so you're like staying fit and that",

"My caseworker has helped me out a lot. She gave me counselling that I need, drives me to places when I want to chill out and calm down",

"There's nothing for us to do, us young fellows. There needs to be more stuff to do up here, more elders, because I want to learn about our culture, more language and that, teach us how to speak our own language. More opportunities for us, more jobs, more qualifications for us, more certificates, more courses. Aboriginal workers can help us get a job. He knows what we have been through and how it is for us. Someone we can relate to",

"And I reckon it's stupid too when you get in trouble at school, so they suspend you, keep us away from school, which is just what we would want, get away from school. When you get in trouble they shouldn't suspend you, they should make you do more school work. When you get suspended you just start doing stuff on the outside and get locked up or something. Why don't they just do in-school suspensions?"

They were some of the many voices that we have heard in visiting every juvenile detention centre across the State. We will continue to place great emphasis on hearing directly from children and young people from a diverse range of life experiences and we have committed to visiting each Juvenile Justice centre at least twice per year. We are also working with Juvenile Justice NSW trialling exit interviews for children and young people leaving detention. We, along with other departments, are developing a digital platform where children and young people can find activities and opportunities in their local areas. In addition, along with many government and non-government partners we are implementing an awareness campaign about violence against children.

Aboriginal people are best placed to determine the type of approaches that will work for them. We join Aboriginal Affairs, the Aboriginal Child, Family and Community Care State Secretariat [AbSec] and others in their call to ensure that local Aboriginal communities are empowered to design, to develop and to deliver diversionary interventions to meet their needs. Our consultations with children and young people confirm that wherever possible services targeted to Aboriginal children and young people should be delivered through Aboriginal owned and controlled organisations. I join the president of the Children's Court and others in their call to expand the coverage of the Youth Koori Court and to ensure more broadly that criminal matters across the State are heard by specialist children's magistrates.

I draw the Committee's attention to some of the recommendations within the report. Children and young people at all stages of Juvenile Justice intervention should be connected with opportunities to obtain work experience, certification and life skills; Juvenile Justice NSW should continue to enhance its transition planning for children and young people exiting Juvenile Justice centres; the Department of Education and the Department of Justice should consider implementing a program similar to Victoria's Education Justice Initiative to facilitate re-entry to education for young people; the Department of Education should review its suspension and expulsion policies and procedures with a view to reducing the maximum amount of time that students are suspended; and the code of practice for move-on directions should be reviewed to ensure that it reflects the rights of children and young people to use public spaces and the diversionary principles underlying the Juvenile Justice system.

The STMP should no longer be applied to children and young people under the age of 18, and children and young people who are in out of home care who are involved in specialist services should be identified in Revenue NSW fines for the purpose of having their fines waived. Before we can establish a system that truly protects vulnerable children and young people, we need to recognise they are inherent rights holders. They are entitled to information, support and a say in the decisions that affect them. We sincerely thank the Committee for undertaking this inquiry into this very important issue. We hope that our discussion today will be of assistance.

The CHAIR: Thank you; that was a good opening address. On Friday, the Committee is attending the Youth Koori Court at Parramatta to witness it first hand. Legal Aid NSW has told the Committee that a scheme like Youth on Track, which relies on referrals from police officers, may struggle to engage Aboriginal young people. Do you have any comment to make about that?

Mr JOHNSON: I can tell the Committee what Aboriginal young people say to us. We have heard from 1,000 young Aboriginal people over the past two years. They say they are more likely to trust and to open up to organisations that have a connection with Aboriginal culture and that have Aboriginal workers. We are supporters of Youth on Track; it is a very good program. As we move forward to deepen our approaches and to look specifically at the issues of diversionary programs for Aboriginal children and young people primarily, we should be looking at supporting the Aboriginal owned and controlled sector to provide those services.

Often when we ask children what is working well they say they go to a service and we know it is usually Aboriginal owned and controlled. When we do not know about the service, we go back to the office and invariably we find out it is Aboriginal. They are very clear about what is working for them. When Aboriginal children and young people are getting access to cultural programs in detention they say that is incredibly important for them. In fact, last week we sat down with 10 Aboriginal young people who were completing a program about connection to culture and they said how important it was to them and called for greater access to programs like that on the outside.

The CHAIR: You have recommended a review of the code of practice for police officers to be able to issue move-on directions under the Law Enforcement (Powers and Responsibilities) Act 2002. What specific concerns do you have about the current code of practice?

Mr JOHNSON: Like the Committee, we are out and about talking to stakeholders and to children and young people themselves. Move-on directions have been a perennial issue across Australia. It is our opinion that the police have enough powers to use other elements if a young person is doing something of a criminal or disturbing nature. The police do a lot of great work in breaking down community attitudes and having a more positive relationship with different segments of the population. We think this is one element that could be counterproductive. It is worthwhile having a review to see how it is working. It has been raised with us, but we do not have the facts about how it is working on the ground. Therefore, it may be timely to look into how move-on directions are working specifically for children and young people, and more specifically Aboriginal children and young people.

Ms JENNY LEONG: Your submission refers to homelessness and the impact it can have on young people sleeping rough or on buses and trams, and it talks about making clear recommendations to limit the impact of criminalising young homeless people. It also addresses the issue of bail conditions in relation to secure places for young people to stay. Can you expand on that?

Mr JOHNSON: First, it is important to recognise that youth homelessness is one of the Premier's priorities for New South Wales. We are very pleased about the work happening, and particularly the Premier's implementation unit within the Department of Premier and Cabinet. We talk with that unit regularly and have been working together to hear the direct voices of children and young people about further policy development. I would like to take a step back. Members know about the cycle of homelessness and young people in detention and in out-of-home care. We put labels on young people when they have multiple disadvantages. When we do targeted consultations with homeless young people they often talk to us about their detention experience, and when we talk to young people in detention they talk about their experience of homelessness.

It is very important to point to the issue of bail conditions. Members would have heard from Just Reinvest about ensuring that bail conditions do not further impact upon children and young people. We need to be clear when we are setting bail conditions for children and young people that we understand they may not have a stable place to stay and therefore may not be able to meet their bail conditions. We support Judge Johnson's recommendation that we ensure all cases are heard by specialist magistrates in the Children's Court.

Ms JENNY LEONG: The Committee has heard young people's view about suspensions. Can you expand on the impact of that and the connection you see between that and the risk of young people entering the criminal justice system?

Mr JOHNSON: The Committee has referred to the 2015 study and members know the statistics about connecting young people already in detention who have had suspensions. I am sure that that came up when members sat down with the young people, and we are also doing that. Clearly, they are saying to us that they want to be re-engaged and that they want something to do. We ask them what would have helped them before they came into detention and they say they needed something to do, they needed to be kept occupied, and they needed more activities outside school hours. Members know—and we wish more of the general population

knew—that these young people want to get a job and they want a stable home. They want what everyone else has—their neighbours, their nieces, their nephews, their sons, their daughters. These are regular kids who are often experiencing exceptional circumstances in their life.

We think that those kinds of issues need to be taken into account in terms of the suspensions. What they are saying is that they would much rather one-on-one or targeted schoolwork for them to catch up. A lot of young people say to us that they are falling away from school. You have heard about the mental health issues and the cognitive issues that a lot of young people who end up in detention face. I think that there are better models to look at about re-engaging young people when they are suspended, because they are saying, "I was out on my own and then involved myself with some"—not the word they would use—"unsavoury types of people" closer connected to criminogenic risk, I guess, not that I like to use that term. Then they go back to school and they say, "I got frustrated, I did something wrong and I've now got another suspension." So they are saying—as you have already heard from them—that they want to engage back with the educational system, that they want to be occupied.

So I think we can do much better about targeted programs for children and young people. For some young people that would work in schools, so you could have in-school suspensions, and there are some programs around the world that do that. Obviously, for some children that does not work as well for them, so you could have the same kind of program outside the school grounds. But it is an amazing story that when we ask young people about their educational experience this is the most common factor. I think we would very much welcome your support in calling for better supports to be put in place for those young people who are placed on 20-day suspensions—or, as you would have heard already from young people in detention, they are usually much longer than 20 days as they keep on recurring.

Ms JENNY LEONG: You mentioned in your submission the perceived differences that young people have in relation to the different Juvenile Justice centres. We have visited some of them and heard firsthand, especially from some of the young women, about the lack of access to some services and facilities they have compared with the boys in Juvenile Justice centres. My question is in two parts. First, could you comment in any way on what you think are the unintended, if you like, gender issues of discrimination or lack of access for young women in detention because of the fact that they are not able to be held in any Juvenile Justice centre; they are held in Reiby and that is where they are in terms of that connection to country and community. That is one element. The other is just in relation to your position, having visited all the Juvenile Justice centres, and whether you believe that is just a perceived discrepancy or if there is actually a discrepancy between the types of services—access, culture, et cetera—at the different Juvenile Justice centres, because we have only visited some of them.

Mr JOHNSON: I think, first, we need to recognise—and you will be hearing from Juvenile Justice NSW that that is something they are aware of; they are looking into that, and it is certainly something that has been spoken about in our advisory committee—consistency between centres. To answer your question: Yes and no at some level. I think part of where we need to get better with all children and young people across the State is they are rights holders so they should be given information about what is available. I think sometimes, whether it is in detention centres or Family and Community Services or youth work, we forget that we should be explaining to these young people about what is available in information and ways that they can understand and comprehend.

I think there are differences between different centres. Everyone wants difference in different places, but I think a better approach is to ask, "What do we think are the minimum standards that all centres should have?" We know that Juvenile Justice is looking at that. We have raised that with them and they are fully cognisant of it and are working on it. Of course we are going to say—as many of the people before you would have testified—detention should always be used as a matter of last resort. The issues that you raised about connection to country are incredibly important. You can find some individuals who are many, many miles away from country and family, which, as the mental health commissioner talked about, when you are looking at intergenerational trauma, when you are removing young people from their country and their culture and their family, further adds to the increase of potentially their trauma and further mental health issues.

Mr EDMOND ATALLA: Following on in relation to the subject of suspensions from school, if suspensions from schools are proven—as you have indicated in your submission by the International Youth Development Study—as a pathway to prison, would you support prohibiting suspension from schools?

Mr JOHNSON: I think sometimes words are very difficult. What do you really mean by "suspension"? I think what we should be doing is if schools feel the need to suspend a young person, we should be looking at not leaving them out in the community by themselves. For many young people in that circumstance, that is the moment when we should be doing wraparound services for that young person, and

often it is about a young person falling behind in school. So in some senses it requires greater attention and work with that young person.

We think we should look at it the other way round: if the school is having a situation where they think they may want to suspend a young person and if they have to be removed from school grounds, then that is the moment—and you have already talked about the previous submission and what are the points at which you would have somebody having those kinds of services or being diagnosed or having a clinical assessment about mental health issues or other health issues—where you could use that opportunity if they were referred to services that focused on their education; focused on, where it is appropriate, connection to culture, focused on their mental health issues, because that is what they are telling us are their problems. Obviously, in many instances the incident leading up to them being suspended is often a manifestation of the multiple disadvantages that they are facing at that particular moment in time.

Mr EDMOND ATALLA: I know of situations where students have been suspended not for misbehaving but for something as simple as failing to do their homework. Do you think there is an increase in using suspension as a resort to get rid of the problem for a little bit rather than addressing it in the school? Do you feel there is an increase in using suspension as a tool to get a simple result for the teachers and the school?

Mr JOHNSON: That has not come across our bow—that there is a sharp increase in suspension across schools. I think it is great to see that schools are looking at a more trauma-informed way of dealing with the student population. Obviously, the individualised educational experience that has been in the news quite recently is very important—the fact that we have further invested as a State in having mental health workers or welfare workers within the school system, and we are working with the mental health commissioner right now on further consultations. But we have worked to aid young people in schools around how they could better deal with mental health issues within school and what they were looking for.

As you already know, when you go out to children and young people and ask them, their advice is very practical—usually not cost prohibitive. I think, for this generation as a whole, we need to do better about improving help-seeking behaviour. I think this generation has crossed the Rubicon about breaking down stigma. In the thousands of focus groups we have done, not once has mental health not come up—it has never come up in a stigmatised way. What they talk about is when they are able to seek help. They are often thinking they have to wait until a serious moment until they seek help. They are often confused around which of the services to go to. We forget this is a digital generation. For those of us who are my age around the table, we used to be able to go to a phone book to see the services; but now if you go online there is a multiple level of services. So they are saying, "Can you help us navigate that?" I think we need to do more about looking at help-seeking behaviour.

One of their small hacks was that in the school system when they do their entry they get to meet the school counsellor, just as a matter of course, so that they start understanding that help-seeking behaviour is important. I think on the issue of mental health, young people talk to us all the time that there is a notion about when children and young people are often at the severe end, particularly in regional New South Wales, it is sometimes often very difficult to get the assistance they need—which is often the same cohort of young people that we are talking about today who are in conflict with the law.

Mr EDMOND ATALLA: On the issue of mental health, the previous witness alluded to the fact that the GP is probably the best person to identify mental health issues. If a GP has identified a particular juvenile having mental health issues and the school has not identified that, is there a link that can be made without breaking patient confidentiality? How does the GP notify the school that there is a problem that needs to be addressed? At the moment I think they are working in isolation. I understand the GP's obligation with respect to patient confidentiality. How can we improve that system, once a provider has identified an issue, to be able to get the appropriate resources to assist?

Mr JOHNSON: I probably should not talk about the links between doctors and the medical system because there would be better experts than me. I would take that great question as a jumping-off point. It is multi layered. I think the Committee was talking about one of the moments when the system can intervene, when we should be doing checks. There are some in place, including the AEDC—Australian Early Development Census. In the first year of school there is a check on mental health. There is a program called Got It! (Getting On Track In Time!), which looks at working with young children with mental health issues. I certainly think that the care system is another entry point, which is why we support the new reforms in Their Futures Matter, which is looking at a more holistic approach and individualised service delivery—which should always include looking at someone's mental health or trauma as they enter the system.

I think the point about doctors is that it is also empowering parents and guardians to understand that it is okay to talk about—that this is something that you should share. There is a societal issue that we need to get across. I think people have done an extraordinary job breaking down stereotypes for young people. I think we

have a bit further to go in providing for parents and guardians and those looking after children before we can see improving help seeking so that they can assist young people. More broadly in the system, obviously people are going to be worried about what stigma that we cause for a young person within any scene.

I also think—I am sure you would have heard it from other people you have been speaking to—that more information sharing is important. We need to ensure that we use 16A of the Children and Young Persons (Care and Protection) Act within the system. The onus is for agencies to share information. There is a culture in some levels of the system where people think, "I can't share information," when our legislative framework sets out that we should be sharing information about a young person if it could assist them and is in their best interests.

Ms STEPH COOKE: I return to the issue, once again, of suspensions. Long suspensions in schools—suspensions for 10 to 20 days—are usually for quite serious things, such as violence against other students or teachers. Could you provide some comment around how we find that balance between the needs of the child—in deciding whether or not to suspend them—and the needs of the rest of the school community, ensuring the safety of other students and teachers, and enabling the school to provide education to the vast majority of students with minimal disruption?

Mr JOHNSON: If a school is faced with such a circumstance the system should not have the solution to send that young person away from a supportive environment to be by themselves. We are quite happy to furnish the Committee with the Duke University study on how to deal with suspension situations. It will require more resources, but that is important because in the long run it will save money. It is important that the young people remain in the school but not within the student population in the classroom. They should be getting the supports and connections to services that they need.

Going further to the track, it is important that not only the employees of the school but the school community understand the difficult circumstances of some young people. When we talk to some communities they say, "I never knew that young person was homeless" or "I never knew that they went through that". So some of the community's response is, "We are looking at the young person who is doing wrong," rather than saying, "That young person is in a difficult circumstance; I am glad our system is giving them the supports and services they need to get back on track". In some circumstances, you could do it in school but that does not mean they are sitting in a room by themselves but getting one-on-one support to help them catch up. It is about understanding the child as a whole and what other services the school could bring in. That would require more resources.

In some circumstances, it may require a time away from school, where they can connect to services. But it really does have to be connected to them catching up with their educational needs. They are saying to us all the time, "I want to catch up." The words they use are that they "feel stupid" and they want someone to help them get back on track for when they go back into the classroom. The young people themselves are not saying to us, "I want to go off and do fun activities." They are saying, "I want to take this time so that I can catch up, so that I can be better when I go back." It is about reducing and assisting them at a psychosocial level with issues of frustration, and how they deal with issues of frustration and anger.

The children are telling us that one of their trigger points is the feeling that they are being left behind—that they are not understanding what is going on in the classroom. I think we need to reframe the debate. Rather than saying that a young person is "up for the suspension"—the language that we use right now—we need to say, "This is a young person who may need extra supports and services." As I said, there is a variety of ways that that could be handled, whether inside the school in some circumstances or getting access to those things outside school. It is also routine. Also, young people are saying that they want more activities.

Ms STEPH COOKE: So, with the right structures and processes in place, suspension should be a last resort?

Mr JOHNSON: I am reframing the debate, really. If there is an issue where a school says, "For the safety and welfare of all students—including that student—for the time being that student should not be surrounded by other young people in that specific environment," that is when you would bring in supports and services. Our notion is that we send someone away, we have heard, for 20 days and they are cast adrift. We cannot just put that on the Department of Education because they are not supplying supports and services. That is not the agency which necessarily does that. I think the system as a whole needs to look at it and if a school has made that decision then the system needs to kick in and say, "Let's ensure that we are not sending that young person further behind".

Mr DAMIEN TUDEHOPE: You have made some observations about the effectiveness of PCYCs. You think that they are an effective tool in terms of dealing with young people. You often hear that young

people want more to do—that boredom is often the chief diverter of people into criminogenic behaviour. Other than PCYC, what ought we be doing in terms of creating activities for young people?

Mr JOHNSON: I mentioned briefly in the opening statement that we are working with the other 10 departments to bring out a new web forum, where you can type in your local suburb and the activities will come up. That is one thing. There are activities that exist but young people, or their workers, do not know that they exist. That is giving young people agency. When we sat down with young people who were doing it tough they talked about it a lot, which you would have heard in previous times in talking to Parliament. We thought we better delve into that a bit more deeply, so we went and asked young people who were supported—a bit older than our age group—what made the real difference. They said, "What made the real difference was my karate teacher, my tennis coach and my PCYCs".

They are saying that that is what makes a real difference. There are many agencies out there providing activities, whether it is the YMCA, YWCA or Midnight Basketball. What is important to understand is that young people are saying to us that the activity is about engaging with other young people and that often the activity is irrelevant. We sit down at many large youth events and they do not often talk about the specific activity and why it is good; but they will say, "I got to meet young people; I got out of my home town and I got to make new friends."

First and foremost, we need to be looking at opportunities that connect people with other young people because that is what they are saying. There are activities around but we need to get better at structuring that, and that is what we are trying to do. We need to be looking at that being part of the service suite that we offer young people—not just therapeutic work or educational work, but also a time for them to be children and young people like everyone else. Sometimes in these discussions—not here obviously—people say, "They have got these needs so let's give them the psychosocial support and the educational support", but children and young people do have the right to play and have the right to be around other young people. That is equally important and, as you would all know, the flow-on effects flow back to educational outcomes and flow back to psychosocial needs. Young people are saying that if they had activities, "I probably would not have got in trouble."

Mr DAMIEN TUDEHOPE: Besides having a connection with other young people, there is often—and I think you identified this—the forming of a relationship with either the karate teacher or some other significant adult whom they can relate to as part of those activities.

Mr JOHNSON: A lot of young people use the term "mentoring" when talking about having someone who is around who is not necessarily part of the service provision sector. I think we sometimes forget that these are young people who are dealing with multiple layers. When I want to learn about how the New South Wales Government is working I will go and sit down with a young person in difficult circumstances and they will let me know how it is working. I think there is a respite from our systems approach from these young people. That is particularly so for Aboriginal young people. They talk about mentors but, once again, this is their notion about connection to culture, connection to programs and connection to language.

We do know that in some of the youth groups, including PCYC, they are using that as part of the Aboriginal language nests that are around. Young people do find that very important—connection to cultural programs in and of themselves and also the general activities that they are seeing that they feel welcomed by. That they can see that the programs that they are a part of do respect them connecting to their culture is important.

Mr DAMIEN TUDEHOPE: What is your perception of how young people generally relate to police?

Mr JOHNSON: I think it is very different. First and foremost, you said "young people." In our thousands of consultations with young people, there were a lot of positive things said about the police. Young people in difficult circumstances are often saying that they probably want more of an active presence of police. Obviously there are young people who are telling us that there is too much involvement in their lives with the police and that they feel like there is an overreach of police following up on them and watching them. That needs to be seen as part of the wider context and it is very difficult to get away from the fact that there are levels of racism that Aboriginal young people face out in the community, whether it is on the street, in shopping centres, or when they are out and about.

When the service system comes in and confronts them that is seen in that context as well. I think that is why we were saying that, particularly for young people, the STMP probably should not be used for children under the age of 18. When the programs are working they are working well at breaking down the barriers between police and children and young people. But certainly—and you would have heard it in detention—there are broken relationships between some young people and the police. The police are aware of that. I think we

need to get better at providing more programs that connect with people and break down those kinds of barriers. PCYC is one way of doing that.

Mr DAMIEN TUDEHOPE: What advice would you give to the police?

Mr JOHNSON: The police are undergoing training. I would have to say that we talk to the police quite often and feed back what we are hearing from children and young people from the Commissioner downwards. The police are very open to hearing that information. The advice is the same as we would give every service provider. They are at the hard edge—they are having to deal with issues 24 hours a day. But I think across the service system we need to understand—as the Mental Health Commissioner talked about and other people would have talked about—trauma-informed practice and that they are dealing with children and young people with multiple disadvantages. When it works well you can see it is working well. With youth liaison officers, some young people say, "It was great that that police person sat down with me and had a chat with me and provided a caution". That is when it is working well. I think we are doing better at that. Of course, no system is perfect and I think we can do more to ensure that the police on the ground—on the beat, so to speak—are better informed about the history and life story of the young people whom they are dealing with.

There are good examples of that and of course, as with any organisation, there will be bad examples of that. But it is about understanding, particularly for some groups—and we have to highlight again Aboriginal children and young people—that they represent a system that those young people may have felt discriminated by, from the whole of government history. We just finished listening to some young boys in one of the detention centres who spoke very bravely about their notion of intergenerational trauma. They were struggling with hearing the stories of their grandmother, their mother and now them. I guess we all know that and hear that but I think it is about understanding the importance of on-the-ground direct service workers fully comprehending that lived reality for young people.

As the Committee knows, it is difficult to hear from a young person—it caught my breath just then remembering it. I think the service system as a whole needs to comprehend the systematic disadvantages that young people face and the history of discrimination that has been faced by Aboriginal people. Even if a worker is doing the right thing, they have to understand that they are coming representing a system that has not done particularly well by them.

Mr DAMIEN TUDEHOPE: I have one last question about suspensions. When you interview young people, do you ask them why they were suspended?

Mr JOHNSON: Our approach, as you know, is that we do not have an inquiry method. We ask open-ended questions. What I would say is that they say categorically, "I did wrong." They say, "I stuffed up"—they will use more colourful language. Then they will say "Well, I stuffed up and then I went out and I got a bit bored and I was roaming around town and I couldn't find anything to do and I went back and I stuffed up again." I do not think that the issue is them not understanding that something is wrong. That is why youth conferencing is so important, because rather than going to detention the young person is given the supports and services and the young person is able to understand that what they did was not correct.

There will be some circumstances where some young people will not know what they were doing or why they were doing it—whether it is a mental health reason—and sometimes it is about explaining, "That was not a good way to deal with your anger issues and here are some supportive ways that you can deal with those anger issues." We never come across young people who do not fully admit that they have not done the right thing. But in individual circumstances it is not our approach to—

Mr DAMIEN TUDEHOPE: It would be an interesting empirical analysis to look at what reasons young people give. You would think the Department of Education would have that material available to them.

Mr JOHNSON: As we have already said, we had a good and open dialogue with the Department of Education about re-looking at the suspension policies. Part of that review, if it comes to light, will be looking at the types of incidents where young people are suspended.

The CHAIR: Mr Johnson, you called for consideration to be given to partial reintegration of the care and crime jurisdictions of the New South Wales Children's Court. Please expand on your reasons for making that recommendation.

Mr JOHNSON: That has come from more learned people than me, and we would take Judge Johnstone's direction on it. As you would know, but many people may not be aware, the Children's Court has two jurisdictions in terms of care and the criminal justice proceedings. As you know, the connection between children in out-of-home care and justice is important. Often, when we are sitting down with young people, there will be instances of a very young person having care issues and proceedings as well as criminal justice

proceedings. Does that, in some circumstances, make it more efficient for the young person themselves to deal with one scenario? We think it would be worthwhile for the Committee to look at that to see whether it makes sense by asking people who are more expert on these matters than myself.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you additional questions in writing, the replies to which will form part of your evidence and be made public. Would you be happy to provide a written reply within five business days to any further questions?

Mr JOHNSON: I would.

The CHAIR: On behalf of the Committee, thank you for the good work that you are doing in your field. We have been impressed by listening to the examples you have given of your hands-on approach. We know that it is very important to give the youth a say; it is their world too.

Mr JOHNSON: They do great work.

(The witness withdrew)

(Luncheon adjournment)

MELANIE HAWYES, Executive Director, Juvenile Justice NSW, affirmed and examined

PAUL McKNIGHT, Executive Director, Policy and Reform, Department of Justice NSW, affirmed and examined

The CHAIR: Thank you for appearing before the Committee today. Before we proceed, do either of you have any questions regarding the procedural information sent to you in relation to witnesses and the hearing process?

Ms HAWYES: No.

Mr McKNIGHT: No.

The CHAIR: Would either or both of you like to make a brief opening statement before the commencement of questions?

Ms HAWYES: We do each have a short opening statement. I will start off. First, I acknowledge the traditional custodians of the land on which we meet and pay my respects to elders past and present. I am appearing here as the Chief Executive of Juvenile Justice to talk to you about our strategic operations and the work we do in this space of diversion. We are committed to reducing the impact of juvenile offending on our communities and we work with young people who are at risk of entering or becoming entrenched in the criminal justice system. We work to support them to take responsibility for their offending behaviour, to change and ultimately to be diverted from a life of crime. As the Committee would know, in New South Wales the majority of diversion occurs long before a person has formal contact with an organisation such as Juvenile Justice. I note how positive it is that the majority of young people who come into contact with the police are successfully diverted through warnings, cautions and early intervention. That can only be a good thing and custody should only ever be a last resort for these young people.

As the Executive Director, I am responsible for Juvenile Justice. Our operations comprise 34 community offices where we supervise young people on court-based community orders and support the administration of youth justice conferences, along with a range of other early intervention programs. We also run six juvenile justice detention centres, some of which I know that this Committee has visited to see firsthand how those centres work. In practice, though, we work in close partnership with other service agencies, the police, Family and Community Services [FACS], non-government partners, Education and Health, to wrap supports around young people who are at risk of entrenchment in the criminal justice system. Youth on Track is our flagship diversion program and I imagine that we will talk about that quite a lot today.

We also work with remand and offer a bail assistance service that assists young people to avoid coming into remand, for example, as a result of no alternative accommodation options. We have a range of early interventions that we can deploy. Our priority target group is obviously young people aged 12 to 17 who are quite vulnerable. We acknowledge that the high proportion of Aboriginal young people in the juvenile justice system is unacceptable and we are working hard to turn those statistics around through initiatives such as Youth on Track, which again I know that we are going to talk about in more detail today. That is probably all I will say for now. Thank you and I am happy to take any, and all, questions.

Mr McKNIGHT: Thank you for the opportunity to contribute to today's hearing. A little bit of background, I lead the Policy and Reform Branch of the Department of Justice, which sits within the broader Justice Strategy and Policy Division. My branch advises cluster Ministers, including the Attorney General and the Minister for Corrections, on policy and reform issues and develops legislation. Its role is to identify the need for and to formulate changes to the law and the legal system and to provide policy advice, to implement the Attorney General's and the Minister for Corrections' legislative program and to develop and implement reforms in criminal and civil justice. There are teams within the branch that focus on criminal justice, offender strategy, court strategy and civil justice. One of our functions is to support the Government's priorities in the youth justice area, which includes supporting Juvenile Justice NSW. At present we do not have an extensive program of policy work in this area. Our most recent contribution to youth justice was in relation to a new framework for parole for juvenile offenders. The Committee would know that that recently commenced operation. That was part of the Government's large suite of criminal justice reforms.

I will begin by making a couple of broad statements about youth justice. The first point that is relevant to note is that the incidence of youth crime is declining in general, and that includes across most major categories of crime. The BOCSAR figures indicate that over the past five years, from January 2012 to December 2016, the number of juveniles aged 10 to 17 years of age proceeded against in some way by the NSW Police Force declined in 10 major categories, rose in one, and remained stable in the other four. Violent offences,

including murder, assault, sexual offences and robbery, declined by 6.4 per cent on average each year over the five years, and over the same period the number of juvenile offenders proceeded against for property offences, which include burglary, stealing and fraud, declined by 8.3 per cent on average for each year. The decline was particularly pronounced in the period between January 2015 and 2016, with an 11 per cent decline in violent offences and a 14.2 per cent decline in property offences.

The second general point is that the Young Offenders Act, which is the centrepiece of the policy response to crime committed by young people, is widely supported and well evaluated. Committee members would know that there is a wealth of BOCSAR reports looking at the performance of the Act that have supported its value. I highlight in particular a 2013 report that found the Young Offenders Act had reduced the risk of young people receiving a custodial order by 17.5 per cent for Indigenous young people and 16.3 per cent for non-Indigenous young people. That relates to the Young Offenders Act framework of warnings, cautions and youth justice conferences.

The report also found that the Young Offenders Act delayed the imposition of a custodial penalty for those who eventually received one. Having reviewed the submissions to this inquiry, I know that there is a lot of support for the role of the Young Offenders Act and a wide recognition of its importance. However, I note that the submissions also point out ways in which it might be improved or tweaked to provide better outcomes or in which it might be better supported by programs and services. Those issues will undoubtedly be the focus of this Committee's work.

The CHAIR: Referrals to Youth on Track must be made by police officers or schools. Should other referral pathways be considered, for example, through NSW Health?

Ms HAWYES: Youth on Track works under that referral framework simply because they are the most likely points of contact at which our service partners realise a young person is in trouble. The scheme, as it is, is under robust evaluation and changing it at this point could be tricky for us operationally. I would not be closed to adding referral pathways, but our focus at the moment is bedded in, for want of a better term. That has been done to ensure that our evaluation is as crisp and as robust as it can possibly be so that we can come before the Government and say we are confident that the scheme does or does not work.

The CHAIR: Legal Aid has told the Committee that a scheme like Youth on Track, which relies on referrals from police officers, may struggle to engage Aboriginal people. Do you have any comments?

Ms HAWYES: Yes, I do. That is not proving to be the case in practice and on the ground. We are experiencing high levels of referral of Aboriginal young people and promising signs of success. I think there is always work to do to strengthen and enhance the way that we engage with Aboriginal families and communities as service agencies, and we work with our funded partners in Youth on Track to build their capability to do this as much as our own. For the stats on that, I can tell you that about 62 per cent of young people who have been referred have been Aboriginal young people. So we are not seeing that play out, but that does not mean there is not room for improvement—there always is and there certainly is.

The CHAIR: Some young people may decline to participate in the diversionary program. Do you have any comment on possible reasons, or should attending diversionary programs and services be mandatory?

Ms HAWYES: The question there is for somebody to change they have to want to be a part of that. Fundamentally, Youth on Track relies on people wanting to participate. What we see with the referrals in, you are correct, it is voluntary. The referrals that have a person involved in advocating for that young person and talking to that young person have a better likelihood of sticking. So I suppose my response is that there is an element of young people who do not want to participate, and I question whether even if it was mandatory the change would be sustained and deeply meant. What we do find with Youth on Track is that young people who choose to really participate do well, and you would expect that; your heart and spirit has to be in a change process like that because we are trying to change a person's underlying values and certainly their behaviours. We are trying to tackle antisocial thinking and antisocial peer networks primarily to bring about positive change in that young person's behaviour. They have to want to be a part of that.

Mr DAMIEN TUDEHOPE: As of today, how many young people are in detention in juvenile justice?

Ms HAWYES: As of last night it was 301.

Mr DAMIEN TUDEHOPE: And of those how many were young men and how many were young women?

Ms HAWYES: There were 30 young women and the remainder were young men. I can provide that to you on notice to make sure those stats are completely correct. But the proportion is around that.

Mr DAMIEN TUDEHOPE: Some of the material we have heard is that potentially Juvenile Justice environments could be made softer in their design, and I think the Chair made an observation with a previous witness that when you arrive at a Juvenile Justice centre you are faced with barbed wire and a fairly harsh environment. Do you have an observation to make in relation to if you were designing a juvenile justice centre what changes, if any, you would make?

Ms HAWYES: Design is always an interesting question if you are thinking about designing out crime principles and modern ways of building something. If you were building something from scratch you would probably build something quite different. One of the issues we have with our infrastructure is that it was constructed with good intentions in its day but it does have quite low-lying roof access points. It is problematic for us to manage because young people can really quite easily hop onto those roofs and potentially put themselves at risk and do a fair bit of damage. That explains some of the barbed wire that you have seen; it is a deterrent to stop people getting on the roof and potentially falling off, hurting themselves and/or doing a fair bit of damage.

They were designed as campus-style environments and, yes, you are right: If you were going to design them again today you would certainly design them to have a higher roof line for one thing; let alone you might design other features that would remove the risks of certain sorts of antisocial behaviour and bring about an environment more conducive to rehabilitation.

Mr DAMIEN TUDEHOPE: You made reference to the fact that we had been out to Reiby. We only got to talk to the girls out there, who are quite loquacious—

Ms HAWYES: They certainly are.

Mr DAMIEN TUDEHOPE: —and wanting to engage. One of the things they tell us is that they think the boys get a better deal than the girls. Is that a fair evaluation?

Ms HAWYES: Do you know what they were referring to?

The CHAIR: The internet.

Mr DAMIEN TUDEHOPE: Internet usage.

Ms JENNY LEONG: Tractor courses apparently, motorbike courses—there was a long list of injustices.

Ms HAWYES: I would probably want to go and talk to them myself to see what exactly they were talking about.

Ms JENNY LEONG: To be fair, the internet was the big one that they mentioned.

Mr DAMIEN TUDEHOPE: And they might be wrong. I do not know if the boys do get access to the internet.

Ms HAWYES: We have structured access—obviously it has to be supervised. It is part of the educational settings in the schools. You would have been into the schools?

Mr DAMIEN TUDEHOPE: Yes.

Ms HAWYES: We have supervised access. It is not in-room for obvious sorts of reasons. But I will certainly look into that. I will go and talk to the girls and see what they were particularly concerned about.

Mr DAMIEN TUDEHOPE: To give them their due, they were concerned in terms of the quality of participation in educational programs. One participant was preparing for the HSC and I think she legitimately thought that she could perform better if she had more readily available access to the internet. I just thought that might be something that you could take on.

Ms HAWYES: Yes, certainly.

Mr DAMIEN TUDEHOPE: We heard from the Commissioner from the Mental Health Commission, in relation to people in Juvenile Justice, what access do they have to either a psychologist or mental health liaison officers for the purposes of screening in relation to mental health issues?

Ms HAWYES: I do not know if you would have had the opportunity to go into the clinic. On the Juvenile Justice campus, in the centre—

Mr DAMIEN TUDEHOPE: This is every campus?

Ms HAWYES: Yes. In every centre there is a clinic. We have a really strong working relationship with Justice Health, and they run clinics where they arrange for essential normal sorts of health checks that you would expect young people to need, because for many of the young people coming into custody it is the first time they have had a health service, for a range of reasons in terms of community access. We have psychologists in every centre who all trained to provide assessments and interventions to young people. Our staff are trained in mental health first aid, and we also have, through Justice Health, access to psychiatrists through the Justice Health network if we need psychiatric assessments and interventions. Does that answer your question?

Mr DAMIEN TUDEHOPE: It does in the sense that each centre is staffed well with psychologists or mental health liaison people.

Ms HAWYES: There are more than 40 psychologists working across juvenile justice, in community and in detention environments.

Mr DAMIEN TUDEHOPE: You may not know the answer to this but I will ask it anyway. Is there a circumstance where there are people who are currently in custody in Juvenile Justice who should be in mental health facilities or should be being supervised or looked after outside of the normal Juvenile Justice environment? The converse is—and this is a very peripheral issue but I will ask it—do you ever get referrals back into Juvenile Justice from mental health facilities where a young person has been looked after and then returned—

Ms HAWYES: Part of the partnership with Justice Health is that we have access to an adolescent mental health unit that they run called Austinmer. We have at times had reason to transition people into that service when they need acute mental health therapeutic interventions. Equally, after a period of time, if they are stabilised in that setting and they still have an order to continue to complete, then they can come back to us.

Mr DAMIEN TUDEHOPE: So it is generally they go from you to them and then back after—

Ms HAWYES: They can, or they can go to Austinmer and sometimes stay for quite a long period. It does depend on the young person.

Mr DAMIEN TUDEHOPE: Mr McKnight, in relation to the Young Offenders Act, why are graffiti offences not included as an offence for the purposes of the Young Offenders Act?

Mr McKNIGHT: I think that reflects a view taken by the Government at the time that graffiti offences required a court-based response. The quote I have in front of me from the Attorney General in his second reading speech in 2013, referring to the amendments to the Graffiti Control Act which achieved that, was that the changes that were made then reflected the requirement that young offenders be brought before a court. That was a government policy choice.

Mr DAMIEN TUDEHOPE: As the policy adviser in the Department of Justice, do you think that that is worth reconsidering? Graffiti offences are often gateway offences.

Mr McKNIGHT: I can speak more generally about YOA coverage. The submissions in front of you invite you to consider all the exclusions from the YOA. That includes graffiti, traffic offences, sex offences and drug offences. There are reasons why those offences were, at the time, excluded from the YOA but, on the basis of the submissions in front of you, it would be useful to us to have your views about those exclusions and whether there should be any movement on them.

Mr DAMIEN TUDEHOPE: If there was a review of the Young Offenders Act it might include whether those offences should be included under the auspices of the Act.

Mr McKNIGHT: If we were to launch a review of the Young Offenders Act today I would expect to get the same kinds of submissions that you have in front of you about the offence exclusions and how they should operate. I would expect to be advising the Government on whether those exclusions should be maintained.

Mr DAMIEN TUDEHOPE: There is also a suggestion that we would include the number of cautions available—I think currently three cautions are available—so that in certain circumstances the police can make unlimited cautions.

Mr McKNIGHT: It is my recollection that the limit of three cautions was introduced something like 15 years ago in response to community concerns about young offenders getting repeated cautions from police and not having a more serious intervention made into their behaviour. Again, if we were to launch a review of the YOA today I would expect to get submissions that suggest lifting that caution limit. I have not had the benefit of reviewing any of the transcript but I imagine that has come up in evidence.

Mr DAMIEN TUDEHOPE: There are some people who advocate that police have more discretion in relation to—

Mr McKNIGHT: Indeed. I would expect that to be a serious issue. We have not canvassed the views of police about that at this point. That would obviously be included, as would the views of other stakeholders.

Mr DAMIEN TUDEHOPE: There has also been a suggestion that the age for criminal responsibility be increased from 10 to 12. Do you have a view in relation to that?

Mr McKNIGHT: The age of criminal responsibility at 10 reflects a position that is current across Australia. You would be aware that between the ages of 10 and 14, the presumption of doli incapax applies. That means that the prosecution needs to prove that the young person understood the criminality of their offending. I note that there is a recommendation from the Northern Territory Royal Commission into Child Detention that that age be raised to 12. I think there are some in the community who suggest it should be raised to the age of 14. I am also conscious that the Northern Territory Government has accepted the recommendation of that committee in principle but is yet to act on it. I guess at this point we are waiting to see what happens out of that Royal Commission. I hate to fudge the answer again, but there are a range of submissions on that. If the Government was minded to look at that we would look at it—

Mr DAMIEN TUDEHOPE: I suppose some of the work that would have to be done would be in liaison with the Judicial Commission to see what the impact of the raising of criminal responsibility would have on the system.

Mr McKNIGHT: There would be that question. There would be another question. There are some young people between the ages of 10 and 12 who do commit offences, and sometimes those are serious. A potential position is that a criminal justice response to that should be taken away, but I think we would have to give serious consideration as to what kind of a response to that behaviour we would provide. It would not be a question of simply taking it out of the criminal justice system. We would need, very seriously, to think about the kind of response that would be made to young people in that situation. It is likely that young people in that situation are not only offending but have other issues going on in their lives. There is an overlap with the out-of-home-care system. So we would need to think carefully about what to do with that group of people.

Mr DAMIEN TUDEHOPE: I want you to think about evaluation. Has any evaluation been done yet in relation to Youth on Track? If so, what are the parameters—maybe this is a question for both of you—which would apply to that evaluation? While Ms Hawyès is thinking about that I would also like Mr McKnight to think about the evaluation of youth conferencing, Koori courts and give us some understanding about whether you would support the reintroduction of drug and alcohol courts.

Ms HAWYÈS: I want to clarify the question you asked me about the percentage of participants who identify as Aboriginal.

Mr DAMIEN TUDEHOPE: I do not think I asked that.

The CHAIR: I did; go on.

Ms HAWYÈS: 62 per cent of people who have participated have identified as Aboriginal young people since the program began. Since the program began in 2013, there have been over 500 young people who participated. A large proportion have been Aboriginal young people. That reflects their over-representation in terms of police contact but it also shows that we are able to engage with Aboriginal young people. In terms of evaluation, it is promising. The outcome of participation in the program appears to significantly stabilise and/or reduce formal contact with police. So we think it is stabilising or reducing the frequency and intensity of offending behaviour. As such, we want to be absolutely certain in terms of an evaluation that demonstrates that.

Mr DAMIEN TUDEHOPE: BOCSAR was going to do some of that.

Ms HAWYÈS: BOCSAR is currently undertaking randomised controlled testing to demonstrate—as much as you can with an intervention like this—that it is effective. That is underway at the moment. It complements an evaluation we had done on the social outcomes of Youth on Track by the Cultural Indigenous Research Centre of Australia that demonstrates that after three months of participation there has been a significant reduction in the risk of offending and improved engagement with other protective factors such as school and a safe and stable place to live—those kinds of things that hold you safe in community. After six months those sustained benefits are still there. So we have one evaluation in, and a very robust BOCSAR-led evaluation underway.

Mr DAMIEN TUDEHOPE: Thank you. That is a very good answer.

Mr McKNIGHT: Where would you like to start? You raised—

Mr DAMIEN TUDEHOPE: Youth conferencing, Koori courts and the drug and alcohol courts.

Mr McKNIGHT: Youth conferencing has been in place since the beginning of the Young Offenders Act. It has received a lot of attention in the evaluation space. There was a standalone evaluation of it. Subsequent to that there were several BOCSAR reports on it. I am not in a position to go through all of those evaluations today in detail, but I can provide the Committee with those references if you would like them.

Mr DAMIEN TUDEHOPE: I would like that.

Mr McKNIGHT: It has certainly been successful in terms of diverting young people. BOCSAR has also found that it is successful in terms of participant satisfaction. It has high levels of satisfaction from the young people and the victims of their offences. That satisfaction is persistent over time—BOCSAR looked at that straight after the conference and further on. In terms of interventions, the youth justice conference has actually been evaluated quite thoroughly and has been found to be successful.

Mr DAMIEN TUDEHOPE: Has magistrates referring young people to it been a common practice?

Ms HAWYES: In terms of referrals, we do see a wide use of youth justice conferencing. Current statistics show that we have had over 1,200 referrals to a conference and a large proportion of those end in a successful conference plan and successful achievement of that plan. We see it as being well used as an option. I had the pleasure of sitting in on the Youth Koori Court last week and watching Magistrate Duncombe work with young people. If you have an opportunity to go I would recommend—

Mr DAMIEN TUDEHOPE: We are going on Friday.

Ms HAWYES: Great. It just shows how it makes it real for the young person—it makes it real regarding the impact of their behaviour on others. They talk to that young person about what it means to be an Aboriginal man and how to be a proud member of their community. You can feel that making a difference and resonating with that young person in the room. I am sure you will all really enjoy that visit.

Mr DAMIEN TUDEHOPE: Has the Youth Koori Court been evaluated?

Mr McKNIGHT: You might be aware that the Youth Koori Court evaluation by Western Sydney University was released on Monday. That was welcomed by the Attorney and is currently under consideration. If you would like some statistics on the Youth Koori Court, I have some in front of me. It has been operating since February 2015 in the Parramatta Children's Court. As of February this year, it had 86 referrals into the program: 37 graduates, 26 who were not successful and 23 who are ongoing.

Mr DAMIEN TUDEHOPE: Is part of the recommendations that it should be rolled out in other regional areas?

Mr McKNIGHT: There is a recommendation that more youth Koori courts should be undertaken. Obviously that is a question of resourcing and the Government needs to consider that. It has just got the report. When I read the evaluation report I was struck by just how real the stories in there were about the journeys that these young people had been on and their interactions with the Koori elders who sit with the magistrate. The evaluation struck me as a very thorough consideration of the dynamic in the room and how constructive those discussions could be and the challenges that the young people who are in the Youth Koori Court were facing, which were real.

The evaluation goes through the kinds of issues that the young people are grappling with and the kinds of things that are being done in the context of the Youth Koori Court for them. For instance, it looked at a sample of 19 of the young people. There were recommendations that they participate in cultural camps; connections to education and employment were identified for a range of them that were helpful; accommodation was a perennial issue and a number of them were helped by the court to find accommodation; health issues were identified; drug and alcohol issues were identified; and young people were connected to services. There were also some civil law matters, including nine of them needing birth certificates, seven of which—

The CHAIR: Do you do any work with mental health assessments? Is there any data on that?

Mr McKNIGHT: In terms of the Youth Koori Court?

The CHAIR: Yes.

Mr McKNIGHT: I do not have anything in front of me today, no. But obviously mental health issues are a frequent issue for the young people coming—

The CHAIR: The Commissioner indicated she was concerned that there are not more assessments done at an earlier stage.

Mr McKNIGHT: I think in general across the justice system, connection to mental health systems for young people and for adults is one of the issues that we grapple with all the time.

Mr DAMIEN TUDEHOPE: The Youth Drug and Alcohol Court was abolished a couple of years ago. Is there any case for reinstating it?

Mr McKNIGHT: The reason that the Youth Drug and Alcohol Court program was discontinued was to do with how much it cost, as opposed to how much benefit it was providing for the young people involved. That is not to say that drug and alcohol treatment is not an issue for young people in the criminal justice system, but that court was not found to be a cost-effective way of addressing those issues.

Ms HAWYES: As part of our service offering we do fund drug and alcohol rehabilitation services in two locations in the State. Again, I am not sure if you are planning to visit those or have visited those—Mac River?

The CHAIR: Yes, we have been there.

Ms HAWYES: As I said, we have got partnerships with our Health colleagues in Education and at Mac River they have now installed educational facilities, which I think is a fantastic complement. We do refer young people to drug and alcohol rehabilitation as part of our rehabilitation services.

Mr DAMIEN TUDEHOPE: I have 20 more questions yet, but I will finish with one last one. One of the things that we have heard is that often courts send people to be looked after by you because there is no other housing provided. What strategies should we be adopting so that the courts are not necessarily referring them to you but find other forms of accommodation, potentially while the young person is either on bail or in some other circumstance?

Ms HAWYES: I mentioned briefly our Bail Assistance Service, which is an out-of-hours support that operates until 3 o'clock in the morning every day. That service exists—at that final point of determining bail or not—as a resource for police, young people and others to say, "Is there any other option?" Before we reach that crisis point we also have a lot of strong and robust partnerships with Family and Community Services that try to ensure that if accommodation is the issue then we have done what we can to meet those accommodation requirements. I am not saying that it does not happen—it certainly does, and there are also, unfortunately, sad circumstances where young people say that they do feel that are safe in a Juvenile Justice system. I am not saying that it is unfortunate that they feel safe; I mean that—

The CHAIR: They have told us that.

Ms HAWYES: You would have heard that from the young people themselves and I certainly hear that too. I do not know what to feel about that in a way. But that is an issue for us to grapple with as a community.

Ms STEPH COOKE: The Committee has heard that diversionary programs are scarce in regional New South Wales. Do you agree that this is an issue and, if so, what should be done to address it?

Ms HAWYES: Were you specifically talking about Youth on Track or were you talking more generally?

Ms STEPH COOKE: Generally.

Ms HAWYES: We fund conferencing coordinators across the State. If there are specific areas where people are raising the issue of the ability to access a conference convenor then I would like some more detailed feedback. In terms of Youth on Track, it is not available everywhere—that is true. It is available in Blacktown, the Central West, the Hunter, the mid-North Coast, Coffs Harbour and New England. Some of those locations are regional locations but I understand if people are talking to you about not being able to access it in other areas. My response to that would be that we are working as hard as we can to make sure that this is the right intervention, and if it is we would be advocating that it is a robust and solid diversionary program and it would be something that we would put to government to consider for future expansion.

Ms STEPH COOKE: West of the great divide we have the central west service. Is it located in Orange or Bathurst?

Ms HAWYES: I do not know exactly where the office is, but I think it is in Dubbo.

Ms STEPH COOKE: Dubbo would make sense.

Ms HAWYES: It is in Dubbo.

Ms STEPH COOKE: Is there nothing further west than that or south-west of that in, say, Wagga or Albury?

Ms HAWYES: At this point, that is where the service is.

Ms STEPH COOKE: The Committee has heard that diversionary programs that exist in regional areas tend to be directed at those already involved in the Juvenile Justice system, not to the issues that lead to offending like family violence, homelessness and substance abuse. What is the New South Wales Government doing to ensure that there are adequate numbers of early intervention programs and efforts in regional areas?

Ms HAWYES: I can only speak to the Juvenile Justice-specific parts of your question. As I have outlined, the Government has recently expanded the service contract to include an additional three sites and cover more local area commands. That speaks for itself, in a way. In the regional areas, there are issues in accessing a range of allied health supports, as you would know better than I. Sometimes supported accommodation is scarce, and there is always more that we can do. As I say, we work with our colleagues with the resources that we have.

Mr McKNIGHT: I can add to that. I would like to point to the Family Investment Model trial, which you may be aware of. This is a trial where the Department of Justice is leading a multiagency approach to quite vulnerable and high-needs families. It is a two-year pilot program that is being trialled in Dubbo and Kempsey. It involves staff from the Department of Justice, Family and Community Services, the Department of Health and the Department of Education that work with some very high-needs families to reduce the immediate risk of offending and address some of the underlying causes of crime. The program is being evaluated by the Australian Institute of Criminology. It is a cross-government, innovative program of work that is quite exciting.

Mr DAMIEN TUDEHOPE: There was a proposal some years ago relating to social benefit bonds. It was suggested that we roll out social benefit bonds in the delivery of wraparound services in respect of juvenile offending. Did that ever proceed? Would you support it now?

Ms HAWYES: Of course, if there is an opportunity to leverage more resources and get better outcomes for the young people and for the community. The challenges are the relatively low numbers to make something like an investment bond really work. I have had some discussions with Treasury around how we could do that. Probably the most scope to make it viable is to look at things around employment, because you can get greater numbers through. We have had a look at how we could do social benefit bonds; I cannot talk about anything concrete at this point, but I know it is on the books for Treasury to keep working on that. As I said, a challenge for doing a bond just for youth justice is the relatively low numbers. As an alternative, we work with young people to get them into a vocation and employment in other ways.

Mr EDMOND ATALLA: I have a follow-up question in relation to juveniles with mental health issues. You have talked about circumstances in which a person in a Juvenile Justice Centre may be transferred to a mental health facility and then back to a Juvenile Justice Centre. What about a juvenile who is in a mental health facility, not as a result of any criminal activity but due to an illness, and a criminal incident occurs and that juvenile is transferred to a Juvenile Justice facility? Are you aware of any such circumstances?

Ms HAWYES: No, I am not in a contemporary sense. I could have a look at whether that has ever happened. Are you talking about a young person who has committed an offence whilst in a mental health facility?

Mr EDMOND ATALLA: Yes, and whether they are then transferred to a Juvenile Justice detention centre as a result of that offence. What is the mechanism for the transfer? Does it require a court order or is there a smooth transfer between one facility and the other? You can take the question on notice. Also, can you give us some statistics on how many have been transferred?

Ms HAWYES: I am not aware of any.

Mr McKNIGHT: Do you have a particular situation in mind?

Mr EDMOND ATALLA: It has been stated in one of the submissions.

Mr DAMIEN TUDEHOPE: I think it arose from a question. I am aware of no circumstances where it has occurred.

Ms HAWYES: It would be through a normal criminal process.

Mr EDMOND ATALLA: In one of the submissions it was indicated that a person with mental health issues had been transferred—

Mr McKNIGHT: I have not come across that, and the legal position—

Ms HAWYES: There would not be an automatic transfer.

Mr EDMOND ATALLA: —and it goes on to say that when transferred, sometimes those persons do not get adequate treatment at the Juvenile Justice detention centre because in many cases there is a lack of resources or doctors at the centre. Please take the question on notice.

Mr McKNIGHT: I can tell you that the legal position would be that a person who commits a crime in a mental health facility is subject to the criminal law in the same way that everybody else is. That person would need to be prosecuted through the courts, and in the case of a young person typically through the Children's Court. That would be unusual if the person was very ill—ill enough to be in a hospital. I would be surprised if that were happening.

The CHAIR: I can shed some light on the question. At the Committee site visit to the Reiby centre on 16 March, centre staff stated that patients at mental health facilities are sometimes transferred to Juvenile Justice centres following an incident, because there is not enough security in mental health facilities to manage violent incidents. This results in young people with significant mental health concerns being held in custody.

Mr EDMOND ATALLA: Given that statement, can you let the Committee know on notice how many have been transferred under these circumstances?

The CHAIR: I can add more information. At the Committee site visit to the Riverina Juvenile Justice Centre on 9 November, centre staff stated that there was no current mental health practitioner at the centre, and consequently only the most acute cases were being seen regarding mental health and there is a need for more funding.

Ms JENNY LEONG: To clarify, when we were speaking to young people at the centres, we heard that there were limits on who was getting access to psychological support. While I recognise that in all areas there are challenges, given what we have heard from the Mental Health Commissioner about the psychological distress and mental health issues faced by young people held in juvenile justice centres, it was pointed out that only those in the most desperate need are able to access help because of the limits to resources. I appreciate your comments about staff being available, but it would be useful to know whether you think the resources are meeting the demand, rather than just knowing that the services are available in each of the centres.

Ms HAWYES: I have a few comments, because different issues were raised in your comments. It is widely known that the young people who end up in custody have a suite of mental health and other issues. The prevalence of mental health issues, psychological disorders and cognitive impairments and other disabilities is higher in this group of young people, and that is known. As I said, we have more than 40 psychologists working for Juvenile Justice, and there are psychologists in all the centres. Riverina is particularly difficult to recruit to. If that person was on leave, then that may very well have been the case at the time. I will check that. We find it challenging to recruit regionally and we are constantly considering what is the best recruitment campaign. There is quite a lot of competition for those jobs from Education, Health and other employers. It is a challenge. Your comment about direct transfer from a mental health facility to Juvenile Justice, as Mr McKnight said, that would not occur. That would go through a criminal process if that were to occur. I will take on notice responding to you about the issues raised at both Reiby and Riverina.

Mr EDMOND ATALLA: The Committee has also heard that the rates of diversion under the mental health legislation are low despite high rates of mental health impairment amongst those who appear before the courts. A person with mental health issues goes before the court, there are insufficient diversionary programs so they end up in either a mental health institution or a detention centre. Can you comment about that?

Mr McKNIGHT: I think the Commissioner was referring to the provisions under the Mental Health (Forensic Provisions) Act for diversion, mostly section 32, some section 33. The Law Reform Commission did some work in this area on a general basis, not just about young people, and came to that conclusion as well. The Government is currently giving close consideration to those recommendations, so there is active work going on in that area to try to figure out ways of improving those provisions to make them more conducive to the courts. I think the Children's Court submission also talked about ways in which those provisions could be made a bit more useful from a court perspective. Those are all issues in front of the Government at the moment.

Mr EDMOND ATALLA: During the Committee's visit to one of the detention centres we heard from a detainee who indicated that she is in the detention centre as a result of the environment she was living in with her parents and friends. She indicated that when she is released she did not want to go back to that environment but Juvenile Justice is forcing her to go because it is supporting the reunion with family as a priority. Can you comment on that? If the family or friends in that environment are the problem, are we sending these young kids back to that problem area without any support so that they will end up in the detention centre again?

Ms HAWYES: First of all, I would probably ask for a few more of the specifics to look into the particular young person you are talking about offline. Yes, it is true that it is a high-risk time for young people to

come out of custody where there has been structure, support, activities to go back home and potentially back to peer networks that are less than ideal—put it that way. It is a high-risk time and our community-based workers recognise that and focus a lot on exit planning to help young people if they are going home to make sustainable changes so they do not end up coming back. It is a challenge. We deal with a lot of kids for whom part of the issue is the environment that they are from. There is not really a magic solution.

We do all we can to support a young person to make those changes and stick to them. We do also relocate some young people where they want to be relocated. I know of more than one occasion where we have supported a young person to settle in a new town, adjust to independent living and provided them with a mentor to help them. It is quite hard. As the Committee would know, when you move you have no friends and you do not know anyone and it is quite a challenge.

The CHAIR: The Committee met one such young person at Riverina, who came in with Anglicare.

Ms HAWYES: That would be pretty daunting at 35, let alone at 17 or 18, for anyone. It depends on the young person and their scenario.

Mr EDMOND ATALLA: We also heard from young kids who have become institutionalised as a result of the environment in the detention centre being much better than the environment outside. There is a lack of support for them when they are released and they will probably end up homeless and in a cycle that is undesirable. They find it a lot better to be in the detention centre, therefore they reoffend just to get back in. What programs do you have to ensure that reoffending as a result of people wanting to go back into detention because it is a better environment is minimised?

Ms HAWYES: One of the really concrete things we did last year that I am incredibly proud of is we introduced caseworker roles into custody, one per unit, so that essentially from the moment the young person walks through the door as a detainee we are planning for them leaving, and leaving successfully—as in leaving less likely to reoffend. Their focus is technically exit planning and support. What that means in real life is making sure that upon exit the detainee, the young person going back to the community, has a place to live that we think will be secure and stable, is supported to re-engage in school or assisted to find a job, has appointments made with medical professionals—those kinds of things. Sometimes it is about social connection too, connecting a person with a club or an interest so that instead of hanging out with negative peers they find some more positive peers. That is the caseworker's job.

Mr EDMOND ATALLA: Is that applied to every person who is leaving?

Ms HAWYES: It is in every centre. There are 22 roles and a number of them are identified roles to work with Aboriginal kids and families. They have been in there since July. I have high aspirations that will ultimately better support young people to leave.

Mr EDMOND ATALLA: July last year?

Ms HAWYES: Yes.

Mr McKNIGHT: Can I make a general comment about the question? The focus of this Committee's work is on diversion. Diversion is at its base getting people out of the criminal justice system or stopping people coming into the criminal justice system. The real challenges for the criminal justice system in terms of keeping people out of our system once they leave it, are questions of how we transition people out of things like detention centres—or in the adult context, prisons—into mainstream social supports and services, into housing, social services and health services. The important thing is that they transition into those mainstream services and they are properly connected into them and our systems let go of them.

We let go because if we retain control of that process they remain inside the criminal justice system and their chances of staying there are much higher. What we need to do as a system is connect people into the mainstream and then make sure that that connection is stable. That is really the job of the social service system, to pick up the needs that these people have and ensure that those can be met. Diversion is about that connection problem. The key issue for us is the transition points into and out of the criminal justice system and how we make those as smooth and as clear as possible. Caseworkers is one way we do that.

Ms JENNY LEONG: I will follow up on that. Mr McKnight, the Committee has received submissions about the Suspect Target Management Plan, which is a NSW Police Force program, raising concerns that this may run counter to some of the New South Wales Government and other police programs, including Youth on Track, that are about diverting and keeping young people out of involvement with the criminal justice system. Are you aware of any positive or negative impacts that you believe this program has had? Has Juvenile Justice or the Department of Justice had any review or assessment of this on the impact of the

program outside its intended purpose, and the potential negative impacts it might have had more broadly on diversionary programs?

Mr McKNIGHT: There are very limited things I can say about the STMP program. I am conscious that there are a number of submissions about it. I am also conscious it is one of the strategies that police use to reduce offending in the community. Apart from that, I do not really have anything in a general sense to comment on there. I imagine the Committee raised these questions with Assistant Commissioner Cassar this morning?

Ms JENNY LEONG: We did.

Mr McKNIGHT: And he would have been best placed to talk about them.

Ms JENNY LEONG: Obviously there are two elements to this, and one is identification by the police. A number of submissions have indicated that people in the education and health sectors might identify young people at risk. Identifying a young person under the age of 18 and putting them on an STMP suggests that the police believe that young person is at risk of offending. I appreciate that you cannot speak specifically about the program but, rather than those young people being visited and being put on a police watch program, could that identification channel flag other ways to assist with wraparound supports and services?

Mr McKNIGHT: That is one way to identify young people at risk, but there are other agencies that also identify them. The Department of Education or Family and Community Services could be included in that concept. One of the things that the Government is doing in this area is the Their Futures Matter program. It deals with the out-of-home care system a lot better. There are some interesting developments in that space.

Ms HAWYES: There are. I am a part of the Their Futures Matter governance in my role. A lot of work is being done at the moment in an unprecedented and deep dive into each service agency's data. From my point of view, we are looking at trying to tackle a few things through this reform. It is obviously a child protection-based reform, but there is a cohort of young people being looked at who are in contact with Juvenile Justice. Questions are being posed about at what points we could do things differently to put them on a different life trajectory. It is formative work. What I find really exciting about it is the ability and willingness to look honestly at where the system does not work as well as it could and should. It is exciting as there is a willingness to look at doing things differently. Over time, the Committee might track the progress of that reform.

Ms JENNY LEONG: The member for Epping asked how many young people were in custody, and the response was 301. Do you know how many young people are in custody for non-violent crimes?

Ms HAWYES: I will take that question on notice. The young people in custody are there for either persistent and/or serious offences. It is rare to see a new admission for a first-time, non-serious offence.

Mr EDMOND ATALLA: How many are incarcerated for reoffending?

Ms HAWYES: Again, I will take that question on notice.

Ms JENNY LEONG: We touched briefly on access to the internet by young women in Juvenile Justice centres. However, the Advocate for Children and Young People noted a perception on the part of young people in Juvenile Justice centres that there are significant differences in access to the internet and the culture in centres. It was stated that Juvenile Justice NSW is looking at minimum standards. Can you expand on that?

Ms HAWYES: That is interesting because the centres all have slight differences; it is almost a different culture. Committee members have been to a couple of centres.

Ms JENNY LEONG: Three.

Ms HAWYES: In the area of how we do business, we are looking at the elements. Broadly speaking, what should be the same in any detainee's day, whether they are in Orana Juvenile Justice Centre, Reiby Juvenile Justice Centre or wherever. There will be some differences. The infrastructure is different and there may be some gender differences in the things being offered. As I said, there will be some differences, but it should be broadly the same. We are looking at that at the moment, whether it be what time they get up, what time they have lunch or the programs and activities offered. I am interested in the feedback, particularly from the girls. Internet access is equivalent wherever they are, but I am interested in the perception that it is not. I would like more feedback separately to be able to talk to them about that.

Ms JENNY LEONG: You are obviously aware that Youth on Track is available only in some areas of New South Wales. The indications at today's hearing are that it is well supported and that it seems to be working well. Have you seen a change, given that we know where it is available? Are we seeing differences and are they being examined?

Ms HAWYES: It is part of the work of BOCSAR to get a solid understanding of that difference. It is a bit early for me to comment on that. However, I can say that, of course, where there is a longer history of something, people will become more familiar with the referral pathways and use them more readily. That is certainly occurring. However, I will leave it to the experts in BOCSAR to tell me—

Ms JENNY LEONG: But they will be looking at that?

Ms HAWYES: Yes.

Ms JENNY LEONG: The non-government organisation sector and the service sector raised some concerns about short-term funding, the funding periods, the fact that funding is not available for adequate evaluation to see whether a program is effective, and lack of flexibility in the programs offered because of the measures required. Do you have any comments about that? Are there also some pilot or trial programs which are good examples and which should be further investigated?

Ms HAWYES: I will be candid in saying that I know it was a challenge for Youth on Track providers during the startup that the contracts were not long-term. They overcame that challenge and we now have more stable contractual arrangements. The contracting arrangements for Youth on Track are very robust, and I have had feedback that it is clear what we want providers to do. The measures are clear and they know where they stand under that contract arrangement. I have had very good feedback about how the contract is set up. With reference to the things we are doing that show great promise, it is probably too early to tell.

It is not so much a diversion, although it is if we look at it from the point of view of how we stop a young person who has an experience of custody from coming back. We are piloting a program on the South Coast that has a particular focus on Aboriginal young people and reconnecting them with their identity, their community and their culture. I would be happy to host the Committee on a visit. It is being operated in partnership with the Aboriginal Medical Service. It is an intensive case management mentoring initiative, and so far it is showing a lot of promise. It involves very small numbers and it is very early days. However, so far, the young people involved in it have seriously engaged. For many it is the first experience they have had of their culture and what it means.

The CHAIR: Where is it?

Ms HAWYES: On the South Coast.

The CHAIR: Nowra?

Ms HAWYES: Yes.

Ms JENNY LEONG: The statistics for Aboriginal young people involved in the criminal justice system and in Juvenile Justice centres is unacceptable. That is a stark reality. I appreciate that many trials are being undertaken, and I acknowledge that cultural awareness programs being conducted in Juvenile Justice centres demonstrate a commitment to recognising the need to respect that reality. However, it appears that making small shifts and changes will not address that seriously. Can you identify the bigger picture reforms that could be made to address this in the next two or three years as opposed to conducting trials and slowly reducing the numbers? What are the biggest challenges and obstacles, and on what should the Committee focus its attention? It may not be Juvenile Justice.

Ms HAWYES: That is an enormous question.

Ms JENNY LEONG: If anyone is fit to answer it, you are. This is what the Committee is grappling with on a huge scale.

Ms HAWYES: We are dealing with the impacts of dispossession in our community and in Aboriginal communities. There is no one quick solution. One of the key things we are seeking to do is develop and support Aboriginal staff to work with young people in custody because, having visited the New Zealand system, I can see that that has very tangible benefits and creates that sense of community, having a vested interest in young people making different life choices. For us, engaging with families and communities, the things that you would have seen at Reiby—the cultural engagement activities but also getting elders in; programs like the new Jumbulla on the South Coast where we are trying to foster a sense of connection and identity with them—that sort of stuff is where we are really focused and a lot of that is working with Aboriginal people either in our workforce or in the community to bring that into the centres and to the community as well, of course.

Mr McKNIGHT: The problem is huge and often we are responding to a situation of historical disadvantage and cycles of disadvantage. I think the kinds of strategies we are trying within the criminal justice system for adults is to try to make some of the community-based sentencing options more appropriate and available to Aboriginal people. That could be one thing that we could think about in the youth space. The youth

space is different though because being in a detention centre is very unusual and really the group of young people that are there have multiple layers of disadvantage; so it is a lot more challenging for that group.

If you ask me what the most promising look across the system is, I think those are measures which involve multiple agencies addressing community needs and family needs at the same time. The family investment model, for example, is one of the things that I think is really about trying to break some of those cycles for some very vulnerable and disadvantaged groups. But those interventions are complex and they are quite intense and it is not going to be a short process.

Ms HAWYES: And a part of that is working with wider communities about some of the community safety issues. We have to grapple with it as a whole community because some of the offending behaviour is serious and causes a lot of harm. We have to find the balance to support these young people to own their behaviour and to change it as well.

Mr McKNIGHT: That is right. In the context of high levels of victimisation, these are offenders but they also often have a history of victimisation.

Ms JENNY LEONG: One of the submissions—and I apologise as I cannot recall which one right now—referred to the idea of there being better training for people working in criminal justice to understand the impacts of racism on young people that are then engaged in the criminal justice system. Does Juvenile Justice have those kinds of training programs and are you aware of them being rolled out across the Department of Justice and into other areas?

Ms HAWYES: We do, and I can provide the Committee with details on our cultural competency and understanding work.

Ms JENNY LEONG: That would be great. And are you aware of broader programs run across the different departments in Justice?

Mr McKNIGHT: There would be such programs across Corrections and in other parts of the Department, including by the Judicial Commission amongst the judiciary. The other theme of training here that is sort of the next wave of training that people are undertaking is training in trauma-informed practice, which is also relevant to groups of people with high levels of disadvantage, and that is beginning to be expanded across the Department.

Ms HAWYES: I would add to that that understanding of trauma backgrounds, it is really important to understand the types of what could otherwise be completely incomprehensible behaviour or responses to things. It is as applicable to detention centres as it is to education and in health settings. Skilling our health and human services workforce to understand that a person who has experienced significant trauma will react to things in potentially volatile and violent ways is an important safety consideration but it also makes more sense of what otherwise would not make sense.

Ms JENNY LEONG: It would be appreciated if you could share the details of the training programs that you do run.

Ms HAWYES: Absolutely.

The CHAIR: Legal Aid has suggested that a dedicated Children's Court may be more likely to caution a young person or to refer a young person to a youth justice conference rather than regional Local Courts sitting as Children's Courts. Do you have any comments on that, and is there a need to expand Children's Courts across as much of the State as possible? Probably this is Mr McKnight's area.

Mr McKNIGHT: My area is not responsible for resourcing the court system, as you would be aware. That is a resourcing question. If I can just take you through the current situation of the Children's Court. At present the President of the Children's Court and about 12 full-time equivalent children's magistrates work in metro Sydney, and there are an additional four full-time specialist children's magistrates who operate on regional circuits. Where a specialist children's magistrate is not available, of course, there are 36 full-time equivalent Local Court magistrates who exercise that jurisdiction. Currently about 90 per cent of care matters and about 67 per cent of criminal matters come before the specialist magistrates. So we have relatively good coverage, but it is not perfect coverage.

You will be aware that with the Wood Special Commission of Inquiry in 2010 into Child Protection Services, as part of the Government response to that special commission the Government appointed two additional Children's Court magistrates, particularly with a focus on improving country circuits to ensure that there was a better coverage of specialist magistrates. As at now, there are four specially designated Children's Courts at Parramatta, Woy Woy, Broadmeadow and Surry Hills—the new Surry Hills Children's Court opened

in January. There are specialist magistrates that operate out of shared court facilities at Campbelltown, Sutherland, Wyong, Moss Vale, Goulburn and in the Illawarra, the Hunter, mid North Coast, Northern Rivers, Western and Riverina areas. Moss Vale and Goulburn have come online since January 2018, and from June this year we expect specialist children's magistrates to start hearing criminal matters at Singleton and Griffith.

Another parliamentary inquiry, the one into child protection, recommended further appointments and the Government response indicates that we are currently considering that recommendation. Obviously there are lots of advantages to specialist Children's Court magistrates and there is a real attempt to provide as much coverage as we possibly can, but there are resourcing issues and suchlike.

The CHAIR: The Bar Association has complained that in sentencing young Aboriginal offenders to prison, pre-sentencing reports contain insufficient information about their background, including social, cultural and historical factors that relate to the offender and his or her community. Do you have any comment on that?

Ms HAWYES: I would probably ask for some specifics. I think it is an area where the practice is maturing and building in being placed to make those sorts of cultural comments. Were they talking about background reports prepared by Juvenile Justice officers? Do you have any more specifics, or just generally?

The CHAIR: I think we have got some.

In its submission the Bar Association states that in sentencing Aboriginal offenders courts have insufficient information about the offender's background to assist them to make an appropriate sentence. Under section 25 of the Children (Criminal Proceedings) Act 1987, a court cannot sentence a young person to prison unless a background report has been furnished concerning the circumstances surrounding the commission of the offence. The Bar Association states that in the case of Aboriginal offenders these mandatory background reports rarely, if ever, provide any information in relation to the systemic and background factors—for example, social, cultural and historical factors—that relate to the young person and the young person's Aboriginal community. The Bar Association calls for amendments to the Children (Criminal Proceedings) Act 1987 to fix this, and for resources so that communities can provide these details for background reports.

Mr McKNIGHT: Part of this relates to an idea coming from a model in Canada of sentence reporting that provides the court with a general picture of the community and its history, in order for the court to take that history of disadvantage, colonialism, et cetera, into account in sentencing the offender. This is not a system that works in Australia. The common law in Australia was explained in a case—I want to say Bugmy but it could be Muldrock—where the court can take into account the disadvantage of the particular offender but it does not go so far as to take into account the general background information. This is a proposal that some stakeholders have put before this Committee. They raise it in the adult context, too.

The CHAIR: It makes sense to me—a little—if somebody from an Indigenous community in the Far West goes through the court system.

Mr McKNIGHT: Absolutely.

The CHAIR: I found out about that talking to a young fellow at Wagga Wagga, who had come from Bourke or somewhere like that. In the short time I spoke to him it painted a far different picture.

Mr McKNIGHT: The measure was raised in the Australian Law Reform Commission [ALRC] report on Aboriginal overrepresentation as well. There would be some questions about it as a measure to reduce Aboriginal overrepresentation in the system. It is potentially resource intensive, and its ability to allow the court to sentence in a way that reduces imprisonment is questionable. I note that the Canadian High Court has considered this process and has noted that it has had limited effect on sentencing levels in the courts. It would need quite a bit of thought before we supported a process like that in how effective it would be in addressing the problem.

The CHAIR: It is a bit scary to me when the Bar Association says, "rarely, if ever, provides any report". It was indicating that sometimes there is no report.

Mr McKNIGHT: If the concern is about the individual reports and the situation of the individual in front of the court, that is a different kind of matter. Some of this is about the generalised background information.

Ms JENNY LEONG: Is it possible, now that you are aware that it is part of its submission, that you could give us a more detailed response on that? I wonder whether it also links into the idea of Mental Health Commission reports and assessments of young people and mental health, or other issues that might be useful to be aware of in advance. Maybe we can get a response in relation to both of those.

Ms HAWYES: What strikes me is that what works can be quite simple for any of the young people who end up in trouble with the law. We hosted the Northern Territory commissioners when they were doing their review of the Northern Territory system. They had a look at the facilities—as you have done—and we spent a fair bit of time talking to them about the differences between the New South Wales system and the Northern Territory system right now. When you step through what works—I think about case studies around Youth on Track, et cetera—you find that it is those little incremental actions that can divert somebody from a particular pathway to another. It can be things like having someone that they can talk to, who is an advocate for them. That person might—taking small steps first—get them a pair of soccer boots so that they can play soccer and meet new friends instead of their old friends with whom they were hanging around on the street, getting into trouble.

Then their younger brother and sister starts to get interested. You get a ripple effect from what can seem like a very small intervention. That is what works to change the path a person is on—and it goes from there. We have case studies where the Aboriginal kids, the Aboriginal family and then the Aboriginal community start getting more interested in what is going on for those young people and start to bring other kids forward for similar sorts of support. So what works can often be quite simple.

Mr DAMIEN TUDEHOPE: That is why PCYCs are often a good example of something that works.

The CHAIR: Thank you for appearing before the Committee today. The Committee may wish to send you additional questions in writing. The replies to those questions will form part of your evidence and will be made public. Would you be happy to provide a written reply within five business days?

Ms HAWYES: Yes, that is fine.

The CHAIR: I think I can say on behalf of the Committee that one of the things that impressed us—it is a credit to you—was the dedication and commitment of your staff at all levels within those facilities. It is a difficult environment. It is challenging and confronting. As I said to you I was virtually reduced to tears coming back on the plane after our first visit to Wagga Wagga. I did not know what to expect, and I think most of the Committee felt the same. So well done to you and your team. There is no silver bullet that fixes everything but as long as we can take small steps we will get there. That concludes the public hearing today. I put on record my thanks to all the witnesses who have appeared today. In addition, I thank the Committee members, the Committee staff and Hansard for their assistance in conducting the hearings. I formally declare the hearing closed.

(The witnesses withdrew)

(The Committee adjourned at 14:47.)