

**REPORT ON PROCEEDINGS BEFORE**

**COMMITTEE ON LAW AND SAFETY**

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

**At Macquarie Room, Parliament House, Sydney on Thursday, 10 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



**KERRY CHANT**, Chief Health Officer and Deputy Secretary, Population and Public Health, NSW Health, sworn and examined

**GARY FORREST**, Chief Executive, Justice Health and Forensic Mental Health Network, affirmed and examined

**YOLISHA SINGH**, Clinical Director Adolescent Mental Health, Adolescent Health, Justice Health and Forensic Mental Health Network, affirmed and examined

**The CHAIR:** Thank you for attending this public hearing of the Committee on Law and Safety. Today's hearing is the third hearing in connection with the Committee's into the adequacy of youth diversionary programs. I am the Chair of the Committee and the Member for Tweed. The Deputy Chair of the Committee is the Member for Cootamundra, Steph Cooke. Other committee members are the Member for Epping, Damien Tudehope, the Member for Mount Druitt, Edmond Atalla, and the Member for Newtown, Jenny Leong. This morning the Committee will hear from witnesses from NSW Health, the Justice Health and Forensic Mental Health Network and the New South Wales Department of Education. After morning tea the Committee will hear from witnesses from Youth Off The Streets and the New South Wales Department of Family and Community Services. After lunch the Committee will hear from the NSW Coalition of Aboriginal Regional Alliances. After the afternoon break the Committee will hear from the Law Society of NSW. We will end the day with a private session, which will be closed to the public.

I thank the witnesses for making themselves available to appear today. I remind everyone to switch off their mobile phones as they can interfere with Hansard's recording equipment. For the benefit of the gallery, I note the Committee has resolved to authorise the media to broadcast sound and video excerpts from the public hearings. Copies of the guidelines governing the coverage of proceedings are available. I now declare the hearing open. I welcome Dr Kerry Chant from NSW Health and Mr Forrest and Dr Singh from the Justice Health and Forensic Mental Health Network. Before we proceed, do you have any questions regarding the procedural information sent to you in relation to witnesses and the hearing process?

**Dr CHANT:** No.

**Mr FORREST:** No.

**Dr SINGH:** No, I do not.

**The CHAIR:** Would you like to make a brief opening statement before we commence with questions?

**Mr FORREST:** Yes, I would be happy to make a statement. I wish to start by acknowledging the traditional owners of the land and I pay my respects to elders past and present. I would like to thank the Committee for the opportunity to represent the Justice Health and Forensic Mental Health Network, which I will now refer to as "the Network" to make it easier at today's hearing. The Network is a specialty Network-governed statutory health corporation constituted under the Health Services Act 1997 in New South Wales. The Network is part of NSW Health and is a strong supporter of diversion programs. We have a role in supporting vulnerable and at-risk individuals. It is interesting to note that recidivism is only one marker of effective youth diversion programs. There are many other markers supporting a whole-of-system, evidence-based approach including health, social, educational and economic measures.

There is a need for a broad understanding of the social determinants of health and intervention approaches that span the entire spectrum of life. As is widely reported, there is a significant over-representation of Aboriginal young people in the criminal justice system, and the Network is an advocate for a strong diversion program for this vulnerable and at-risk population. The role of the Network is to give people access to a comprehensive health service and a good experience of that health service. The Network facilitates this by having specialist health experts, evidence-based interventions and culturally informed practice. The Network is responsible for delivery of health care to adults and young people in contact with the criminal justice and forensic mental health systems in New South Wales. In this context, the term "young people" includes those aged from 10 to 20 years. Whilst the Network's health services primarily support patients during their time in custody, we also provide some limited programs supporting patients in their pre- and post-custodial periods.

The Network forms a vital part of the New South Wales public health system through its support of highly vulnerable patient populations whose health needs are often numerous and more complex than those of the wider community. The Network is well positioned to respond to the health needs of patients who commonly have had minimal contact with mainstream health services. In the Network's 2015 "Young People in Custody Health Survey", participants were asked who they usually saw if they felt sick or needed health care in the community. Participants most commonly saw a local general practitioner or a family doctor, and that was at

56.5 per cent or just over half of those surveyed. Our vision is to return healthier patients to the communities. The Network contributes to improving young people's health and reducing young people's contact with custodial settings through a variety of programs: by diverting those with identified mental illness from court to community-based care; by addressing the health conditions of those in custody, particularly where it impacts on their offending behaviour—for example, drug and alcohol misuse; and by supporting transition of care for young people on release from custody to connect them to local services in the community. Our health-based youth diversion interventions include our Adolescent Court And Community Team. This service assesses young people with suspected mental illness appearing before the 21 children's and local courts in New South Wales. It identifies diversion options into community-based care. This advice is provided to the magistrate to inform his or her judgement and sentencing options. In 2016-17, of the 766 young people referred to the Adolescent Court and Community Team, 566—or 74 per cent—were able to be diverted.

The next program is teen Getting on Track in Time, or teen Got It! This service aims to provide therapeutic interventions to young people and their parents where the young person is the defendant in an application for an apprehended violence order in the New South Wales Children's Court. Other Network programs that support reducing reoffending include a Community Integration Team. The Community Integration Team navigates post-release care of young people with significant mental health and/or problematic drug and alcohol use leaving custody, including supporting linkages to community-based health and support services and providing brief psychosocial interventions. In 2016-17 there were 618 young people referred and engaged in the community integration service. Of these, 53 per cent identified as Aboriginal.

We also provide a School-Link program. The School-Link program facilitates clinicians to access young people with mental health issues to access appropriate education opportunities. The program aims to strengthen links between education and mental health services. For young people in custody, the Network's Adolescent Health Service delivers health care to young people in the six Juvenile Justice centres across New South Wales. The centres are staffed seven days a week with health staff. The services include specialist mental health, primary care, drug and alcohol, oral health, Aboriginal health, women's health and sexual health clinicians. An initial assessment of all young people entering custody is conducted within 48 hours of admission and this includes attending to any necessary treatments and making referrals as required.

Within 10 days of admission a more comprehensive health assessment is conducted examining psychosocial factors, such as their home environment, education, employment, drug and alcohol use, sexual activity and mental health. In 2016-17 there were 2,999 young people who were admitted to custody during that year as new admissions. Of significance to this patient cohort is the over-representation of Aboriginal young people, who constituted 51 per cent. There were 3,218 mental health appointments attended by the young people in custody and 2,491 primary health appointments.

Young people in custody experience multiple health problems and commonly report experience of neglect and abuse prior to their detention. One of the challenges of providing health care to this young population is their short length of stay, which can typically be days to several weeks. Young people in contact with the justice system have complex health and social needs. The Network, in collaboration with NSW Health, works with government and non-government agencies to address the challenges to ensure suitable community placements and support are provided to young people when they leave custody. The Network works hard to build relationships with these services to support the transfer of patients into appropriate community-based care. We deliver health care to all young people in custody and target those young people most at risk for more intensive interventions.

In summary, the Network and NSW Health are strong supporters of diversion programs for young people. We aim to enhance access to equitable and culturally informed health care, education and psychosocial supports through the delivery of holistic, evidence-based and family-inclusive practice. As I have highlighted, young people in custody have complex health and social needs that require the Network and NSW Health to work in collaboration with government and non-government agencies to achieve the best health outcomes for these young people. As a health service, we recognise there are many markers of success for diversion programs, including evidence-based health, social, educational and economic measures.

**The CHAIR:** Dr Chant?

**Dr CHANT:** I am happy to take questions, given the length of the opening statement.

**The CHAIR:** Dr Singh?

**Dr SINGH:** The same, I am happy to take questions.

**The CHAIR:** The Committee has heard that the Adolescent Court and Community Team run by Justice Health is not available to every Local Court that sits as a Children's Court. Is there a need to roll this out across the State?

**Mr FORREST:** The Adolescent Court and Community Team is currently in 21 locations, as I have mentioned. Justice Health, in collaboration with NSW Health, would be happy to support any service programs expanding into other courts that were indicative of evidence-based and good-practice outcomes.

**Ms JENNY LEONG:** Can I follow up on that now? Can you clarify in relation to that assessment, is every young person who is entering into that system able to access that support? What is the proportion of young people who would gain that support? The support is available in 21 courts, but that does not tell the Committee whether 10 per cent of young people or 95 per cent of young people are able to receive that support. What is the coverage?

**Mr FORREST:** We do not have the data available on the number of people who go through all of the local courts because we are not in all locations and, in the 21 courts that we are in, that data is held by the Department of Justice. It is not data that I have readily available. All that I can report on is that, of those who go through the court, 766 is the number of patients that are referred to that service, and then we have a 74 per cent uptake.

**Ms JENNY LEONG:** If the Committee wanted to have those numbers we should follow that up with Justice?

**Mr FORREST:** That is right, yes.

**The CHAIR:** The New South Wales Government submission to the inquiry notes that the increase in the use of audiovisual links in Juvenile Justice centres means that fewer young people are physically present in court. Does this prevent them from accessing welfare services such as the Adolescent Court and Community Team that they might otherwise be able to access?

**Mr FORREST:** The Adolescent Court and Community Team model has been in place for several years now and Justice Health is aware of the changing landscape in relation to young people appearing before the court via audiovisual link. As a service, we are looking at our service model to allow it to continue to evolve to be able to adapt to those changes in presentation of young people not appearing in person.

**The CHAIR:** Finally, the Committee has heard that the rates of diversion under mental health legislation are low despite high rates of mental health impairment amongst those who appear before the courts. The Children's Court has also told the Committee that a lack of available services can weigh against diverting a mentally disordered young person under the mental health legislation. Do you have any comments and is there a need for more mental health services to divert young people? Is there a need to train magistrates in this area as well?

**Mr FORREST:** The ideal situation would be that every young person who appears before the court is entitled to have a mental health assessment undertaken by a qualified mental health clinician. That would be the ideal scenario. That would allow the mental health clinicians to identify those early indicators right at the point of first court appearance to be able to identify patients who may have a mental health picture. What is required though is if we increase the amount of assessments, increase the presence of health clinicians in courts across New South Wales, there needs to be a commensurate wraparound service of other agencies, be it government or non-government agencies, to then allow for those assessments to lead into interventions. Health assessment is one component of it. It needs the additional wraparound services to make that entire intervention effective.

**Ms JENNY LEONG:** In the opening statement, you referred to the fact that there are limited programs pre- and post-custody and to the short length of stay of young people in custody, which is obviously a good thing. One stark reality that we have noticed while visiting a number of the Juvenile Justice centres is that we often hear that it is the first time that those young people have seen a dentist, that they have serious mental health issues and that it is the first time that they have been provided care around those issues. They have, in some cases, leftover broken arms from once upon a time that were never dealt with adequately.

Can you talk about the recommendations you think this Committee could make to look at expanding the pre-custody and particularly the post-custody help support? All of us would agree that it is not acceptable for a young person to get quality health care and checks just in custody and that we need to be looking at that in earlier stages. Could you expand on the pre-custody programs that are available and what recommendations could be made to expand them to provide support to young people before they find themselves in custody?

**Mr FORREST:** Given that the question is predominantly clinically based, I might ask Dr Singh to talk about that one.

**Ms JENNY LEONG:** Often when witnesses are presenting, others will jump in with extra bits. Feel free to do that; it does not have to be one person answering each question.

**Dr SINGH:** It is an extremely relevant question because if we do not intervene early then we run the risk of, as you mentioned, having to deliver services to young people in a custodial environment. All the evidence that we have shows us—and there have been several meta-analyses over decades to demonstrate this—that even though it is good to have good, effective care in custody, the outcomes from that care are limited and not as effective as when they are delivered in the community. That is the first point. Any pre-custodial support that we offer needs to take into consideration that children are not mini-adults. I know that sounds trite but it is a really important thing that should underpin any intervention that we deliver or any policy change. It should be developmentally informed and trauma informed and culturally appropriate.

When we are developing any pre-custodial support, my thinking on that would be informed by not just our understanding of the science but also our understanding and our own experiences as individuals and as a community and society. What we know about young people, particularly adolescents, is that their brains and bodies are developing and undergoing rapid changes, particularly in that period we are talking about where offending rates are very high and at peak. Part of that is things like they have synaptic pruning, which literally means that bits of your brain that you do not need are pruned away. You have myelination of the nerve fibres which means that basically there is a fatty layer deposited on the fibres that allows you to think faster and accelerate the way that you process things. So there are all these exciting but also quite challenging experiences that happen in normal adolescent development. If we hold that in the back of our mind, then those things should inform what pre-custody interventions we deliver.

If we overlay that normal developmental trajectory with the developmental impacts of adversity such as trauma, exposure to drug and alcohol use, poor attachment in early childhood, exclusion from school, et cetera, we find a complex picture that any intervention has to be tailored to target from a health perspective. No one service can deliver that because it is multi-faceted and multilayered and it spans an entire lifespan. You need to be looking at parenting interventions that are in the antenatal period—or even prior to that, in conception. It works in a circle. Interventions that are targeting what we want rather than what we do not want are much more efficacious. Often, health services particularly are focused on pathology rather than on strength.

I know these are very big, motherhood statements but they need to be the things that ideologically underpin any pre-custodial supports that we offer. Pre-custodial supports need to be tailored to meet the needs of the population. There are many voices of the population because a child does not exist in isolation. There is the voice of the child that needs to be listened to and heard, there is the voice of the family and the parents, and there is the voice of the community. There are also responsibilities to keep those communities and people safe. There is no single answer to what pre-custodial support should be but they should include a single agency that takes responsibility and a multiple, multi-pronged approach to how you address those supports. You cannot do one thing.

**Dr CHANT:** I suppose I would support that. I understand that the initial focus of the question was probably in the more immediate pre-custodial setting.

**Ms JENNY LEONG:** No, I am happy to talk of longer, even before there is a consideration of custody.

**Dr CHANT:** Being a population health practitioner, I am keen that we provide supports and get to the root cause of some of the issues. There is good evidence around parenting programs, there is good evidence around sustained targeted home visiting to support vulnerable families, and to be able to coordinate and bring in drug and alcohol, mental health to support the environment in which the child is growing up. Clearly, we cannot walk away from some of the social determinants such as access to good quality education and making sure that there is support if they are failing to meet the learning milestones.

There is good evidence around early engagement with preschool or structured early childhood learning. It is important that we put those programs in place to prevent. Clearly, there is the next level where we have issues perhaps coming up in terms of children being notified potentially at risk of significant harm. That is when our child protection system kicks in and then there is a role for FACS and Health that will ensure that we have intervened and supported those families. As we go through life there will be opportunities where those young people are coming to the attention of health services, be it in general practice. We need to raise awareness on what might be the signals that a family is struggling or young people are struggling and what are the indicators for that.

**Ms JENNY LEONG:** Can I just draw that out to talk about general practitioners [GP] because young people in custody are saying that that is where they go if they have a health issue? Are there ways or things that

could be done to look at the role of GPs and strengthen that before a young person even engages or is on the police radar? Does that create other concerns about young people potentially not feeling comfortable going to their GP for health reasons? Do you think there are ways to strengthen that before it is even on the police radar that this young person might be a challenge?

**Dr CHANT:** We need to get young people to see a GP as someone they can discuss issues with. Obviously, we do not want to link this to who the doctor may be informing about those sorts of things. We have to keep it in an environment so that the young person feels safe. The best outcome for a young person would be to go either to their GP or to a trusted other source of advice around services that might support them with their drug use or their mental health. What we want to do is open up the discussion or the channels and make sure that young people know that there is a range of services. There are online services, call lines, general practice that they can actually get some evidence informed. There is a lot of evidence—and I might defer to my clinical colleague—that some online interventions are effective for anxiety and some of the things that might be precursors to children and young people choosing to perhaps use drugs as a way to manage their anxiety. There is a variety of different platforms.

We need to make more visible to parents and young people what the range of options are that could support them getting the right care at the right time. It is complex because young people may not make the right decision in feeling that they can discuss it with their GP. They may not even understand when there is a change in symptoms. They might think this is part of normal adolescence and when it is starting to cause a broader impact on their life they may not read that. That is where the role of family, peers—we have to understand the importance of peer networks and supporting peers to understand and channel people into evidence-based pathways.

Given the fact that there is a variety of things, if they are too fearful of going to their GP there are other services, there are anonymous services. We see people in our drug and alcohol services and our sexual health services. Our sexual health services would also see themselves as providing a broader suite rather than just owning sexual health issues. There are opportunities in a variety of our youth services, our drug and alcohol services, our drop-in adolescent services. The staff would have an ability to identify and refer issues, but I should not underestimate the challenge. The child or the family has to be in a place and in a frame of mind to take the next steps.

**Ms JENNY LEONG:** Drug and alcohol support has been coming up a lot and came up recently in my own electorate. If a 13-year-old has a drug problem in New South Wales, is there a publicly available rehabilitation support service that they can access? We have heard in some of the discussions that the way younger people access detox is often through custody rather than outside custody. You might need to take the question on notice, but I would be interested to know that, if police were aware of a young person in that situation, what services are available outside custody?

**Dr CHANT:** I would be hopeful that we could provide care, and excellent care, to that 13-year-old in that situation. It clearly rings a lot of warning bells and it would meet a high priority for us. There are a range of services and I can provide this information to the Committee. As part of the New South Wales Government's commitments, \$75 million was allocated over four years for drug and alcohol services in 2016. Of that, \$16 million was provided specifically to new youth alcohol and other drugs [AOD] detox and treatment services. That funded 11 new non-government organisation [NGO] services for youth and enhanced 6 existing local health district [LHD] services. We also have expertise sitting in our Sydney Children's Hospitals Network and addiction medicine specialists who are focused on the very severe end, which would be characterised by the case you presented. I can provide a list of where those services are.

**Ms JENNY LEONG:** My final question relates to the New South Wales Government's submission. A useful flowchart on page 13 of the Government's submission maps the path of young people through diversion programs and the criminal justice system. It appears to be only the criminal justice element. I appreciate it is not something you would want to answer now, but I would be interested to know at what point Justice Health are involved and those services are available to those young people at various stages. It seems to me we have talked about the support for young people who present before the court. It would be interesting to know if there is a diversion program and post-custody what ongoing support is available from Justice Health, if any?

**Dr CHANT:** We would be happy to map from 3.2 the forms and diversion and look at the interception points for Justice or NSW Health in general.

**Ms JENNY LEONG:** That would be helpful. Thank you.

**Mr EDMOND ATALLA:** Thank you for your evidence today; it will assist the Committee with its inquiry. I am interested in juvenile mental health. Are there any circumstances where a juvenile has not been screened for mental health issues and it is only identified after a juvenile is in a detention centre?

**Dr SINGH:** Most young people who attend custody would not have come into contact with the criminal justice system and would not have had ongoing mental health contact. Often the first time that a young person is diagnosed with a mental health concern is through a screening process in the custodial environment, unfortunately. Often it would be their first experience of a mental health intervention, which is why, given it is their first experience, they are often traumatised and the environment is not always conducive to a therapeutic intervention. It is important that we get that first contact right.

We have several ways of being able to manage that. The Network is committed to trauma-informed practice with young people who are presenting for the first time with mental health concerns. We are aware that if you see a psychiatrist and you feel judged or you feel that they are not listening to what you are saying and they are not providing you with a practical way to manage that then you are not going to go back into the community and see one. The short answer to your question is, yes, many young people who have contact with the criminal justice system have undiagnosed health problems until they enter the Juvenile Justice system.

**Mr EDMOND ATALLA:** Do you believe that screening should be done earlier?

**Dr SINGH:** Yes.

**Mr EDMOND ATALLA:** What is required and where would that screening be done?

**Dr SINGH:** I am trying to formulate that response. I guess it harkens back to my original response to pre-custodial supports. There is not a single point at which that screening should be done. One of the things that would be really useful, which is what Mr Forrest said, is to screen them when they have contact with court. Ideally, it would be helpful at that point. Every child who presents in front of court should have access to a screening process. The difficulty is that you cannot put all your resources into screening if you do not have something to offer at the end of it. It requires an entire rejigging of resources and looking again at the consequences of that screening. Otherwise, we mirror what happens in society for a lot of these young kids. We take from them their history, their story, their narrative, their pain and then we do not do anything with it, and that is not okay.

**Dr CHANT:** To take it a step before that, where these young people may be intersecting with your system, be it in the educational setting—potentially dropping out of education—or there are warning bells that issues are going on, these are early intervention points. If we can provide an effective assessment in the family environment, what else might be going on with that person as well as looking at whether drug and alcohol or mental health issues may be impacting on those behavioural signs, again, that would be an intervention ahead of when they got to the pre-custodial setting. I would be supporting and raising awareness to ensuring that we have those assessments earlier on in the trajectory of young people.

**Dr SINGH:** NSW Health has some programs that do that. An example would be the Getting on Track in Time programs. That is a joint initiative with Education and it is targeting in other health districts apart from our Network seven-year-olds or eight-year-olds who are presenting with disruptive behaviour disorders, especially early onset conduct disorder, and they are being identified within the school environment. They are then referred to a program that looks at a group intervention for the kids who are presenting with this, such as family intervention for the parents so that you are reinforcing parent strategies, and it involves the teachers so that whatever is learnt in the groups can be reinforced within the school environment. There are initiatives that recognise the need for early intervention and they are being acted upon with really good results.

**Mr EDMOND ATALLA:** I want to draw out your last response that you believe assessments could be done at the court but without the follow-up resources it is not always possible. Would you go as far as making it mandatory for all juveniles who come into contact with the Juvenile Justice system to undergo some sort of mental health assessment? Is it a funding issue?

**Mr FORREST:** We need to look to the data. We know that the prevalence of mental illness among young people who come into contact with the criminal justice system is extremely high. If you follow that train of thought, there are definitely benefits associated with assessing to determine whether young people presenting to court have a mental illness. The challenge then becomes how you resource that in any more courts apart from the 21 where we are currently located, and once that is identified what additional flow-on services are provided. It requires whole-of-system review and whole-of-government partnering—Health, Juvenile Justice, Family and Community Services, the NSW Police Force, et cetera—to make system changes if we are to be able to screen every young person who goes through the judicial system.



**Mr EDMOND ATALLA:** Do those few who are assessed at the court stage and who are identified as having mental health issues end up in a detention centre or a treatment centre?

**Dr SINGH:** The data suggests that about 74 per cent of the young people we assessed last financial year would have been referred to a community-based service, which suggests that they would not then have gone down the custodial track. As you note, that is only a small percentage of young people. When we think longer term, being referred to and accessing an initial appointment is not necessarily meeting the health needs of that child. In my view, there needs to be a greater emphasis on providing more rigorous and wraparound services to meet their mental health needs when they are referred to community services. They are very good services, but they could always be improved.

**Dr CHANT:** What we are saying is that we would be very keen for evidence-based increased screening and wraparound services. However, we need to ensure there is no unintended harm, such as delays in getting cases heard, that the screening setting is safe for the young person, that it is therapeutic and that it is not likely to put them off engaging with health services. It is a complex issue and we are very conscious of not doing anything that might cause harm. Therefore, we would be very supportive of increasing access to mental health assessments and follow-up treatment. We would be very keen to pursue how we did that and how we managed it to make sure we did it in a way that yielded the benefit we wanted but did not have unintended consequences.

**Dr SINGH:** In response to the question about my opinion on whether it should be mandated, we need to be very cautious about the use of involuntary access. That is particularly true with young people, given the complexity I talked about with regard to their developing brains and their ability or capacity to consent without necessarily always understanding the ramifications of disclosures that are often made to mental health clinicians. That is part of our ability to extract that information.

**Mr EDMOND ATALLA:** During the Committee's visit to one of the detention centres we observed a young juvenile clearly distraught hiding under a desk. My observation was that that person did not belong in detention and should have been treated elsewhere. Can you comment about people who are in detention centres who have mental health issues? Is that the best environment for them? I appreciate that there are mental health practitioners in some of the centres. Is that the best environment for such a young person when clearly there are visible signs of mental health issues?

**Dr SINGH:** I think we can all unequivocally agree that a detention centre's function is not to be a therapeutic environment. We are on a very slippery slope when we move towards an ideological stance which suggests that it is; that is not its purpose. No, that is not the best environment for young people with mental health issues.

**Mr EDMOND ATALLA:** Why is that occurring now?

**Ms JENNY LEONG:** You mentioned a situation where young people find themselves in custody and the first mental health assessment occurs only once they are there. Is there an ability at that point for the Network to provide a pathway out of custody for that young person? How would that work in practice? A young person who finds themselves in custody might have a mental health assessment and it might be found that they have issues that need to be handled in a therapeutic setting. Is there a pathway for the Network to recommend that that young person be taken out of custody and put into a therapeutic setting? Could the Committee make recommendations to address that as a health need rather than to try to improve the assessment at the front end, which I appreciate may have resourcing issues?

**Dr SINGH:** Yes, the Network does have some limited capacity to deal with young people presenting with acute mental health symptoms such as psychosis or very severe depression and who pose a risk to others within the custodial environment. We are lucky in New South Wales that the Network currently has the only adolescent forensic unit in the country. The unit has only six beds, but when young people in a correctional environment are acutely unwell they can be transferred into it. Although it is a high-security unit, it is very much a therapeutic environment, and their acute mental health care needs are met there. Our discharge planning process is also robust.

If a young person is identified as having a mental health concern in custody and they see a psychiatrist, unfortunately we do not have entirely equitable care yet, but we aspire to being able to deliver the same care that a young person would have in the community. We are not there yet, but we work with the resources we have. The discharge pathway is that we would refer to a community mental health or drug and alcohol service. We have a team of very passionate and skilled clinicians called the Community Integration Team. Its role is to work with young people along with their Juvenile Justice caseworker and their family to navigate what is often a

complex system of service provision. For example, they might be assisted in attending a mental health appointment at the Child and Adolescent Mental Health Service [CAMHS] or a drug and alcohol appointment.

In addition, the team does brief interventions, which might include things like motivational interviewing to help young people to recognise that they may need to address their drug and alcohol use. The team also has access to our School Link service, which allows us to have a better connection with education. One of the huge difficulties for this population of young people is that they do not attend or are not enrolled in school. They have a lot of negative experiences of school. We often see that their attendance at school in the custodial setting is very good but when they leave it deteriorates. Again, it is multi-factorial. Our School-Link service is able to help the clinicians in our service to link young people with mental health problems back into some form of education. There are a number of examples where that has been very successful.

**Mr EDMOND ATALLA:** I am very interested in juvenile mental health. Knowing that the duration of stays in detention is short term, lasting from one day to several weeks, are you aware of any circumstances where a young person may develop a mental health issue as a result of being in a detention centre? In other words, they enter into the detention centre without any signs of mental health but later in their lives they develop mental health issues from being incarcerated. Have you heard of people being assessed as having mental health issues where a link has been shown between their mental health issues and their having been in a detention centre?

**Dr SINGH:** Any mental health symptoms or any presentation or diagnosis of mental health will be multicausal and multifactorial. We cannot make a causal link between somebody being in detention and therefore developing a mental illness. What we do know is that correctional environments by their very nature are not therapeutic, they can be damaging to structures—for example, they take children out of their communities and their families—and they are quite isolating. They can also exacerbate or precipitate an episode of mental illness—be that a trauma syndrome, a psychotic episode, a severe depression or exacerbate an anxiety. It is not a causal link but they certainly do not help.

**Ms STEPH COOKE:** The Committee understands that this year Justice Health will start to develop an adolescent Aboriginal Court Diversion and Bail Support Program. Can you update the Committee on that project?

**Mr FORREST:** We have previously piloted a very successful Aboriginal Court Diversion and Bail Support Program for adult Aboriginal offenders at the Campbelltown Local Court. That service has been running for almost two years now. It is having a very good success rate: Close to 100 per cent of Aboriginal people referred to that program being successfully diverted. We have also had some discussions with Judge Johnstone about piloting a similar program in one of the local children's courts. A business case has been developed, a proposal and estimated funding; that is where we are up to at the moment. The intent would be that the funding source is secured for that to enable the Network to be able to implement that program.

**Ms STEPH COOKE:** Can any of you expand on the provision of dental services within Juvenile Justice facilities? I visited the Wagga Wagga facility independent of the rest of the Committee and I was given a great tour of that facility. However, I was concerned that the dental room at that facility—it is first-class, brilliant—is not being used. Why is that?

**Mr FORREST:** I cannot explain the Member's observation of that but what I can talk to are the oral health services provided by the Network. People who come into the custodial environment—whether it be young people or adults—generally have a poorer state of health. Their oral health is generally neglected and the need for oral health intervention is higher. In all our six Juvenile Justice centres we provide a dental service where a dentist and a dental assistant visits each of the centres. The program is managed centrally to make it effective for the dentist to be able to see the maximum number of young people. We put young people on a waiting list. That waiting list is triaged and if there is a young person who has an acute dental need—for example, they might have an infection or a dental abscess—those conditions are treated.

The patient could be given antibiotics or the patient may need to be taken out to the local health district's dental service in order to receive emergency dental treatment, and the Network would pay for that service. Our routine dental service goes around to each of the six Juvenile Justice centres to see typically those patients who are non-acute and who can wait usually a period of three months before the dentists comes back around to the centre again. We do not staff the dental services every day of every week. We try to get around to each of the six Juvenile Justice centres in approximately a three-month period to see the non-acute cases.

**Dr CHANT:** NSW Health has actually increased the funding to Justice Health for oral health services. We recognise it is a very needy population, but in the design of how those services are delivered we have also got to ensure efficiencies to reach the maximum number of vulnerable people. We would be happy to give the

Committee data on the sort of activity level that is occurring in the justice centre for oral health. It is an incredibly important component.

**Ms STEPH COOKE:** I would appreciate that. Thank you.

**Mr DAMIEN TUDEHOPE:** When a young person appears before court often that is their first contact with the adolescent court. Talk me through the process. For how long does someone get to talk to a young person to do an assessment before they are then seen potentially by someone from Legal Aid? I am interested to know what material goes before the magistrate.

**Dr SINGH:** I can talk you through our process if that would be helpful?

**Mr DAMIEN TUDEHOPE:** Yes.

**Dr SINGH:** When a young person is on a list the clinician who is in court will look at the court list. They will go downstairs and discuss with the solicitors or the court staff if there is anybody they are concerned about and who they might refer. Young people are also allowed to self refer to our service and we have youth-friendly brochures of which they are aware. Families are also allowed to refer to our service. That is how we get our referrals. The clinician would then do a full mental health assessment.

**Mr DAMIEN TUDEHOPE:** What does that mean?

**Dr SINGH:** It means that they take a detailed developmental and personal history. They also take a very detailed history of any symptoms that the child is presenting with and any past contact they have had with mental health services. They take a detailed forensic history about any previous contact they have had with the criminal justice system or with incidents of aggression. They take a history about their school functioning and they do what is called a mental state examination. That assessment really depends on the child's mental state at the time—before someone attends court is a very difficult time to do an assessment because his or her anxiety level is naturally elevated—and that can take anywhere between 15 minutes to two hours, depending on how much the child is engaging.

**Mr DAMIEN TUDEHOPE:** Are you seriously saying that you do that report in 15 minutes?

**Dr SINGH:** If, for example, we have a young person in the cells downstairs who is very distressed, kicking the wall and not really engaging, then we cannot do the kind of assessment that I have just articulated. What we would need to do then is a mental state snapshot based on that and then, with their consent and the consent of the guardian or parent, we would get a collateral history from other treatment providers or from the parents themselves. Then we would say in our report that we send to the court that our assessment was limited because the child was so distressed or presenting so acutely and we would make recommendations for further assessment based on that.

To go back to your original question, after the assessment is done the clinician then contacts a child and adolescent psychiatrist. What we know about kids who present with mental health problems is that they do not present like adults. They do not have, fortunately, all the pathology and functional impairment that you would see in someone perhaps who had a psychotic illness, like schizophrenia, for 10 years. Their symptoms are more subtle and often not exactly the same as you would see in adults. Sometimes they also lack the emotional language to be able to communicate things—a good example would be a 13-year-old person who behaves in a way where they are very angry. They are actually feeling very sad but do not have the language skills to be able to articulate that. That is why our assessments are very developmentally informed and also have a lot of collateral information. After we see the young person, and sometimes before, depending on what is happening in court, we will get collateral information from people who have treated them in the community; from their school where possible, if they are in school; and from their family or parents who are attending with them.

The case is then discussed with a child and adolescent psychiatrist who, together with the clinician, formulates what we think that child might be presenting with from a mental health perspective. That is put into a report which does not contain all of the history necessarily; it contains the relevant history to establish that there is a mental disorder, illness or condition so that the magistrate can then be informed in his or her disposition options to make a decision about whether they grant a section 32 or, if the child is acutely unwell and needs hospital, a section 33.

At the end of that process sometimes the case is adjourned, but as a parallel process the court clinician contacts the community mental health service to arrange an appointment and refer the child to that service for further assessment and treatment in the community. That transfer of information is much more detailed and it is there that we would share, because there is also a health agency, with them the information that we have. That is our process. We also then often will have young people who come—court matters sometimes take a prolonged period of time—

**Mr DAMIEN TUDEHOPE:** How long, do you think?

**Dr SINGH:** I am sorry, I do not have the data.

**Mr DAMIEN TUDEHOPE:** You have given us a very detailed explanation, and that is terrific. My experience is that I have been to a court and a Legal Aid officer and a clinician will see someone at 9.30 in the morning and their case will be called on at 10.30.

**Dr SINGH:** It is a very pressured assessment often.

**Mr DAMIEN TUDEHOPE:** Is that adequate for a magistrate to make a decision?

**Dr SINGH:** I think that the more information a magistrate has the better informed their decision would be. In order to collate the information, what is required is a considered assessment.

**Mr DAMIEN TUDEHOPE:** I like all the material you have just told us about the interactions that you say should be able to give a snapshot of that young person for consideration by a magistrate who potentially is going to make a decision about whether they be confined to a Juvenile Justice detention centre. Has he or she got enough information before them to make that decision?

**Dr SINGH:** I believe that the reports that we provide to the court have sufficient information to inform that decision, and we also provide a follow-up in the sense that if the matter is adjourned the magistrate will often call upon the clinician to say, "Can you tell us what has happened since you made that referral? Can you help us to get a treatment plan?" I cannot speak to how magistrates make their decisions but I can speak to the quality of the assessments that we provide for the young people that we see; I believe that they are very robust and detailed.

**Mr DAMIEN TUDEHOPE:** What is the proportion of cases referred by magistrates pursuant to section 32 or section 33?

**Dr SINGH:** I am sorry, I do not have that data available.

**Mr DAMIEN TUDEHOPE:** Perhaps you could take that on notice. It plays into the Member for Mount Druitt's line of questioning as to whether we are sufficiently diverting young people who have mental health issues to mental health rehabilitation facilities?

**Dr SINGH:** I do not think we are sufficiently diverting young people, but I think that the services that we provide which young people access are working efficiently. I do not think that they cover a sufficient proportion of the young people appearing before the courts or necessarily that our systems are robust enough to meet the need that is present. Does that answer the question?

**Mr DAMIEN TUDEHOPE:** In your opening statement I think you said there are 3,000-odd young people who are appearing before Children's Courts each year. What proportion of those are being dealt with pursuant to section 32 or section 33?

**Mr FORREST:** Sorry, the 3,000 was the number of young people who came into custody throughout the entire year; 766 were the ones that were assessed by the adolescent court community, which did not capture all of the people going through the—

**Mr DAMIEN TUDEHOPE:** The extended question then is: Other than the ones who are referred to detention, the ones that are actually going through the court process who are referred under section 32 or section 33? The Youth Drug and Alcohol Court program was abandoned. Have you ever considered whether that should be re-established? As a corollary of that, we have heard a lot about young people with mental health issues. It is probably in the same category in a sense, but in relation to the number of young people who present to Justice Health who have got drug and alcohol problems when they are presenting, how are we dealing with that?

**Dr CHANT:** Just going back also to the other question, we might have to work with Justice about who has got the data, to answer your question, and we will certainly do that. In terms of the young people with drug and alcohol problems, I would have thought that a key component of the mental health assessment would also take into account drug and alcohol use. I am not saying there is a perfect correlation, but clearly there is an interaction and we would see that psychiatrists are well versed in exploring the differentials of those. The strategies used to treat drug and alcohol issues are largely drawn from those evidence-based interventions that are used in the treatment of other mental health illnesses, such as cognitive behavioural therapy, motivational interviewing. So I think we would see that the mental health services would be, de facto, having a lens on drug and alcohol in that assessment, but I defer to Dr Singh.

**Dr SINGH:** Within the detailed assessment that I was describing in the court, we also do a detailed drug and alcohol use assessment and would have the capacity to refer to appropriate drug and alcohol services in the community.

**Mr DAMIEN TUDEHOPE:** What about in custody? I know in custody for adult prisoners we have the Intensive Drug and Alcohol Treatment Program. Is there a similar program for young people?

**Dr SINGH:** It is not similar to that because the problems are slightly different, but the way that it works is that a young person comes into custody, they are screened by a nurse and then if they have mental health or drug and alcohol problems they are referred to a specialist dual diagnosis clinical nurse consultant who does both a mental health and a drug and alcohol assessment and then they refer either to the psychiatrist or to the drug and alcohol arm of our service. We also work very collaboratively with Juvenile Justice.

One of the things that is important to recognise is that whilst we provide the medical and nursing interventions within the Juvenile Justice centres, we do not provide the psychological interventions. That is what I meant when I said that we do not yet provide completely equitable care to what young people would receive in the community in that they would have within a Child and Adolescent Mental Health Service access to psychiatrists, nurses, psychologists, occupational therapists, speech and language therapy, et cetera. But we do work very closely with our Juvenile Justice colleagues who are psychologists, and they provide interventions for both mental health and drug and alcohol concerns. Although I caveat that by saying that the mental health concerns are really provided within a risk-need-responsivity model that is really looking more at criminogenic need than specific mental health problems. So it is only targeting mental health diagnoses as it affects the offending.

If, for example, a young person presented with depression in the community, they may or may not require medication but they would have access to one-on-one cognitive behaviour therapy or psychotherapy. Within the custodial environment, that is slightly different. What you are more likely to have is access to a psychiatrist who would be able to consider whether you required medication and who would be able to do some therapy with you, but our resources are not enough that we can support the required amount of therapy. We would collaboratively work with Juvenile Justice psychologists who would try to provide that, but that is sometimes limited.

**Mr DAMIEN TUDEHOPE:** What about the Youth Drug and Alcohol Court?

**Dr CHANT:** As I understand it, the Youth Drug and Alcohol Court was a previous initiative and was deemed, not by Health but I believe by Justice, as not operating or achieving outcomes as desired. I suppose the approach we would have is that we would be open to, as we said in our opening statements, anything that diverts young people from custodial settings and we would be happy to partner with any of our colleague agencies at developing evidence-based interventions that address the needs.

**Mr DAMIEN TUDEHOPE:** I raise a final issue with you which is in relation to privacy concerns and privilege, to an extent. The Law Society made a reference to a program; I think it is called New Street Services. That often just deals with sex offenders, potentially talking them through what is going on in relation to the offence or whatever. A concern which arises, of course, is that in the course of delivering that program information is collected which potentially is not privileged. This might be a self-answering question. Would you recommend that privilege should attach to the information collected by a psychologist/counsellor from young people in those circumstances?

**Dr CHANT:** It is always very cautious, given we are a bunch of clinicians. I think we would have to take that question on notice.

**Mr DAMIEN TUDEHOPE:** Sure.

**Dr CHANT:** It is a complex one where various perspectives need to be brought to the table and also precedents. I feel it is outside our depth.

**Mr DAMIEN TUDEHOPE:** Health privacy and privilege is a very tricky area because you have identified circumstances where you become aware or a clinician or practitioner might become aware of family circumstances which they may potentially want to refer on, which may be diversionary in themselves if a practitioner was aware of a child who was potentially the subject of a home environment that was less than satisfactory. What are their obligations when they receive that information? Can they refer that, for example, to Youth on Track?

**Dr CHANT:** There are a range of mandatory requirements about child protection that our staff are well versed on. I would be happy to provide to the Committee what the form is. Clearly our clinicians deal with lots of challenging issues. Did you want to comment, Dr Singh?

**Dr SINGH:** I will comment specifically on the disordered or problematic sexualised behaviour. It is a very fraught area. I would take it back a step and say that what we actually need to also be doing in addition to all the things we have already talked about is enhance expertise in the area. Specialist dual-trained child and adolescent and forensic psychiatrists are few and far between, although the Network is the most successful in this regard. We have the highest number across the country, and there are less than 15, I think, in total. We need to be focusing on having people who are actually trained to be able to diagnose and treat and deal with the complexities that privacy et cetera hold for this group.

The other difficulty that is important to highlight is that when a child is having fantasies or thoughts about something it is quite difficult to know whether that will actually translate into deviant practice, because of course in many ways that is part of normal sexual development and that is an area we do not know enough about. The other difficulty in this area is that when a child has allegedly perpetrated a sexual offence and they are on remand the current practice is that if they have been charged they do not access care until those matters are dealt with. That is very problematic in terms of that child's trajectory. When I say "care" I mean specifically targeted to their alleged sexually deviant behaviour. There are gaps within that system and there is a lack of overarching expertise, even though we know that when somebody is effectively diagnosed and treated for a paraphilia their outcomes are much better, not just for their potential victims but for them as individuals. We also know that paraphilias generally arise in late adolescence. There is a lot of knowledge but there is a lot of work to be done in that space.

**The CHAIR:** During the Committee's site visits to Juvenile Justice centres, Members heard that patients at mental health facilities are sometimes transferred to Juvenile Justice centres following an incident because there is not enough security in the mental health facilities to manage violent incidents. Does that happen?

**Dr CHANT:** I would have to check with my fellow Deputy Secretary of Mental Health. I will have to take that on notice but I am happy to follow that up.

**The CHAIR:** That would be fine.

**Dr CHANT:** If there are any specifics or any other examples, we can track those down and provide advice to the Committee.

**The CHAIR:** Thank you. 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 be made public. Would you be happy to provide a written reply within five business days to any further questions?

**Dr CHANT:** Yes, we would.

**Dr SINGH:** Yes, we would.

**Ms JENNY LEONG:** I add that all of the Committee members noted the amazing level of passion and dedication of the people working in Justice Health in the Juvenile Justice centres. It is appreciated that you are here but all of the Members were impressed by the genuine care that those health workers are clearly showing to the young people in custody.

**Dr SINGH:** Thank you.

**Mr FORREST:** Thank you.

**The CHAIR:** Well done.

**(The witnesses withdrew)**

**CHERYL BEST**, Acting Executive Director, Learning and Teaching, NSW Department of Education, affirmed and examined

**ROBYN BALE**, Acting Executive Director, Learning and Wellbeing, NSW Department of Education, sworn and examined

**MARNIE O'BRIEN**, Executive Director, Health and Safety Directorate, NSW Department of Education, sworn and examined

**The CHAIR:** Welcome and thank you for appearing before the Committee today. Would you please state the capacity in which you are appearing before the Committee?

**Ms BEST:** I am an Executive Director with the Department of Education, currently acting in the role of Executive Director, Learning and Teaching. That is the capacity in which I am representing the Department.

**Ms BALE:** I am currently acting in the role of Executive Director, Learning and Wellbeing in the Department of Education. My substantive role is Director, Student Engagement and Interagency Partnerships. I am here in my role in Learning and Wellbeing.

**Ms O'BRIEN:** I am the Executive Director for Health and Safety at the Department of Education. It is in that capacity that I represent the Department today.

**The CHAIR:** Before we proceed, do any of you have any questions regarding the procedural information sent to you in relation to witnesses and the hearing process?

**Ms BEST:** No.

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

**Ms BALE:** I have a brief opening for the Committee on behalf of the three of us. Firstly, we would like to acknowledge the traditional owners of the land where we meet today, the Gadigal people of the Eora Nation, and pay our respects to elders past and present. We extend that respect to Aboriginal people here today. The Department acknowledges that the context in which it provides education services to school-age children and young people and the context of this inquiry are complex. There are more than 2,200 public schools across New South Wales supporting more than 810,000 students from kindergarten to year 12. We have more than 85,000 staff in our Department. Our schools include those schools in the Juvenile Justice centres.

We have a diverse group of students with wide-ranging strengths, interests, skills, abilities and needs, from various social, cultural and language backgrounds. This includes students who are gifted and talented and who are high achievers across the curriculum. It also includes students who need a low-level intensity of support for difficulties in their learning and behaviour. It also includes students who require more intensive and high levels of support for a range of needs. The Department and individual public schools deal every day with constraints that are practical and real. Under the legislation, a school-age child must be enrolled in a government or non-government school or be registered with NSW Education Standards Authority [NESA] for homeschooling. It is a parent's responsibility to ensure that their child attends school every day that it is open for instruction. It is then the school's and teachers' responsibility to engage students in their learning once they are at school.

Parents in our community, more broadly, expect that school is a safe place for all—for students, their teachers, other school staff and the community more broadly. As such, the Department has a range of policies and approaches in place to guide schools in their work with students. In addition, schools have access to a range of specialist staff to support them in their work. There are some 4,000 specialist staff to support the work of schools. This includes our counselling workforce but it also includes the Department's school services team that is available to assist and support schools on a range of matters where support beyond the school is needed, including connection with other agencies.

We know that some children and young people experience significant life challenges that impact on their connection to family, friends, community and their peers and—for some—engagement across a range of settings, including school. We know that that is a challenge for them. In many of these circumstances, support is needed from beyond the Department—a wraparound approach that can support the young person across a range of settings in their home, school and community. Work is underway across government to look at ways in which we can collectively better support these vulnerable children and young people. Some of these young people are the subject of this inquiry.

The New South Wales Department of Education does not manage or provide what we might call strictly "diversionary programs" however, we acknowledge that our work around early intervention, prevention and engagement with schooling can support the life trajectory of a young person and can support diversion. Our fundamental work—the core business of schools—is the teaching and learning that goes on daily in our public schools across New South Wales. There are times when specialist expertise is needed to engage a young person, and schools welcome support from other agencies on this front.

The Department looks forward to the insights that the Committee will gather from witnesses and submissions made to the inquiry, and we look forward to hearing the inquiry findings. As we have mentioned, we represent the Department from the perspectives of learning and wellbeing; learning, teaching and leading; and health and safety. We would be pleased to answer your questions today. When we need to seek further advice we would be very happy to take questions on notice.

**The CHAIR:** There has been some difficulty obtaining referrals to the Youth on Track program, particularly from schools. How could this be addressed?

**Ms BALE:** Firstly, I am not aware of referrals from schools to Youth on Track as an issue.

**The CHAIR:** They have raised it with us.

**Ms BALE:** Youth on Track?

**The CHAIR:** Yes. We can provide you with some details.

**Ms BALE:** We would welcome those details. We can certainly follow them up on a case-by-case basis.

**The CHAIR:** The Committee has heard about a school-to-prison pipeline, whereby children who are suspended from school are more likely to engage in criminal behaviour. Can you comment on this? Are there better options than suspension to deal with young people who are misbehaving at school? What is your view of in-school suspensions?

**Ms BALE:** That is an interesting issue. Suspension is a strategy. We have a school discipline policy which has guidelines around the use of suspension and expulsion from school. It is really important to remember that our community, staff and students are entitled to a safe work and schooling environment, and our community expects that of our schools. There are times when schools need to implement the suspension guidelines, but it is really important to note that suspension is not intended to be a punishment for the young person, but it can help a student learn that inappropriate behaviour has consequences. Suspension can also allow time for school personnel—school staff, teachers, principal, learning and support teams—to plan appropriate support for the student so that they can return safely to the school environment and to their peers and their schooling.

There are circumstances in which schools must apply a mandatory suspension. Long suspensions are only imposed for serious or sustained instances of misbehaviour. When a school principal or staff consider a behaviour is serious enough to warrant a long suspension the principal must consider the safety of students and staff. That safety is a critical issue. The school also considers the merit and circumstances of a particular case, and factors such as the age and individual needs of the young person, any disability that might be apparent and any developmental needs of students.

Mandatory suspensions occur in circumstances where a student has threatened to use a weapon in a way that might seriously interfere with the safety and wellbeing of others, made credible threats against students and staff, and engaged in behaviours that persistently interfere with the rights of others—students and teachers—including bullying, harassment or victimisation. But there are other elements such as bringing a weapon to school or engagement with illegal substances or alcohol. Schools are required to submit the young person to a suspension in those circumstances, but from the time of the suspension the school will work with the young person, parent and, where possible, other support agencies to look at the issues, support the young person, and return the young person safely to the school environment.

Yes, suspension is used by schools from time to time. There are times when a school must use a suspension—certainly when there has been illegal activity, such as in relation to drugs, or when a weapon has been brought to school. Those things will have an impact on the safety, welfare or wellbeing of any student or staff member within the school. Principals will take strong action in those circumstances. The last time that the guidelines were reviewed we ensured that there was a really strong emphasis on disability and looking at the cognitive level and functioning of a young person, and considering ways in which that will be considered as part of the process in working with the young person and/or their family and/or their teacher, and where additional support might be required.



One of the areas that has emerged since the last review of the policy—and we have just commenced a review of the guidelines in the last month—in our work with our working group across the Department is that vulnerable children and young people have been identified as an area that we need to focus on. We have already reached out to Justice, to Health and to FACS to work with them around the review of the policy to see what we can do and how we can support vulnerable children and young people more actively in a school setting, so that we can address suspension where it does need to come into play but put into place strategies where young people need wraparound support and, hopefully, there will not be a need for suspension.

**The CHAIR:** How long will the review take?

**Ms BALE:** It will be finished by the middle of the year, and we will be finalising our adjusted or reviewed policy for the start of next year.

**The CHAIR:** It would be good to get a copy of your review policy.

**Ms BALE:** Certainly, I am happy to provide that.

**Mr DAMIEN TUDEHOPE:** As of today, how many students are suspended from school?

**Ms BALE:** I cannot give you that information off the top of my head, but I am very happy to provide it.

**Mr DAMIEN TUDEHOPE:** Do you have a feel for the number of young people who have been suspended in the last 12 months?

**Ms BALE:** I did not bring that data with me, but it is a relatively small number. If you look at the 810,000 students in our public school setting, the number of students who are suspended is quite small. I will try to find the data in my folder.

**Mr DAMIEN TUDEHOPE:** If it is not presently to hand—

**Ms BALE:** It is something like 1 per cent or 1.4 per cent of the school population, so a very small number of students.

**Mr DAMIEN TUDEHOPE:** That is 1 per cent of 800,000 students.

**Ms BALE:** That is during the course of the year.

**Mr DAMIEN TUDEHOPE:** Does that mean 8,000 students might be suspended?

**Ms BALE:** During the course of a year, they could be.

**Mr DAMIEN TUDEHOPE:** I must say that is a lot more than I had anticipated.

**Ms JENNY LEONG:** Do you have a demographic breakdown of that number? What proportion of those young people are Aboriginal or Torres Strait Islander?

**Ms BALE:** You can actually find that information on our website. We publish it every year.

**Ms JENNY LEONG:** Are you able to provide it to the Committee?

**Ms BALE:** We certainly can provide the information that is published. It is broken up by demographics and it does include Aboriginal children and young people and the rate of suspension.

**Mr DAMIEN TUDEHOPE:** Suspension does not happen until after a process involving identifying the unacceptable behaviour and then the process might include a warning and the parents being contacted. What responsibility does the school take in respect of the child when the child is suspended? What does the school know about the child?

**Ms BALE:** Individual schools know their children and young people well. If a young person's behaviour is such that the school is considering suspension, the principal or their delegate, who could be another executive member within the school depending on the practices within the school, would meet with the young person. They would provide the young person with a formal letter that would indicate that they are going to have a suspension. Then there would be contact with the family. A short suspension can be up to four days—it can be anything from half a day up to four days. A long suspension can be up to 20 days. We know that the average number of days for a long suspension is not 20 days; I will give you that information accurately when we provide the detail, but I know that it is much shorter than 20 days.

From the minute a young person is suspended, the school engages with the parent and works to resolve the issues. Depending on the issue around the suspension and the behaviour along with the impact on the school and the environment, the school will work with the young person and might need to work with other agencies as

well as the family to look at the young person's behaviour and put into place strategies. Part of the reason for the suspension is to give schools time to put in strategies to return the child safely with the support they need to school. It is one of our policies that has fairly thorough guidelines in terms of the process for schools to follow. Procedural fairness is one of the significant areas that schools need to follow. The guidelines also talk about the length of time of the suspension—up to four days suspension for these reasons and up to 20 days for these reasons. A letter must go to the parent, there must be a meeting and planning is undertaken for the child to return safely to school.

**Mr DAMIEN TUDEHOPE:** When the child is suspended, where do they go? Who has responsibility for them?

**Ms BALE:** They will be at home with their family.

**Mr DAMIEN TUDEHOPE:** Or wandering the streets.

**Ms BALE:** They should be at home with their family.

**Ms JENNY LEONG:** In practice, how does that work? We have many stable family settings where both parents work. Does the Department consider the family circumstances, such as both parents working or if the family environment is the cause of the child acting up? How is that consideration factored into the suspension decision?

**Ms BALE:** When schools look at suspending a young person, they absolutely look at the circumstances of the child and the family. That is part of the discussion with the family when a child is suspended. Individual schools establish processes. They know their student population and their parents well. At times there will be an arrangement to send a suspended child to a suspension centre. We have suspension centres that some young people attend for a period of time. The suspension centres are off site from the school setting and the students who attend them will participate in a program at the suspension centre, and then return to the school from there.

**Mr DAMIEN TUDEHOPE:** Where are suspension centres located?

**Ms BALE:** We can send you a list of where they are.

**Mr DAMIEN TUDEHOPE:** You have identified as one of the reasons for suspension bringing an illegal weapon to school or potential drug dealing. Is there a responsibility on schools in those circumstances to refer such a matter to the police?

**Ms BALE:** Yes. Our schools are very well aware of the circumstances where they need to liaise directly with police. Drugs will be one; weapons will be another. We have a process in our organisation where schools may make contact with our Health and Safety Directorate to log an incident, because it has been a significant incident within the school. They also have connections with their local police.

**Mr DAMIEN TUDEHOPE:** Referral to Youth on Track usually follows a school counsellor or a teacher becoming aware of circumstances in a student's life where they may be assisted away from potential criminogenic behaviour. Would young people be less likely to talk about themselves or issues in their lives if they think the counsellor or psychologist is going to talk to other people about their circumstances? If the student tells the teacher or counsellor about stuff going on at home, such as domestic violence, there may be privacy issues if the counsellor forms the view that the child might be seriously at risk. Does that mitigate against the young person talking to the counsellor who might refer that child?

**Ms BALE:** No. I cannot comment about Youth on Track, but I will come back to it and now refer to the school counselling service. We have 1,026 school counsellors working in our schools every day across New South Wales. Our school counsellors are either registered psychologists or working towards becoming registered psychologists; that is a requirement to work in our school counselling workforce. As registered psychologists, they are bound by the duty of care within our organisation and government as well as their obligations as a psychologist. Privacy is one of those obligations, and that is why I raised the service. Interestingly, when children move into their high school years, often a child will self-refer to a school counsellor. It is not necessarily a teacher or a principal, so someone in the learning support team, who refers the young person; the young person may refer themselves to the school counsellor for a range of reasons, including some of the issues you have made reference to.

Where a school counsellor feels that they have been talking with the young person and the counsellor can see there is a risk to the safety, welfare or wellbeing of the young person that they are obliged to share, they will talk to the young person about that. They will say, "I know what you are telling me, but I have an obligation to make sure that you are safe and to report this." They will in preference do that with the approval of the young

person but there will be times where the young person will say, "I don't want you to share that information," and they will say, "I need to share that because you are at risk for these reasons and this is what I can do and this is how I can help you." There are times where counsellors are sharing information but it is generally with the approval of either a parent or the young person themselves.

When there is an issue around safety, welfare or wellbeing, they will raise that with the parent or the young person and if they do not want it shared they will say, "I really need to share this for these reasons because I am concerned about your safety." It would be fair to say that would be a really important approach. We need to absolutely emphasise that there is a high level of confidentiality between the counsellor and the young people that they work with but there are times when they need to share information, and in those circumstance they do so but they do so with the knowledge of the young person.

In relation to something like Youth on Track, I was involved in that in its very early days of establishment in New South Wales. I have not had much involvement or knowledge of that for quite some time, so I am not really very aware of the referral pathway for Youth on Track. My understanding was it was a relatively limited program with limited young people supported through the program. I am not sure that there has been a capacity to refer a whole range of children that we feel would be suited.

**Mr DAMIEN TUDEHOPE:** Is there no capacity to measure the number of young people who have been referred to Youth on Track by the Department of Education?

**Ms BALE:** I cannot answer that but we can certainly take that as a question on notice.

**Mr DAMIEN TUDEHOPE:** When the program was being developed one indicator of potential trouble was truancy. What is the current truancy rate for young people at schools in New South Wales?

**Ms BALE:** That is information we can provide as well, out of session. I am happy to provide that as a question on notice. With school attendance, there are a range of reasons why children might be absent from school on any one day. In the main, it is in the knowledge of their parents. There are various codes that schools use to record the attendance of their students. It could be that they are sick or that they are on leave. Generally, truancy would be something like an unjustified non-attendance at school but there will be times where unjustified non-attendance is not anything to do with truancy.

**Mr DAMIEN TUDEHOPE:** Breaking all that down to come up with a coherent policy about what you do with young people who regularly truant is difficult because there might be a variety of reasons why they are not attending school. The lack of engagement with school is potentially a factor which would indicate that there are other things going on in their life.

**Ms BALE:** Correct, it can be.

**Mr DAMIEN TUDEHOPE:** Which may trigger diversionary programs that should be followed up.

**Ms BALE:** The school attendance policy is another policy that we are reviewing at this point. We are doing both the student discipline with suspension guidelines and the student attendance policy at the same time because in some ways they are related. That work is underway. We have also arranged to meet with Justice Health and Family and Community Services on that front as well because we understand that there are challenges for vulnerable children and young people, and there are some policy triggers that we feel we need to be looking at in those two policies that might help that work.

There is also work right across government at the moment around vulnerable children and young people. That is one of the areas that we have put forward as an area for improvement. I would say that where there are young people—and the young people you are probably talking about are the ones with more entrenched or chronic non-attendance at school—many of the issues are beyond the school and it really needs that wraparound support from a range of agencies. We cannot just necessarily address the attendance to get them at school; it is about what is happening in the home situation; it is about what is happening in the community. It really does need a whole-of-government response to that.

**Mr DAMIEN TUDEHOPE:** I was accused before of taking up all the time, so I had better stop. I could talk all day to you about this subject.

**Mr EDMOND ATALLA:** In the area of juvenile mental health, children spend the majority of their time in school therefore schools are best equipped to observe and detect early signs of mental health in children. Once an observance is made that a child may be possessing mental health issues can you tell the Committee what the next steps are and how that is addressed?

**Ms BALE:** I will respond to that one as well. We are very aware that some children and young people develop mental health issues during the course of their life. Some young children present with indicators that

would suggest as early as kindergarten that there may be mental health emerging in their behaviour. We have a program whereby those young children are identified and it is in a number of locations across New South Wales. Jointly, our school, Health and our counsellors work together to implement programs to support those children in that particular setting. They work with the family as well and work with the classroom teacher to look at how they can support the child in terms of their behaviour so that we can really address those signs at the earliest point. That is a specific program that we have for quite young children.

As children go through their schooling there may be an indication that their behaviour is not sitting right, which could be that they are withdrawn. It could be that they are internalising behaviours rather than externalising behaviours, but there is an indication that something might not be going well for the young person. A school has what we call a learning and support team. Every public school across New South Wales has a learning and support team. The principal or their delegate, at other schools an executive member, will chair that group. The school counsellor will be a part of that team, teachers within the school, other executive members, sometimes there will be people from other agencies who will also be part of that team, it might be a youth worker in one of our schools. That team is the place whereby teachers will refer children because they have got some concerns for a whole range of reasons. It could be their learning, it could be their behaviour, it could be mental health, it could be something else. That team will work together and problem solve what action they need to take.

For some young children, from there it will be a referral to the school counsellor for either an assessment or to work with the school counsellor or for the school counsellor to meet with a parent and the child as well. Where there is a young person who is identified following some level of assessment around mental health, our counsellor will often work with that young person for a period but the counsellor will also refer children on to other appropriate services beyond the school. It really depends on the circumstances. It is not the same for every child, it depends what the issues are—the seriousness of the mental health, for example—and who is best placed to provide that support. That information will come back to the learning and support team to make sure staff within the school are well informed so that they can support the young person and put strategies into place, whether it is in the classroom setting, in the playground or in other environments that the school might take part in.

**Mr EDMOND ATALLA:** Does referring a child to a program require parent or guardian permission?

**Ms BALE:** For someone such as a school counsellor?

**Mr EDMOND ATALLA:** You have identified a child that might have some issues and you have spoken about the programs that are available to assist. Does it require parent or guardian permission to put a child into a program or do you have the authority to put a child in a program without that permission?

**Ms BALE:** If we had a young person who had been identified with a mental health issue of concern and the counsellor was working with them or the school, and there was a program that was identified—either within our Department or beyond—absolutely the parent or guardian would be involved in that discussion and that decision-making because that is really important. Ultimately, support that is provided in the school setting is really important to be consistent to support that is provided outside of the school setting.

We will also have children or young people who are identified outside of the school in their family circumstance where they have been to a practitioner and been identified as having a mental health concern. Sometimes there will be contact made with the school to let them know about that but the program, the provider, the service support will be provided out of the school. It is really very much on a case-by-case basis in terms of the response, but absolutely parents will be involved in discussions with the school about those sorts of things.

**Mr EDMOND ATALLA:** What happens when the school advises parents that their child may have some mental health issues and they want to do further assessments and the parents are in denial—"No, my child is quite normal. They do not have any mental health issues"—and refuses to take any further action? What is the school's position then?

**Ms BALE:** I cannot comment on any specific cases—

**Mr EDMOND ATALLA:** In general.

**Ms BALE:** —without further information, but parents have the right to decline a particular service for their child. They are the parent; that is important to remember. The school will work with the parent, with the child in the best way they possibly can to support them in their education so that they understand what their needs are and how they can be supported. There will be families who choose not to have any sort of assessment, but the school's responsibility then becomes: how do we adjust the program to support the child in the school setting? How do we look for the triggers of behaviour that might suggest that the young person might be in

distress or might need additional support at a particular time? The school will still look at ways of supporting the young person, but, yes, absolutely, a parent has a right to say, "No, I do not want an assessment for my child."

**Mr EDMOND ATALLA:** If the parent made the conclusion that they do not need an assessment for their child, do you believe there is a gap in the education system for not taking any further action to help this child being diverted from the criminal justice system further down the track?

**Ms BALE:** I am not saying the school does not provide any further action. The school absolutely would. Sometimes it is challenging and a parent will not want an assessment of their child. That is the balancing act of the school but the school still needs to put things into place to support the child in their education. I am not suggesting the school would not take any action. The school will continue to work with the family, the parent, and if it was really seen as an important priority it would encourage the family. But the family still has the right to say no. The school would still work hard to ensure that they put into place the practices to support the child in the school setting.

**Mr EDMOND ATALLA:** I am aware of parents in my electorate who have been advised by the school that their child may have mental health issues. The parents are in denial so they remove the child from the school and put them in another school. How does the Department of Education follow that child's progress? One school has identified that the child has some issues but the child is moved to another school because their parents are in denial. If that child is known to the Department, is there a link between the schools to notify them that they have been relocated to another school so that assistance could be provided to that child, or are the circumstances known to the new school and further assistance can be provided?

**Ms BALE:** I do not want to make any reference to a particular case in your electorate, but that really comes down to what our enrolment policy is. I am not responsible for our enrolment policy but I can comment on that front. When a parent enrolls a child in a school they complete an enrolment form. The enrolment form has a range of information, apart from parent and carer details and residential setting, and so on. It has information about medical conditions, health conditions, behaviour that might be evident in the child, and that information is gathered and recorded in the Department's systems.

Kindergarten is one point of enrolment and year 7 is another point of enrolment that is general for all kids. When a child is enrolled in a school outside of those times, whether they come from interstate, whether they move from one side of Sydney to another, whether they move from one rural community to another or to the city, the school principal will make contact with the previous school to gather information about the child. The first port of call, the first question is: is there any information you can share with us that will help us support the child as we enrol them into our school? The principals will make those contacts. Yes, there is a way. We do have information now in this world of technology that can be recorded to help schools support students. Yes, there is a way of gathering information and passing it on to ensure that the child is well supported in the next school setting.

**Ms JENNY LEONG:** I want to return to the suspension discussion. The Committee has received a number of submissions that have identified that suspension is an indicator or an area that could be looked at further in respect of improving diversionary programs and support for young people. It is potentially a way to identify mental health issues in young people at the point that their behaviour may be unacceptable in respect of their immediate safety and often their behaviour is an indicator of other concerns and issues going on with that young person, whether it be learning difficulties or the family environment. Can you comment who has carriage of looking at that within the Department of Education in respect of the potential negative impacts of suspension, what happens to that young person, and where does suspension sit in respect of the responsibility of the Department?

**Ms BALE:** In respect of the responsibility, the implementation of the policy sits with the local school and they would be taking into consideration a range of contexts about the young person. We are aware that suspension has been raised in more recent times, particularly for vulnerable children, and that is one of the reasons we are in the middle of reviewing the policy. The cycle came up to review it. We are looking at that. Vulnerable children and young people have been identified internally as a group that we need to specifically look at. That is one of the reasons we are reaching out to other agencies—Health, FACS and Justice—to give their insights into that policy and some work that we can do together on that front.

**Ms JENNY LEONG:** Will the Advocate for Children and Young People be involved in that review?

**Ms BALE:** Absolutely. We work very closely with the Advocate on a range of discussions. We have had some initial discussions with him, and that is one of the groups we will be meeting with as part of the review. We have had an initial conversation with him recently.

**Ms JENNY LEONG:** In respect of the connection between the Department of Education and Youth on Track, is there someone within the Department of Education who is responsible for ongoing awareness of what is happening with Youth on Track and the intersection of Youth on Track with the Education Department?

**Ms BALE:** We have a policy area that has the closest connection with Youth on Track and we are happy to provide that as a question on notice as well.

**Ms JENNY LEONG:** It would be great to get more information from them. We heard evidence from people in Justice Health. Obviously Justice Health sits within NSW Health. It would be helpful for us to understand whether there is the equivalent of those roles and departments in Education that are aware of the delivery of education services in Juvenile Justice centres and that also recognise what support assistance is needed in the criminal justice system through education and identifying young people through the court system who may not be attending school who may have significant learning difficulties, those types of things. It would be good to get an understanding of where that responsibility sits in the Department of Education.

**Ms BALE:** What you are raising goes beyond Youth on Track. We can certainly provide information. I will make one other comment on that front. We have already met with the President of the Children's Court about issues of non-attendance and suspension and we are doing some work with the Children's Court specifically on this issue. We are connecting the dots around the areas where we feel there are some potential gaps or some further work that needs to be done.

**Ms JENNY LEONG:** That would be great to hear. If there is more material to be provided to the Committee about those discussions or a time line of thoughts, that would be helpful.

**Ms BEST:** Can I make a comment about that? The Department is responsible for the six educational training units [ETUs]—the schools that operate within the Juvenile Justice centres—and we work closely with justice to support those young people who are of compulsory school age and in custody, whether that be in remand or they have been sentenced. That particular piece of work is the responsibility of the Learning and Teaching Directorate to support young people who are already in the Juvenile Justice system and to support them additionally in respect of the transitions that they might need to make into a home, school or into the community.

**Ms JENNY LEONG:** That pre-empts my next question. We have visited a number of Juvenile Justice centres and the Committee has spoken to those involved. It is clear that they are committed to those young people and are working to support them. Has there ever been a review within Juvenile Justice NSW of centres and education facilities to determine how effectively that is done and how it is supporting young people? If so, what were the findings, recommendations, benefits and outcomes?

**Ms BEST:** To my knowledge there has been no review, certainly not in recent times. However, we are aware of the need to do that and we have already started planning the scope of such a review to ensure we get accurate information to assess the effectiveness of the operation of the centres, how their performance might be improved over time, and how they are supporting young people. The notion of a review is certainly in the Department's work plan and we will be progressing it.

**Ms JENNY LEONG:** It was clear from the Committee's visits and from some of the conversations we had that in many cases young people have disengaged from the school system prior to being caught in the Juvenile Justice system and at first are not keen to go to school while in custody. However, they quickly change their minds because the learning environment is specialised and supportive of their individual needs given their level of education and specific skills. They are keen to engage. What is the potential to provide that kind of specialist learning and support service before a young person goes into custody? Obviously it is preferable that that young person gets that level of education, support and one-on-one specialised assistance without going into the custody. Can you talk about what kinds of services would be given to young people who need that extra support and assistance? What recommendations do you think the Committee should make to extend that support to young people before they are in custody?

**Ms BEST:** I will address two programs. The first is generic support for all students in relation to careers advice. All of our secondary schools generally have a full-time careers adviser. That person is responsible for supporting young people in their choices, their thinking about their future, and what their options might be. We also have transition advisers who complement the role of careers advisers. They support young people more on a case-by-case basis. My understanding is that a transition adviser would work with a targeted group of students who need a case-managed approach. Students who are disengaging from school, particularly as they enter the senior years—years 9, 10, 11 and 12, although not exclusively—potentially receive that additional support. That service would be offered in all schools with secondary-age students.

The Department also administers the Links to Learning Community Grants Program. Non-government organisations and not-for-profit organisations can apply to run projects and programs for three years to support students who are at risk of disengaging. As Members would be aware, schools have a very close connection to their students and families. Things like non-attendance or truancy would be a trigger for schools to work with families to understand the young person's needs. The Links to Learning Community Grants Program now has about 80 projects across New South Wales. The students who attend those courses do so because their school has identified, in consultation with their parents, a risk of disengagement.

This relates to compulsory school-age students. The purpose is to provide specialist support in vocational education and life skills, but not in the same way that might be experienced in a Juvenile Justice centre. They would look at the needs of the individuals with the goal of re-engaging them with school and giving them the skills they need to see the relevance of their schooling. If there is a problem with their learning or they are feeling that school is not for them, there is an opportunity for them to be involved and supported through community organisations.

**Ms JENNY LEONG:** That relates to people at risk for other reasons. Surprise was clearly expressed when we visited the centres and found that young people who should be able to read and write could not do so. The Advocate for Children and Young People identified a 16-year-old who said that it was not until they were in custody that they were able to learn to read and write because they had that specialist education. I appreciate those programs, but I am interested in the potential to look at small classes and the one-on-one learning support required before a child disengages from school and becomes caught in the criminal justice system where they access a specialised education service.

**Ms BEST:** The contributing factors that would lead to that particular path are complex and individual to each person's circumstances. However, public schools in New South Wales are fully committed to the achievement of foundation skills in literacy and numeracy for all students. In fact, we have a very targeted early intervention program to ensure that all students achieve those fundamental skills. We track students, particularly in the early years of schooling. It is a fundamental part of the learning process because if skills are missing that makes it difficult for people to access other parts of the curriculum, and that can be a cause for disengagement.

Teachers are very aware when students display poor skills in those areas, and there are many programs and interventions in schools that can be put in place to support them. Ms Bale mentioned the learning support team. Students are identified at any stage of their schooling, but generally as early as possible. If general interventions and additional support around literacy and numeracy have not produced the desired progress, there would be a next level of intervention.

**Ms JENNY LEONG:** Some of the young women at Reiby Juvenile Justice Centre told the Committee that they had limited access to the internet and library resources to continue their studies. What avenues exist for educators working in those spaces to identify the students' needs? Obviously that cohort is changing and in some cases they may be doing their Higher School Certificate or a TAFE course and they would require access to different resources. What capacity is there for those educators to request additional resources to support the specific needs of those young people who find themselves in detention?

**Ms BEST:** My understanding is that the Department and staff at those schools work very closely with Juvenile Justice and we have an agreement about, for example, access technology and the internet.

**Ms JENNY LEONG:** Is that agreement that those students will have access to the internet—obviously supervised?

**Ms BEST:** My understanding is that students would generally have supervised access to the internet for education and learning. However, risk assessments would be carried out depending on the individual student's needs. Historically, students in schools in Juvenile Justice centres were linked to distance education at the local area level. We are moving now to have all distance education provision in Juvenile Justice schools done through the Sydney Distance Education High School. We have recently moved to have videoconferencing facilities made available in those schools. Not only will it be about accessing the internet but we will also have technology that will allow students to talk in real time with to their distance education teacher. It is our expectation, particularly with different ways of learning, that within the risk-assessment process and in supporting young people they will be able to access the information they need to complete their education successfully.

**Mr EDMOND ATALLA:** Further to the Member for Newtown's question, I am aware of one successful private provider in my electorate who would normally collect a child from school for two hours twice a week I think and provide that service. I understand that the Department has now changed the rules and that that provider is no longer able to collect the child from school. The child must now be accompanied by a school

teacher to attend the provider but the school is now saying, "We do not have the resources to send a teacher". That child is now missing out on that service because the Department has changed the rules, namely, a school teacher must accompany the child to the provider's premises. Can you comment on that?

**Ms BEST:** I am not aware of any change to the Department's rules but I am happy to follow up and get back to the Committee regarding the guidelines through which students attend the Links to Learning program.

**Mr EDMOND ATALLA:** That would be great. I can provide you with the information that I have.

**Ms BEST:** I am happy to do that.

**The CHAIR:** My next question might be ruled out. Do you handle the TAFE component in the Juvenile Justice system?

**Ms BEST:** No.

**Mr EDMOND ATALLA:** Which department handles TAFE?

**Ms BEST:** TAFE.

**The CHAIR:** My concern is that when the Committee visited Reiby Juvenile Justice Centre we noted that a number of young girls were attempting courses but they had to fund their own courses, which they found difficult because they were in detention. Then at the Riverina Juvenile Justice Centre and other places the Committee saw some good TAFE rooms but the staff were saying that they did not have any funding for TAFE teachers to come so the classrooms were not being used. I will direct that question to TAFE.

**Ms BEST:** The Department allocates around \$400,000 a year to those six centres to assist them in the purchase of dual accredited vocational education and training [VET] courses that are obviously based on the students' needs and interests. They want to re-engage them in courses that will give them the best chance of some success in the future. I am aware, particularly through the case management approach, that students are supported to do vocational education courses in the schools in the Juvenile Justice centre. But I am not aware in terms of—

**The CHAIR:** We will track it down. 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 be made public. Would you be happy to provide a written reply within five business days to any further questions?

**Ms BALE:** Certainly.

**(The witnesses withdrew)**

**(Short adjournment)**



**WILLIAM BOVINO**, Director, Training and Development Services, Youth Off The Streets, affirmed and examined

**EVAN WALSH**, Manager, Government Advocacy and Funding, Youth Off The Streets, affirmed and examined

**BENJAMIN STEVENS**, Development Manager, Outreach Services, Youth Off The Streets, sworn and examined

**STEVEN RAYMOND ARMSTRONG**, School Principal, The Lakes College, EDEN College and Craig Davis College, Youth Off The Streets, sworn 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 about witnesses and the hearing process?

**Mr STEVENS:** No.

**The CHAIR:** Would any or all of you like to make a brief opening statement?

**Mr WALSH:** I will do a quick overview, thank you. Rather than go over the whole submission that we put in, I have picked five key points that I would like to address. In terms of the group that you have in front of you, I am the generalist—I suppose I am the suit of the group—and the three gentlemen to my right have a lot of frontline experience, so they will be able to answer a lot of pretty direct questions. We deliver programs across a broad range of services, many of which include young people at risk of taking a path towards criminality. Our services include, but are not limited to, homelessness services; outreach services, where we have outreach across 27 different locations; education—we have six schools and we run the Links to Learning program as well—we have an alcohol and other drugs service out at Merrylands; we have a training and development service; we have our own registered training organisation [RTO]; we have our own Aboriginal services team; and we have our own cultural support team specialising in Muslim youth. So we have got quite a broad range.

The submission you have before you has been compiled with input from the executive team primarily and also other service staff, and our comments are driven by experiences with young people who have been in and out of the Juvenile Justice system. The five key points I would like to make are more our ideas for the submission. The first one is positive parenting. We would like to see more positive parenting courses, increased funding and resources to existing programs and the development of new ones. This is not a case of making good parents out of bad parents but rather identifying parents known to have challenges, and provide learning opportunities to address these. The outcome here is that both the parents and the young people make better judgments.

The young people that we work with often seek our help as they are in a family situation that they do not have the skills to cope with, and this is often the result of parents not possessing basic child-rearing skills and having challenges of their own. We believe many young people could be diverted from the criminal justice system if the Government placed greater emphasis on educating parents of at-risk children and directed resources accordingly. The Youth on Track guidelines, published by the Department of Juvenile Justice in April 2016, proposed that programs should address the key factors causing or likely to cause criminal behaviour, which included problematic family circumstances, challenges in school, substance abuse and antisocial attitudes amongst peers and family.

The next idea we put forward is training and upskilling of industry professionals as what we are calling "early identifiers". We would like to see the Government explore the option of upskilling individuals who are already mandatory reporters to act as early identifiers of young people at risk; so professionals who are currently recognised as mandatory reporters can also be trained as early identifiers. In effect, what this would involve is undertaking some training to recognise and respond to the early warning signs of parents needing assistance to fulfil their responsibilities before they reach the point of abuse or neglect. Rather than focusing energies and funding on punitive measures for the offender, addressing the complex needs of those at risk of progressing to adult crime would be a more effective model in the medium to long term.

Our third point is early intervention. We believe that adoption of early intervention strategies will decrease the impact of factors that lead to youth crime, this early intervention being prior to entry into the Juvenile Justice system. I know that there was reference in the previous group to Youth on Track, and it is probably a hot topic. In our opinion, Youth on Track is too late because they have already had police interaction, they have already been charged once, perhaps twice, and there is the key criterion there for entry into the Youth on Track system. Realistically, patterns of behaviour and exposure to criminality are generally entrenched by the time a young person is apprehended or incarcerated for criminal offences.

The fundamental influences leading to incarceration include but are not limited to family criminal history, intergenerational disadvantage, family and domestic violence, limited education, homelessness, drug and alcohol abuse, mental health. Our experience consistently confirms the reality that children born into a family environment with these characteristics are more likely to undertake a path towards criminality and the Juvenile Justice system. To address these challenges we recommend the Government adopt early intervention strategies prior to the Juvenile Justice process starting.

I will read out one particular set of stats verbatim. In 2013, in a Legal Aid NSW study the Legal Aid Centre reported on stats of its most frequent clients under the age of 19. In that group, 94 per cent had already spent time in juvenile detention, 82 per cent had been excluded, suspended or expelled from school, 75 per cent regularly abused drugs and alcohol, 72 per cent had experienced abuse or neglect at home or had witnessed violence at home, 50 per cent had a mental health diagnosis and 50 per cent had experienced homelessness or had some interaction with out-of-home care. I read that out verbatim simply to illustrate the fact that I think by the time they hit Juvenile Justice it is not too late, but we really do need to focus earlier. The way that we focus earlier is through our outreach services, which are similar in many respects to the Youth on Track model, except we do it a lot earlier and there is not a referral pathway in place—everybody is welcome, so it is more community based.

The fourth item is restorative practice. We feel that the use of restorative practice should inform the thinking of the New South Wales Government when making decisions concerning young people in the Juvenile Justice system and in other areas of youth policy. Restorative practice views a crime as a violation of people and relationships. This philosophy acknowledges the victim and the influences on the perpetrator and focuses on repairing harm done to all parties. It is not a "group hug" process. There is serious accountability in restorative practice and restorative justice when it is done correctly. In 2004 the Bureau of Crime Statistics and Research [BOCSAR] found that restorative practice programs can produce reductions in reoffending of 15 per cent to 20 per cent, regardless of gender, criminal history, age or Aboriginality. So there is a lot of statistical support behind that.

Lastly, before opening to questions, I have one comment on the Aboriginal over-representation in the Juvenile Justice system. This has come from our head of Aboriginal services who unfortunately could not make it today. We need to understand that for older Aboriginal people their experiences as part of the stolen generation or their family members' experiences can often inform their attitudes to programs offering support. This in turn can influence the likelihood of young people engaging with a diversionary program. Services and government need to be aware of this and focus on engagement in a culturally appropriate manner with the young person and their family. The experiences of the stolen generation are for many older Aboriginal and Torres Strait Islander people very recent and very prominent in the conversations among and across families. It is therefore to be expected that young people absorb this direct experience and that they will be influenced by the suspicion or the hostility towards government-approved programs claiming to assist them.

Attitudes towards the criminal justice system need to be understood in depth and from the perspective of young offenders if diversionary programs of any design are to be successful across Aboriginal communities. A good example of this is the growing trend among young men in Aboriginal communities to view entry into the criminal justice system as a step towards manhood. Direct input from the community in which a diversionary program is being developed is essential. Most importantly, to stem intergenerational issues that continue to arise, consultation needs to be long term and consistent.

**The CHAIR:** Thank you, Mr Walsh. Some stakeholders have called for the return of the Youth Drug and Alcohol Court of New South Wales. Do you have any views on that, whether you support it or not?

**Mr WALSH:** I know that our head of homeless services supports that. From a Youth Off The Streets perspective, certainly one of the executive members would definitely support that.

**The CHAIR:** You have answered my next question in a way. Legal Aid has told this Committee that a scheme like Youth on Track, which relies on referrals from police officers, may struggle to engage Indigenous young people. Do you believe that is the case?

**Mr WALSH:** My personal opinion is yes.

**Mr STEVENS:** I might add something to that. For a lot of the young people we work with there is a general distrust of the police. So when a police officer endorses a young person to a service like Youth on Track they do not necessarily have a full buy-in at that point in time or they do not trust where they are being pushed to. Does that make sense?

**Mr WALSH:** Yes.

**The CHAIR:** For your information, tomorrow we are attending the Youth Koori Court at Parramatta. You have strongly supported it in your written submission. Would you like to expand on that? Would you like to see it rolled out?

**Mr WALSH:** We would like to see it rolled out. It was going to be one of my points in my opening remarks but for brevity I thought I had to cut a few. I know that our Aboriginal services team, which is quite strong, is very positive about it and believes that that should be a strategy.

**The CHAIR:** Good.

**Ms JENNY LEONG:** The Committee has heard that girls and young women should be consulted about the content and delivery of their diversionary programs rather than special provisions being added on to male-focused programs. Could you respond to that? Also, noting the make-up of today's witnesses, could you talk a bit about how young women are engaged with and supported in Youth Off The Streets? For instance, how is that done and how many women are engaged in your outreach services?

**Mr STEVENS:** I can talk a bit to that. Generally outreach services tend to target and attract males to a greater extent. This is an issue across the services. We are always discussing new ideas of best practice as to how we bring more women in. A typical outreach program includes a lot of sports—Oztag and these sorts of things—which women are not excluded from, but they do not have as great an inclination to participate in that. Typically what we do is run art programs and music programs. A number of our sites run groups for girls exclusively. Mr Walsh mentioned earlier our cultural support team, which is a team of specialist Muslim caseworkers. They run a girls' group for young Muslim women who maybe do not get the opportunity to get out and be a part of these sorts of social environments as often. That is how we have tried to contribute there.

**Ms JENNY LEONG:** What is the gender make-up of Youth Off The Streets?

**Mr STEVENS:** I probably could not speak directly to the statistics off the top of my head, but I want to say that there are probably about 70 per cent males who are attending outreach. The gender make-up of our outreach teams, however, is probably—

**Mr BOVINO:** The other way around.

**Mr STEVENS:** Yes, it is probably the other way around. There are more female workers than there are male workers.

**Ms JENNY LEONG:** Thanks. I probably should put on the record that I think women's AFL shows that women are quite keen to play sport as well.

**Mr STEVENS:** Absolutely.

**Ms JENNY LEONG:** The Australian Bureau of Statistics has recently released data that shows a 92 per cent or 93 per cent increase in youth homelessness in the last 10 years. Obviously many of your workers are at the forefront of dealing with that. The Committee has received evidence that in some cases there is a large percentage of young people in custody that had no fixed address in the four weeks prior to being in custody. The Committee has also received evidence about situations in which transit officers issue fines which constitute a breach of young people's bail conditions or cause them to be caught up in the criminal justice system when in actual fact they are sleeping rough on a train platform or trying to get a safe sleep on a bus. Can you talk about the intersection between those things? What recommendations could the Committee make in relation to transit officers and others who are identifying those people across a range of government services, beyond the police, who could change their approaches and policies to address some of these concerns?

**Mr BOVINO:** I can talk to that. It would be worthwhile to look at upskilling those people in those roles and identifying ways of referring on to homelessness services within the area and so on. On your point around the increase in young people being identified as homeless, it is basically because we are now identifying that couch surfing is homelessness.

**Mr STEVENS:** Rough sleepers.

**Mr BOVINO:** They are rough sleepers. We are becoming much better at identifying those things, so the statistics are increasing, which is good to see, because we are getting a lot more clarity in that space. Essentially it is about upskilling those staff in those roles so they know the appropriate ways to refer those young people on. Transit officers do not know what to do if they see someone. They are following the book, as they have been trained to, and that is all they are going to do. That would be my suggestion.

**Ms JENNY LEONG:** Thank you. It is useful for the Committee to consider training across different government areas to increase awareness of such things to try to divert young people earlier before they are

engaged with the criminal justice system. A submission to the Committee has recommended looking at training people who are engaged with the criminal justice system to increase awareness of the impact racism has on young people and their response to certain interactions and indications. I wonder whether you are aware of good programs or training that may address the impact of how a young person may respond to racism directed towards them. Do you see certain areas working better, which we could look to as good models, that we can recommend as part of this inquiry?

**Mr BOVINO:** In my experience, that is one particular area that is lacking—training people on the front line. I am speaking specifically about police officers and people in those types of roles, who have a sense of authority in terms of the way they connect. Generally the ones that do it quite well are those who have experience in those spaces. I look predominantly at the Indigenous young people and people from a Middle Eastern background who are generally targeted in these spaces. They are often subjected to racism. Putting the time and effort into training those particular officers working in areas that have high numbers of people from those backgrounds would be definitely worthwhile exploring.

**Mr STEVENS:** I think it is also worth looking at the prevalence of complex trauma that has been inflicted upon these people and training people in these positions so that they are informed, in a safe and therapeutic way, to approach these situations, as opposed to coming through the same way—knocking down doors.

**Ms JENNY LEONG:** Has Youth Off the Streets considered the impact of the Suspect Targeting Management Plan [STMP] that the New South Wales police have? It is not a diversionary program; it is another policing program. The Committee has heard evidence that the way this program works is disconnected with Youth on Track and other programs that are about diversion. It puts young people on a program. They are not aware that they are being watched by police but it involves a number of police interventions and watching them and checking on what they are doing. Has Youth Off the Streets been aware of that program? Do you have a position on it? Do you have any comments to make on it?

**Mr BOVINO:** I have seen its effects on young people as I have worked with young people.

**Ms JENNY LEONG:** Can you explain how you have seen it in effect?

**Mr BOVINO:** Just the constant targeting of a particular young person, regardless of where they are. There is always an eye on them. They are well tracked. It can be quite invasive.

**Ms JENNY LEONG:** Can you give us some examples of what it involves?

**Mr BOVINO:** It is constant checking, regardless of what public space they are in. I will give you an example. The person could be out the front of a shopping centre talking to a couple of friends, waiting for a friend or whatever. Police will drive past, radio through and identify them. Two officers will walk up, search them and get them to empty their pockets and everything. It is quite invasive. The police find nothing and tell them not to do anything wrong—they have not done anything wrong—and then get them to move on from that particular space. The young person will move to another space, further on, because they are just hanging out, and the same thing will occur again. That could happen to them five, six or seven times in a day.

**Ms JENNY LEONG:** Is it required that someone has rung in to report an incident? In that situation, has the shopkeeper rung to say, "These young people are—"

**Mr BOVINO:** It could be.

**Ms JENNY LEONG:** But it also happens where there has not been a call to the police about an incident?

**Mr BOVINO:** Correct. They are known to police so the police will respond if they see them in public.

**Ms JENNY LEONG:** Mr Bovino, what is your view of the impact of that on young people?

**Mr BOVINO:** If it was to occur to me it would put my back up immediately, so I can only imagine what it would do to a young person who cannot regulate properly.

**The CHAIR:** Good answer.

**Ms JENNY LEONG:** Thank you. I will put my next question in context. On the way to visit one of the Juvenile Justice centres I happened to be reading a report on early childhood education and the underperforming and concerning indicators around Aboriginal young people in early education and primary school. I appreciate your comments that Youth on Track may come too late in the picture and that there is lots that we can do before that. My question is in relation to the positive parenting comments that were made as part of your submission. Do you have specific recommendations around whether that could happen earlier, and how

that would happen in a way that does not occur in a way that is similar to the targeting by the criminal justice system, but in other aspects of the remit of New South Wales government departments?

**Mr WALSH:** The New South Wales Department of Education is the ideal referral source to highlight when things are happening early on. Based on some of the questions you already directed to the previous group, that is obviously top of mind. I think it should start earlier, and in schools. School is the ideal space.

**Mr DAMIEN TUDEHOPE:** Sitting behind you are representatives of the Department of Family and Community Services.

**Mr WALSH:** Regardless of that, I think it should start at schools. The majority of kids are still going to school. Schools are the ideal referral point. They have a lot of built-in mechanisms that flag issues early on. You touched on issues in early questions about truancy and kids not turning up, for whatever reason. The indicators are there, and I think that that is where we should be focusing.

**Ms JENNY LEONG:** I guess you are aware of the support mechanisms post custody. What are the biggest challenges to young people coming out of custody? Concerns have been raised with us about bail conditions and also in relation to young people being put into motels and other things. Could you comment on your awareness of the support and what you think needs to be increased to assist those young people post custody?

**Mr STEVENS:** Having worked in a residential care environment as a case manager, I have had a bit of exposure to working with Juvenile Justice officers, who, I guess, act in a case management capacity. I have seen that done really, really well, where there has been a high frequency of contact and support. They have run the young people through their own counselling programs and support them in other ways in terms of trying to build resumes and that sort of thing, but I do not think it is really a one-stop shop. It does not provide a wraparound, which is necessary to fully integrate a young person back into the community. If they are seeing the young person at a frequency of once a week I would say that that is not enough for a young person, especially a young person who is experiencing rough sleeping—who does not have stable accommodation or home life—who has been placed in a hotel temporarily or who has been moved into residential care. I do not think that that support is adequate.

**Mr EDMOND ATALLA:** First of all, I would like to thank you for the work and the service that you provide, particularly in the Mount Druitt electorate. I want to ask about your outreach program. You target kids from the ages of 12 to 25, yet the age of criminal responsibility currently in New South Wales is from the age of 10. Is there any reason why your programs are not aligned, currently, with the age of responsibility—why you do not take kids at the ages of between 10 and 12 into your programs?

**Mr STEVENS:** Both of us can probably speak to that a little bit. In general, we have people as young as 10 attending. A lot of the time it depends on the make-up of the geographical area and the socio-economic status. In a town like Bourke in regional New South Wales—I will come back to Mount Druitt because I know you are interested in that—you could expect to see children as young as three or four roaming the streets at really late times of night. We would not turn away any of those young people. We make sure that they have a full belly and that they can get somewhere safe. Specifically, to work with people at the age of 10 requires a whole different set of training. There is a whole heap of different expectations. It is the difference between doing a Diploma of Youth Work or a Diploma of Community Services and doing early childhood training or something like that. Those are probably the key bureaucratic reasons.

**Mr BOVINO:** The point I would make is that the Government contract says that we are required to work with people between the ages of 12 and 25. There are no youth diversionary programs for 12 and under. That is a separate issue altogether. In terms of the practical work that we do in response to young people under 12, there is no limit on who can get access. Willmot Outreach is a prime example of that. Willmot has quite a number of young people who are between five and 10 or 12—that age bracket. It is predominantly young people that we work with in that space, because that is what is required in that community.

**Mr EDMOND ATALLA:** There is a view that we should increase the age of criminal responsibility from 10 to 12. Do you have a view on that?

**Mr STEVENS:** I have worked in different capacities for the last 10 years at Reiby Juvenile Justice Centre for a non-government organisation that runs homework centre programs, which you might have heard about. I do not know if you were in contact with Lee Bromley, the chaplain and director of Eternity Aid. She runs a lot of those programs. I have worked with young people who have come in at the age of 10. I cannot speak to their specific circumstances for getting locked up, but getting locked up in a Juvenile Justice centre, which at one point went to the age of 16, is a very, very unsafe place and developmentally a completely unsuitable position for them to be in.

**Mr BOVINO:** It literally has to be done on a case-by-case basis, because a 10-year-old developmentally may not be 10; they may be six or seven still. Putting them into custody at that age could be detrimental to their ongoing development and future life opportunities.

**Mr EDMOND ATALLA:** I know about your outreach program in Mount Druitt and that on Thursdays you hold a barbecue event. If you come across a kid with issues, do you refer that young person to your programs or does an external provider have to refer them?

**Mr BOVINO:** Whatever it takes; it depends on the young person. I was involved in establishing the program in Dawson Mall.

**Mr EDMOND ATALLA:** Excellent. If a kid has told you their story—

**Mr BOVINO:** Yes, regardless of the issue—it may be homelessness, drug and alcohol or mental health—we locate the most appropriate services based on their circumstances, where they are residing and what they have access to. If it happens to be a Youth Off The Streets program, great; if it is a program located in the Dawson Mall area, even better because we know they can access it and attend it. That is the most important thing.

**Mr EDMOND ATALLA:** To be clear, do you not need an external referral to get a child into your program?

**Mr BOVINO:** Not always, no.

**Mr EDMOND ATALLA:** If you have identified a young person who is clearly showing signs of mental health issues, what can you do?

**Mr BOVINO:** It depends on the level of severity of the mental health concern. If it is acute and the young person is suicidal then there are referrals to emergency services or mental health programs that are at the local hospital, specifically, in order to get an immediate response for the young person.

**Mr EDMOND ATALLA:** Is that voluntary?

**Mr BOVINO:** It can be involuntary, depending on the severity and whether we have previous information regarding the young person. We deal with it on a case-by-case basis. If the young person is distressed or having difficulty in an area that can be managed then it is essentially about referral, and headspace is a good place to start. It depends on whether they have connections to Family and Community Services in which case they are already receiving case management support. We find this out in order to put in networks and supports around that young person to help them.

**Mr EDMOND ATALLA:** We have heard that there is a lack of drug and alcohol rehabilitation programs for children and young people in regional areas and in Western Sydney. Do you agree? Would you support having more services in these areas?

**Mr BOVINO:** I think we had more drug and alcohol rehabilitation programs five or 10 years ago in terms of the levels of support and the funding contributed to those programs.

**Mr EDMOND ATALLA:** You run a drug and alcohol program.

**Mr STEVENS:** We do, yes.

**Mr EDMOND ATALLA:** Do you believe there is a sufficient number of programs in Western Sydney?

**Mr BOVINO:** No.

**Ms JENNY LEONG:** We have heard about good pilot programs that worked and seemed to be effective but were not continued because the landscape changed. It would be helpful if you would take on notice identifying programs that were working well and could be considered by the Committee, in order to help us to get the historical perspective.

**Mr BOVINO:** Yes, we can.

**Mr DAMIEN TUDEHOPE:** Where does Youth Off The Streets operate?

**Mr EDMOND ATALLA:** Mount Druitt.

**Mr WALSH:** Apart from Mount Druitt, we are all over New South Wales and we have a service in Logan in Queensland and Wyndham in Victoria. In New South Wales, we have services in Bourke, Griffith and

Narrandera. We have outreach services in the Hunter, the Illawarra and pretty much spread across most of the trouble spots around Sydney.

**Ms JENNY LEONG:** Newtown.

**Mr STEVENS:** Just recently.

**Mr WALSH:** Our schools are at—

**Mr ARMSTRONG:** Central Coast, Maroubra, Redfern, Macquarie Fields, Merrylands and Cordeaux Heights.

**Mr DAMIEN TUDEHOPE:** Where do the school referrals to your service mainly come from?

**Mr ARMSTRONG:** For schools, often from the welfare departments of mainstream schools. A young person might be consistently coming up on their radar in terms of behaviour or just not turning up to school. There can be significant periods of absence from school. We also get self-referrals from parents who are at a loss as to how to engage the young person in education. We often get referrals through young persons coming out of Juvenile Justice—so from the Juvenile Justice caseworker or a FACS caseworker.

**Mr DAMIEN TUDEHOPE:** Clearly there are Juvenile Justice pathways to your services.

**Mr ARMSTRONG:** Yes. For instance, we have a school at Macquarie Fields and we have referrals for young people coming out of Reiby. They may have been involved in the Dorchester School and then come through to us.

**Mr DAMIEN TUDEHOPE:** Focusing on schools, we are told that the contract says that you can only take young people aged 12 to—

**Mr BOVINO:** Aged 12 to 25, but that is for the outreach.

**Mr DAMIEN TUDEHOPE:** What about the schools?

**Mr ARMSTRONG:** It depends on the campus. Some of our campuses are years 7 to 12, and the age would be from about 12 or 13 up to 17 or 18. We do not run primary schools—mind you, it would be great to get into primary schools in terms of early intervention. At the moment our earliest entry is year 8; we do not take year 7s this stage.

**Mr DAMIEN TUDEHOPE:** Do you define yourselves as a diversionary program?

**Mr ARMSTRONG:** Certainly in the way the outreach arm of Youth Off The Streets has a strength in identifying young people in their area and then linking them with an environment such as our schools that can support them. We have psychologists and youth workers on site. So we are diversionary in that sense because we are meeting the needs of the young person at a time in their life when they might be disconnected from many other mainstream services.

**Mr DAMIEN TUDEHOPE:** If I were to conduct an evaluation of the effectiveness of your service, how would I do it? What factors would I look at?

**Mr STEVENS:** It is hard to measure. I will speak specifically to outreach. If I were to evaluate our outreach program I would look at things like community participation—how many people are attending our programs and whether adults are part of the programs. I would look at crime statistics for the specific locations—for example, I have been looking closely at Camperdown park to see if there is any way we can support rough sleeping and drug and alcohol abuse in the park as well as crime around those behaviours.

**Ms JENNY LEONG:** To clarify, there are two parks very close together. You are talking about Camperdown Memorial Rest Park.

**Mr STEVENS:** Sorry, the one off the main street in Newtown as opposed to the one next to the university.

**Ms JENNY LEONG:** That is my local park.

**Mr STEVENS:** You could measure police activity. We had a community precinct meeting where we looked at statistics around robbery and things like that.

**Mr DAMIEN TUDEHOPE:** Looking at general figures would not necessarily give me any indication about how effective your programs are.

**Mr STEVENS:** Yes, that is true.

**Mr BOVINO:** I would invite you to come down and engage in the program.

**Mr DAMIEN TUDEHOPE:** Is that the only way to evaluate your program?

**Mr BOVINO:** I am saying that is one way.

**Mr WALSH:** It is a really difficult thing to measure. I hope this is not going off on a tangent, but if I look at it from a social impact perspective—which is what Treasury is looking at at the moment—the only way for us to effectively measure how well we are doing is to have two areas side-by-side with basically the same socio-economic status, the same statistics. We go into one, nothing happens to the other, and then compare them in five, 10 years time. For crime statistics, we do not have access to juvenile statistics. All we have for crime statistics is local area commanders saying, "We are really glad that you are there on a Friday night." We have local school principals saying, "We are really glad we can refer to your schools," and so on and so forth. A lot of it is anecdotal.

We still have outcome measures as much as possible with all of our programs. That is effectively what we are measuring. It depends on the program, but we are measuring our rates of engagement. For example, an outcome with schools might be that when that student first came in they were attending half a day a week at their local school, then we get them up to three days a week. That is a really good achievement. Things like that, then of course numeracy and literacy coming along. There are defined measures that we can show. Is this effective as against nothing? We really need a longitudinal study.

**Mr DAMIEN TUDEHOPE:** That has never been done, as far as you are aware?

**Mr WALSH:** Not in a broad service like ours. Where it is being done at the moment is in some of the social impact structures that Treasury have set up with Family and Community Services and they are really good programs and they are long term. Yes, it can be done, but there is a lot of work involved.

**Mr DAMIEN TUDEHOPE:** You made some observations in relation to early intervention and suggested that Youth on Track probably is too late. Youth on Track does not require young people to have committed an offence.

**Mr WALSH:** I may be off track here, but my understanding was that one of the criteria is that they have had contact with police.

**Mr DAMIEN TUDEHOPE:** The contact may have been that they were out at one o'clock in the morning. That is not an offence.

**Mr BOVINO:** There is a formal interaction with police, which would be a caution. From a police perspective, that is the minimum requirement: The young person receives a caution for some sort of behaviour.

**Mr DAMIEN TUDEHOPE:** Yes, I accept that. What I am concerned about is this perception that Youth on Track requires some sort of offending behaviour—for example, you identified truancy might trigger a referral from Education. That, again, is not offending behaviour.

**Mr WALSH:** No.

**Mr DAMIEN TUDEHOPE:** I draw issue with you about the extent to which it can be an early intervention program. Generally the triggers for people to receive case management are things such as not attending school, or wandering the streets late at night. That might be the sort of thing to make one think that this kid may be at risk. Would you revise your opinion about whether Youth on Track is not necessarily an early intervention program?

**Mr WALSH:** I will give you a partial revision.

**Mr DAMIEN TUDEHOPE:** I am quite keen on Youth on Track.

**Mr WALSH:** It is a good program, but in our context we like to start earlier. Youth on Track is very similar to a lot of our outreach programs. In our context there is no referral pathway into our outreach. It is everybody is welcome. That is more of the culture of our organisation.

**Mr DAMIEN TUDEHOPE:** I welcome the opportunity that you give by virtue of there may be, for example, parent referrals to your organisation, which have not been the subject of any other triggers in the community. You were asked some questions about the strategic targeting or STMPs. Mr Bovino, your observation in relation to that effectively was, "I wouldn't like it."

**Mr BOVINO:** Yes.



**Ms JENNY LEONG:** To be fair, I think the details that were provided by Mr Bovino were a little more than that.

**Mr DAMIEN TUDEHOPE:** No, his assessment of it was it is not a plan that he would like.

**Mr BOVINO:** To occur to myself?

**Mr DAMIEN TUDEHOPE:** Yes.

**Mr BOVINO:** No, it is not.

**Mr DAMIEN TUDEHOPE:** That is anecdotal. If in fact I put a scenario to you that there was a spate of car theft in a particular suburb and we identified a potential person or persons involved, do you think that might be an effective plan of crime prevention in trying to reduce car theft?

**Mr BOVINO:** I understand the point of it and I am aware of some of the behaviours that those young people are up to and why they are being stopped; I am not blind to that.

**Mr DAMIEN TUDEHOPE:** Although you would not necessarily like being the suspect, you could see it as an effective tool in crime prevention?

**Mr BOVINO:** It is an effective strategy but it is an effective strategy in getting those young people to be more covert in their behaviours, is what I feel. Those young people adapt quite quickly and quite well. They are quite street smart and quite knowledgeable, especially around manipulating the police and know that if—

**Mr DAMIEN TUDEHOPE:** And the police are too.

**Mr BOVINO:** There are implements that they need to have for car theft, so they do not carry them on them; they leave them at the car park and pick them up when they need them.

**Mr DAMIEN TUDEHOPE:** All I am putting to you is that talking about STMPs in abstract, I get it that people may not like it but it may be an effective crime prevention tool.

**Mr BOVINO:** Again, I do not necessarily think so. The simple fact is that it just allows those people to be more covert in their behaviours. They wisen up and they adapt.

**Mr DAMIEN TUDEHOPE:** What if it had the effect of, say, reducing the amount of car theft?

**Ms JENNY LEONG:** We do not know that. We asked the New South Wales police whether they conducted a review of the STMP.

**Mr DAMIEN TUDEHOPE:** And they are.

**Ms JENNY LEONG:** And they said that they will consider whether they will share that evidence with the Committee. It is impossible for Mr Bovino to answer that question.

**Mr DAMIEN TUDEHOPE:** I am saying that it is not helpful to just talk about the plan in the abstract, but if you look at it in terms of a crime prevention tool there may be some benefit to it.

**Mr STEVENS:** I think we sit here from an altruist perspective, a social worker perspective, assuming the best of everybody and we do not want to see harm done to young people, and we have seen it being done as such.

**The CHAIR:** Well said.

**Mr STEVENS:** I think that the program is a good thing. It is smart, it is targeted and it is efficient. We have limited resources to police the State, so we should do it well. What I do think could be improved is potentially the approach that they actually take to those young people who are the suspects: the language they use, how they speak to them, how they approach it, whether they come in with their hands on their hips looking fierce with their vests on and everything else, shaping up; or whether they come in and have a casual conversation and explore it from a less biased perspective. I think it could be done better than it is.

**Mr EDMOND ATALLA:** Following on from the Member for Epping, do you believe kids under the STMP are likely to engage in criminal activity as a result of being intimidated?

**Mr STEVENS:** I would say in general most behaviours that you see from young people—whether it is criminal or not, whether it is just truancy, or whether it is assault; all of those behaviours—are only the tip of the iceberg of the feelings and the emotions that they are experiencing, which have come out of their life experiences. I would say when they are put into a position where their stress levels go up, they feel persecuted, they feel oppositional, because maybe they have had horrible experiences with domineering adults and domestic violence situations potentially. I would say, yes, there is definitely a correlation between increased stress,

anxiety and trauma backgrounds and additional crime. We have all been teenagers. How often did you want to clean your room when your mum forced you to do it? That is probably a really basic metaphor to explain it.

**Ms JENNY LEONG:** I would appreciate it if you could take this on notice. As you can hear, the issue of the STMP has become a focus of this Committee partly because it has been identified in submissions as working against the good strategies and diversionary programs that are being currently run by the New South Wales Government. Given that we have heard different perspectives—we appreciate your honesty in giving those perspectives—it would be helpful to get additional information, maybe case studies and information from Youth Off The Streets, in relation to your interaction with the STMP and the young people that you work with, potentially their views on it and those kinds of things.

**Mr ARMSTRONG:** Can I state a point as an educator? In the program you have got to be really careful about how we are reinforcing the idea of them being a suspect. I certainly take your point that if it is working, then there is something there. If you have got young people presenting those behaviours, there are issues there. The criminality is an issue for the community but it is also about what we do with that information. We have recognised a group of young people who are presenting certain behaviours which are not conducive to community life. It is an issue. What is it that we do with that information? Do you reinforce it through the language around the suspect: "We are targeting you."

What are we actually doing with that information? Are we looking at the core issues or are we just dealing with behaviours? Yes, we want the behaviours to stop; I completely agree with you. As a teacher and an educator, we know the young people who are often responsible for many of the things that happen at school, but we try to look at it from the perspective of, "What is the core issue is? Let us not prejudge", and we work with the young people on those core issues. I want to make the point that reinforcement of behaviours is often problematic certainly in our schools that young people are judged based on prior instances. They will certainly continue that if they are getting recognition for it.

**The CHAIR:** Thank you appearing before the Committee today. The Committee may wish to send additional questions in writing. 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 BOVINO:** Yes.

**Mr STEVENS:** Yes.

**Mr ARMSTRONG:** Yes.

**Mr WALSH:** Yes.

**The CHAIR:** On behalf of the Committee, thank you for your good work and the continuation of your good work. We have heard many pleasing reports of what you do out there on the front lines. Thank you.

**(The witnesses withdrew)**

**PAUL O'REILLY**, Executive Director, Inclusion and Early Intervention, Department of Family and Community Services, affirmed and examined

**The CHAIR:** Before we proceed, do you have any questions regarding the procedural information sent to you in relation to the witnesses and the hearing process?

**Mr O'REILLY:** No questions.

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

**Mr O'REILLY:** Good morning. I would like to begin by acknowledging the traditional custodians of the land on which this inquiry is being held, the Gadigal people of the Eora nation, and pay my respects to elders past and present. I also acknowledge any Aboriginal people that may be in the room today. Thank you to the Committee for this opportunity to participate and provide some evidence to support the inquiry. The Department of Family and Community Services [FACS] funds the delivery of services to some of the most disadvantaged individuals, families and communities in New South Wales. The Department's vision is that people are empowered to live fulfilled lives and achieve their potential in communities that are inclusive.

Many young people at risk of contact with the criminal justice system generally have complex backgrounds, have experienced significant disadvantage and possibly trauma, and may live with ongoing physical and mental health issues. The literature on prevention and early intervention is very clear: the right supports early in life and at critical points throughout childhood will improve outcomes for vulnerable children, young people and their families. Effective targeted early intervention has the power to reduce the escalation of risk factors that a child or young person may experience, including disengagement from school, poor health and mental health, dependency on welfare, substance misuse and, of course, involvement with the criminal justice system.

Available evidence shows that there are optimal points in a person's life where intervention can be most effective. The first 1,000 days of a child's life provide a crucial window of opportunity due to the extensive brain development that takes place. Another key intervention period relevant to this is adolescence when the brain again undergoes rapid growth and change. At this stage of a young person's life peer influence is strengthened and, therefore, there is likely to be an increase in exposure to risky behaviours. That is why an effective support service system needs to understand and address these factors and understand them at those two critical points in a young person's development. To this end, service providers, other government departments and related organisations are working with FACS to help us reform our early intervention system.

The FACS Targeted Earlier Intervention Program [TEIP] is focused on supporting vulnerable children, young people, families and communities to access support to prevent risks that escalation and ensure that they have the tools and confidence to lead independent and meaningful lives. The vision for the TEIP is that the needs of families, children and young people are met early to prevent the escalation risks; families are able to access support earlier in the lives of their children and young people; risk factors that lead to child abuse, neglect, and domestic and family violence are addressed early; and Aboriginal children, young people, families and communities have access to timely, effective, accessible and culturally safe support and services.

Given what is known about the impact of positive early development on life course outcomes, the TEIP has been developed with a view to driving achievement of the NSW Human Services Outcomes Framework. Outcomes, measurement and evaluation are very important to us, particularly in terms of this reform. The outcomes that we are working for in terms of the NSW Human Services Outcomes Framework relate to living a healthy life; learning, contributing and achieving in life; and contributing to and benefiting from our economy—everyone should be able to participate in the economy. People need to be safe. people should participate and feel culturally and socially connected, contribute to decisions that affect them one way or another, and assisted to retain a safe and affordable place to live. Those outcomes are central to all social policy programs in New South Wales and, in particular, the TEIP.

This program has three priority groups: nought-to-three-year-olds, reflecting what we know about those first 1,000 days; younger parents, particularly where one parent is under 20 who may be more vulnerable and not have access to other supports—a lot of young parents do not have broader family support; and the third priority group is Aboriginal children and their families—they are an important part of this reform. In relation to the third priority, we fully understand the way that services were designed for Aboriginal people in the past failed to recognise the strength and resilience in those communities. They also failed to recognise the need for strategies to be owned and developed in partnership with communities. That needs to change with this reform.

Our program includes a strategy, in particular, for Aboriginal people who use the services, and these are: target resources to Aboriginal people with the greatest need and the communities with the greatest need; make sure that services that we fund in those communities are grounded in evidence so that we know what works; and make sure there are opportunities for self-determination in respect of Aboriginal community control of service design and delivery where possible, and increased flexibility. People need to be at the centre of these programs much more than they have been in the past. It is always a challenge for a large organisation with a big funding mandate to be flexible, but we absolutely need to be more flexible.

Also underway and central to the government's response to effectively addressing these preconditions that make people vulnerable is Their Futures Matter reform, which you may have heard about. It is a transformational reform to deliver a road map of change to better support and improve outcomes for vulnerable children and young people over the course of their lives. It sets out a cohesive and accountable system where client outcome, strong evidence and needs-based supports are centred around vulnerable children and families. The provision for this is that there will be needs-based supports delivered through wraparound support packages designed to meet people's needs. There will be one connected system through a dedicated commissioning entity, independent of service delivery, which will drive a single response for vulnerable children and families. That is different to individual agencies commissioning their own programs, if that makes sense. A smart system that uses data—again, this is about evidence—will drive an investment approach that aligns funding and evidence to those wellbeing outcomes that I mentioned before.

As part of Their Futures Matter reform, the Government has committed funding over four years to July 2020 to provide 900 places each year for intensive family preservation and restoration services aimed at keeping families together, keeping families out of the care system. Half of those 900 places will be for Aboriginal children and their families. There are some particular models in this system, such as the Multisystemic Therapy for Child Abuse and Neglect and the Functional Family Therapy through Child Welfare models, which have already been shown to be successful internationally. They are about reducing entries into out-of-home care. They are about increasing exits from out-of-home care, and they are about responding to trauma and other underlying causes in relation to child abuse and neglect.

These programs are intensive family preservation and restoration models that have a proven record in addressing underlying trauma that may result in drug and alcohol abuse, mental illness, et cetera. The treatments under these evidence-based models are informed by cognitive, behavioural and family systems theories and require qualified practitioners to deliver the services. They are relationship based. They work with all members of the family. They also work with extended family and community to build a family support structure and better sustained benefits once the program is complete. Going back to the earlier comment that not all families have a broader support network, this response is partly about trying to build and strengthen that support network for that family.

Through Their Futures Matter, children in or at risk of entering out-of-home care receive a coordinated package of supports based on their needs. It is a new approach that will see a complete shift in how the Government responds to the needs of vulnerable children and families. The program is limited to rolling out needs-based supports across New South Wales and this will be achieved by agencies and their non-government partners working together to design and implement evidence-based packages and wrapping needs around particular cohorts of children and young people and their families.

To date in this work, three cohorts identified will focus on children and young people who have had contact with the justice system. First, five-year-olds to 12-year-olds with a cognitive or behavioural disability who are in care or in contact with the justice system. Secondly, 14-year-olds to 16-year-olds in out-of-home care and in contact with the Juvenile Justice system. Thirdly, 10-year-olds to 15-year-olds entering and exiting the Juvenile Justice system with a focus on children who are on remand. A number of other initiatives in FACS are particularly relevant to the terms of reference. Work is underway to strengthen social housing communities through the Future Directions reform. The universal and targeted youth services that FACS is involved in and funds—for example, the Foyer51 project—supports young people in their transition to independence. It is purpose-built, foyer-style accommodation for out-of-home care leavers who are ready to engage in education and training and employment.

In the current financial year budget, the New South Wales Government is investing in a range of youth homelessness services, including \$12 million for the Premier's Youth Initiative; \$9.9 million for the Homeless Youth Assistance Program; \$48 million for specialist youth homelessness services; and \$4 million for Rent Choice Youth, which is a program I can expand on if you like. The 2017-18 budget included a record \$1.1 billion to support people experiencing homelessness and improve services for social housing. There is a lot of detail under that figure, of course. We can go into some of that today, if you like. I hope my time today will be of benefit to the inquiry. I am happy to talk about that material and answer other questions as best I can.

**The CHAIR:** The Joint Protocol to Reduce the Contact of Young People in Residential out-of-home care with the Criminal Justice System [Joint Protocol] was signed and endorsed in August 2016. What strategies does the Protocol adopt to reduce the contact with the criminal justice system?

**Mr O'REILLY:** I can talk about some of those strategies. I may need to take some on notice. The Protocol is about trying to ensure that police response or the justice system response to concerns or complaints about children in care is considered and that the response to charge people is not always the first response. Is there an option for the care provider to become more involved and lead a solution? That is in response to a concern or observation that historically people in out-of-home care have been charged for offences fairly quickly. The Protocol is about trying to change that and provide a more flexible nuanced response from the justice system.

**The CHAIR:** The Committee has been told of instances where police and out-of-home care caseworkers have either not been aware of the Joint Protocol or lack an understanding. What is FACS doing to ensure that all of out-of-home care caseworkers are trained on the Protocol?

**Mr O'REILLY:** That is partly to do with the scale of the workforce of both sectors. I understand the Protocol is currently under review and part of that process is working out how we can better improve communication, refinement of the way it is implemented, but fundamental awareness and confidence to apply the Protocol is critical.

**The CHAIR:** How is the review progressing?

**Mr O'REILLY:** I can come back to you with some detail on how it is progressing, if that is helpful. I am happy to do that.

**Mr DAMIEN TUDEHOPE:** That was a very comprehensive opening. It was terrific. I want to ask you to focus on one thing. In practice, how do the programs work for people who are parents at a young age? If I am a 16-year-old mum or dad, what is the sort of program you are initiating to help me through parenting issues in relation to making sure that my kids have a decent start?

**Mr O'REILLY:** There are a range of parenting-focused programs. The programs I described briefly through the Their Futures Matter reforms, multisystemic therapy and family functional therapy are about strengthening parenting but through a family therapy approach. They are being trialled in New South Wales at the moment, but they have been evaluated overseas. That is about working intensively with those families, such as what are the areas where parents can be supported and improve skills and what are the wraparound therapeutic supports that are needed? It is about better understanding the impact of trauma on people. A trauma-informed response is really important. Parenting programs need to take that into account.

That is one headline of response, but the parenting focus sits across the continuum of care. That is from early intervention all the way through to a more targeted intervention and the out-of-home care system. Going down to the beginning of that continuum, we fund a community-strengthening element of the early intervention program and that is about funding neighbourhood centres and similar organisations to build social capital in the community and provide opportunities for parents to get together and learn from each other in a facilitated way. That might include supported play groups or seminars or workshops. In those programs, those neighbourhood centres connect with other agencies, early childhood service providers, schools and so on in a locally focused way.

The role of the program lead, which is part of my portfolio in FACS, is not necessarily to prescribe or to detail activities, because it needs to be supported in the community. However, the end of the continuum—the community-strengthening end—is about providing space and expertise for parents to have that contact. I contrast that with a family that has nothing to do with the system where the mum, the brother or another adult in the extended family has a discussion about the problems. Those options are not always available. We need a soft-entry, community-based, community-strengthening model for that.

As we move up the continuum towards more targeted supports, we have funded programs in the early intervention program that are targeted specifically towards parenting. They range from bringing together evidence and research showing what parenting programs work, and we provide that evidence to the service providers to implement those techniques. It is a repository of evidence, and we provide that support. We also give advice to providers who recognise more demand in their community for supported parenting and what is the best way for us to reshape. We provide that advice as well.

**Mr DAMIEN TUDEHOPE:** That is a good practical answer. Does FACS fund individual neighbourhood groups?

**Mr O'REILLY:** Yes.

**Mr DAMIEN TUDEHOPE:** Would a parenting group in Dundas, close to my electorate, be funded through FACS for young families or young parents to be able to attend?

**Mr O'REILLY:** I cannot talk about Dundas off the top of my head, but we do support neighbourhood centres that provide that service.

**Mr DAMIEN TUDEHOPE:** If I did not know about it, how would I get young people to go there?

**Mr O'REILLY:** Access to the service is a critical issue. We require providers to build referral pathways networks to contact people who are most likely to refer. That could be general practitioners or others in the primary health network, schools, childhood care providers, other health providers and so on. We expect those services to have a local network, and they generally are very good at that. The referral pathways can come in all of those ways. It can also be word of mouth and sometimes the services do outreach. They might see an opportunity in the community to sell or to promote their services and to reach out to families. They might also attend local fairs, hold seminars or attend networking exercises. It is a very flexible, community-driven approach to promoting their services and helping people to access them. There is another question about the cultural safety or appropriateness of services. The service needs to be attuned to what the community needs. For example, if there is a very large Aboriginal population in the community, the service needs to be culturally appropriate and it needs to be successful, friendly and safe.

**Mr DAMIEN TUDEHOPE:** I have always thought that the best time to capture young families is obviously when they are enrolling their children in child care, preschool or school. That is an opportunity to offer parenting programs or getting them involved in activities. Is that something FACS markets in conjunction with either childcare centres or schools?

**Mr O'REILLY:** Yes, there would be cases where that happens. Again, it is not something that we prescribe too heavily from the centre of the program. We require the organisations to provide the service to a standard and we ensure that they are connected with the community. Part of the current reform process is sharing with those services evidence we have of need in the community and around service models that work. Where necessary, we ask providers to shift their business or service to respond to that evidence.

We are not changing the funding or the contract because the funding is assured until 2020. However, we certainly change the way we measure outcomes and performance under those contracts and we negotiate that with providers. For example, we go through those wellbeing outcomes I spoke about earlier—health, education, economic participation and so on. A neighbourhood centre that supports parents and kids will not be held accountable for employment figures in a district. However, we certainly look at how their service can make a contribution towards improvements in those domains. That is what is important for us in terms of our conversations with those providers. We do not necessarily say they must have so many meetings with a certain number of schools. That feels too prescriptive from our perspective.

**Mr EDMOND ATALLA:** The Mental Health Commission stated that despite a case manager working with young offenders to plan for their integration back into the community, about 10.5 per cent of those released from custody are unable to find accommodation within six months. What is the age range of those experiencing difficulty finding accommodation? Can you elaborate on that? Where is the FACS shortage in terms of accommodation and for what age bracket? If you do not know the answer, you can take the question on notice.

**Mr O'REILLY:** I would prefer to take it on notice because I want to provide accurate information.

**Mr EDMOND ATALLA:** Is FACS involved in providing accommodation to juveniles with mental health issues who are released from custody and who require certain types of accommodation?

**Mr O'REILLY:** FACS funds services that have a connection with the Juvenile Justice system and it tries to accommodate and to support those young people. The services that FACS funds certainly have a responsibility and a capability to assess whether there is a need for a mental health service connection. Juvenile Justice NSW also has a role in ensuring that a case plan is in place. The two need to meet in the middle. It probably depends on the quality of the case plan in place when the person is in the Juvenile Justice centre as to what needs to happen next. If an active plan is in place, that needs to be followed up and supported. If there is nothing in place and the indicators are there that it is needed, then the agency, which may be funded by FACS and which is working with that child or young person, must put that support in place.

**Mr EDMOND ATALLA:** Are you aware of circumstances where a person was released from custody and FACS was unable to provide them with suitable accommodation and that person was housed in a motel?

**Mr O'REILLY:** Released from Juvenile Justice custody and housed in a motel?

**Mr EDMOND ATALLA:** Yes.

**Mr O'REILLY:** I cannot cite any examples, but I will take the question on notice and provide a definitive answer.

**Ms JENNY LEONG:** The Committee has heard that a large proportion of young people going into custody had no fixed or secure accommodation for the four weeks prior to their incarceration. The Committee also heard about the challenges the Member for Mount Druitt raised in relation to post-custody release and the risks facing young people getting caught in the criminal justice system because they are issued transit fines or are sleeping rough because they are homeless. You talked about the record \$1.1 billion the Government is spending on homelessness. Is that a record per capita or simply in total?

**Mr O'REILLY:** That refers to social housing and homelessness more broadly.

**Ms JENNY LEONG:** Do you know whether that is a record per capita or only in dollar terms?

**Mr O'REILLY:** I believe it is a record in terms of the budget allocation for that program.

**Ms JENNY LEONG:** According to the FACS data available, there are 51,453 approved applications on the public housing waiting list. Of that, 4,496 are priority-approved applications that still have not been allocated public housing. How many children and young people are part of those applications?

**Mr O'REILLY:** That would require some analysis, which we can turn around fairly quickly.

**Ms JENNY LEONG:** It would be appreciated if you could provide that detail to the Committee. If you have demographic breakdowns, they would also be appreciated.

**Mr O'REILLY:** We can provide that information. Some of those households are led by young people and some by adults with young children. There is a nuance that we would have to analyse.

**Ms JENNY LEONG:** My other question concerns the need for a Housing First approach. I assume you have heard that term before?

**Mr O'REILLY:** Yes.

**Ms JENNY LEONG:** The Committee has heard that one of the challenges faced by young people engaged with the criminal justice system face post-release is that insecure accommodation presents a range of concerns in either meeting or maintaining bail conditions, and at the pre-release end being able to engage and connect with services because of the lack of secure housing. Has FACS considered taking a Housing First approach and how is the evidence stacking up in relation to such an approach for people accessing other FACS services?

**Mr O'REILLY:** I will answer as much of your question as I can. I understand what you are saying around the duality—the need for accommodation in order to respond to support services. A number of services funded by FACS are absolutely focused on getting young people housed as quickly as possible in order for them to be better supported. They range from the Premier's Youth Initiative, which is about trying to make sure that people leaving out-of-home care are housed as quickly as possible and they are housed in a way that has immediate access to support. That is an exciting program. Some 400 young people are being supported in that program at the moment. It is about trying to get them housed quickly. We know that people leaving out-of-home care have particular needs—they have usually experienced trauma—and support needs to be there. That is one example of a program that focuses on getting that accommodation sorted as quickly as possible and providing support.

I mentioned Rent Choice Youth in my opening statement. That is a trial. The purpose of Rent Choice Youth is to build on the strengths of some of the private rental subsidy models that we have used in other programs. We have used private rental subsidies in Start Safely, which is a program to support people escaping domestic and family violence. That has been demonstrated to be an effective way of keeping people housed so that they can then continue to receive support and continue to work, study or to receive more acute support if needed. We are trialling that for young people. We have organisations that we are funding to help people find private rentals with wraparound support. We are subsidising the rent in those properties for a period of time while people achieve that support and then move into education and employment opportunities as well. So far this financial year 283 young people have accessed that program. One of the other benefits of Rent Choice Youth is that a young person gets a good private rental record, which is really important for them going forward in terms of being more independent down the track. That is a new model that has come out of the Future Directions investment in social housing.

We also have the Homeless Youth Assistance Program [HYAP], which is aimed at helping young people receive support in their accommodation but it also focuses on reconnecting them with their families. Get them accommodated, get them back in touch with their families—where it is safe to do so—and start building up those layers of family support that I have mentioned a couple of times today. If that works, it is enduring support that does not rely on the State to resource it or to hold it up. They are a few examples of some of the things we are doing to try and make sure that young people are housed as quickly as possible. Some of those have potential to be scaled up quite a lot and some of them will depend—for example, the Rent Choice Model is a very good model—on what the rental market does and access to suitable properties in the rental market. The Premier's Youth Initiative will be evaluated and we will have some findings on that to share in due course. Similarly, with HYAP as well.

They are the main areas where we are working on housing models that support youth particularly, getting them housed quickly and wrapping supports around them. I mentioned the Foyer51 model earlier. That will be a Chippendale-based model that builds on the strength of the Foyer model. The essence of the Foyer model is that people are housed with their peers and the support services are immediately available. Support services range from acute services around counselling and access to medical services but also mentoring support—the kind of support a young person in a family that may be more functional would get from their parents or maybe from older siblings or family friends. In the Foyer model young people do not necessarily have that support. Foyer51 focuses specifically on supporting kids leaving care who obviously do not have those supports in place. Again, Housing First is not the term that is being used for these programs but I understand the principles of Housing First—it is about getting people accommodated as soon as possible and wrapping supports around them.

**Ms JENNY LEONG:** You mentioned the importance of awareness and training around trauma-informed responses. We have heard other evidence around the need for training to understand the impacts of racism on young Aboriginal people and their interactions with the criminal justice system. We have also heard of the negative impacts that sometimes happen as a result of transit officers not being aware that young people may be homeless and issuing them fines for sleeping on buses or on railway platforms. Does FACS currently run any training across other government departments to increase awareness of transit officers and police about the services and pathways available to young people who are experiencing homelessness or other family domestic violence issues as opposed to appearing to be, for example, dodging a ticket on a bus?

**Mr O'REILLY:** Essentially the role of FACS is not to fund other agencies to train their staff; however, I understand the question and the potential benefit of that. There are cases where FACS has organised training for other agencies but it is not directly related. For example, FACS has developed a training program to support police in reporting risk of significant harm to the helpline for children. FACS helps to provide much more targeted training for police—a very short, snappy, accessible training module that has been trialled with some success. That is an example of FACS working with other agencies, but I do not have any examples with me of FACS training transport officers or similar enforcement-related agencies around the sociocultural needs of people who are FACS clients or FACS-funded agency clients.

Certainly we have a lot of partnerships where FACS, police and other enforcement bodies—for example, council rangers—join Outreach. The benefit of joining Outreach is that there is mutual learning about the mandate of that partnership. For example, FACS gets to understand perhaps why an enforcement agent takes an action. Certainly the enforcement agency—whether it is police, rangers or transit officers—gets to understand more about the role of FACS and its funded services but, more importantly, they get to know where the young person is coming from and the impact of trauma on their life. The reason why a young person reacts in a certain way to an enforcement officer who is doing his or her job—even if that officer is doing his or her job as carefully as they possibly can—is often to do with a previous experience of trauma. So the joint Outreach work is a really important example of a more organic way of sharing the capability.

**Ms JENNY LEONG:** If you can provide more examples of that on notice, it would be really appreciated.

**Mr O'REILLY:** I will take that on notice.

**The CHAIR:** The Committee has heard that the pilot of the Cognitive Impairment Diversion Program is a positive step towards linking the National Disability Insurance Scheme [NDIS] with adult justice proceedings. Is anything being done to link the NDIS to Juvenile Justice proceedings?

**Mr O'REILLY:** Prior to the NDIS, and during this ramp-up phase with NDIS going full scheme in a couple of months, Juvenile Justice would sometimes make referrals directly to Ageing, Disability and Home Care NSW [ADHC] or FACS for the Community Justice Program where young people would be provided with case management and access to specialist accommodation. That has been the model. The specialist



accommodation is block funded under the State model but the NDIS model is obviously not blocked funded; it is individual packages. So the role of FACS now is slightly different: it is about taking the referral and making sure that the young person is supported in his or her application to the NDIS for a funding package, that the funding package is adequate, that support coordination is funded along the way in that process, and that there is adequate provision for accommodation also in the NDIS funding package. Then there is a process of finding a placement in one of those specialist properties. That connection exists and continues but some of the variables change because the funding model is different.

**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 be made public. Would you be happy to provide a written reply in five business days to any further questions?

**Mr O'REILLY:** Most certainly, yes.

**(The witness withdrew)**

**(Luncheon adjournment)**

**PATRICIA JEAN HANDS**, Chairperson, NSW Coalition of Aboriginal Regional Alliances, affirmed and examined

**DESMOND EDWARD JONES**, Member, NSW Coalition of Aboriginal Regional Alliances, affirmed and examined

**MARK WAYNE DAVIES**, Member, NSW Coalition of Aboriginal Regional Alliances, affirmed and examined

**ANNETTE VAN GENT**, Convenor, Youth Justice Coalition, affirmed and examined

**The CHAIR:** I now welcome representatives from the NSW Coalition of Aboriginal Regional Alliances [NCARA]. Before we proceed are there any questions arising from the procedural information sent to you in relation to witnesses and the hearing process?

**WITNESSES:** No.

**The CHAIR:** Aunty Jean, could you please state your occupation and the capacity in which you are appearing before the Committee?

**Aunty JEAN HANDS:** I am a retired health worker and I now chair the NSW Coalition of Aboriginal Regional Alliances. I am also chair of the Northern Regional Alliance [NRA].

**The CHAIR:** Mr Jones, could you please state your occupation and the capacity in which you are appearing before the Committee?

**Mr JONES:** I am currently the Chairperson of the Murdi Paaki Regional Assembly, which is in far western New South Wales. My occupation is Executive Director, which is part of that role now. My previous background is the building industry—I am a qualified carpenter and joiner—and I have a lot of social development-type employment activities in my current life.

**The CHAIR:** Mr Davies, could you please state your occupation and the capacity in which you are appearing before the Committee?

**Mr DAVIES:** My occupation is Chief Executive Officer of Amaroo Land Council in Walcha. I am here today as an NCARA Member.

**The CHAIR:** Ms van Gent, could you please state your occupation and the capacity in which you are appearing before the Committee?

**Ms van GENT:** I am the principal solicitor of Marrickville Legal Centre. I am appearing today in my capacity as convenor of the Youth Justice Coalition, which was contracted by NCARA to assist in the preparation of its submission.

**The CHAIR:** Would any of you like to make an opening statement before the commencement of questions?

**Mr JONES:** I would like to acknowledge the traditional owners of the land on which we speak, the Gadigal people, and elders past and present and all their community members, and also all the people at today's inquiry.

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

**Mr JONES:** Whether it is Youth on Track or any other program, I find that there is mistrust between the parties when it is referred by police. I think the experience of the communities in the region I live in is that there is this mistrust and it is growing wider and wider—mistrust around police services. I heard earlier, as you know with the STMP policy that is in place at the moment it is also creating mistrust amongst families with authorities and the leadership in our communities with authorities.

**The CHAIR:** How would you resolve that? We have identified there is a problem there and, as you said, the gap is growing wider or that concern is increasing. How do you see a possible solution to it?

**Mr JONES:** I think there has to be a focus on family leadership, which has broken down over the years. My experience in growing up in far western New South Wales is that in the 1970s, 1980s and 1990s the police had a relationship with the community. Since these new policies have come in, that relationship has disintegrated. I think, for our region especially, if a police officer selects far western New South Wales or

remote New South Wales and they do four years there, they can pick any location in New South Wales to wherever they want to go. So there is no connection between those police officers and the community and that has broken down trust and, I suppose, respect from both sides over those years since those new policies have come in.

**Mr EDMOND ATALLA:** What new policies are you referring to?

**Mr JONES:** I am talking about the STMP and some of the changes around police practices.

**The CHAIR:** The Committee has received evidence that Aboriginal girls and young women should be consulted about the content and delivery of their diversionary programs rather than special provisions being added on to the male-focused programs. The Committee visited the detention centres at Wagga Wagga, Dubbo and Reiby, which involves girls. The Committee is planning to go to the Youth Koori Court at Parramatta to see it firsthand. Do you feel there should be special provisions added on or a separate course altogether?

**Aunty JEAN HANDS:** I definitely do because of cultural reasons and women's business. There is a total difference, as we all know, between the cultures. There should be different suggestions of things that should happen with the young women and girls.

**The CHAIR:** A concern has been expressed to the Committee a number of times and it has been discussed at length as to the over-representation of Aboriginal people within the Juvenile Justice system. It runs somewhere between 54 per cent and 60-odd per cent.

**Mr EDMOND ATALLA:** Seventy per cent.

**The CHAIR:** Or 70 per cent in some cases. Part of the Committee's role is to review what is currently happening. Ultimately by mid this year the Committee will make recommendations to Cabinet or to the Government seeking changes and directions and supporting programs that are working too. The Committee has heard about a number that are working. Anything you can add would be very helpful to the Committee.

**Ms JENNY LEONG:** I would like to acknowledge we are here on Gadigal land. Could you talk a little more about your recommendation that diversionary programs for Indigenous young people need to be Indigenous community developed? The Committee has received evidence to that effect in a number of submissions from a range of organisations and groups. It is one thing for everybody to put it in their submission and another thing to actually do that and follow that recommendation through on the ground in communities. Can you point to examples the Committee could look to where programs have been Indigenous community led, so that the Committee has real examples of where it has worked and what it does? I appreciate it may not be in Juvenile Justice but in another area, but it would be helpful to hear from you about diversionary programs or initiatives that are Indigenous community led that are working for those young people.

**Mr JONES:** I should have mentioned in my opening statement that I am the Chairperson of Murdi Paaki Regional Housing. We look after 40 per cent of the State. We have 300 homes in most of our 16 communities. I am also Deputy Chair of Maari Ma Health, which is a regionally based health service. I have been doing that for over 25 years. My understanding of the importance of having a good house and good services is that it is probably the best diversionary project you could ever have. I have seen the disintegration of family leadership and family structures.

I was also involved with the Community Development Programme [CDP], where we employed a lot of friends, family members and community members who had early school leaving backgrounds or were from broken families. The removal of that program totally demoralised a lot of our family members because they were socially together at least two or three times a week. That has now disintegrated through job networks. I have seen their sons, daughters and grandchildren coming through now having the same background as them. A lot of diversionary programs are at the back end, once you have been in contact with authorities, appeared at court and been to a correctional centre. We need a lot more front-end diversionary programs. Housing and family structures are very important up-front.

I will give an example of my region. We hear from Treasury that we have \$380 million that comes out for Aboriginal programs. We have been operating as a regional assembly for over 10 years. That is \$3.8 billion that has hit the ground somewhere. If you drive up to any one of our communities you do not see it. The resources are not in the hands of the people whose hands they should be in. The result of that has been that a lot of our family structures have struggled because people are not getting the services that are required. We need to look at a better way of doing that. The tender process or the New South Wales procurement process has to change so that it becomes the responsibility of those regions and communities to have a say as to who gets the resources and that it matches community plans.

Another thing is that there is no plan. New South Wales does not have a plan apart from the Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE] development that is happening now. Before that there was no plan. I am a big supporter of OCHRE. I also see the benefit of having regional and community bodies that are decision-makers. That has been a part of our community which has been lost since the demise of the Aboriginal and Torres Strait Islander Commission [ATSIC], where decision-making was happening. Again, that has all disintegrated into service decision-making. Our systemic voice for young people has been lost.

**Aunty JEAN HANDS:** If there are any programs that need to be designed, they need to be put in to regional areas. The city areas have these but it is the regional areas that do not pick up on any of the diversionary programs. I live in Singleton and I originally come from Gunnedah. I lived on a camping ground back then. We had nothing. I still see it as families are coming along. The diversionary programs should be co-designed, culturally appropriate and culturally sensitive. We can say "culturally appropriate" but they must be sensitive. People have to be sensitive in the way they treat our people. It goes back to what Mr Jones says: they are coming from families that have been dysfunctional nearly all their lives. If we put them back into another centre that is not appropriate then we are just putting them out there to go to a bigger gaol, if they are juveniles. If they are older people, then who knows? But any program should be co-designed and placed in more regional areas.

**Mr DAVIES:** I come from a regional area as well. The community indicated to me that we should take a holistic approach to the preventative measures that we are going to take—mental health, drug use, social acceptance and things like that. By the community co-designing the diversionary program in regional areas—because Aunt's area is different to Des's area which is different to my area—they will have more ownership and acceptance of it.

**Ms JENNY LEONG:** I want to follow up on the comments made in relation to police interaction. One of the things I noted was your recommendation that the discretion to access diversionary programs should not be entirely in the hands of police. The submission makes reference to the fact that magistrates should have the power to override a decision by police about access to diversion and enabling a review of discriminatory practices by police as the gatekeepers. That was part, I believe, of references to the Victorian Aboriginal Legal Service. I wonder if you could expand on that a little bit more for the Committee and explain what it would entail and how it would work.

**Ms van GENT:** Broadly speaking, I think it might go back to a point made earlier. I understand it is a point that may have been made by Legal Aid as well. There are some real problems in terms of relying on police as the point of referral or the point of contact between young people and diversionary programs. I think that recommendation was made in order to provide an additional point of referral and additional point of contact because there might be a certain assessment or certain type of referral that is made by police, but a magistrate looking at the matter later on might form a different view of it. That was the reason for that recommendation being made—just so that there are different pathways into diversion. One of the real limitations that we identified in preparing this submission, as other people have spoken about here, was that access to diversionary programs at the moment relies on the young person already being, in some ways, involved in the Juvenile Justice system and being referred by police. That is a real limitation. I do not know if anyone wants to expand on that.

**Ms JENNY LEONG:** I will broaden the question and give you an example. We visited a number of the Juvenile Justice centres in New South Wales. I have been a Member of Parliament for only three years but in terms of my interaction with various government agencies, I would have to say that the cultural awareness and cultural competency that at least appeared on the surface seemed more advanced and more considered in the Juvenile Justice centres than what I have seen in many other government agencies and services.

Obviously the preference is that no young people ever find themselves in custody. I wonder if you could talk about what kinds of training and support are needed and what kinds of recommendations the Committee could make to try and roll out that cultural awareness and understanding of the impacts of racism may have on Aboriginal young people and how they behave, issues around trauma and those kinds of things. How might we address the fact that there appears to be an ability to do that but obviously the preference is not needing to do it there because the young people are not in custody in the first place?

**Mr JONES:** I agree. Like I said earlier, a lot of the reactive stuff through cultural awareness is at the back end. There is no front-end cultural awareness programs for police officers coming into our regions. The courts need to do a lot of work around understanding what sort of backgrounds and what sort of history they come from. The other question—I have raised this locally—is: Why are children going to an adult court? They mix with adults at the same time, on the same day, in the same hearing. They should be separate. It should not

even be in a courthouse. We could do that in a place like this place here. We could have a better location that separates them from a traditional court practice or event.

The other thing about cultural awareness is that there should be more engagement with the local community in what Madam Chair, Aunty Jean Hands, said was the co-designs for agencies. Every program that is out there seems to be a rollover program from the Commonwealth. A lot of State government agencies are funded continuously, based on whatever data they provide or reports they write. Those reports need to be validated by somebody in that community so that it is true. I heard you ask a question earlier: how do I validate that your service is working? I would go and ask the client. You will get a different response from the service, because their livelihoods and jobs are at risk in the event of defunding.

So there are a lot of rollover resources when the question is not asked: Show me your connection to community and the cultural content that needs to be added to that service, which has been signed off by an agency, organisation or group in that community that works with the services. That does not happen. I think there has to be a lot of up-front cultural competency arrangements. They have to be validated or endorsed by the local community structures that are reputable and that work with those agencies. That should be part of the funding agreement.

**Mr EDMOND ATALLA:** The Chair made a statement in relation to over-representation of Indigenous people in detention centres—as high as 70 per cent, we have heard. That is not in sync with the proportion in the overall population. Can you comment on why that figure is high and what is being done to reduce that over-representation?

**Mr JONES:** I can go on experiences in our communities. I have footage of the behaviour of police when they confront our young people. I did not actually believe it; I asked these young guys to start filming. I also launched Copwatch in Broken Hill last year. They want another launch of the app this year, because of the importance of having digital evidence against police evidence when you go to court. Some of the stuff that I have seen is disgraceful. Police notes will always override your notes. Unless you are a child that has been sexually abused, your voice, the voice of adults, will never be heard when you make a complaint to the police about anything that has happened in your life. That is the experience I have seen on the ground.

I have seen a young child have his tooth knocked out by a police officer. Because they had the wrong person they cautioned that person just to put it on the books. These are the things that are happening in our communities. Our children's voices are not being heard. This is about juvenile justice, but where is their justice? They have been let down by the Education and Health Departments. I have heard stories about kids going to gaol and getting their teeth done. That should not be happening in New South Wales. That should be happening well before they come into contact with the correctional services. The children have health checks and their teeth are done. Things are being found out about their condition once they are incarcerated. To me, that is an injustice on its own. Those services should have been engaging those children well before they come into contact with authorities.

**Mr EDMOND ATALLA:** I just want to be clear. Are you saying that interaction of Indigenous people with the police produces a different outcome from the interaction of non-Indigenous people with the police?

**Mr JONES:** Those are my experiences, and I have spoken to some non-Indigenous people and they have told me the same thing. I think it is broad. I grew up the same way. We collected data and our resilience came from being out and about and learning as we go. Now, the laws would probably say that I was at risk because I was out at 10 o'clock at night. Those are the sorts of things that are happening to our children. They are being confronted by police to see if they are at risk. If there is a history of the family name with the police you are tarnished. Those practices need to stop. I do not know how that can be sorted out or arranged.

There needs to be some information back to the community. We do not get much information about Aboriginal Strategic Directions [ASD] from the police or the STMP. The community is not aware of all these new changes. There has not been a really good promotion of what law enforcement changes are coming down or some of the legal rulings around courts and changes. The only time we ever hear what is happening is on the news or in the newspapers, all white person experiences. There needs to be a proper promotion of some of the changes around law for our communities so our people can workshop them and understand penalties and also the diversionary programs that are available before we get to the courthouse.

**Aunty JEAN HANDS:** One of the things that I have seen in my own communities—and like I said, my hometown is Gunnedah—is that the area of incidents with children and police is unbelievable. There is no attempt to stop and say, "Let's talk to the child or the young person"; they are there and they are in their face. No person, whether black, white or brindle, likes people in the uniforms in their face. Of course, the young

Aboriginal child will react to that, and where does he end up? In the back of the bull wagon. I have seen that happen. Another incident was that there was a group of children riding their skateboards or bikes. One little child did not have his helmet on, an Aboriginal boy; the others did not either. Who got copped? The little Aboriginal child. There are a lot of inconsistencies with the way that they treat Aboriginal children and young adults.

**Mr DAVIES:** If I can put the families' perspective: the mob goes in and supports the child, and if they go against the authority of the police or anything like that, they can be targeted. I have seen it when the family questions the police authority to do with something with the child, and in the next month that family member could lose their licence because they are targeted for a silly misdemeanour like not having their licence on them. They could have let them get away with a warning—and I cannot say this for sure—but no, the incident with the child happened a week ago, so they will get a fine for that and for the next thing. These are silly little fines and then that person loses their licence and that stops them from going to work. I know that this person travels half an hour for work, and now they cannot work for three months because of the fines, which draws back to the issue that they questioned the police in relation to the youth.

**Mr EDMOND ATALLA:** Aunty, what does the Government need to do to improve the relationship between the police and the Indigenous community? If you were advising the Government, what action would you advise the Government to take to improve trust in that relationship?

**Aunty JEAN HANDS:** Goodness, there are lots of things that I would like to do. One thing is if they are going to punish someone do the whole thing. I know some incidents are worse than others, but my view on it would be that they be consistent and try to have more awareness of the different cultures and the way that these youths or young adults children have been brought up; it is completely different to someone else. Maybe more training; I don't know what their training regime is. There needs to be more compassion, I suppose, within what they do.

**Mr EDMOND ATALLA:** Do you have any further comments?

**Mr JONES:** For me, I would be removing Aboriginal Community Liaison Officers [ACLOs] out of the police stations. They should be independent and away from the police so that they can liaise with community. At the moment, they are seen as part of the Police Force and there is no trust. We need to look at how we make that model work better for community and for police, so there is liaison happening and people have confidence to come forward to report things that need to be reported. We are all supporters of great police work; we need law and order, there is no doubt. Sadly, if a lot of our younger people have a traumatic experience when they are young, you cannot treat trauma with trauma—you know, throw them into a correctional services centre where there is more trauma. When they come out, they are going to have children, so we need to be more resourceful with programs that support families a lot more than responding with kneejerk action.

Local government has to play a bigger role in community development, because somehow they seem to wash their hands of social development. A lot of it is around infrastructure and planning, which is right, but there are a lot of important roles that our elected councillors could play in forging relationships with the local community. At home they struggle to raise the flag. It is a small gesture, but if you cannot make a decision to raise the flag, what other decision can you not make? Those are the little things that can happen to really start healing some of our communities. We all know what *Facebook* does to our communities; there is stuff that we might not be able to heal, but at least let us get the leadership groups talking. That is what needs to happen at a local level, whether it is the police, the Aboriginal community, local government or services. There needs to be better communication amongst the leadership groups that all have these responsibilities and we need to make sure that we abide by our responsibilities.

We have a lot of vibrant families in our communities. In my observation, they are never included in a lot of the discussion. A lot of programs are designed as disadvantaged-type programs or activities. There is not a lot of vibrant stuff that includes a lot of people, and that is where leadership comes in from local government and everybody else to get inclusive. For me, the ACLOs need to be moved out of the police stations and put somewhere where people can have access to them, and we can work on good programs and good relationships.

**Aunty JEAN HANDS:** This came up in the Northern Region Local Aboriginal Land Councils when we met yesterday, because we are going to record the process now. There should be a male and female ACLO in the areas, because a male cannot deal with a female domestic violence victim as well as a female. We need to look at having both. I do not know whether they are in Campbelltown or in this area, but I know we do not have any female ACLOs within our area.

**Mr DAVIES:** If I could comment on the ACLOs, the regional, rural and remote communities are so far away. The area our ones need to service is just too broad to service. You could even look for a fee for service to have an ACLO in each region and skill them up in each rural and remote service. What is happening in our communities is something blows up, which could be prevented by having an ACLO there to diffuse the situation between community and police, but because the ACLO is 1½ hours away they cannot get there in time. If you have someone you could call on straight away while the police are attending the house, that would help our communities as well, especially the rural and remote communities.

**Mr EDMOND ATALLA:** Do you believe it would assist to have an Indigenous police officer in each command?

**Mr JONES:** No, I do not. I have personally seen all that myself. They are first of all employed by and loyal to the New South Wales police service, so that is where their bread and butter comes from. They have their own culture in the service, as you know, and they look after one another. To us, they are police officers, and to them, they are police officers.

**Aunty JEAN HANDS:** Sometimes there are Aboriginal police officers within the Force, but within their own culture they do not like to disclose that they are Aboriginal. We had one officer come to the land council to become a member but he did not want that known and put out there in the community because of possible repercussions that could happen. Yes, there should be, and we all have them in our area, but they do not disclose that they are of Aboriginal descent.

**Mr EDMOND ATALLA:** Mr Jones, you told us about people who need their teeth fixed not getting that assessed until they are in detention. Why is there no early assessment of Indigenous juvenile health?

**Mr JONES:** Some of it is generational stuff around health. Some people have lost their mother, father, grandfather when they are very young, and their mentor or their guardian is not there to provide guidance. For a lot of our young people, there is no engagement to get them into these services and they do not see the need. As you know, you think that when you are young, you are bullet-proof. I think there needs to be promotion of having those things done and specialists who have access to people when they are young.

Early childhood is a big issue for us out in the west. We do not have enough early childhood programs to engage with parents around parenting and guardianship responsibilities. If their parents are dying at 50 and 60, they are growing up without grandparents. All that leadership stuff needs to happen. There needs to be early intervention in childhood around good health and promotion. If you had a traumatic experience and your self-worth is down, the first person you are not going to look after is yourself. I have seen that happen. We need to build up the confidence of people through engagement.

**The CHAIR:** It is interesting to hear about taking the ACLOs out. That is the first time I have heard that suggestion. My area is Tweed Heads and we struggle to get an ACLO, even there. We go months without any.

**Aunty JEAN HANDS:** I do not think Mr Jones meant to take them out of the service, just take them out of the buildings.

**Ms JENNY LEONG:** Is it similar to a police citizens youth club [PCYC] model? I know in Redfern, for example, they have a couple of youth liaison officers stationed some of the time at the PCYC, rather than at the station.

**Mr JONES:** These are fully employed by the NSW Police Force.

**Ms JENNY LEONG:** With the model, is the idea that they would remain members of the NSW Police Force but the suggestion being that they be located somewhere else so they are separate?

**Mr JONES:** More accessible, yes.

**Mr DAVIES:** It will give the community a more friendly approach to the guys. The kids see the ACLOs at the moment aligned with the police and that is why we said strongly—the whole three of us—that, no, we do not want to see more police officers because they have to stick with that law. Our community sees ACLOs coming together closely with the police, being in that police station. Kids would be more open and honest with them and the ACLOs would be more approachable if they were in their own little space. They would be more of a mediation voice between the kids and the police.

**Mr JONES:** I had a yarn to the ACLOs in my region. They are not informed about a lot of police activity, nor do they feel they have any real authority in that service. I think they need to be separated out of there so the community can access them and the community's voice is then taken across to the commanders and

superintendents around the issues and help them engage more efficiently with the local community. That is probably why you have not got them at Tweed Heads, because they do not want to work for the Police Force.

**The CHAIR:** I know that for a fact. They find it really hard to fill the positions.

**Mr JONES:** I am going back to the 1970s, 1980s and 1990s, there was a really good relationship with police. Now, for some reason, it has disintegrated and there is no trust. You are getting good, vibrant families that no longer trust the authorities. That is a very dangerous mix when you want people to come forward to the police on issues. If they do not trust them they will not come forward. We need to build that trust somehow. There might be small strategies around ACLOs being removed, such as having a bit more power around reporting, the promotional information that needs to go out about some of the New South Wales Government changes in legislation on police enforcement, law enforcement, the courts—the whole lot. A lot of family members have no information on that. We have a big role to play in that also. We need to access it.

**The CHAIR:** I think so. The Committee has heard that the level of programs offered by PCYCs varies across the State and some areas do not have enough PCYCs. What are your feelings about the role of PCYCs, particularly in regional areas?

**Aunty JEAN HANDS:** In my own particular areas what I have noticed with the PCYCs is that the facility is there, but it charges a fee and underprivileged families cannot afford to pay the fee for their kids to go to the club. Some of the things that happen there—I talk about one of them in my own community—is they are more for gym junkies. Young people cannot afford it and they do not want to be in that environment with muscle-building people, they do not want to do that. It is not a PCYC as we probably knew it back in our day when you could go to a Blue Light Disco or whatever there. I do not see any young people at the PCYC anymore because of the funding. There is no money to join the clubs. There are not enough activities there for young people. That is what I see with them, and some areas do not have PCYCs.

**Mr DAVIES:** I am talking from an Aboriginal perspective. They have to engage Aboriginal people, put some culturally appropriate activities in there, such as didgeridoo making and other cultural activities.

**The CHAIR:** I was going to ask you what you mean by cultural activities.

**Mr DAVIES:** Some dancing programs, programs culturally appropriate to Aboriginal people. Aboriginal people are probably some of the poorest people here. As Aunty Jean is saying, it is very hard for us to access these services, so what about you coming to get us to come to these services?

**Mr JONES:** Another thing is the wording or the promotion of PCYCs and police activities on the ground need to change. They had a footy match and all these kids turned up to the footy match. What they had in the paper the next day was a crime prevention strategy. Straightaway they are targeted as future criminals and the poor kids just went along to play football. We need to change that somehow—because there is a group of kids playing footy it is not a crime prevention strategy. But that is the way they promoted it in the papers. Adults, the vibrant section, pick that up straightaway, and say, "We cannot keep sending our kids to these crime prevention strategies, because they are picked as future criminals already"—and they are only 8- to 10-year-olds. That sort of stuff has to change somehow.

**The CHAIR:** The messaging.

**Mr JONES:** The messaging in the communities. Any activity that engages is badly needed in our region. But, as I said earlier, we all know that there are Facebook issues and Twitter issues and people making comments, so normally you will not get everyone in the same space at the same time.

**The CHAIR:** You represent a large land mass. The Committee has heard about the possibility of expanding the Koori Court—which I think is a good idea and I will ask you about that in a second—but where do we put it? Do we put it at Dubbo? Do we put it at Wagga Wagga? Do we put it at Tamworth? Do we put it at Gunnedah, Broken Hill or Bourke? We do not have an unlimited amount. We would love one in every town.

**Aunty JEAN HANDS:** That would be nice.

**The CHAIR:** We know we cannot achieve that. Do you think the Alliance has a role to play in determining I would not call them hotspots, but areas of more need than others?

**Mr EDMOND ATALLA:** High Indigenous.

**Aunty JEAN HANDS:** Yes.

**The CHAIR:** You talk about engagement. The Government is in the business of providing services—police, health, whatever—but it strikes me that sometimes those decisions are made by bureaucrats without an understanding on the ground. We tried to do that a little bit with this Committee. Rather than just listening to the



bureaucrats, we tried to listen to everyone; but, more importantly, we went to see it with our own eyes, we smelt it, felt it and looked at it. Do you think the Alliance has a role to play in determining the allocation of those resources?

**Aunty JEAN HANDS:** Yes, I do. I think the Alliances are there to talk for their communities, and I know with our own alliance we have a lot of community consultations. We cover 14 regional local Aboriginal land councils [LALCs] in the area, and it is massive. We cover it with communication, we do road trips to inform our community of what is happening with our Northern Region Aboriginal Alliance. Then we come back and we all meet and gather at the Coalition of Aboriginal Regional Alliances, as you know. But I do think that the alliances have a big part to play in it.

**Mr JONES:** It does not have to be a Koori Court; it can be your normal court system that puts conditions on. I will give you an example. I used to run a licensing program for motor vehicles. People who had fines, no licences or were suspended, we got them licences. Some were coming out of the courts, where the magistrate had made a decision because they were driving a car. If you have not got a licence and you suspend someone for 10 years, that ain't going to stop them from driving. I have experienced that over and over. The greatest thing you can do is give them a licence for something to lose.

I have seen a life changed by this person gaining a licence. He was a party animal, had a young family. He pumped music all night. People complained. We were in the housing game, so they were ringing us and saying, "Can you stop the noise?" We would send letters but it did not stop the noise. The minute we got him a licence, he was never home. His whole life changed. He could not drink, because he was on a P-plate. He was old enough to have a provisional licence. Those simple conditions that are placed on a person by their peers can have a greater impact on the family unit than suspending them for another 12 months or whatever it is. Through your normal court system, you can put conditions in place to put the responsibility back on the family unit or the individual to come back with a better—

**The CHAIR:** A plan.

**Mr JONES:** A plan, exactly right. I have never experienced Koori courts.

**Aunty JEAN HANDS:** No, I have not.

**Mr JONES:** I will rephrase that. I have experienced one in Mildura. To me, it was great to sit amongst people who have the leadership in your community and have the responsibility, but for me it did not give an uplifting outcome for the person to sort themselves out. The conditions on the individual to improve not so much to penalise has a greater effect for the individual and the family because then you have a time frame to be responsible and get yourself in order.

**Mr DAVIES:** Listening to that, the regional Local Decision Making [LDM] has a big part to play in those two sides. The placement of where these Koori courts are—I have read up about the Koori Court and I think it is a good program, but each region is different for Aboriginal people. The LDM could have a place where they put the Koori courts, per se, but they also could help co-design it so it is culturally specific to that region.

**Ms JENNY LEONG:** I refer to the Chair's question about guiding where the services are and how they work, such as the Justice Reinvestment project in Bourke. One of your recommendations is to look at the idea of more support for that project. Are you aware of how that would roll out? As far as I understand, it is community led and is specific to that area. Are there recommendations that you could take from here and bring back to the Committee about where in New South Wales you think it would be best to next roll out a Justice Reinvestment project?

**Mr JONES:** Bourke is one of our communities. There are 16 communities. For the Committee, I am chair of those 16 communities. There are 16 chairpersons from those committees who meet regionally in a central location in our region every quarter, so information always comes back. Stories come out of Bourke about the effectiveness of Justice Reinvestment, which is great, but we need another model that is the front end. How do we reinvest up-front before they appear? We know a lot about children who will be at risk or will front the court just by their generational history—some of the behaviours of early school leaving, broken families, mental health, the whole lot. They are already in our communities now and they need assistance to reinvest now around the front-end stuff so that they do not appear. I think if we have two models in each region, in each one of our alliances to support that: one on the back end for people who have been through the system and are coming out, and one at the front end. Let us start looking at those who are appearing on the radar now who will be, or could be, at risk in the very near future.

**Mr DAVIES:** If you work more at the front end it will be less of a cost to go through the whole system.

**The CHAIR:** I agree. A major concern the Committee has is that we have been told on a number of occasions that some—mainly young men or young boys—consider it a rite of passage to get involved in the juvenile system, which is heartbreaking. It is heartbreaking to think that they would consider being incarcerated is a rite of passage to manhood.

**Mr JONES:** Can I make a comment on that?

**The CHAIR:** Certainly.

**Mr JONES:** I have heard this over and over. I believe that is a cop-out from the agencies. You ask any young child if they want to go to gaol and they will tell you no. They do not even want to go to court. I think that is a cop-out from the agencies as their way of saying this is what they want. I think we need to be very careful about that rite of passage scenario. I have not heard it from the young kids, but I have heard it from the agencies.

**The CHAIR:** I have not heard it from the young kids; I have heard it from the agencies.

**Mr JONES:** I have heard from no kid, "That is my rite of passage". I have never heard that once, but I have heard it from the agencies. We need to be very careful about that statement. In our culture, as you know, once they hit puberty they are young men; we have to treat them as such. Unfortunately, everyone else does not. That is where we are locking horns on their roles in the leadership group and it is broken down in our families around the leadership stuff. I would be very careful about that rite of passage comment because I have not heard that from one child.

**Aunty JEAN HANDS:** I have not.

**The CHAIR:** No, I have not either. I have heard it from agencies.

**Mr JONES:** I have heard it from agencies and it is a cop-out.

**Aunty JEAN HANDS:** There is always a fear, even going up those court steps: "Am I going to go to gaol mum?" "Aunty, what is wrong?" They do not want to go to gaol.

**The CHAIR:** The other concern that Committee members share is that in visitation we are starting to see the effects of ice on young people. I know in my area it is getting cheaper.

**Aunty JEAN HANDS:** And nastier.

**The CHAIR:** And nastier. It has associated problems. Is your alliance looking at plans to assist? We met some young people who obviously had been addicted. I do not think they are facing a super bright future.

**Aunty JEAN HANDS:** It is very sad.

**The CHAIR:** It is very sad. It is heartbreaking in many regards.

**Aunty JEAN HANDS:** In the northern region, we saw a drug forum. It was a local government incentive, but it never went anywhere. They ended up dispersing it because they were taking it from the top part and not bringing it down to the community level. We were sitting around a table like this and they were saying, "Yes, we can do this, this and this", but when it came to it, there was nothing. That forum has disintegrated. We have plans within our forum because that was one of our priorities with the accord stuff—that we look at drug and alcohol issues within our communities, within our northern regional community.

**Mr JONES:** Mr Chair, no-one wants this ice in our communities. Sadly, the confidence of going to the police to report this stuff is the issue. We need more police engagement to build the confidence of the community to come forward. Most people know who the ice dealers are but, sadly, they are not confident enough to come forward because they might think there are some ramifications. If my name is Jones and I am not really liked by the police and I go to the police and they tell the ice dealers that I said "Blah blah blah", you know what is going to happen. We need to fix that up somehow so they give the community more confidence to come forward so we can deal with the issues of ice.

**Mr DAMIEN TUDEHOPE:** You are saying that a mother who knows who is distributing ice and potentially giving it to her kids is afraid to go to the police?

**Mr JONES:** Not so much the mother, probably the family members who know her who are not doing it. That is where we need to fix it up to give confidence. As you know, you have to appear in court and give evidence. There needs to be a better way of doing it so we can eradicate those bad practices around ice.

**Aunty JEAN HANDS:** \_\_\_\_\_  
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**The CHAIR:** That is a good question.

**Aunty JEAN HANDS:** That is what is getting into our communities. Why are they not addressing it? As I said, I would like to bomb this house.

**Ms JENNY LEONG:** Sadly, it is not only a case of regional areas.

**Aunty JEAN HANDS:** No, it is everywhere.

**Ms JENNY LEONG:** Tenants in public housing in Redfern and Surry Hills come to our office and tell us that they can identify where it is occurring. They have reported it to the police on multiple occasions and everyone is aware of it, but no action is taken.

**Aunty JEAN HANDS:** It is everywhere. They will not listen.

**Ms JENNY LEONG:** I can assure you that it is also happening in the city.

**Mr DAVIES:** Sometimes the police act, but somehow—I do not know how—the person involved gets wind of it and everything is gone by the time the police arrive.

**Ms JENNY LEONG:** The trust element is a real concern. There is a real concern that if there is not a good relationship with the police, those reporting are putting themselves at risk. That is also seen in Sydney.

**Mr JONES:** It could involve a family and you might break it up. There is a house and there are children. We have to be cautious about how we move forward. This is really a community health issue. Our members are involved and if they lose a house or FACS gets involved, it can become messy.

**Aunty JEAN HANDS:** But then you get these poor young people at the other end.

**The CHAIR:** There is no bright future for them.

**Aunty JEAN HANDS:** No.

**Mr DAVIES:** As Mr Jones said, it might help if you engage them in education at the front before they get into system. Kids in rural areas have nothing to do but walk the streets in the afternoon. I do not know whether it should be the PCYC or something else co-designed with the community, but they must have somewhere to go and they must get education.

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

**Aunty JEAN HANDS:** Yes.

**Mr JONES:** Yes.

**Mr DAVIES:** Yes.

**The CHAIR:** Once again, on behalf of the Committee, I thank you for travelling here and for your informed evidence. It has given the Committee a lot of food for thought. We wish you safe travels home and wish you well in your endeavours.

**(The witnesses withdrew)**

**(Short adjournment)**

**DOUGLAS JOHN HUMPHREYS OAM**, President, Law Society of New South Wales, sworn and examined

**JANE VERONICA IRWIN**, Member, Children's Legal Issues Committee, Law Society of New South Wales, affirmed and examined

**The CHAIR:** Our next witnesses are from the Law Society of New South Wales. 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 about witnesses and the hearing process?

**Mr HUMPHREYS:** No.

**Ms IRWIN:** No.

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

**Mr HUMPHREYS:** Thank you for the opportunity to provide evidence to this inquiry into the adequacy of youth diversionary programs. It is my great pleasure to appear with Ms Irwin, a Member of the Children's Legal Issues Committee of the Law Society of New South Wales. Ms Irwin is also a Senior Associate of the Shopfront Youth Legal Centre, Darlinghurst, which provides free legal services for homeless and disadvantaged young people aged 25 or under. I might add that Ms Irwin has a very distinguished career in the provision of Legal Aid services to children—it stretches back many, many years. I appear before the Committee as the President of the Law Society of New South Wales. I will now briefly provide some information as to my background and my interest in these particular issues.

I worked at the Legal Aid Commission from 1984 to 1993 as a specialist criminal lawyer. I did work in both the Local and District courts. From time to time I also worked in the Children's Legal Service—at that stage it was a very limited service that was basically operating out of Mount Druitt. I also did a lot of mental health work, including matters involving young offenders who had mental health issues. From 1993 to 2003 I was the Director of the Criminal Law Branch of the Legal Aid Commission. In that capacity I was heavily involved in the development and expansion of the Children's Legal Service, including the setting up of the Youth Justice hotline, which I am still very proud of. I worked also with Juvenile Justice to implement key diversionary reforms, including youth justice conferencing and cautions under what was then the very new Young Offenders Act. I also advocated for and was involved in the setting up within the Law Society of New South Wales of an accredited speciality in children's law.

I have not worked in the area for some 15-odd years but I have maintained a very keen interest in diversionary programs. I am particularly interested in ways in which we can take people out of the court system and deal with them more humanely, as well as giving victims better feelings about the justice system and the way it deals with them. I am a very strong believer in restorative justice. At the outset, I note that it is the experience of members of the Law Society who work in this area that it is very often vulnerable children such as children in the care of the State Government who find themselves interacting with the criminal justice system. Our members are particularly concerned about the over-representation of Aboriginal and Torres Strait Islander young people in the criminal justice system. We note that Aboriginal children make up 51 per cent of the Juvenile Justice population, despite comprising 4 per cent of the New South Wales population. In my respectful submission, that is shameful. We strongly support initiatives to expand the Youth Koori Court for Indigenous children. Our members have also reported to us the good work being undertaken through justice reinvestment programs.

We would like government to continue to support these programs but such initiatives have got to be community led to ensure that Indigenous self-determination and culturally responsive approaches are actually used. Aboriginal people have got to be given the opportunity to solve their own problems. I cannot do it for them; we cannot do it for them. We have got to give them the means, method and education so that they can get on with solving their own problems. The Law Society has and will always support initiatives to divert young offenders from the formal criminal justice system. Our submission to the Committee focused on an holistic emphasis on the reasons for a child's contact with the criminal justice system in the first place. If we send them off to court in most cases we are just treating a symptom; we are not treating the underlying cause. It is really important that we do everything we can to treat the underlying causes of why young people have interacted with the justice system. That means we need to look at access to mental health services where it is needed, drug and alcohol rehabilitation support programs, education and the assisted housing that is going to be needed to get them out of the milieu of where they are at the moment which may be causing them to interact.

Our experience is that the Young Offenders Act, which, can I say, was a revolution in New South Wales when it was brought in and is still doing very good work, could be more effectively used by principal

agencies involved. We support better resourcing for youth justice conferencing, which, in our experience, can lead to positive outcomes for both the victim and offenders involved in the process, and that is because the victim actually has a part in the process and they can have an input into the actual sentencing outcome. I am happy to talk later about some of the novel things that I am aware have happened and how they have dramatically changed the life of both the victim and the offender.

A related concern, in our submission, is the negative interaction some children have reported with police, and that is under the NSW Police STMP. Children have reported harassment, excessive police contact, and this is in some cases before they have ever been charged with an offence. Somehow they seem to be picked upon as being, in an intelligence-led system, as likely to commit a criminal offence and they find themselves under that program. In my view, and in the Law Society's view, no child should be the subject of a STMP; it is just plain wrong. We submit that should not be applied to children. We submit that such a policy may draw children further into the criminal justice system rather than seeking to divert them.

Finally, can I say we support the call by Judge Peter Johnstone, President of the Children's Court, to increase the age of criminal responsibility from 10 years to a minimum of 12. We say a minimum of 12; I am happy to argue the toss that it should be 13 or 14. There are different approaches, but we say a minimum of 12. The idea that you can find somebody criminally responsible at age 10 simply defies belief. There is a huge difference between doing something naughty and being criminally responsible for something that they have done. That does not mean to say there do not have to be consequences. There should be consequences, but that has got to look at trying to rehabilitate the child, not to punish them. That is my opening statement, Mr Chair.

**The CHAIR:** Thank you. Ms Irwin, would you care to make an opening statement?

**Ms IRWIN:** I rely on Mr Humphreys, but I can make one if you would like me to.

**The CHAIR:** Absolutely.

**Ms IRWIN:** It is the Children's Legal Issues Committee's view that diversionary programs are important and they are a fundamental part of the Children's Court jurisprudence. It is our view that they reflect our commitment to our obligations under the UN Convention on the Rights of the Child, Article 40, whenever appropriate; that desirable measures dealing with children should proceed without resorting to judicial proceedings and also those rules that are called the Beijing Rules, the standard minimum rules for the administration of juvenile justice; and that they speak about general principles including ensuring the wellbeing of children, developing conditions to ensure juveniles lead a meaningful life, and fostering a process of personal development in education that is free from crime.

Diversionary programs are designed to focus on prevention and rehabilitation. It is our view that that is a better result and better outcome in terms of the community as well as children and young people. It is our view that if the focus is only on punishment or punitive outcomes, the underlying cause of the offending remains unaddressed. I note that Mr Humphreys has referred to those other principles in the Young Offenders Act, which is the principal diversionary program in the Children's Court jurisdiction. Those principles also speak about the importance of restitution and reparation for victims of crime and a role in the process for victims of crime so that the young person can have some insight or some conversation about that and make amends for the offending. These principles, in our view, are reflected, hopefully, in outcome plans that may include aspects of personal development but also may include aspects of contributing positively in the community—for example, work in a community organisation. We note that the Bureau of Crime Statistics and Research [BOCSAR] has research that demonstrates very high levels of satisfaction by offenders and victims in the process, and I think that is referred to in our submission.

In terms of why we think children should receive special consideration, it is our view that because of their youth and immaturity they are more vulnerable than adults and require special guidance, special assistance and special protections, and we think our international obligations recognise that. Established legal principles within the Children's Court jurisdiction tell us that weight should be placed on the principles of prevention, diversion and rehabilitation, and those principles also tell us that the moral culpability of a child is generally lesser than that of an adult because they have not fully intellectually or morally or emotionally or psychologically developed. Those principles also tell us that there should be less weight on punishment and deterrence unless, of course, the offence is objectively very serious, and if that is the case, in our experience the Children's Court responds to that appropriately, or the District Court. However, the courts have always recognised that young people have not reached their full intellectual and moral development and, despite the offence, these have always been taken into account, in my experience, in judicial proceedings and they should be taken into account in prioritising diversionary programs.

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

**Mr HUMPHREYS:** The view that we have taken is that there must be an admission of some sort. Regrettably it has been interpreted within some local area commands that there must be an electronically recorded interview with the suspect person and that the admission must be made on record. In our view it can be much more informal. It could be an entry in the notebook—because in some ways we think that we see that the actual electronically recorded interview is used as an investigation tool rather than being for the purpose for which it should be, which is simply to gain an admission.

There has to be a point at which you say, "Right, we are going to turn around and do something because we are convinced that you have done it." If you are saying there is no admission, the answer to that is there has to be some basis on which you are going to take some sort of action against the person. If there is no admission then I do not think you have to go through another path. One of the things I want to make clear is this: the youth justice hotline was set up and it is an opportunity for kids to ring out of hours if they are at a police station. It is sometimes alleged that lawyers do not advise people to turn around and fess up—that is wrong.

If you are dealing with someone—and you do not just talk to the young offender; you normally end up talking to some of the police involved in the matter as well—I can assure you that if there is a caution or a youth justice conference in the offering, you will have a talk to the kid and you will most likely say to them, after you listen to what they say and what their version of events is, and kids are remarkably honest, "Look, just make an admission." And you can get out from there, because it is the better way to deal with things. It is really important for the Committee to understand that lawyers are not there to tell everybody not to make admissions, particularly with kids when we know that they can be diverted. It just makes plain sense in an appropriate case where they have clearly committed the offence that they should make an admission and then get dealt with either by way of a caution or, if it needs to, by going to a conference.

**Ms IRWIN:** One of the concerns the Committee has is that we understand from members that young people are being arrested so that they can participate in the cautioning process. It is our view that that is not a lawful use of the power of arrest. The use of the power of arrest is governed by section 99 of the Law Enforcement (Powers and Responsibilities) Act and also the common law principle that arrest is a last resort. There is no power for police to arrest for the purpose of an interview or for the purpose of an electronically recorded interview. The attendance at the police station by the young person and their support person does not require an arrest for a caution. An arrest is a loss of liberty, it is a very serious issue and it is potentially very frightening for young people.

The common law principle that arrest is a last resort is a fundamental principle. That is because arrest takes away the very basic right to personal liberty. So arresting young people for the purposes of an interview so that they can then be cautioned goes against the principles underpinning diversionary programs to limit contact with the criminal justice system and divert these young people away from formal process. It has the effect of increasing their contact with police. That is my first point. In addition to that, it is not necessary for an admission to require a comprehensive interview—it is just not necessary.

When the Children's Court deals with a young person under the Young Offenders Act by way of a caution, a solicitor simply attends the bar table and says to the court that this young person admits the offence. The court can then proceed to caution the young person. It should not be any different in a police station. It is very concerning not just that there appears to be a compulsion for a comprehensive interview but that there is an arrest for that purpose, which in my view is an unlawful arrest. It does not accord with section 99 of the Law Enforcement (Powers and Responsibilities) Act and it does not accord with common law principles that relate to the power of arrest. I just wanted to make those two points.

**The CHAIR:** A young person can only be handed a caution by police three times under the Young Offenders Act. Is this an arbitrary limit? Also, should a court be given discretion to hand out a caution when a young person has already been cautioned by the police three times? Alternatively, should police be able to hand out an unlimited number of cautions in appropriate circumstances?

**Ms IRWIN:** I am happy to answer that. It is our view that there should not be a limit to the number of cautions that police can issue or that a court can issue. The reason we say that is because courts and police have a very broad discretion under the Young Offenders Act to decide whether or not it is appropriate to caution. We believe it is a fetter on the discretion of the referral agencies or the cautioning agencies, which are the police and the courts.

In fact, the matters that they must take into account under the Young Offenders Act in terms of whether or not to caution are the seriousness of the offence, the degree of violence involved in the offence, the harm caused to any victim, the number and nature of any offences committed by the child and the number of times the child has been dealt with under the Act, and any other matter the official thinks appropriate in the circumstances. It is our view that those factors that the court or police have to take into account they will take into account. If it is the case that a young person has had simply too many cautions or the matter is of high objective criminality then it is very likely that that young person will not receive a caution by police or by courts, we do not believe that that needs to be prescribed in the legislation.

**Mr HUMPHREYS:** Particularly where there is a time gap between perhaps some cautions being given. They are kids. They will do stupid things. It is really important that there is flexibility and that they can turn it out. The police will look at the matter and they will look at what is there. We do not believe you can simply say, "You can only get three cautions." For kids interacting with the police because they come from a dreadful home circumstance and whatever, it may well be that there is a really good reason why we should continue. They can be held accountable and they can be dealt with, but three just seems to be an arbitrary point.

**Mr DAMIEN TUDEHOPE:** You made an observation about advice offenders are given in relation to making no admissions.

**Mr HUMPHREYS:** I think I said that in fact it is not unusual for them to be given advice to make admissions.

**Mr DAMIEN TUDEHOPE:** Is it not the case that many of your members take the view that the last thing a person charged with an offence should be doing is making an admission to the police?

**Mr HUMPHREYS:** No.

**Mr DAMIEN TUDEHOPE:** That is not true?

**Mr HUMPHREYS:** I have worked as a duty court solicitor. I have worked and done a lot of stuff. You will listen to what the person tells you. Particularly with children, what you are looking to do is to get the best outcome for the child. Sir, I can tell you in some serious criminal law matters in the District Court I have given the following advice to my client: "On your instructions and on the material that has been presented in the brief, the only decision the jury is going to have to make is whether or not they have a cup of tea before or after they convict you. However, it is a matter for you. If you want to go on, that is your right. If you want to turn around and take advantage of the discounts that are available for pleas of guilty then so be it." What I am saying is a good criminal lawyer will always set out the advantages and the disadvantages of each course of action, but you also need to understand that in some cases we are dealing with people who will not listen, and that is their right.

**Ms IRWIN:** Solicitors have a duty under the Legal Profession Act to give very sensible advice including, if there is scope for diversionary referral, to be very careful about the way they advise children and young people. There has also been a study by the Legal Aid Commission on that very issue. There was a study of 195 calls where the police were considering dealing with a young person under the Young Offenders Act. In 177 of those cases—that is over 90 per cent of those cases—the solicitor's advice was to make an admission. So I do reject that.

**Mr DAMIEN TUDEHOPE:** Perhaps it is against the circumstances where you have received advice in relation to a particular offence. It is probably in relation to whether you want to make an admission in relation to where you were at a particular time or whether there is another potential story relating to the same facts or circumstances. I might not have been entirely clear in relation to that. There are circumstances where lawyers are reluctant to give advice to their clients because the mere giving of the advice then opens the person—

**Mr HUMPHREYS:** I think you might be confusing some of the more difficult aspects of alibi evidence and other things that occur in serious criminal matters. The Parliament has set itself up and created a law whereby if a solicitor attends an interview at a police station—I am talking about adult offenders—and something is said during the course of that, and that it is sought to be gone over or argued against, that is a real problem. In fact that law has actually encouraged solicitors not to attend at police stations and not to participate in records of interview with clients. That was a decision that was made by the Government some time ago. I believe it has had unintended consequences. There is a huge difference, however, between what you are talking about and what we are talking about.

**Mr DAMIEN TUDEHOPE:** I agree with and understand that. There are circumstances where lawyers do not want to attend for that purpose, though in relation to—

**Mr HUMPHREYS:** Because it is just not clever.

**Mr DAMIEN TUDEHOPE:** I understand that. The submission you would want to make in relation to that is that we ought to do something in respect of amending the giving of advice by lawyers in those circumstances so that it will not be construed in the manner that you have identified.

**Mr HUMPHREYS:** Yes.

**Mr DAMIEN TUDEHOPE:** One of the things in relation to the Young Offenders Act is that it does not, for example, apply to graffiti offences.

**Mr HUMPHREYS:** They are excluded from it, as I understand it.

**Mr DAMIEN TUDEHOPE:** They are excluded. Would you want the Act to include graffiti offences, or should it be expanded to include other offences?

**Mr HUMPHREYS:** My view and the view of our members is that when you are talking about behaviour by kids—I am not talking about adults—you are far better to cast the net as wide as you can. To discover why we excluded graffiti I think you would have to look at the second reading speech in *Hansard*. Some people got sick of it and they wanted people to be dealt with severely for graffiti. I walk around my area and I see graffiti. Do I like it? No. There is a quantum difference between people who go down to the train yards and spray the trains then put it up on YouTube and kids putting a tag on something. It is annoying but, at the end of the day, it is the sort of stuff that can be dealt with effectively. If you turn around and send a kid off to a conference, what is going to happen? As the landowner I am going to have to attend; I am going to have to tell the kid all of the issues that I have had. I am then going to have a say in the outcome.

I think that is a much better way. It gives a much better outcome than simply making a kid go to court. He would probably get a section 10 anyway, that is, no conviction recorded, or something else. Conferencing is actually much more difficult than going to court because you actually have to look the victim in the eye. There are lots and lots of circumstances that I am aware of where kids break down and cry because they have been brought face to face with the consequences of what they have done. Should we include it? Yes. Should we include virtually everything else we can? My answer is: absolutely.

**Ms IRWIN:** We agree with the position that His Honour Judge Johnstone, the President of the Children's Court expressed recently, that all matters that are currently able to be dealt with by the Children's Court should also be able to be dealt with under the Young Offenders Act. We believe that if we are serious about the importance of diversionary programs and the reasons for them they should incorporate all those matters. That includes graffiti. The Children's Court does have jurisdiction to refer matters to a youth justice conference or to caution a child under the graffiti Act. It is the police who do not have the powers to do that.

For the reasons I outlined earlier, if an offence is objectively serious, our experience is that the referral agencies, police or courts will not refer or divert under the Young Offenders Act. They take into account a range of factors, including the harm to the victim and the objective seriousness of the offence. We believe that there should not be these exclusions peppered throughout the Young Offenders Act that have developed over time. We believe that the discretion should be left with the police and with the Children's Court in terms of whether or not the factors are met that they need to consider when diverting under the Young Offenders Act. It is a matter for them.

On the issue of graffiti, statistics show that the Children's Court are cautioning under the Young Offenders Act or referring the majority of matters to a conference. We think it is appropriate that police also have the power to refer or caution under that Act. We do not believe there is any clear or logical reason why they are excused from being dealt with by the police under the Act. Much more serious offences—much more objectively serious offences—such as offences of violence, go before youth justice conferences. It does not really make sense, in our view, that these matters are excluded. There are other matters that are excluded, which we do not think should be—for example, strictly indictable matters are excluded but there are many matters which have elements of an the offence of a strictly indictable matter but may be of lower objective criminality because of the age, lack of antecedents or the conduct that is involved.

**Mr DAMIEN TUDEHOPE:** In 2013 there were more than 500 young people incarcerated in Juvenile Justice centres. Yesterday we were told that the number is down to 301. What is the Government doing right?

**Mr HUMPHREYS:** My comment is that you have an extremely good Children's Court Chief Magistrate. That is Judge Johnstone, who has been working exceedingly hard to try and see what can be done to reduce the numbers. Juvenile Justice is working incredibly hard to come up with alternatives. The most dramatic situation you have is where the court wishes to give a kid bail and they have nowhere to go. The only place they have to go is lock-up.

**Mr DAMIEN TUDEHOPE:** That is part of the 301, by the way.



**Mr HUMPHREYS:** I know. All of the things that have been done over the past four years have cumulatively added to the ways and means in which we can reduce the number of kids in remand.

**Mr DAMIEN TUDEHOPE:** That does mean that diversionary programs are, in many respects, working.

**Mr HUMPHREYS:** I think they are. The one thing you do not want to do is have a situation where the default for kids is lock-up. It should be the last resort. It is incredibly expensive, for starters. In my last conversation with Judge Johnstone, he estimated that it costs about \$400,000 per annum to lock a kid up. The point is that there are kids out there who, in some cases, see lock-up as being a better alternative. That is a dreadful indictment on society.

**Ms IRWIN:** It is extremely reassuring that those numbers in juvenile detention are reducing. However, I think we need to go back to a point that Mr Humphreys made in his opening statement—that is, that of those people in custody, 51 per cent are young Aboriginal and Torres Strait Islander people. They form 4 per cent of the youth population in New South Wales; they are 51 per cent. We are doing something wrong. That needs to be addressed, in our view.

**Mr DAMIEN TUDEHOPE:** Can you tell us what we are doing wrong? Why do we have such a large number of Aboriginal people in custody?

**Ms IRWIN:** It is very complex. We address that in our submission. We believe that we need a multi-pronged approach in relation to this issue. There is over-representation of young Aboriginal people and Torres Strait Islander people in Juvenile Justice detention centres. There is over-representation of young Aboriginal and Torres Strait Islander people who fall away from the education system in terms of non-attendance, suspension and expulsion. There is over-representation of young Aboriginal people and Torres Strait Islander people in the child protection system, and we know from research that these are all linked. Young people who fall away from education and who are over-represented in the child protection system are the same young people who drift into the Juvenile Justice system. The view of the Law Society, and the Children's Legal Issues Committee in particular, is that early intervention is the key.

It is our view that intervention as early as possible in terms of community support is critical. It is our view that we should not be channelling money just into the back end, into detention centres and locking up these young people, but into the front end, early intervention programs. In relation to the Young Offenders Act and diversionary programs, I will talk about some research by BOCSAR. BOCSAR found that Indigenous children were less likely to receive a caution or a conference than non-Indigenous children. This was so even after adjusting for factors such as prior cautions, conferences and court appearances. That is a problem. The more contact that young people have early on with police and with the justice system, the more entrenched their contact becomes later on and the more drawn in to the Juvenile Justice system and the criminal justice system they become.

One thing we think we are doing right and that the Law Society would urge expansion of is the Youth Koori Court. You have probably heard that that is a pilot program in Parramatta. Just this week an evaluation of the program was released by the University of Western Sydney, and it found that participation in the program cut the average number of days spent in youth detention. It also found that the program addressed underlying issues such as unstable accommodation, falling away from education and employment and disconnection from Aboriginal culture. We see that is really promising; it is a relatively recent initiative. We think it should be expanded, particularly into regional areas.

**The CHAIR:** We are going there tomorrow.

**Mr HUMPHREYS:** One of the issues is that there is a very patchy use of youth justice conferencing in some regions. In some cases, they do not even have the resources to have properly trained conveners. If we are going to try to address this, we have to make sure that the resources are even and statewide. The fact is that if a child who committed an offence in Sydney can gain access to a youth justice conference, if they commit the same offence in Moree or Taree or somewhere else they should also have the same access to a youth justice conference and the same access to rehabilitation services. Herein lies the issue.

**Ms IRWIN:** There is evidence that there is inconsistent use of the Young Offenders Act across New South Wales. There are some places where there simply is no infrastructure to support those diversionary programs, everything from youth justice conveners to venues to community organisations that can support outcome plans. Outcome plans are supposed to be addressing criminogenic issues, factors that are drawing young people into the criminal justice system to try to halt the offending. But if you do not have the community and organisational resources in regional areas then you have a real inequity in terms of which young people are able to access these programs. It is all about resourcing and funding and the provision of community services.

**Mr DAMIEN TUDEHOPE:** I feel obliged to ask you about the STMP. You say it should never be used in relation to a young person. Do you accept that the police may see it as a valuable policing tool? In fact, I think you said that it is used in circumstances where the intelligence the police have underpins the use of the plan?

**Mr HUMPHREYS:** I understand it is intelligence driven. One of the issues that we have is that the police have been completely unwilling to share the basis upon which they come up with about who it is that they will target and the basis upon which they will target them. If we are going to have such a tool being used, it is incumbent upon the Police Force to be transparent on the basis of how the plan will be used and the criteria that will be used to draw someone into that net. We have said that it is inappropriate to be used for children. We say it is very inappropriate for it to be used for children who have not come into contact with the criminal justice system. That is just plain wrong.

**Ms IRWIN:** It is our view that there is no evidence base to say that it is an effective crime prevention tool. It is our view that that program fosters very negative relations between police and young people and that it will have the opposite effect of net widening and drawing young people into the criminal justice system, rather than preventing crime. Part of that is because it will impact relations between police and young people. I am sure you are aware of the report by the Public Interest Advocacy Centre and the Youth Justice Coalition in 2017. Some of the concerns highlighted in that report are of great concern to the Law Society. Young people and Aboriginal people are targeted, so there is an issue, particularly if we are talking about diverting young Aboriginal people out of the criminal justice system. The program has a net widening impact, in our view.

The STMP is being used against children as young as 11, and there is no justification for that. It amplifies the experience of stigmatisation for young offenders. It runs contrary to basic principles that relate to diversionary programs. It runs contrary to our obligations under the Convention on the Rights of the Child, which is to develop a therapeutic approach emphasising personal development and wellbeing and rehabilitation, not net widening.

**Mr DAMIEN TUDEHOPE:** Would you accept that the police may see the program differently? I am sure you would not be surprised to hear that the police might see it as a valuable community protection tool. In circumstances where there are spates of car theft or damage to property in regional areas, police see it as a potential tool for reducing the level of offending.

**Ms IRWIN:** It is our view there is no evidence base for that view.

**Mr DAMIEN TUDEHOPE:** If there was an evidence base, would you accept it as a valuable tool?

**Ms IRWIN:** No.

**Ms JENNY LEONG:** We asked the NSW Police about this and we were told that the police had conducted an internal review. We asked if they were willing to share the findings, and they said they would consider sharing it. They were unable to provide the Committee with any evidence of the effectiveness of the program or any transparency around the project.

**Mr HUMPHREYS:** As I said, they are not prepared to be transparent about how it is that they are coming up with the people that they are looking at. Is it just because they happen to be the brother of a bloke who has been in trouble before?

**Mr DAMIEN TUDEHOPE:** You know that that is not true.

**Ms JENNY LEONG:** We do not know that, and the evidence presented by the NSW Police is that currently the youngest person on the STMP is 13 and the proportion of Aboriginal to non-Aboriginal people is 50:50, which is significantly different to the general population.

**Mr HUMPHREYS:** If you constitute 4 per cent of the population and 50 per cent of the STMP—

**Ms IRWIN:** It is very concerning. There is evidence to show the more contact with police the more likely these young people are going to be drawn into the criminal justice system. I think the STMP is a very bad policy for that reason alone.

**The CHAIR:** A number of other groups have raised similar concerns.

**Ms STEPH COOKE:** You have raised concerns about recent increased powers of the Minister for Education to issue a non-attendance directive where a young person's behaviour at school is deemed serious violent conduct. Would you please expand on that comment?

**Ms IRWIN:** I am happy to expand on those comments. The reason we are terribly concerned about a focus on increasing the powers of expulsion is that roughly 40 per cent of young people coming before the

Children's Court are disengaged from school. We see it as a significant risk factor in increasing contact with the criminal justice system. We think expulsion is a punitive approach rather than a therapeutic approach. What are the outcomes for these young people if they are excluded from education and probably excluded from vocational opportunities? Where are they left at that young age? We think we have an obligation to ensure that they remain engaged with school and that they do not drift into the criminal justice system.

We know that the issue about young people being disengaged from education, drifting into the Juvenile Justice system is one that his Honour Judge Johnstone, the President of the Children's Court, is very worried about. We would support different types of strategies, such as having officers of the Department of Education based in Children's Courts to help re-engage young people back into education, or alternatively more services designed to focus on education but that are different from mainstream education, if they are the places that young people are falling away from.

**Ms STEPH COOKE:** Further to that, in a school setting, if a child finds himself or herself being suspended for a long time, 10 to 20 days, or even expelled, that would be for quite serious conduct. How do we find that balance of assisting that individual child without compromising the educational outcomes and the safety of the broader school population, teachers, et cetera?

**Mr HUMPHREYS:** This is a value judgement. There is a whole lot of grey here. We know what is black, we know what is white, and then we move into the grey area. What we have to do is be clever about if we have to remove a kid from school. I accept the fact that for the benefit of the child, and indeed some of the school community, they may need to spend time away. However, what is the point of just excluding them if we are not trying to see if we can give them something else to occupy their time? I think we have to say, if we are going to remove a kid from school we have to keep them busy.

I have been in the Army Reserve for a long period. A regimental sergeant major said to me when I was a young officer that you need to keep soldiers busy. I said, "Why is that?" He said, "Because if you do not keep them very busy they will find novel and inventive ways of occupying their time that will inevitably involve a great deal of trouble." It is the same with kids. If you are going to turf them out of school, fine, but keep them busy otherwise. And that is where I think we are falling down. What if we keep them busy and give them other skills? They may not necessarily be in school but at least they are not wandering the streets. That is why I think we need to become more clever. That is going to be resource intensive, yes, but it is a far better outcome.

**The CHAIR:** The Education Department was talking about suspension centres.

**Mr HUMPHREYS:** I am not an expert. I am simply saying I think we need to look wider and we need to keep these kids busy. Being busy could be just doing sport or it could be doing a whole heap of other things. One of the problems with these kids is they have a very low sense of self-worth. If you can show them that they can do some things, it then becomes easier to convince them that they can do other things, such as schoolwork and traditional schoolwork. But it is keeping them busy. If they are occupied they are not committing crime.

**Mr EDMOND ATALLA:** I want to pursue the area of juvenile mental health. The Committee has heard that magistrates are reluctant to use section 32 of the Mental Health Act to divert juveniles away from the criminal justice system. Can you make comment on that and why is that the case?

**Ms IRWIN:** We know that many young people in the Juvenile Justice system have mental health conditions. There was a 2015 Justice Health and Juvenile Justice report that found that 83.3 per cent of young people in custody have some type of psychological disorder. Generally speaking, the diversionary method for young people who are experiencing cognitive impairment, mental health or intellectual disability, the mechanism is section 32 of the Mental Health (Forensic Provisions) Act.

The sorts of problems that members have reported in relation to the use of that Act and that provision is, first of all, accessing a diagnosis. That is expensive and there is an issue with how solicitors can get access to a mental health diagnosis. In my experience and the experience of other members of the Children's Legal Issues Committee, magistrates cannot make an order diverting a young person from judicial proceedings into a support plan or into treatment without a diagnosis. There is an issue with funding. There is an issue with proving that diagnosis in court.

There are two things you need: you need a diagnosis and you need a treatment plan or a support plan under the provisions of that legislation. There is a view of members that there are very poor resources that relate to mental health for young people to implement those mental health plans or to devise those support plans. That is what we are hearing. Again, it is about resources, it is about funding. An example is a lack of funding for dual diagnosis-type programs. A dual diagnosis is a diagnosis usually of a mental health condition coexisting with a substance abuse problem.

I think we refer to the Triple Care Farm facility in Robertson in our submission, which is an amazing facility for this age group. That is a dual diagnosis centre that has specialist psychologists and psychiatrists, social workers and counsellors working with young people as well as dealing with their substance abuse issues. It is a wonderful program, but there is not enough of them. I know from my personal experience of trying to get a young person into Triple Care Farm it is extremely difficult. The waiting time is very long and often courts simply will not wait that long. The reasons, as I understand it, that I have been told by members and in my own experience are because there are not enough services, there are not enough programs, and for the vast majority of young people going through the Juvenile Justice system they cannot get access to the funding for the diagnosis. A court needs evidence of a mental health condition in order to adopt that diversionary option.

**Mr EDMOND ATALLA:** For clarity, are you saying that we are compromising children with mental health issues because the Government is not funding a resource to be able to assess that child before the magistrate is dealing with them?

**Ms IRWIN:** I am saying that we need more resources, and I am saying that they need to be rolled out in Children's Courts everywhere. There are Justice Health workers based in Children's Courts. My experience is magistrates will only consider a diagnosis of a clinical psychologist or psychiatrist.

**Mr EDMOND ATALLA:** But that is not readily available in every case?

**Ms IRWIN:** In my experience and from what the members are telling us in the Children's Legal Issues Committee, that is not readily available. There is a program—I am not sure if the Committee is aware of it—at the Penrith Local Court at the moment called the Cognitive Impairment Diversionary program. It is a pilot program that started very recently—at the end of last year from memory. It is a program where if it appears to a solicitor or a judicial officer that somebody has an undiagnosed cognitive impairment they can be referred to this program and there is a process where they are assessed by a forensic psychologist or psychiatrist. A plan is put in place, including, for example, referral to the National Disability Insurance Scheme [NDIS] program that can provide a support plan or a treatment plan so that an application under section 32 can then be made in the court. There is a pilot program trying to deal with these sorts of issues and the lack of services. It is our view that those programs should be available to young people and children, particularly because we know that the principles that relate to Children's Court matters place extraordinary weight on the importance of rehabilitation, prevention and diversion.

**Mr EDMOND ATALLA:** That explains why 83 per cent of those in detention centres have some form of medical health issue. Can you imagine if 83 per cent of those in detention are receiving treatment elsewhere, how much further will the numbers—which my colleague the Member for Epping said were reducing—reduce?

**Ms IRWIN:** Yes.

**Mr HUMPHREYS:** One of the biggest issues that we have in terms of mental health and cognitive issues is foetal alcohol spectrum disorder. There is some research from Western Australia that came out where they did a diagnosis on a group of people that were in detention. Particularly amongst the Aboriginal and Torres Strait Islander grouping, the level of foetal alcohol spectrum disorder was enormous. One of the biggest things that I think we need to work on is being able to get to grips with that and being able, in turn, to try to deal with it. The impact of that disorder is that high-level thinking, impulse control and being able to make sound decisions are impacted.

**Ms IRWIN:** It is a very complex diagnosis and a complex assessment process. It is very difficult to have a client diagnosed or assessed properly in terms of that condition.

**Mr EDMOND ATALLA:** Turning to the subject of the Youth Koori Court that you mentioned, we have heard about its success. Is there any data that can give us a direct comparison for 100 Indigenous people that appear before the Youth Koori Court, how many of those—how much percentage—end up in a detention centre versus 100 Indigenous people—

**Mr HUMPHREYS:** We are going to take that on notice.

**Mr EDMOND ATALLA:** Yes.

**Ms IRWIN:** There has only been one evaluation that has just been released this week.

**Mr EDMOND ATALLA:** But that does not give us the percentage. Of those appearing in the Youth Koori Court versus the percentage of Indigenous people appearing in a normal court, how many of each side end up in a detention centre?

**Ms IRWIN:** I do not think it gives us the detail.

**Mr DAMIEN TUDEHOPE:** Does the Youth Koori Court have jurisdiction to send people to detention?

**Ms IRWIN:** The Koori Court has the same jurisdiction as the Children's Court.

**Mr EDMOND ATALLA:** If you could take that on notice, if there is some statistic—

**Mr HUMPHREYS:** We will do our best, Sir. I cannot guarantee that there is an answer to give you because the research may not have been done.

**Ms JENNY LEONG:** Can we go back to the questions that the Member for Mount Druitt was asking about the health assessments and the mental health assessments. NSW Health and Justice Health spoke to us this morning and discussed the Justice Health workers that are within the court system and are conducting mental health assessments. From recollection, they said that it is not an ideal time to be doing it because they are doing it pre-court. I imagine that for most people entering that system it would be anxiety inducing at the best of times. You said that funding is available for mental health assessments but that Justice Health workers are providing assessments and magistrates are requiring a different level of assessment. Could you give us a little more detail about that?

**Ms IRWIN:** I am not pretending to be completely over all the detail.

**Ms JENNY LEONG:** From your experience and from what we have heard from Justice Health it is good information. Would you step us through an assessment which could be between a 15-minute to two-hour assessment? You have told us that it is 15 minutes. In that sense, it would be good to get your perspective, being in that system, what that mental health assessment looks like.

**Ms IRWIN:** I work at the Shopfront Youth Legal Centre and we work with the young and homeless people under 25 years of age and, in my experience, many young people we represent have mental health issues. We do many section 32 applications in the adult jurisdiction; we do some in the Children's Court jurisdiction. My experience in terms of Justice Health reports is that usually—and I may be wrong—they are conducted by specialist mental health nurses, as I understand it, not necessarily by forensic or clinical psychologists or psychiatrists at the level of the court with those assessments being done.

They are very useful. I found them very useful because they alerted the court to the fact that there are potential mental health issues or cognitive impairments. That gives me some basis to ask for time to get a more thorough assessment. It is a very important, very useful and valuable resource, particularly for people who are presenting with serious mental health issues at court. It is very difficult to deal with it as a lawyer and is extremely reassuring to have that service. I support that and I think that it should continue to be rolled out across courts in New South Wales.

**Mr HUMPHREYS:** I add that it is a really useful trip wire. It is not a fully fledged diagnostic tool. People tell you that there is a problem here that we need to turn around and get something done. That is the best that you can hope for. In saying that, I am not in any way criticising it; I think they do a great job. But it is a situation where they would be able to pick it up. As lawyers, if you have been doing enough of the work you start to get an idea that there is a problem here. It is much better to have somebody who can say, "Yes, there is a problem here" or "No, you are wrong. We do not think there is anything there." It is a trip wire, but you then have to be able to turn around and get the proper resourcing and the proper reports.

**Ms IRWIN:** The issue is who funds the report from the psychiatrist or the clinical psychologist.

**Ms JENNY LEONG:** Currently is it nobody, somebody or sometimes? How does it work in practice? What is the answer to that question?

**Ms IRWIN:** The way it works in practice is that you need to put in an application for that disbursement. It is about funding and whether or not there is enough funding to pay for the number of reports that are needed. It is as simple as that.

**Mr DAMIEN TUDEHOPE:** I want to ask a follow-up question. What you are suggesting is that you can use it as a trigger to delve further, but that raises the further issue of a bail application. You might want to adjourn so that you can get further reports to proceed with the section 32 or section 33 application and then you need to apply for bail. We have heard that the problem with bail is that the young person may have nowhere to go and the magistrates are faced with a situation where the only place they can send them is the detention centre.

**Ms IRWIN:** Yes.

**Ms JENNY LEONG:** Or we could invest in more housing?

**Mr HUMPHREYS:** The question is, What significant out-of-detention accommodation do we have for young people?

**Mr EDMOND ATALLA:** It is an issue.

**Ms IRWIN:** We need more emergency accommodation. We need more short-term accommodation, we need more medium-term accommodation, and we need more long-term accommodation. The provisions of the Bail Act allow a Children's Court to compel the relevant Government Department to look for housing for a young person. But again, it goes back to the resources. If it is not there, then there is a real issue about whether young people in detention should be in detention or it is because they are homeless because of a welfare issue. Detention is punitive. It is not a good outcome at all.

**Mr DAMIEN TUDEHOPE:** It might allow multiple addresses, for example.

**Ms IRWIN:** My experience is that young homeless people couch surf. They do not usually have any addresses; they are moving around—sometimes sleeping rough, sometimes sleeping with a relative if they will have them or sometimes sleeping with a friend if they will have them. If we are to seriously talk about effective diversionary programs for young homeless people, which are many, we need to provide secure housing. You cannot even manage a Centrelink payment if you do not have secure housing because you are buying takeaway food all the time. You cannot manage a job; you cannot have a shower to go to a job. You cannot go to school because everyone has got lunch, or you are just so chaotic. It is a real problem. And that is why so many people who are homeless are in the Juvenile Justice system.

**Ms JENNY LEONG:** A specific issue that was raised in a submission was that transit officers on public transport have the training or awareness that a young person may be sleeping on a platform, a bus or have not bought a ticket because they do not have any money and they are trying to get to where they need to go. From your experience, do you have suggestions how the New South Wales Government might improve awareness and might address those issues that would prevent young people finding themselves involved in the criminal justice system as a result of needing somewhere safe and warm to have a rest? It is no reflection on the individual transit officer; it is about training, culture and policies on how those things are approached.

**Ms IRWIN:** A start would be education and training but also to give transit officers the power to issue cautions or warnings. Low criminality, nowhere to live—these are young people who are under 18. As a society, we should be very concerned in respect of risk that this is what is happening. It happens. We have a huge fine practice at the Shopfront Youth Legal Centre because we are dealing with fines that young people have that have started sometimes when they were as young as 13. They are fare evasion fines from sleeping on trains, because trains are one of the safest places to be if you have to sleep rough. It is quite a process to get those fines waived or written off or for a young person to be placed on a work and development order. You can see why somebody who is homeless, who has no access to income because of their age then gets fined and ends up having to work it off. There is a sense of injustice and there are problems in respect of relations with transit officers and police that spiral into why these young people are turning up in our criminal justice system.

**Ms JENNY LEONG:** You gave details at the beginning of your evidence about the youth hotline. We have heard about the custody notification service. How many people would know that that the youth hotline is available?

**Mr HUMPHREYS:** The police are required to tell them.

**Ms JENNY LEONG:** They are required to tell them?

**Ms IRWIN:** Yes.

**Mr HUMPHREYS:** That was as a result of a decision of the Supreme Court many years ago when police proceeded to interview a person without adequately indicating their right to consult a solicitor. The judge made a ruling and it was that ruling that disallowed the evidence being put in as a result of the interview which we then managed to get the funding for the youth justice hotline.

**Ms JENNY LEONG:** This was raised in a discussion when Legal Aid were here. There is a perception of the advice being given versus the report that you cited on the advice being given. This question follows on from what the Member for Epping was asking about the advice that lawyers are giving to young people about the hotline versus the reality of the data that has been presented in that report. Where is the breakdown in that and what is the problem? Surely it is available to everybody. Every young person in custody is required to be notified about the hotline. I do not understand why there is a breakdown between the perception and the data that we are seeing. Can you expand on that?

**Ms IRWIN:** I am not sure about the perception. I am a bit confused about the perception.

**Mr HUMPHREYS:** I am not quite sure what I am even commenting on. All I can say is this: the people who are manning the youth justice hotline are salaried Legal Aid solicitors. They are not making additional money by advising people to plead guilty so they can go to court. There is no incentive for them other than to give the best possible legal advice that they can. It also depends on what the police say to people. They say, "There is a youth justice hotline; I would not worry about that." I am not suggesting the police say that. I am simply saying there is a heap of other things you need to unpack to get from there. I can assure you that the staff at the Children's Legal Service give the best advice they can in the circumstances. A child has to be receptive to making an admission. That is why I am saying you can give advice, it is not always not accepted.

**Ms JENNY LEONG:** You have raised concerns in your submission of cases where police have obtained New Street Services counselling notes and used those notes as evidence against a child. You argue that this stops children from participating in full and honest therapy with counsellors. Can you provide some additional comments on this issue?

**Ms IRWIN:** I did not participate in that part of the submission. I am trying to reflect on that question. I guess the concern is New Street is a program that is designed as an early intervention program for people at risk of sexual offending. Somebody does not have to have committed an offence. In fact, the rule is that they have not committed an offence to be eligible for that program. It is an early intervention program that we would encourage the Law Society—as I have said, we think early intervention is everything and if you are dealing with the rehabilitation of young people who may be at risk of offending through a program like that we support it. These are young people who have not committed any offences or have not been charged with any offences.

The issue raised by my colleague in that part of the submission is that if we want it to be an effective program of rehabilitation, a diversionary program that ensures that these young people do not offend and be drawn into the system, then they need to have confidence in that program and that they can be honest and frank and open in their counselling with their psychologist and there will not be fearfulness in respect of any admissions that might be made that can then be subpoenaed and used against them. It is about the participation of young people in the program in a way that will genuinely address that criminogenic issue in a way in which they feel secure and safe. These people have not been charged with offences. They are at risk of sexual offending and they have been referred either by police or the education department, as I understand it. I think that is what that part of the submission referred to.

**Mr HUMPHREYS:** We have moved on a statutory basis to prohibit the accessing of counselling in relation to a sexual offender victim. That is a good thing. I have no issue with that. In these circumstances, if we are going to look at diversion as being the main aim, it would seem to me to be only proper and right that you would provide a statutory protection in relation to those notes. What we are looking at is trying to divert the person. It seems to me to be an improper use of the diversion program to then try to use admissions made in counselling as evidence to charge somebody. If the evidence exists, I can assure you they are not going to need the admissions to actually get it.

**Ms JENNY LEONG:** I am happy if you want to take this question on notice. Given the interest of the Committee has been focused on the STMP program, you mentioned that the program involves excessive police contact before them being charged with an offence. It would be appreciated if you could give the Committee some case studies or examples how you believe as a society your members have experienced this.

**Mr HUMPHREYS:** We are happy to take that on notice. We can ask the committee and see if they can come up with some examples but they will be hearsay.

**Ms JENNY LEONG:** It would be appreciated. Thank you.

**The CHAIR:** Thank you for appearing before the Committee today. The Committee may wish to send you additional questions in writing. Replies to those questions 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 HUMPHREYS:** We are happy to provide a reply. I do not guarantee it will be within five business days.

**The CHAIR:** On behalf of the Committee, I express our appreciation for your attendance. You have provided informative and knowledgeable answers.

**Mr HUMPHREYS:** Thank you, Sir. If I can say by way of final conclusion, there is no amount of resources that we should not be spending on this issue. In respect of youth, the costs to the community of somebody going into the criminal justice system and then nothing happens and then they end up spending years and years in gaol, it is a wasted life. It is all of the harm that is then done to victims. The more money we spend up-front, it will be cheaper in the long run, let me assure you.

**The CHAIR:** Thank you.

**(The witnesses withdrew)**

**(The Committee adjourned at 17:00)**