

General Purpose Standing Committee No 3

# **Inquiry into Kariong Juvenile Justice Centre**

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Report on Kariong Juvenile Justice Centre

Chair: Hon Amanda Fazio MLC  
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## How to contact the committee

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## Terms of Reference

1. That in view of the answers given by the Minister for Juvenile Justice at the estimates hearing held on Thursday 16 September 2004, this House requests General Purpose Standing Committee No. 3 to meet for the purpose of hearing evidence from youth workers and staff at Kariong Detention Centre.
2. That for the purposes of these hearings, the committee has leave to sit during the sittings of the House.
3. That the following witnesses be invited to appear before the committee:

Mr Dale Bassett	Mr Scott Bell
Ms Helen Egan	Ms Kim Emmerson
Mr Luke Falconer	Mr Brian Fitzpatrick
Mr Mark Fitzpatrick	Mr Peter Hawthorne
Mr Andrew Makay	Mr David Maryska
Mr Michael Pedavoli	Mr Mitch Walsh
Mr Greg Jones	Mr Byron Hill
Mr Tony Hansen	Mr Gary Hall.
4. That additional witnesses may be called by order of the committee.
5. That all evidence be taken in camera, and only made public by order of the committee.
6. That the committee report to the House any evidence made public by the committee within seven days of the final hearing.

These terms of reference were referred to the Committee by the Legislative Council on 22 September 2004, as amended on 27 October 2004

## Committee Membership

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The Hon Amanda Fazio **Australian Labor Party**

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The Hon Peter Breen MLC **Independent**

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The Hon Catherine Cusack MLC **Liberal Party of Australia\***

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The Hon Charlie Lynn MLC **Liberal Party of Australia**

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The Hon Eddie Obeid MLC **Australian Labor Party**

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The Hon John Tingle MLC **The Shooters Party**

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The Hon Ian West MLC **Australian Labor Party**

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\* The Hon Catherine Cusack MLC replaced the Hon Greg Pearce MLC for the duration of the Inquiry.

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## **Chair's Foreword**

On Wednesday 22 September 2004, the Legislative Council requested that General Purpose Standing Committee No 3 meet to hear evidence from youth workers and staff at Kariong Detention Centre. Subsection 6 of the terms of reference requires the Committee to provide any evidence made public by the Committee to the House within seven days of the final hearing. The final hearing was held on 12 November 2004, and accordingly General Purpose Standing Committee No 3 presents the following report to the House.

**The Hon Amanda Fazio MLC**  
Chair



# Chapter 1 Introduction

Following the 2004-2005 Budget Estimates hearing for the portfolio of Juvenile Justice and Western Sydney<sup>1</sup>, the Legislative Council requested that General Purpose Standing Committee 3 meet for the purpose of hearing evidence from youth workers and staff at Kariong Detention Centre.

## Background to the Inquiry

- 1.1 The terms of reference for this inquiry were referred to the Committee by resolution of the House on 22 September 2004, and amended by a resolution on the 27 October 2004 allowing the Committee to call additional witnesses.
- 1.2 A number of the witnesses named in the terms of reference were unable to be contacted. Of those witnesses that were contacted, the following agreed to appear: Mr Glenn Charters, Ms Helen Egan, Mr Brian Fitzpatrick, Mr Mark Fitzpatrick, Mr Gary Hall and Mr Peter Hawthorne.
- 1.3 A hearing was held on Monday 15 November 2004 and, in accordance with the resolution of the House, in camera evidence was taken from seven witnesses. These were six of the named witnesses plus one additional witness who was subsequently invited by the Committee, Mr Neville Squire.
- 1.4 Subsections 4 and 5 of the terms of reference required that the Committee take the evidence in camera, and report to the House any evidence made public by the Committee within seven days of the final hearing. The Committee met on Wednesday 17 November to consider publication of the transcript. The outcome of those deliberations is explained below.

## This report

- 1.5 The terms of reference for this inquiry take an unusual form. Rather than issuing the Committee with a general “inquire into and report on” task, the Legislative Council has requested that the Committee take in camera evidence from particular witnesses, and then report back to the House any evidence it has resolved to make public. This procedure was adopted to prevent the accidental publication of names of juvenile detainees. The Committee’s capacity to inquire into and report on the issues raised in the evidence is therefore constrained.
- 1.6 The evidence received by the Committee on 12 November 2004 contained a large number of adverse reflections on third persons who were not present at the hearing. The Committee has the responsibility to ensure that the principles of natural justice are applied in its proceedings, and to ensure that the privilege attached to its proceedings is used appropriately. In usual circumstances, the Committee would offer an adversely named person the opportunity to respond to the allegations made against them before publishing a transcript.

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<sup>1</sup> The transcript of the Minister’s budget estimates hearing and her answers to questions taken on notice can be found at <http://www.parliament.nsw.gov.au/GPSC3>

- 1.7** On 3 November 2004 the Government announced that Kariong would be transferred to the administration and management of the Department of Corrective Services. In view of this, the Committee considered that it would be redundant to pursue the matter further with additional witnesses. The Committee therefore determined that it would not take further evidence in relation to Kariong Juvenile Justice Centre.
- 1.8** The remaining evidence that was considered for publication by the Committee raises serious natural justice issues. The Committee is of the view that to publish the transcripts in full would be manifestly unfair to those people adversely named who have not been afforded the opportunity to respond. Consideration was given to publishing the transcript with third parties de-identified, however the Committee was concerned that even with the suppression of names and job titles, identification of the third parties would not be difficult. The Committee strongly believes that this would be an irresponsible use of its powers.
- 1.9** The Committee therefore resolved by majority vote that the transcript should remain confidential. Instead, the Committee has resolved to publish a summary of the issues raised by the witnesses.
- 1.10** While the Committee acknowledges the specificity of the terms of references, the Committee considers that it is important to inform the House, by summary and relevant quotations, of the issues that were raised in the hearing. The summary appears in the next chapter.

## Chapter 2 Issues raised by witnesses

This chapter contains a summary of the problems at Kariong Juvenile Justice Centre that were identified by witnesses at the hearing. In footnotes, witnesses have been allocated a random number to conceal their identity.

### Summary of Issues

- 2.1** Witnesses agreed that there were problems with middle and upper management and some staff at Kariong that had led to the current situation.
- 2.2** The Carinya Behaviour Management Unit, comprising up to 12 of the most difficult to manage detainees from within Kariong and from other juvenile justice centres, was considered by witnesses to have major problems. Problems included assaults on staff, the setting of small fires and verbal abuse. Witnesses stated that they considered that a lack of consistent punishment and the undermining of punishment by management at Kariong exacerbated the situation.
- 2.3** Confinements of detainees were a common punishment. Detainees were confined by staff for periods of up to 12 hours. Witnesses who had worked in the Carinya unit stated that their punishments were often overridden by management:
- One time I put them in confinement because I ended up dragging a boy who had been abusive to staff, not following instructions and all of that. I put him in confinement for eight hours. I think I put him in about lunchtime, and would have locked him down for the whole day and night and he came out in the morning. I left at 2 o'clock and the unit manager came up and overrode my confinement<sup>2</sup>
- 2.4** Many permanent staff were afraid to work in the Carinya unit, and a large percentage of the staff working there were casual employees. Kariong had a large number of casual employees.
- 2.5** Witnesses stated that letters of complaint provided to management of Kariong by staff were not addressed.
- 2.6** Abusive language was commonly used between staff and detainees:
- To work at Kariong you have to come down to their level. I swear myself in there. If you are not firm with them, and all that, they will just walk over the top of you. And I have been there for ... years, and it has not changed. If you were not firm there you would not have survived there.<sup>3</sup>
- 2.7** Witnesses stated that the situation at Kariong had worsened over the last few years.
- 2.8** Older detainees were identified as a source of much of the trouble in the Carinya unit, and witnesses considered that they were seldom transferred to adult correctional centres even

<sup>2</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p3

<sup>3</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p4

when they themselves wanted to be transferred. Witnesses claimed that detainees would take hostages and assault staff in order to be transferred:

They are able to access many more things in gaol. They can smoke cigarettes, for one, they've got all their friends in there, they know that they've got their friends in there. It is a lot easier lifestyle for them in a larger group in their ethnic groups. The ethnic groups at our centre are a far lot smaller. They know they can access a whole range of things in gaol that they can't get at our centres.<sup>4</sup>

**2.9** Witnesses compared the discipline and routine in the adjacent Baxter Juvenile Justice Centre with Kariong, commenting that the two were 'like chalk and cheese'<sup>5</sup>. This was attributed to different leadership or management of the centres, with Baxter Juvenile Justice Centre being disciplined and Kariong being an undisciplined social welfare style.

**2.10** Kariong provided limited programs for the detainees, with one witness claiming that in the last 12 months there had been no programs and prior to that the programs were only of limited effect:

If they have been in Kariong for a year and a half they have done all the programs that we used to have there. They have gone right through the system at Kariong and they have just had enough.<sup>6</sup>

**2.11** Training provided to workers at Kariong was considered inadequate by some witnesses with one stating:

The new casuals who come in do about seven weeks of training. Out of that seven weeks I think they might do four days on the floor. But the training does not help them at Kariong—maybe it does at other centres but not at Kariong. You probably have to be trained as a corrective services officer to work down there.<sup>7</sup>

**2.12** Recent staff morale was considered by one witness to be 'the lowest I have ever seen at Kariong'<sup>8</sup> with 'the last two years... probably the worst I have ever worked in any place in my life',<sup>9</sup> and that this was largely attributable to the social welfare management style.

**2.13** Some witnesses stated that the recent transfer of management of Kariong to the Department of Corrective Service had resulted in a number of potential witnesses to the inquiry not appearing. The witnesses claimed that these staff felt that they might be disadvantaged in the search for further employment if they appeared before the Committee.

**2.14** Witnesses stated that the relatively sudden transfer of management of Kariong to the Department of Corrective Service has caused staff considerable stress and created uncertainty

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<sup>4</sup> Witness 57 (name withheld), Evidence, 12 November 2004, p46

<sup>5</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p7

<sup>6</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p9

<sup>7</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p10

<sup>8</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p10

<sup>9</sup> Witness 26 (name withheld), Evidence, 12 November 2004, p10

in relation to their future employment. Some witnesses felt they had not been provided with much information about the changes and the effects of those changes on staff.

- 2.15** The Kariong system was characterised as having changed over recent years from a ‘control’ (discipline) system to a ‘care’ (social welfare) system, and some witnesses felt this approach exposed staff to greater danger from verbal and physical assaults from detainees.
- 2.16** The system operating at Kariong was felt by witnesses not to be effective for the detainees held in the Carinya unit.
- 2.17** One of the witnesses cited the management response to an incident in which a staff member’s nose was broken by a detainee as an example of the way in which management failed to support staff. The staff member and detainee were required to apologise to each other. The witness, who was present at the time, stated that he felt the staff member should not have had to apologise as he had been hit for no reason.
- 2.18** The system of recording negative and positive comments on a detainee’s record and then discussing them with the detainee in the company of management was criticised by witnesses as having led to an increase in assaults on staff:
- We had to write negative and positive remarks about every detainee. ...[T]hey used to take the boys up and they were allowed to read what staff were writing negative things about them. The next time ... they would say, "... you wrote this." He will keep that in his head. The next time I am on shift they attack me, not physically, but just in my face and when I am going back. That happened nearly every day.<sup>10</sup>
- 2.19** One of the witnesses stated that comments in relation to a ‘hole in the wall’ of the gymnasium (where two detainees had forced apart the louvres to gain access to a vulnerable area of Kariong) he had made to the Minister for Juvenile Justice when she visited the centre were not acted upon quickly, with the problem not being fixed for many months.
- 2.20** Witnesses felt that complaints they had made about the operation of Kariong had not been acted upon by management because ‘[t]hey had more of an agenda for the welfare model and for the way the centre was to be run’<sup>11</sup>.
- 2.21** Witnesses identified the location of all the most serious offenders in the one unit, and the lack of respite for staff working in that unit, as a major source of problems for Kariong. The reluctance of permanent members of staff to work in the unit resulted in a large number of relatively inexperienced casual staff working in the unit.
- 2.22** Witnesses stated that many of the recommendations of the 2002 Dalton-Johnson report into Kariong had not been effectively implemented.
- 2.23** Evidence was heard in relation to an incident of a sexual nature between a detainee and a visitor. Accounts differed between witnesses, one of whom felt that the incident occurred because the visiting area was not adequately staffed, and the other stating that the incident occurred because the staff allocated to the area were not doing the full range of their duties.

<sup>10</sup> Witness 12 (name withheld), Evidence, 12 November 2004, p17

<sup>11</sup> Witness 42 (name withheld), Evidence, 12 November 2004, p22

- 2.24** One of the witnesses commented that casual staff were sometimes rostered to work in the control towers without adequate training.
- 2.25** One witness claimed that while it was true that management would undermine staff in relation to overriding punishments, there were also staff members undermining the management at Kariong:

I wrote up a boy one day and I said 12 hours. It was really bad what he did—12 hours. I came back in the next day, the kid laughed in my face and said, "Hah, I only did two. Try again...", type thing. So therefore we did not have the backing and management. Management were too soft in that area. But then again there were youth officers also undermining management...<sup>12</sup>

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<sup>12</sup> Witness 71 (name withheld), Evidence, 12 November 2004, p56

# Appendix 1 Minutes of Proceedings

## Minutes No 16

Wednesday 20 October 2004  
General Purpose Standing Committee No. 3  
At Parliament House at 1:00 pm Room 1153

### 1. Members Present

Ms Amanda Fazio (*Chair*)  
Ms Catherine Cusack (Pearce)  
Mr Peter Breen  
Mr Eddie Obeid  
Mr Charlie Lynn  
Mr John Tingle  
Mr Ian West

### 2. Substitute arrangements

The Chair noted advice from the Opposition Whip that Ms Cusack would be representing Mr Pearce for the purposes of this meeting and all subsequent meetings relating to the Inquiry into the Kariong Detention Centre.

### 3. Confirmation of Minutes

Resolved, on the motion of Mr Tingle, that Minutes Nos 10, 11, 12, 13, 14 and 15 be confirmed.

### 4. Correspondence

The Chair tabled the following items of correspondence:

#### *Sent*

- Letter to the Minister for Justice re questions taken on notice during budget estimates hearing dated 16 September 2004
- Letter to the Minister for Juvenile Justice & Western Sydney re questions taken on notice during budget estimates hearing dated 22 September 2004
- Letter to the Minister for Police re questions taken on notice during the budget estimates hearing, dated 16 September 2004
- Letter to the Minister for Fair Trading re questions taken on notice during budget estimates hearing dated 17 September 2004
- Letter to the Attorney General re questions taken on notice during budget estimates hearing dated 22 September 2004

#### *Received*

- Answers to Budget Estimate hearing questions on notice from the Minister for Juvenile Justice, received 20th October 2004

Mr Tingle noted that the Minister's response to his question on notice suggests that data on state wards in custody has not been routinely collected.

## **5. Inquiry into Kariong Juvenile Justice Centre**

### ***Terms of Reference***

The Chair briefed the Committee on matters relating to the Terms of Reference, including the topics covered in the Budget Estimates hearing.

Resolved, on the motion of Mr Lynn, that the following topics be added to the list attached to the Inquiry's Terms of Reference, subject to confirmation by the Secretariat that they were discussed during the Budget Estimates hearing:

In second dot point, after 'incident involving staff member, detainee and pillow case':

- Broken nose apology

Added dot point:

- Minister's confidence in management of Kariong Detention Centre

### ***Witness List***

Resolved, on the motion of Ms Cusack, to add three witnesses to the list of those invited to appear: Mr X1, Ms X2 and Ms X3 and that their names be kept confidential.

Ms Cusack advised that she wishes to propose another witness, whose name would be provided.

### ***Hearing Schedule***

The committee agreed to hold hearings on Wednesday 3 November starting at 9.30am and Friday 12 November starting at 9.30am, with a further hearing held on Wednesday 17 November at 6.30pm at which the Minister for Juvenile Justice could appear if required.

The Committee agreed that the Director should consult with the Office of the Minister to enable witnesses to be scheduled to appear without disrupting the operations of the Kariong Juvenile Justice Centre.

The Clerk of the Committee undertook to provide advice on how to vary the Terms of Reference of the Inquiry.

The Committee agreed to defer consideration of a site visit to the facility until after the first two hearings.

## **6. Request for Information**

Resolved, on the motion of Ms Cusack, that the Minister be requested to provide the Committee with:

- a copy of the new classification guidelines (used to classify detainees)
- a copy of the operating procedures at Kariong Detention Centre
- previous reports into the administration of Kariong Detention Centre dating from after the Ombudsman's 1999 report

- a copy of the Dalton report into the Kariong Detention Centre
- answers to Ms Cusack's four questions on notice
- information on the age of those detainees 18 years and over currently detained in Kariong Juvenile Justice Centre and the nature of their offence.

#### 7. **General Business**

Mr Breen provided the Committee with copies of his Notice on Motion for a new Inquiry into natural life sentences.

#### 8. **Adjournment**

The Committee adjourned at 2:05 pm until Wednesday 3 November 2004, at 9.30am.

Tanya Bosch  
**Director**

### **Minutes No 17**

Wednesday 3 November 2004  
 General Purpose Standing Committee No. 3  
 At Parliament House at 9:35am Room 1108

#### 1. **Members Present**

Ms Amanda Fazio (Chair)  
 Ms Catherine Cusack (Pearce)  
 Mr Peter Breen  
 Mr Eric Roozendaal (Obeid)  
 Mr Charlie Lynn  
 Mr John Tingle  
 Mr Ian West

#### 2. **Apologies**

Mr Ian West

#### 3. **Substitute arrangements**

The Chair noted advice from the Government Whip that Mr Roozendaal would be representing Mr Obeid for the purposes of this meeting.

#### 4. **Confirmation of Minutes**

Resolved, on the motion of Mr Tingle, that Minutes No 16 be confirmed.

#### 5. **Correspondence**

The Chair tabled the following items of correspondence:

##### *Sent*

- Letter to 16 Kariong staff members from the Director, dated 27 October 2004

- Letter to the Hon Diane Beamer MP, Minister for Juvenile Justice, dated 21 October 2004

### ***Received***

- Letter from Mr Gregory Jones, Kariong Juvenile Justice Centre, dated 29 October 2004
- Email from Mr Dale Bassett, Kariong Juvenile Justice Centre, dated 3 November 2004
- Letter from the Hon Diane Beamer MP, Minister for Juvenile Justice and attachments, dated 2 November 2004
- Copy of notice provided to Kariong Juvenile Justice Centre employees relating to this Inquiry, dated 26 October 2004
- Copy of letter from Mr Vern Dalton to the Hon Diane Beamer MP, Minister for Juvenile Justice “The Dalton Report”, dated 5 October 2004

Resolved, on the motion of Ms Cusack, that the ‘Operational Procedures’ document attached to the letter from the Hon Diane Beamer MP be made available for Committee members’ perusal in the Clerk’s office, and that all other documents provided with the Minister’s letter be made public.

### **6. Inquiry into Kariong Juvenile Justice Centre**

The Director and the Senior Council Officer briefed the Committee on the preparations for the hearings and the outcome of attempts to contact witnesses.

### **7. Response to witnesses who have declined invitation**

Resolved, on the motion of Mr Tingle, that the Committee acknowledge and accept the decision of witnesses to decline the invitation to give evidence.

### **8. Consideration of further witnesses**

The Chair advised the Committee that the Committee’s resolution relating to further witnesses at the previous meeting was invalid as it was outside the Committee’s terms of reference. The Chair further advised that as the House had now empowered the Committee to call extra witnesses, and the Committee could consider whether any additional witnesses would be called.

Resolved, on the motion of Mr Lynn, that Mr Richard Dare, Ms Joy Kirby and Mr Glenn Charters be invited to give evidence on 12 November 2004 if they are available.

### **9. Hearing Schedule**

The Committee agreed to hear seven of the witnesses who have indicated a preference to give evidence together in two groups of four and three, with 80 minutes and 60 minutes allocated to each group respectively.

### **10. Correspondence to Director General, Department of Juvenile Justice**

Resolved, on the motion of Ms Cusack, that on behalf of the Committee, the Chair thank the Director General of the Department of Juvenile Justice for his cooperation in facilitating the appearance of witnesses at this Inquiry.

**11. Adjournment**

The Committee adjourned at 10.30 am until Friday 12 November 2004, at 9.30am.

Tanya Bosch  
**Director**

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**Minutes No. 18**

Friday 12 November 2004  
General Purpose Standing Committee 3  
At Parliament House at 9:30am Room 1108

**1. Members Present**

Ms Fazio (Chair)  
Mr Tingle  
Mr Obeid  
Mr West  
Ms Cusack (Pearce)  
Mr Lynn  
Mr Breen

**2. Apologies**

Nil

**3. Inquiry into the Kariong Juvenile Justice Centre – in camera hearing**

Witness 26 was sworn and examined.

Questioning concluded and the witness withdrew.

**4. Deliberative**

The Chair briefed the Committee on changes to the witness schedule, advising that [names suppressed] would no longer be appearing.

Resolved on the motion of Mr Tingle that Witness 17 be invited to give evidence to the Committee.

**5. Continuation of in camera hearing**

Witness 42 was affirmed and Witness 12 and Witness 17 were sworn and examined.

Questioning concluded and the witnesses withdrew

Witness 57 was affirmed and Witness 82 was sworn and examined.

Evidence concluded and the witnesses withdrew

Witness 71 was sworn and examined

Questioning concluded and the witness withdrew

**6. Deliberative**

Resolved on the motion of Mr Tingle that the original transcript of the hearing be kept in the Clerk's office and made available for members to read.

The Chair noted that at the Committee's next deliberative meeting on Wednesday 17 November 2004 the Committee would determine which parts of the transcript would be made public.

**7. Adjournment**

The Committee adjourned at 1.15 pm until Wednesday 17 November 2004, at 6.30pm.

Tanya Bosch  
**Director**

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**Minutes No. 19**

Wednesday 17 November 2004  
General Purpose Standing Committee 3  
At Parliament House at 6.35pm Room 1108

**1. Members Present**

Ms Fazio (Chair)  
Mr Breen  
Ms Cusack (Pearce)  
Mr Lynn  
Mr Obeid  
Mr Tingle  
Mr West

**2. Confirmation of minutes no 17 and 18**

Resolved, on the motion of Mr Tingle, that Minutes Nos 17 and 18 be confirmed.

**3. Inquiry into Kariong Juvenile Justice Centre**

The Committee considered the publication of in-camera transcript from 12 November 2004.

Mr Lynn moved that:

the transcript be published with all names and titles of detainees and adversely mentioned third parties suppressed.

Question put:

Ayes: Mr Breen, Ms Cusack, Mr Lynn  
Noes: Mr West, Mr Obeid, Mr Tingle, Ms Fazio

Question resolved in the negative.

The Committee resolved, on the motion of Mr Tingle, that a report summarising the main points of the evidence be published.

**4. Budget Estimates 2004-2005**

The Committee resolved, on the motion of Mr Obeid, to hold no supplementary hearings.

**5. General Business**

Nil.

**6. Adjournment**

The Committee adjourned at 7.15 pm until Thursday 18 November 2004, at 2.00pm.

Tanya Bosch  
**Director**

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**Minutes No. 20**

Thursday 18 November 2004

General Purpose Standing Committee 3

At Parliament House at 2.00pm, Legislative Council Members' Lounge, Parliament House

**1. Members Present**

Ms Fazio (Chair)  
 Mr Breen  
 Ms Cusack  
 Mr Lynn  
 Mr Obeid  
 Mr Tingle  
 Mr West

**2. Participating Members**

Mr Roozendaal

**3. Inquiry into Kariong Juvenile Justice Centre - Consideration of Chair's Draft Report**

The Committee considered the Chair's draft report, which having been previously circulated was taken as being read.

Chapter One read.

Resolved on the motion of Mr Tingle that a footnote be inserted into the Report cross referencing paragraph 1 to the website containing the Minister for Juvenile Justice's answers to questions at the Budget Estimate hearing of 16 September 2004.

Resolved on the motion of Ms Cusack that paragraph 1.4 be amended by omitting all words after 'in camera, and' and inserting instead 'report to the House any evidence made public by the committee within seven days of the final hearing'.

Ms Cusack moved that the following paragraph be inserted after paragraph 1.4:

**1.5** The Committee notes the first hearings were scheduled for 10am on 3 November 2004. The Minister for Juvenile Justice was consulted regarding these dates. The Minister chose this exact time and date, 10am 3 November 2004, to announce Kariong Detention Centre would be transferred to Corrective Services with the result that all staff, including those who gave evidence to the Inquiry, lost their jobs.

The Committee deliberated

Question put.

The Committee divided.

**Ayes**

Ms Cusack

Mr Lynn

**Noes**

Mr West

Mr Obeid

Mr Tingle

Mr Breen

Ms Fazio

Question resolved in the negative.

Ms Cusack moved that the following sentence be inserted at the beginning of paragraph 1.8:

The Committee did not give consideration to reviewing the transcript in detail with a view to publishing parts of the evidence.

The Committee deliberated.

Question put.

The Committee divided.

**Ayes**

Ms Cusack

Mr Lynn

**Noes**

Mr West

Mr Obeid

Mr Tingle

Mr Breen

Ms Fazio

Question resolved in the negative.

Chapter Two read.

Ms Cusack moved that the Committee accept the advice of the Clerk of the Legislative Council and delete Chapter Two from the report.

Question put

**Ayes**

Ms Cusack

Mr Lynn

**Noes**

Mr West

Mr Obeid

Mr Tingle

Mr Breen

Ms Fazio

Question resolved in the negative.

Resolved on the motion of Mr Lynn that the following words be inserted after the words 'management of the' in paragraph 2.9:

centres, with Baxter Juvenile Justice Centre being disciplined and Kariong being an undisciplined social welfare style.

Resolved on the motion of Mr Lynn that the following words be inserted at the end of paragraph 2.12:

and that this was largely attributable to the social welfare management style.

Resolved on the motion of Mr Lynn that '(discipline)' be inserted after the word 'control' and '(social welfare)' be inserted after the word 'care' in paragraph 2.15.

Ms Cusack moved that the following sentence be added to the end of paragraph 2.17:

This statement contradicted evidence given at the Budget Estimates hearing by the Minister for Juvenile Justice that the staff member apologised voluntarily.

Question put

**Ayes**

Ms Cusack

Mr Lynn

**Noes**

Mr West

Mr Obeid

Mr Tingle

Mr Breen

Ms Fazio

Question resolved in the negative.

Mr West moved that the Committee report (as amended) be the report of the Committee and be signed by the Chair and presented to the House in accordance with the Standing Order 230, and

that in accordance with Standing Order 223(2) the Committee authorises the publication of those excerpts from confidential transcripts that appear in the report.

Question put.

The Committee divided

**Ayes**

Mr West

Mr Obeid

Mr Tingle

Ms Fazio

**Noes**

Ms Cusack

Mr Lynn

Mr Breen

Question resolved in the affirmative.

Ms Cusack informed the Committee that the Opposition members of the Committee would submit a statement of dissent according to Standing Order 228.

Resolved on the motion of Mr West that dissenting reports be received by 6pm.

**4. General Business**

Nil.

**5. Adjournment**

The Committee adjourned at 2.40 pm, sine die.

Tanya Bosch

**Director**

## Appendix 2 Dissenting statements

### Dissenting Report by Peter Breen MLC

The suppression of evidence provided to the Committee by the brave youth officers and staff at Kariong is not a useful precedent for the Parliament to follow. A recent issues paper published by the Ombudsman indicated that the protected disclosures laws in New South Wales fail to achieve the core objectives of the legislation. Protections for whistleblowers are completely inadequate, and without access to the Parliament, people with information about public administration have no forum to adequately ventilate their concerns.

In March 2000, the Ombudsman identified the key needs at Kariong as

A competent and professional management team that can instil a sense of teamwork and professionalism amongst staff.

Operational staff who will co-operate with the new management team to bring about a new professionalism and teamwork.

A re-definition or renewal of Kariong's role.

On any account of the evidence taken by the Committee, none of these needs has been satisfied, and yet the full brunt of the failures has been born by operational staff who now find themselves replaced by corrections service officers. A perception exists amongst those staff members who gave evidence that they have been made scapegoats while management is unaccountable for its detrimental actions in failing to provide leadership and discipline at the centre.

In my opinion, the inquiry might have followed the usual procedure of parliamentary committees and published the evidence of witnesses after first removing sensitive material that may have been defamatory or was likely to cause distress to other witnesses. Needless to say, much of the evidence reflected adversely on management, but adequate opportunities were given to management to make submissions to the Committee.

**GPSC No. 3 - Kariong Inquiry****Dissenting Report**

The Committee has resolved to suppress the transcripts of evidence taken from former staff of Kariong Detention Centre. The Coalition members dissent from this report because it prevents the publication of evidence given at great personal cost to ensure that the public are aware of the true problems at Kariong Detention Centre. The suppression allows Minister Diane Beamer to escape scrutiny for her role in the mismanagement and cover-up of problems at Kariong.

In particular, the evidence gave eyewitness accounts of events at Kariong, which contradicted statements made by Minister Beamer to the public and to Parliament via the Estimates hearings.

The evidence included serious allegations, which reflect on the administration of the Department of Juvenile Justice. There is an overwhelming public interest in making these matters public to ensure the safety and good order of what remains of the Detention Centre system.

The Minister has had the opportunity to put her version and the Departmental "official" version of these events on the public record. In contrast, these employees of her Department who disagreed have now been denied the opportunity to put their version on the public record.

The first hearings of the Committee were scheduled to begin at 10.00am on 3 November 2004. Minister Beamer was consulted about the convenience of this time and date. After considering the matter for a week, she declined to respond to the Committee and instead referred the matter to her Department.

At 10.00am on 3 November 2004, the precise moment our Hearings were due to commence; Mrs Beamer held a co-ordinated series of meetings in Sydney and Kariong to announce the Centre would transfer to Corrective Services.

The effect of this announcement was that all the witnesses who were Kariong employees lost their jobs. The timing of the announcement, coinciding to the minute with our Hearings, was intimidating to the witnesses.

Notwithstanding the shock and distress caused by Mrs Beamer's announcement, a number of witnesses decided as a matter of principle and public interest to still come forward and give their evidence.

We applaud the courage of these witnesses and the professionalism and quality of their evidence.

The evidence given was overwhelmingly consistent and deeply disturbing. There were no factual inconsistencies of consequence, and the only differences that arose were variations in opinion. These differences of opinion were not dramatic or surprising and only served to add to the credibility of the evidence. It showed the staff had not collaborated or devised a "script".

It was clear these witnesses had tried to raise the problems of Kariong at various forums, including management, the Department, their union and the Minister.

The workers' campaign to reform Kariong was undertaken to protect themselves and their colleagues from physical assault, and to save lives. They did not set out to embarrass the

Government, but there is no doubt their evidence would have caused huge embarrassment, particularly to Minister Beamer.

It is our passionate view that the Minister has all the power and protection of office, including an ability to make public her views on juvenile justice.

The report that has been tabled is a cleansed version of the witnesses' evidence. It is outside the terms of reference to re-write their evidence in this way and we reject the report as a whitewash.

The Committee should have considered the evidence in detail and should have resolved to make as much public as possible. A resolution suppressing everything is an insult to the witnesses and the public interest we are sworn to serve.

Hon Catherine Cusack MLC

Hon Charlie Lynn MLC