

Reverend the Hon Dr Gordon Moyes MLC  
Chairperson  
The Standing Committee on Juvenile Offenders  
Parliament House  
SYDNEY NSW 2000

Dear Dr Moyes

I refer to questions taken on notice at the Standing Committee on Juvenile Offenders on 9 March 2005.

Please find attached the department's responses. Written responses to a series of additional questions in your letter of 17 March 2005 are also provided, together with copies of reports requested.

Yours sincerely



7.4.05

David Sherlock  
**Director General**

**INQUIRY INTO JUVENILE JUSTICE  
ADDITIONAL QUESTIONS FOR THE  
DEPARTMENT OF JUVENILE JUSTICE**

**Question 1.**

**Your submission refers to the “What Works” literature (p36), quoting McGuire: “Effective interventions have been described as “programmed interventions that include interpersonal skills training, behavioural interventions such as modelling, graduated practice and role playing; cognitive skills training, mentoring linked to highly structured individual counselling, reality therapy, and a problem solving framework”**

**a. Could you describe how these programs and interventions were instituted in Kariong and are instituted in other JJs?**

The unit program model developed specifically for Kariong under the guidance of Lou Johnston was based on the “What Works” approach. Ms Johnston’s project spanned more than 6 months. The program developed from this process is attached for your information (attachment 1).

The Kariong unit program model is being adapted and developed for use in other detention centres because of its focus on the structured day approach, linkages between case management and program participation, and the interaction of effective incentive and disciplinary processes.

The DJJ Community/Custodial Services Intervention Framework and the Framework for Effective Programming are the conceptual models through which the department has given expression to evidence-based practice. These issues are discussed in detail on pp 62 to 66 of the department’s submission to the inquiry.

Detention centre staff are trained and supported in the delivery of offending focused programs such as A.C.E (Adolescents Coping with Change); Targets for Effective Change; and in some locations “Our Journey to Respect”. A.C.E. and Targets are programs that have been purchased by the department specifically for the purpose of incorporating an offending focus into the range of detention centre interventions.

**b. Has incarceration been proven to be effective in reducing offending behaviour?**

Australian research on recidivism does not focus on whether incarceration is effective in reducing offending behaviour.

Studies of recidivism that led to the development of the internationally based “What Works” literature do not tend to support incarceration as an effective deterrent and/or a positive response in reducing the risks associated with reoffending.

Rather, international research points to the contaminating effects of custody and the strong likelihood that custody may actually increase the risks associated with reoffending.

“There is general agreement that punitive sanctions or other elements of a deterrence-based approach to tertiary prevention are ineffective in reducing recidivism of young offenders. Punitive sanctions/deterrence are of several kinds including **incarceration**, (our emphasis) boot camps, ‘scared straight’ and home confinement. Findings in which they have been shown to lead to reductions in recidivism are very rare and this is no evidence that they are a reliable means of achieving this end. Their impact for the most part is either zero, or even negative, i.e. linked to increases in re-offending rates.....Evaluations of tough regimes in correctional institutions have generally produced negligible or even negative results (MacKenzie, Brame, McDowell and Souryal, 1995: MacKensie, Brame, Curran, Grayson, Holloway, 1984).”

Further research supports community – based, non-custodial interventions as showing the largest effect sizes in terms of reducing reoffending rates. (Reference: “Effective Practice in Offending Behaviour Programmes – Literature Review” Prepared for the Youth Justice Board (UK) by James McGuire, Peter Kinderman, Carol Hughes, Department of Clinical Psychology, University of Liverpool). Research around re-offending is covered in the department’s submission to the inquiry at pp 32 to 39.

## Question 2.

### **How confident are you that inmates have retained access to counselling services and rehabilitative offence focused programs?**

Matters relating to services and programs in Kariong Juvenile Correctional Centre (JCC) are a matter for the Department of Corrective Services (DCS).

In correspondence from the A/Commissioner of Corrective Services dated 22 December 2004, a number of DJJ policies and resources were identified that “would greatly assist the Department of Corrective Services to implement and appropriately target services and programs at Kariong and to provide continuity of care for young offenders moving between the two departments”.

A Memorandum of Understanding has been developed between the Departments of Juvenile Justice (DJJ) and Corrective Services that outlines the responsibilities of each department, and provides procedural guidelines for the management of juveniles transferring between the two systems.

Under the MoU DJJ has provided DCS program trainers with appropriate training and information to facilitate the implementation of DJJ offence-focused programs within Kariong JCC. Proposed programs and tools to be provided for Kariong inmates/detainees include:

- Anger Management;
- Alcohol and Other Drug Group Programs;
- Our Journey to Respect; and
- Aggression Replacement Training.

This information includes the Behaviour Management Program material developed by Ms Johnson.

A DJJ Classification Officer attached to Frank Baxter JJC liaises with Kariong administration to coordinate material required for classification decisions. This material includes detainee case management progress with references to counselling and program participation for those detainees who are being returned to the juvenile justice system.

Any further questions about whether ‘inmates’ have retained access to counselling services and rehabilitative offence-focused programs are more appropriately referred to the Department of Corrective Services.

### **Question 3.**

*In November 2002 Vern Dalton and Lou Johnson reviewed Kariong JJC and produced a report that was highly critical of staff, management and programs. In 2004 Mr Dalton repeated verbatim many of the criticism of the 2002 report. Could you provide the Committee with details of what changes were made between the two reports, including specific information about the implementation of each recommendation of the 2002 report.*

As indicated in the department's submission at page 89, progress toward implementing several of the accepted recommendations of the report was interrupted by ongoing staff and management relationships difficulties. Industrial disputation, absenteeism, and general resistance to the accountability measures being introduced to respond to many of the recommendations slowed progress. At the time of the transfer of the centre to the Department of Corrective Services most of the accepted recommendations had been addressed at least in part. A strategic plan for the centre had been developed.

#### **Recommendation 1:**

Progress toward implementing this very detailed recommendation began in the first few weeks after the department considered the report.

It should be noted that the recommendation contains within it a listing of the reviewers' recommendations for the minimum rules that should be required for inclusion.

Some of the rules incorporated into this recommendation overlap with other recommendations made elsewhere in the report and thus are dependent on other actions to be taken. The following lists a number of the Kariong specific procedures issued to staff between the beginning of 2003 and November 2004:

- Kariong Emergency Response Plan
- Emergency and Security Equipment
- Detainee Grooming and Hygiene
- Detainee Visitor Entry Management
- Visits Control Room Operations
- Kariong Urinalysis Procedures
- Program Scheduling
- Centre Radio Communications
- Detainee Movement and Supervision
- Detainee Lockup and Unlock
- Admissions from Court Procedures
- Management of Logs, Record Books & Registers
- Entry/Exit Foot Traffic
- Management of Video Recording and Tapes
- Detainee Cabin Standards
- ARUNTA Controlled Telephone System

- Perimeter Security Procedures
- Supervision of Visists
- Entry/Exit of Vehicular Traffic
- Action to be Taken on Contraband Found
- Centre Cleaning
- Detainee Head Counts

The *Procedures for Juvenile Justice Centres Manual* - a reviewed and revised manual - was placed on the department's Intranet on 1 July 2003. This manual contains all of the procedures related to detention centre operations and was implemented as an online guide and reference for staff across the detention centre system. Computers were placed in all units at Kariong as well as all other detention centres to facilitate access to this resource and to enable the recording of case management documentation.

In view of the comprehensive nature of the rules outlined in this recommendation a Kariong staff member was identified with the skills and abilities to undertake the revision and publication of Kariong specific procedures, rules and routines in line with the department's *Procedures for Juvenile Justice Centres Manual*. Due to illness, staffing shortages and industrial unrest at the centre, there were delays in getting the Kariong material outlining endorsed procedures formatted in a user friendly style.

As important changes to practice in the centre were endorsed, communication about these was distributed in both hard copy form and through the Kariong computer directory. A sign-off system to ensure staff had read the material was implemented.

Assistant managers, unit managers and unit staff were all involved in the development of the procedures, rules and routines. Frequent consultation with the PSA was also undertaken to address identified problems with change at the centre.

Such actions as regular electronic wandering of detainees during movements around the centre, searching and recording, revamped incentives, and the standard of cleanliness in the centre, among others were addressed either through standard operating procedures (SOPs) or directions from centre management. The resurrection of the centre's OH&S Committee and regular discussion of such issues with the PSA had resulted in agreements concerning the way forward.

## **Recommendation 2:**

The implementation of the reviewers' Option 2 of this recommendation was accomplished over a number of months using the contract services of one of the reviewers.

The project involved staff meeting in teams to develop differential programming for the units. The project spanned more than 6 months. The contractor's final report on the project indicated that while many staff had embraced the work and were achieving some milestones, others remained unconvinced of the merits of the unit program model. The

PSA was briefed a number of times during the period. Industrial unrest and disputation continued to inhibit progress and staffing limitations added to the slowness with which needed change could be made.

Despite the obstacles to the full implementation of this recommendation, unit program material was produced for each of the three distinct unit functions. (This same material was provided to the Department of Corrective Services at the transfer of the centre. It has also been provided to the Committee)

### **Recommendation 3:**

Implementation of this recommendation was achieved through the development and implementation of the unit program model referred to in Recommendation 2. Examination of the material provided to the Committee will highlight the ways in which detainee behaviour was linked to both rewards and sanctions. Beyond the general application of the concepts outlined in the unit program model, the department implemented very strict management regimes for detainees whose behaviour was not able to be contained and who were posing serious threats to other detainees and staff. These very strict regimes were approved by the Assistant Director General (Operations) and often involved segregating detainees outside the legal limits imposed by legislation. An example of this kind of management plan is attached for your information.

Programs to address aggression and violence (Aggression Replacement Training) were in place and operating within Kariong. These intensive programs were co-delivered by specialist and unit staff.

As indicated in evidence before the committee (Hansard page 5) "There was a clear system of rewards and punishments implemented. Young people were put on individual behaviour management plans and their rewards and punishments were directly related to their response, to their behaviour and to their willingness to address that behaviour."

### **Recommendation 4:**

This recommendation involved longer term planning and the availability of Central Support Office resources.

The Individual Development System (IDS) was being implemented throughout the department during the period. The engagement of Kariong unit managers and unit coordinators in the process was supported by regular monthly supervision between the Centre Manager and Assistant Managers. The monitoring of supervision was placed on the centre management team meetings agenda. Notes of supervision sessions were regularly reviewed at these meetings.

### **Recommendation 5:**

This recommendation was implemented through the planning and execution of department-wide as well as Kariong specific training and education events.

The recommendation was partially addressed through the provision of specialised emergency response training for Kariong staff conducted by AIMS Corp (Australian Integration Management Services Corporation). AIMSCorp is the company contracted to manage private prisons and immigration detention centres in Australia. The training covered the legal use of force, handcuffing, take-down techniques, room extraction and operational command and control.

Other parts of the recommendation especially those that refer to training and workplace assessment have been in place in the department for some time. The Certificates III and IV in Juvenile Justice are competency-based qualifications with national standing. The department is a Registered Training Organisation. For example, recording of individual work place assessments against detention centre competencies is standard practice across the department. Kariong staff completion of the competency requirements at the time of transfer follows:

- 42 had completed the Certificate III in Juvenile Justice
- 122 had attended Work Practice 3 – Managing Difficult Behaviour \*
- 21 had achieved competence in Work Practice 3
- 20 had attended refresher training in Managing Difficult Behaviour
- 95 had attended Health & Safety Training
- 100 had attended the first level of work practice which included emphasis on case management processes and the importance of confidential information.

While Kariong completion rates were somewhat lower than the average across the system, having sufficient staff to relieve others was a factor that had been identified as significant.

\* Managing Difficult Behaviour (Work Practices) modules cover the following:

- Responsibilities – care and control
- Young People and challenging behaviour
- Handcuffing Techniques
- Protective Tactics
- Room Removals
- Negotiation
- Conflict Resolution

### **Recommendation 6:**

This recommendation contained within it a number of actions to enforce accountabilities incorporated in system wide detention centre staff position descriptions as well as



addressing underlying cultural issues. While compliance with policies and procedures remained a challenge at Kariong, there were a number of ways in which staff safety and behaviour were addressed. These included reactivation of the Kariong OH&S committee, regular dialogue with PSA delegates and the establishment and recording of meetings at various levels in the centre. Meeting minutes were routinely placed on the Kariong computer system drive.

The centre manager implemented a structured approach to staffing the centre. Annual recreation leave rosters were developed to ensure adequate staffing of the centre at all times with an appropriate mix of experienced and less experienced staff. The rule that no more than two unit staff could be on recreation leave at any one time was implemented. A relief pool was created. Rostering practices were centralised with the Assistant Manager Generalist taking responsibility for this function.

The centre manager re-evaluated some staffing positions and was able to create another counsellor position to assist in the development of more appropriate responses to detainee behaviour.

As indicated in the department's submission either the Director General or Assistant Director General (Operations) attended every one of the Quality Reviews at Kariong. A staff focus group was a feature of all Quality Reviews. Reports of these reviews have been provided to the Committee.

The Director General and Assistant Director General (Operations) made a number of unannounced visits to Kariong during the period. Also during this period the Assistant Director General (Management Services) made herself available to discuss equity issues with the female staff at Kariong.

#### **Recommendation 7:**

This recommendation was responded to by engaging the services of both external providers and the department's learning and development function. The department contracted Marlow Hampshire Pty Ltd to provide a pilot management development program for Unit Managers and Assistant Managers of juvenile justice centres.

While there were some issues concerning take-up of the opportunities offered to unit managers and the discontinuity of staff occupying these positions, the feedback from participants was positive. An assistant manager and unit manager from Kariong attended this training. Transfer of learning from this experience was taking place at the time of the transfer of the centre.

The content of the training delivered by Marlow covered such areas as:

- Understanding the particular challenges of managing and leading people
- Having a greater awareness of the place of performance management in the overall leadership role

- Learning new skills in managing staff development and coaching
- Enhancing the understanding of how to motivate (and avoid demotivating) staff
- Increasing the ability to influence staff in a variety of different situations
- Reviewing career progress to-date and exploring work-life balance and factors influencing personal role stress
- Designing a personal action plan for applying the learning from the program back on the job

In addition an external consultant with experience in successfully facilitating a team development process at another detention centre was engaged to work with the Kariong team. This process could not be implemented due to the transfer of the centre to DCS.

#### **Recommendation 8:**

This recommendation was implemented through the design and development of the unit program model facilitated by the contractor and the creation of a functioning Client Services Meeting. In all detention centres, Client Services Meetings are weekly meetings to discuss and resolve issues to do with planning and managing the everyday events in the centre including the scheduling of programs and activities. These meetings also address individual detainee issues and case plans. Recording of the minutes of these meetings form an important part of the administrative documentation in the centre. These meetings took place in Kariong as scheduled and the minutes of the meetings were shared with unit and administrative staff.

As indicated above, the centre manager created an additional counsellor position to complement the work of counsellors attached to each of the units and to drive the integration of this specialist function with day-to-day management of detainees. The development and implementation of individual Behaviour Management Plans with input from unit staff became standard practice in the Carinya Unit.

#### **Recommendation 9:**

This recommendation was implemented at Kariong to give local meaning to established departmental policies and procedures for all detention centres. The reinforcement of these procedures at Kariong occurred through the issuing of memos, local refresher training, staff supervision and discussions at various centre meetings. Communication through the Kariong computer drive was found to be particularly effective in ensuring that these procedures were understood by all staff.

Kariong specific procedures were issued to reinforce the requirements concerning the movement and supervision of detainees and visitors within the centre. Non-contact visits and the wearing of overalls during visits had been in place at Kariong for sometime for detainees whose custodial history and current behaviour indicated that this was required. Search procedures for both detainees and visitors and visits areas were in place.

**Recommendation 10:**

The department investigated the purchase of cook/chill meals from the Department of Corrective Services for not only Kariong but for all detention centres. The outcome of that investigation indicated that there were significant problems in terms of portions and distribution for many centres including Kariong.

However, the Assistant Manager (Generalist) took responsibility for working directly with the centre cook over a period to improve satisfaction with the food provision at the centre. Improvement was noted in detainee focus groups and Official Visitor reports sometime after the recommendation was accepted.

**Recommendation 11:**

The department did not accept this recommendation. The department took the view that legislation and policy provisions were inconsistent with the intent of this recommendation.

**Recommendation 12:**

A Kariong Detainee Representative Committee was established and met with the senior management team on a fortnightly basis for several months. After some time these meetings were scheduled to occur less frequently because of the ongoing development of the Kariong unit program model but were always attended by an assistant manager and/or the centre manager. Minutes of these meetings were distributed to staff and detainees.

At the unit level this recommendation was implemented and imbedded in the Kariong unit program model. Unit meetings with detainees occurred weekly and were monitored by the centre manager.

**Recommendation 13:**

The department did not accept this recommendation. As with Recommendation 11, the legal impediments in terms of the exercise of certain powers inside detention centres lead to the department not accepting this recommendation.

However, the department did begin discussions with the Department of Corrective Services to train Kariong staff in appropriate response techniques. This specialised training was being arranged as the transfer of the centre to DCS occurred. As indicated earlier the AIMSCorp training began the process introducing to Kariong staff a higher level of skill in responding to critical incidents.

**Recommendation 14:**

Both elements of this recommendation had legal and legislative implications beyond Kariong.

The department had established a Legislative Review Committee to consider changes to legislation and regulation in a number of areas. A Kariong staff member was a member of that committee and put forward some valuable suggestions regarding the handling of serious offenders and misbehaviour. The committee's recommendations were endorsed by the department's Executive Committee and have been informing the drafting of appropriate legislation. The passing of the Juvenile Offenders Legislation Act 2004 made this recommendation redundant in relation to Kariong.

However, it should be noted that the provisions of the Children (Detention Centres) Act 1987 to move young people to the adult prison system have been activated on a number of occasions in relation to Kariong detainees. In the period after the department accepted the recommendations of the Dalton/Johnston report until Kariong was transferred to the Department of Corrective Services seven Kariong detainees had been transferred to the adult system.

**Recommendation 15:**

This recommendation represents the department's broad approach to recruitment and was actively promoted by the centre manager who arranged to speak to Aboriginal groups and women's organisations in the area to encourage interest in employment at Kariong.

**Recommendation 16:**

This recommendation was implemented through the unit program model project facilitated by Ms Johnston.

Action research is a collaborative approach to implementing change and developing solutions to difficult problems. While sound in concept and supported well by many staff at Kariong, the project failed to engage all staff and was therefore hindered in terms of real reform.

#### **Question 4.**

**Your submission lists a series of reports about Kariong and states that recommendations were largely implemented. Why do you think the problems continued?**

The department's submission included a section on the Kariong Juvenile Justice Centre. Throughout this section (starting on page 85 of the submission) the department has clearly identified the multiplicity of problems that have plagued Kariong from its inception. These have been well documented by the Ombudsman and the Council on the Cost and Quality of Government.

As indicated in the Director General's evidence before the Committee on 9 March 2005, the department has made many attempts over the years to implement reforms at the centre. While there has been limited success on some occasions enduring change has been largely unsuccessful. The resistance of a small group of staff has, among other factors, contributed to the lack of progress in many of these reforms. The Director General stated: "There were at that centre a number of staff whose view was that control and security were the only imperatives and that rehabilitation was something that was not desirable, certainly something they did not seek and work towards."

**Question 5.**

**DCS is empowered under the *Crimes (Administration of Sentences) Act and Regulations* to manage by use of “reasonable necessary force” including dogs, handcuffs, security belts, batons, chemical aid and firearms to restrain detainees, ankle cuffs”. Which, if any, of these are permitted in juvenile facilities? Do you have any comments on the appropriateness of these potentially being used in Kariong?**

Under the Children (Detention Centres) Regulation 2000, the Director General is empowered to approve the use of force and instruments of restraint.

The following lists the approved articles or classes of articles:

- Handcuffs, including disposable flexi-cuffs
- Restraint belts (Kariong and TPDIU staff only)
- Ankle cuffs
- Protective shields
- Protective helmets

Those additional articles allowed by DCS legislation may be appropriate for use in Kariong. The department would not support the use of such instruments in the mainstream juvenile detention centre system.

## Question 6.

### What is the maximum length of time a juvenile detainee can be held in isolation?

Isolation is not a term used in the juvenile justice detention centre system.

There are two ways in which detainees may be separated from the general detention centre population.

#### **Segregation:**

Segregation is the unanticipated separation of a detainee in response to a situation where there is an unacceptable degree of danger or risk of harm.

The segregation of a young person from the general detention centre population is done **only** for the safety of the detainee, the safety of others or to maintain the good order of the centre. It may be done in the detainee's room or in a secure room in another location in the centre. **It is not a punishment** and must never be used as one.

The following apply to segregation:

- In one 24 hour period a detainee may be placed in segregation for up to 3 hours
- In one 24 hour period, a detainee may have the period of segregation extended by 3 hours with the authorisation of the Mgr, Assist. Mgr or Unit Mgr.
- Thus six hours is the maximum amount of time that a detainee may spend in segregation. This period may be extended only by the Regional Director for those detainees who pose a serious threat to safety and security.
- A detainee must be released if the reason for the segregation is determined to no longer exist.
- A detainee must be searched before being placed in segregation.
- A detainee must be supplied with means to occupy their time.
- Regular checks must be made and documented. Frequency of checks are determined by assessed need.

#### **Confinement:**

Confinement is one of the punishment options available under the Minor Misbehaviour provisions.

The following apply to confinement:

- Results from an investigation of a minor misbehaviour.
- Detainee has the opportunity to challenge investigation outcome.
- Must be approved by delegated officer.
- Confinement is the placement of a detainee in a locked room.
- Not to exceed 3 hours if under 16 years.

- Not to exceed 12 hours if over 16 years.
- The period of confinement may be reviewed and shortened or extended after a given amount of time.
- A detainee must be searched before being placed in confinement.
- A detainee must be supplied with means to occupy their time.
- Regular checks must be made and documented. Frequency of checks determined by assessed need.

A copy of the relevant sections of the Children (Detention Centres) Act 1987 and the Children (Detention Centres) Regulation 2000 is attached for the Committee's information (attachment 2).



## Question 7.

### What other penalties are available in JJs to respond to bad behaviour?

There are two categories of misbehaviour identified in the Children (Detention Centres) Regulation 2000.

**Minor Misbehaviour** refers to any act or omission that constitutes a breach of any of the provision of Schedule 1, Part 1 of the Regulation. There are 13 types of minor misbehaviour defined in the Regulation.

Punishments for minor misbehaviour are as follows:

- Caution
- Restriction from participation in sport activities – not exceeding 4 days
- Restriction from participation in leisure activities – not exceeding 4 days
- Additional duties – not exceeding 7 days
- Exclusion from a place
  - Not exceeding 3 hours – under 16 years of age
  - Not exceeding 12 hours – over 16 years of age
- Confinement to a place
  - Not exceeding 3 hours – under 16 years of age
  - Not exceeding 12 hours – over 16 years of age

**Serious Misbehaviour** refers to any act or omission that constitutes an offence under 37A of the Act or a breach of any of the provisions of Part 2 of Schedule 1 of the Regulation.

Allegations of serious misbehaviour must be heard by in a Children's Court.

The penalties imposed by the Children's Court may range from extending the period of a control order to an order for transfer to the adult system for young people who meet the age requirement.

Most serious misbehaviour is notified to the police for investigation and the laying of charges.

(Please refer to information provided in answer to Question 6)

### **Question 8.**

#### **Are there further details about the employment outcomes for former employees of Kariong including former casual staff?**

The following outlines the employment status of former Kariong staff as at 18 March 2005:

- Of the 63 permanent officers formerly at Kariong (including one substantive Kariong employee previously located at Frank Baxter JJC)
  - 22 have accepted voluntary redundancy (VR)
  - 15 have been permanently redeployed
  - 1 has been medically retired
  - 15 are temporarily redeployed in the department
  - 7 are in the process of being transferred to the Department of Corrective Services subject to discussions with the Public Employment Office
  - 3 are on secondment to an external agency or are supernumery officers
  
- Of the 22 long-term temporary and casual staff (with more than 12 months' continuous service);
  - 16 have received a severance payment
  - 6 have accepted casual employment with the department
  
- Of the 11 casual/temporary employees with less than 12 months service:
  - 2 have left the department
  - 9 continue at either Yasmar, Cobham or Baxter