

**QUESTIONS TAKEN ON NOTICE FROM THE SELECT COMMITTEE ON JUVENILE
OFFENDERS**

Question 1:

How many of the detainees in Kariong have been or are presently in the care of the Minister for Community Services?

Response:

As at 16 December 2004, of the 37 detainees in Kariong two were also known to the Department of Community Services. No detainees at that time were under the parental responsibility of the Minister for Community Services.

Question 2:

You indicated that the department has been considering other alternatives. Did you employ any consultant to look at suggested alternatives and did he make any comparative financial projections on the various alternatives? Do you want to take this a question on notice?

Response:

Please find attached copy of the report prepared for the department by Fish, Payne, Pattenden, Viney Pty Ltd, Consultants (attachment 3).

Question 3:

Has Sue Ellen Lemske [sic] been working in that professional conduct unit?

Did she have any role in relation to matters at Kariong in terms of investigations of Kariong staff?

I am asking if the former regional director, who was very embarrassed by that incident, was then in the professional misconduct unit overseeing the investigations into staff that she would have been blaming?

Mr Sherlock: There are a couple of comments I can make in relation to that. I cannot answer your question directly because I cannot recall but, firstly, to say that her role in that unit was an administrative role. Any investigation is an independent investigation. That investigator's report comes to me and I make decisions about it. The particular incident you are referring to – and again I might be incorrect here but I think it is fair to say that disciplinary action was not taken against staff in relation to that particular incident that the honourable member refers to.

The Hon Catherine Cusack: Let me just correct that. The investigator recommended no disciplinary action be taken in spite of that recommendation, you wrote to both staff members, saying that disciplinary action would be taken and that they had to show cause – in spite of clear recommendations of the report against disciplinary action.

Mr Sherlock: I do not think it is appropriate to discuss that here in detail because I do not have the information with me.

The Hon Catherine Cusack: Okay. I am happy to take that on notice.

Chair: Can I ask that you provide a written reply to that because it was highly publicised.

Response:

An independent investigation was conducted into an allegation that YO Mark Fitzpatrick and CYO Shrestha failed to supervise visits at Kariong JJC on 16 May 2004 in accordance with the department's procedures. After considering the investigation report and other information the Director General decided on 22 November 2004 that the actions of both employees could be regarded as misconduct.

On 29 November 2004 the Director General issued YO Fitzpatrick with a letter indicating this, and inviting YO Fitzpatrick to make written and/or oral representations to him prior to a final determination on the matter being made. In this letter the Director General indicated that the severest penalty he was considering imposing was a fine.

On 2 December 2004 the Director General issued Ms Shrestha with a "Notice to Show Cause" inviting her to make written representations on whether or not her name should be removed from the list of available casual staff of the department.

On 10 December 2004 the department received Ms Shrestha's written representations in relation to this matter.

On 13 December 2004 YO Fitzpatrick made oral representations to the Director General in an interview.

On 16 December 2004 the Director General finalised the matter in relation to Ms Shrestha. After issuing her with a 'Notice to Show cause' and receiving written representation, the Director General noted that she had sought a severance payment and determined, in the circumstances, that no further action was warranted on the matter.

With regard to YO Fitzpatrick, the Director General considered the Investigation Report and Mr Fitzpatrick's representations and on 5 January 2005 determined that the allegation of misconduct was not made out and that no further action was to follow.

Ms Suellen Lembke acted as Manager, Employment Relations and Professional Conduct Unit from 29 Nov 04 to 17 Dec 04, reporting to the position of Director Human Resources.

As Acting Manager, Ms Lembke's role in relation to matters at Kariong was limited to signing through to the Director General a submission prepared by the Senior Project Officer asking the Director General to consider a response by Ms Shrestha to a Notice to Show Cause.

Ms Lembke played no other role in relation to this Kariong matter.

Question 4:

Can I ask what the budget was for Kariong detention centre prior to its transfer?

I refer to the splitting of the departments' budget for detention centres versus non-detention centre services.

Response:

The annual budget for the 2004/05 financial year for Kariong Juvenile Justice Centre was \$6.822 M.

The annual budget for the 2004/05 financial year for the juvenile justice centres was \$60.445 M (including Kariong). This figure excludes corporately funded activity including maintenance, training, transport and drug intelligence.

The annual budget for the 2004/05 financial year for the non-detention centre services was \$20.876 M. This figure excludes corporately funded activity including maintenance, training and drug intelligence.

Question 5:

In addition to my question about the budget I also request details relating to staffing detention centres versus non-detention centre staffing, and Kariong staffing at the time of the transfer.

Response:

The staffing numbers at Kariong detention centre at its time of transfer were

- Kariong Full Time Equivalent (FTE) Permanent staff: 62.63
- Kariong FTE Temporary staff: 13
- Available Kariong Casual staff FTE: 25.42

The details relating to staffing numbers in detention centres versus non-detention centres at the time of the Kariong transfer (including Kariong) were:

- Centres FTE Permanent staff: 573.19
- Centres FTE Temporary staff: 104.30
- Centres Available Casual staff FTE: 404.15
- Non Centre FTE Permanent staff: 410.24
- Non Centre FTE Temporary staff: 61.07
- Non Centre Available Casual staff FTE: 48.22

Question 6:

Who was the independent investigator (referring to the alleged Orana incident)?

Response:

Investigations into allegations of misconduct are governed by the Guidelines on Conduct and Performance Management, under the *Public Sector Employment and Management Act 2002*. External contract investigators are used at various times depending on the workload and other requirements of the department.

Contract investigators are selected on the basis of a number of attributes which include: independence from the subject matter, qualifications and experience apparent from their resume, availability at the time of need, and cost.

Ms Annette Simpson was appointed to undertake this investigation. Ms Simpson is an experienced, legally qualified investigator. A copy of her resume is attached (attachment 4).

Question 7:

I refer to the Ombudsman's statement relating to the Kariong inquiry. What investigation did the department undertake into allegations that certain staff members were threatened and intimidated by officers from the Ombudsman's office? The Ombudsman said that certain staff members in his office were threatened by juvenile justice staff. From the inquiry conducted in 2000 and contained in the Ombudsman's Annual report for 2000.

Response:

The Hon Dr Wong's question is taken to refer to the March 2000 **Investigation into Kariong Juvenile Justice Centre** report.

On page 9 of the report the following text appears: "Other staff were visibly hostile to the Ombudsman and showed little respect for Ombudsman officers. This gave credence to the common description given to staff and management of the existence of a small group of staff who were physically aggressive and intimidating towards detainees and staff."

There is no recommendation in this report that the staff described in this way should be investigated nor did the Ombudsman officers identify the perpetrators of this behaviour.

Had the officers of the Ombudsman supplied details of this behaviour with staff names and incidents, the department would have investigated the allegations.

Reference is also made to a letter from the Ombudsman dated 9 October 2001 concerning the department's response to the March 2000 report. A copy of this letter was tabled at the Committee hearing on 9 March, 2005.

Question 8:

On page 80 you indicated that quality reviews based on Australasian juvenile justice administration standards were undertaken every six months and they include both staff and detainee focus groups. Could you please give the Committee those that are appropriate to Kariiong? For the last three years.

Response:

This information is currently being collated by the department and will be forwarded to the Committee by 18 April 2005.