



**Minister for Juvenile Justice
Minister for Western Sydney
Minister Assisting the Minister for
Infrastructure and Planning (Planning Administration)**

RML: 05-0154

Rev the Hon Dr Gordon Moyes MLC
Committee Chair
Select Committee on Juvenile Offenders
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Reverend the Hon Dr Moyes

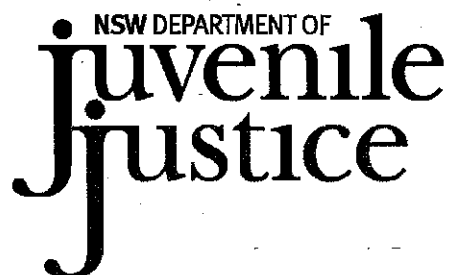
I refer to your correspondence of 25 May 2005 in which provide some additional questions relating to the inquiry of the Select Committee on Juvenile Offenders.

Please find enclosed responses to the committee's questions.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Diane Beamer".

The Hon Diane Beamer MP



**Response to Additional Questions for the Minister for
Juvenile Justice and the Department of Juvenile Justice from
the Select Committee on Juvenile Offenders**

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7 June 2005

The decision to develop alternate options to Kariong

1. *When and why did the Department decide to investigate alternate options to Kariong Detention Centre?*

In March 2000 the Ombudsman tabled a report – “Investigation into Kariong Juvenile Justice Centre – A special report to Parliament under s.31 of the *Ombudsman’s Act*.” The report was highly critical of a number of aspects of the building as well as the culture and general operation of the centre and made 56 recommendations. Appendix 2 of the report outlined the major shortcomings in the design of the centre. Throughout the report there are references to these shortcomings and a number of general statements concerning the centre’s future such as:

“Kariong’s general design and location make it unsuitable as the state’s ‘maximum security’ juvenile custodial facility.” Page 12

“B22. In the long term, plan for the relocation of the department’s most secure juvenile justice centre to a facility more appropriately designed for this purpose.” Page 24

The department has long held the view that the Kariong facility was fundamentally flawed. Stronger consideration of the need to seek an alternative to Kariong came with the engagement of Fish Payne Pattenden Viney in 2003.

Fish Payne Pattenden Viney report(s)

2. *Could you please provide the Committee with a copy of the Fish Payne Pattenden Viney report(s) provided to the Department in March 2004*

This report has already been provided to the Select Committee for its current deliberations.

3. *When was this report commissioned and why? For example, please tell us about the process for selecting the consultants, the cost of the reports, and briefings with the Minister in relation to the report.*

Fish Payne Pattenden Viney Pty Ltd, architects, interior designers and environmental planners, were commissioned on 10 November 2003 by the Department of Juvenile Justice to investigate and propose options for:

- addressing building and fiscal problems with Kariong Juvenile Justice Centre; and
- redevelopment of facilities at Riverina and Reiby Juvenile Justice Centres.

The fiscal problems relate to the costing of options and ongoing funding issues such as minor capital works and maintenance. The Reiby Juvenile Justice Centre redevelopment was overtaken by the major capital works currently being

undertaken.

The department's capital works program has been staged as follows: -

Stage 1 – construction of Frank Baxter, Orana and Acmena.

Stage 2 – construction of Juniperina, refurbishment and extension of Cobham and replacement of dormitory style accommodation with new units at Reiby.

Stage 3 – an assessment of other capital improvements resulting in the commissioning of the Fish Payne Pattenden Viney Pty Ltd report.

In respect to the Kariong Juvenile Justice Centre, the driver for commissioning the report was the recommendation from the NSW Ombudsman in his special report to Parliament, *Investigation into Kariong Juvenile Justice Centre* of March 2000 (Question 1 refers).

The NSW Ombudsman commented in the body of his report that "this [centre's] design, combined with the centre's location, makes it entirely unsuitable for its current role within the juvenile justice system."

The process for selecting the consultants was undertaken in accordance with the NSW Government's *Code of Tendering – NSW Government Procurement (1999)*.

The Minister was consulted on an adapted dispersal option developed by the department (referred to in Question 19).

4. Could you please provide information on the process that led the Department to request that Fish Payne Pattenden Viney "further investigate the Dispersal Option to close the current Kariong facility"?

Fish Payne Pattenden Viney Pty Ltd presented the *Planning and Development Appraisal of Redevelopment of Juvenile Justice Custodial Facilities at Kariong* to the department's Executive Committee in March 2004.

The planning and development proposal appraised the existing conditions of Kariong Juvenile Justice Centre, contained an engineers report, outlined a preliminary gap analysis, identified compliance issues, analysed the alignment of service delivery requirements with asset planning and management, and provided options for the future delivery of service, costing and evaluation of those options.

The department advises that the Executive Committee considered the report and recommended that both the "dispersal option" and the "Greenfield site option" should be investigated and developed further.

5. The Committee understands that the Minister and the Director General made statements that there were no proposals to disperse Kariong detainees to other Juvenile Justice Centres. Could you confirm this, and if it is the case, how do you reconcile the content of these reports with these statements?

The Minister has stated that a range of options were under consideration at the time, closing Kariong being just one.

The Director General draws attention to a plan under consideration, and documented on pages 92-94 of the department's submission, to close Kariong

and establish a number of separate high security "dispersal units" at other detention centres.

The option that was finally proposed was the transfer of management of Kariong to the Department of Corrective Services.

6. Please give details of the \$14 million spent to date on Baxter for repairs and rectification work (ref: Fish Payne Pattenden Viney Service Delivery Plan p iii)

The cost quoted in the Fish Payne Pattenden Viney Service Delivery Plan (p iii) for repairs and rectification work for Frank Baxter Juvenile Justice Centre is a typographical error.

The cost of rectification work, maintenance and minor works at the Frank Baxter Juvenile Justice Centre from the 2001/2002 financial year to the 2003/2004 financial year totalled \$2.858 million.

7. What was the cost of repair and rectification at Orana Detention Centre and Acmena Detention Centre (please give details for each)? (ref: Fish Payne Pattenden Viney Service Delivery Plan p iii)

The cost of rectification work, maintenance and minor works at the Orana Juvenile Justice Centre from the 2001/2002 financial year to the 2003/2004 financial year totalled \$1.744 million.

The cost of rectification work, maintenance, minor works and repairs attributable to the December 2003 disturbance at the Acmena Justice Centre from the 2001/2002 financial year to the 2003/2004 financial year totalled \$1.937 million.

8. Did the Department ever give consideration to utilising Baxter Detention Centre Management to operate Kariong? If yes, can you provide details? If no, why not?

As has already been advised, the Dalton report 2004 was being considered. Committee members would be aware of the recommendations contained in that report.

Peter Reberger (Assistant Manager Baxter) acted as centre manager from 23 October 2004 to 10 November 2004. Steve Wilson, substantive centre manager at Baxter was appointed to the temporary position of Director Custodial Services Central Coast.

Fish Payne Pattenden Viney Schematic Residential Unit Options

9. What is the status of these options? Are they still being considered for use in future redevelopments of Detention Centres?

These options are not currently being considered.

10. What is the status of the Riverina Redevelopment plan?

The Riverina Juvenile Justice Centre redevelopment plan is currently being set down in a comprehensive business case for consideration.

Ex-Kariong staff evidence to Select Committee of Inquiry

11. What is your response to statements by ex-Kariong staff to the Committee on 17 May 2005 that no staff were disciplined at Kariong in relation to the MMK visiting incident? Please comment on this in relation to the statement made by the Minister in Parliament that 3 staff had been disciplined in relation to incidents at Kariong. (Transcript attached)

The Minister's statement refers to a different incident to that relating to MMK and concerned access being granted to four visitors at Kariong in 2004.

12. In view of evidence given by ex-Kariong staff does the Minister wish to make any further comments on information provided in relation to Kariong during the 2004 Legislative Council Standing Committee No 3 Estimates Hearing?

The views put forward by the ex-Kariong staff illustrates the various opinions staff had of management and departmental policy.

NSW Police Association Submission

13. What is your response to the criticism of juvenile justice policy made in the submission of the NSW Police Association? (Submission attached).

This answer is provided at **Attachment A**.

NSW Public Service Association

14. In its submission to the inquiry, the Public Service Association provided a number of criticisms of juvenile justice policy. What is your response to the criticisms of juvenile justice policy made in this submission? (Submission attached)

The Department of Juvenile Justice is bound by Occupational Health and Safety legislation.

The PSA submission outlines a number of suggested legislative changes that have also been articulated in a 15 April 2005 letter from the PSA to the Director General. In particular, the department concurs with the view of the PSA in relation to staff safety outlined in correspondence. It states, "a safe system of work within a Juvenile Justice Centre must involve the systems of detainee management and

rehabilitation, including casework, education, programs, classification and placement. This approach incorporates both welfare and disciplinary elements."

Productive discussions between the department and the PSA are continuing on a number of policy, procedural and legislative matters. In the PSA's contribution to the inquiry hearings, Mr Andrew Wilson refers in positive terms to this process of consultation (Corrected Hansard 17 May 2005 at Page 33).

Frontline experience

15. How many Head Office and Regional staff have "frontline experience" (ie youth work in a detention centre)?

16. Which Head Office and regional job position statements have frontline experience as a requirement for the position?

In recruitment, the department considers a balance of experience in community and custodial functions. Where frontline experience is a necessary prerequisite to perform a function, it is listed as criteria. The positions referred to (Q16) require senior and substantial management experience and knowledge of criminal and juvenile justice issues in both community and custodial settings.

The frontline experience of senior officers in the Department of Juvenile Justice is summarised below.

Relevant Senior Executive Officers – Central Support Office:

- Director General:

Probation and Parole Officer, Program Supervisor, Reiby, Deputy Superintendent/Superintendent Kamballa/Taldree and various senior management and senior executive roles in the Departments of Corrective Services, Juvenile Justice and Community Services.

- Assistant Director General (Operations):

District Officer, Community Program Officer (Family and Children's Services), Community Program Officer (Juvenile Justice Services), Area Manager (managing community based services and the development of Juvenile Justice Officers and Counsellors, and Cluster Director.

Senior Regional Management Positions:

- Regional Director Southern:

District Officer, Deputy Superintendent, Superintendent Anglewood, Residential Care Manager, Special Operations (DoCS), Program Coordinator Renwick/Anglewood, Divisional Manager, Manager Reiby and Cluster Director.

- Regional Director Hunter/Central Coast:

Youth Counsellor, Group Leader, Orchard Lodge Regional Assessment Centre (UK) (the facility consisted of secure and open units for severely troubled and troublesome 11-18 year old boys), Manager, Rainer Centre (working specifically with vulnerable adolescents), Area Manager and Cluster Director.

- Regional Director Northern:

Regional Youth Consultant, Community Program Officer, Community Services Coordinator, Manager Community Services (Lismore Council) and Assistant Regional Director.

- Regional Director Western:

Registered Psychiatric and Mental Retardation Nurse, Community Psychiatric Nurse, Psychiatric Welfare Officer, Regional Counsellor, Area/Regional Director Drug and Alcohol Services, Health Services Manager (all Dept of Health), and Assistant Regional Director.

- Regional Director Metropolitan:

Program Coordinator (programs for disadvantaged and "at risk" young people), Project Officer (training needs of Aboriginal, NESB and women), Manager Youth Resources Inc (working with young offenders and "at risk" young people") and Assistant Regional Director.

Classification System

17. ***The Fish Payne Pattenden Viney Service Delivery Plan estimates that under the new classification system that out of 16 A1(o) detainees, 5 would be reclassified to A2 once the new system is introduced. (ref: Fish Payne Pattenden Viney Service Delivery Plan p 38).***

- a. ***Can you please give the source calculations used by the consultants when they made this statement?***

The source calculations were not provided by the consultants.

- b. ***Please explain how and why reclassification of A1(o) detainees occurs more "expeditiously"?***

The department's experience, supported by Austin's research, is that very often the most serious offenders – those who would be classified A1(o) because of their offence – generally do not present behavioural problems especially when they have adjusted to the fact that they will be serving quite long sentences.

If this adjustment takes place quickly and the risk assessment and objective classification level indicates a lower risk, the detainee may be eligible for placement in another suitably secure environment.

- c. ***What was the first official date that the classification system affecting A1(o) offenders was introduced? How many detainees were immediately reclassified? Were these detainees transferred to other detention centres, and if so how many went where?***

The new Objective Classification System was introduced in the final quarter of 2004. A1(o) detainees held at Kariong, under the jurisdiction of the Department of Corrective Services, were generally not effected by the implementation of the new system. A1(o) detainees elsewhere were gradually reviewed prior to being

considered by Serious Young Offender Review Panel.

10 detainees were reclassified after assessment. One was transferred.

How many A1(o) detainees have been reclassified to date?

The department has reclassified 10 A1(o) detainees using the new Objective Classification System since it was implemented.

Transfer of Kariiong

- 18. *At the time of the announcement in September 2004 that the Government was considering the closure or transfer of Kariiong, what plans did the Minister have at that time for the detainees at Kariiong?***

In the September 2004 press release, the Minister indicated that several options were being considered for the long term future of Kariiong and that no decision would be made until after the Dalton Report had been finalised and considered.

- 19. *Were there any options other than the Fish Payne Pattanden Viney Service Delivery Plan being actively considered by the Department or the Minister? If yes, please give details?***

An adapted dispersal model and the options put forward in the 2004 Dalton report were under consideration. Details of these options have been provided previously.

Programmes and school

- 20. *The Memorandum of Understanding between the Department of Juvenile Justice and the Department of Corrective Services includes obligations to provide certain detainee programmes, namely: education; alcohol and other drugs counselling; relapse prevention; anger management; personal development and team-building.***

Please can you list the programmes that were actively being undertaken by detainees immediately prior to the transfer, including how regularly they were run, attendance levels and how they were incorporated in the day (i.e. before or after school)?

School, educational, behaviour management programs, religious, and sport programs are incorporated with periods of passive recreation each day for every detainee between 7.30 am to 8.00 pm.

In October 2004, the programs in three units at Kariiong included school, ground maintenance, detainee assessment interviews, early morning exercises, organised sport, religious sessions, a TAFE cooking class, art and craft, Counselling, Group Work and Group Work – Aboriginal.

- 21. How many detainees were actively participating in the school at the time of the transfer?**

School was conducted over three sessions of four classes per day. The school participants list on 27 October 2004 indicates that 15 detainees attended school that day. The school capacity at that time was 18.

- 22. What programmes were available for detainees immediately before and after release from detention to facilitate successful re-integration into the community?**

The department's case management process places great emphasis on preparing detainees for release. Successful reintegration relies on a number of factors including the frequency and quality of contact with family and community whilst in custody, the living skills acquired in custody, and the arrangements for ongoing support for the young person in the first weeks after release.

The department funds a number of community agencies to deliver post release support services to young people leaving custody. It is usual practice for a detainee's case manager (Juvenile Justice Office and/or detention centre Key Worker) to arrange a meeting with the young person and a community agency worker at least 6 weeks prior to release to plan the services and programs to support the young person's reintegration.

John Newbery report

- 23. Please can you provide the Committee with a copy of the following report: John Newbery, Review of Department of Juvenile Justice Industrial Relations and Human Resources Practices, December 2004.**

Copy of report by Mr John Newbery is attached.

Access to legal advisers

- 24. What arrangements were in place to facilitate access to legal advisers and advocates for young people? How many visits and phone calls were allowed per week for detainees?**

At Kariang, (as is still the case in all juvenile justice centres) legal advisers and advocates had unlimited access to detainees both in terms of visits and telephone calls. Arrangements were in place at Kariang to ensure that detainees were available to meet privately with legal advisers and advocates.

Possible future hearing

- 25. *If necessary, what dates in the last two weeks of June or the first two weeks of July would suit you for attending a hearing?***

I trust the information already provided by way of submission, attendance of departmental representatives at the 9 March hearing, questions taken on notice in the Legislative Council and the answers enclosed adequately responds to the queries of the Committee members.

Q. 13 *What is your response to the criticism of juvenile justice policy made in the submission of the Police Association of NSW?*

Recidivism

The submission of the Police Association New South Wales appears to be based on the views of a few NSW Police employees rather than on sound research or objective evidence.

The submission makes reference to a number of strategies for dealing with juvenile offending including curfews p.9, day in goal p.10 and Boot camps p.10. Research and evaluations of these strategies has generally found them to be ineffective, if not counter productive, in reducing re-offending behaviour.

A report recently released by the Bureau of Crime Statistics and Research, "The transition from juvenile to adult criminal careers", asserts boot camps, home confinement and wilderness camps are not effective in reducing recidivism. (Chen, Matruglio, Weatherburn and Hua 2005).

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.

The *Young Offenders Act* 1997 proclaimed on 6 April 1998, sets out an integrated hierarchy of responses to juvenile offending. Police have guided discretion under the Act to use warnings or cautions, refer a young offender for a youth justice conference, or, commence court proceedings.

A youth justice conference requires a young offender to face up to the consequences of his or her crime, to take responsibility for it and to acknowledge the hurt and harm their actions have caused. In contrast to the way in which Courts operate, the young person must speak for him or herself and, the young person must listen to the victim or victims describing how they were affected.

Police are entitled and invited to attend and participate.

In June 2000, the NSW Bureau of Crime Statistics and Research published their report, "An evaluation of the NSW Youth Justice Conferencing Scheme". The Bureau's study revealed high levels of satisfaction by conference participants with both the conferencing process and with outcome plans.

The Bureau conducted a further study that found that young people who participate in a youth justice conference stay out of trouble longer than those who appear before the court.

A statutory evaluation of the operation of the Young Offender's Act under s 76 of this legislation, tabled in Parliament on 24 June 2004, found that participation in a youth justice conference reduces the likelihood of re-offending for both property and violent crime. Ninety per cent of referrals that proceed to conferencing have resulted in successful completion of outcome plans.

REVIEW OF DEPARTMENT OF JUVENILE JUSTICE
INDUSTRIAL RELATIONS AND
HUMAN RESOURCES PRACTICES

John Newbery
December 2004

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1. Introduction

This report contains the findings and recommendations of a review of a number of human resource management and industrial relations processes and systems operating within the NSW Department of Juvenile Justice. The review was commissioned by the Minister for Juvenile Justice, the Hon. Diane Beamer MP, in late November 2004.

The review's terms of reference required investigation of and advice on a range of issues in relation to the staffing and management of the Juvenile Detention Centres run by the Department. In summary, they encompassed:

- disciplinary procedures: management and local versus central roles
- casual employment: appropriateness
- career progression opportunities: adequacy
- entry level skill requirements: appropriateness
- induction and ongoing training: appropriateness
- pre-employment checks: adequacy
- drug and alcohol screening and contraband testing: possible needs.

Advice was to be in the context of:

- achieving the objectives of a sound juvenile justice system
- existing public sector practice and legislative provisions
- the need, if any, for policy or legislative changes
- relevant standards and practices within the Department of Corrective Services.

A copy of the full terms of reference appears as Appendix I.

2. Background

In September 2004, Mr Vernon Dalton undertook a review of the Kariong Juvenile Justice Centre at the request of Minister Beamer. His report highlighted a number of systematic failures at Kariong, which supported the Government's subsequent decision to transfer the management and control of the Centre to the Department of Corrective Services.

While Mr Dalton did not suggest that the problems and failings he identified at Kariong extended beyond that Centre, a number of human resource issues he raised could conceivably be of significance for the remaining eight Centres run by Juvenile Justice. This reviewer's task was to take those issues, as summarised and added to in the current terms of reference, and determine how serious they were for the Department generally.

Methodology

The investigation required interviews and discussions with 16 key Juvenile Justice staff, plus staff of other agencies with either similar challenges or interest in the outcomes of the review. These were:

- the Public Service Association (PSA), which had expressed interest in all of the identified issues
- Justice Health, particularly for its views on Centre staffing, comparisons between Kariong and the other eight Centres, and similarities/dissimilarities with the Corrective Services environment
- The Ombudsman's Office, particularly for its views on investigations and disciplinary matters
- Corrective Services, to determine its methods used in parallel human resource/industrial areas
- The Department of Community Services (DoCS), particularly with reference to its pre-employment checking
- Premier's Department, to check on any new sector-wide policies or planned initiatives of particular relevance to the review.

A full list of individuals consulted appears as appendix 2.

Interviews and discussions were undertaken following a desk top review of a set of core documents – procedures, policies, guidelines, the Award, the Procedures Manual, reports, organisation charts – which enabled the framing of specific questions for the various interviewees. Numbers of other draft guidelines (“works in progress”), position papers and proposals were supplied by Juvenile Justice staff members, as were training and induction programs, recruitment kits and performance management tools. Corrective Services’ staff provided copies of their comparable guidelines and procedures. A sample of ten Professional Conduct Unit investigation files was reviewed.

A list of these documents appears as Appendix 3.

Two Centres, Orana and Dubbo and Frank Baxter at Kariong, were visited to gain a Centre staff perspective on the issues and allow the reviewer to form views on how these Centres are managed in a day-to-day sense.

3. Findings

This section of the report addresses the issues identified in the terms of reference and presents findings on each.

Those findings are then used as the basis for the development of specific recommendations in the subsequent section.

In analysing the inputs from interviews and discussions, document analysis and visits, this reviewer needed to form a view as to whether Kariong was in fact a typical Centre or an exception. It is clear from Mr Dalton's report that many departmental practices were not correctly implemented at Kariong, including those highlighted in this review's terms of reference. In this reviewer's opinion, the circumstances which led to the problems at Kariong were exceptional and not typical of the other eight Juvenile Justice Centres. Whether because of the particular nature of the detainees, a sequence of unfortunate incidents, local management failure or staff intransigence, proper human resource management and industrial procedures were largely not followed at Kariong, as Mr Dalton reports. It does not appear that this is the case in the other Centres. Having said that, there are a number of procedural improvements which could be implemented system-wide.

Additionally, it needs to be acknowledged that finding that the other eight Centres are better run than Kariong does not provide a guarantee that an incident may not occur in any one of them in the future. What this review can say, though, is that based on interviews, document analysis and visits, Kariong was an exception. The Department's dual objectives of providing secure accommodation and individual, remedial case management were not being met effectively at Kariong, but appear to be at the other Centres.

Virtually all interviewees contended that the major reforms which flowed from the 1999/2000 Council on the Cost of Quality of Government (COCQOG) review were being implemented at all Centres other than Kariong.

3.1 Disciplinary Processes

Disciplinary processes within the Department are generally conducted in accordance with the *Public Sector Management and Employment Act 2002 (PSM&E Act)*. This issue causing most concern for staff and key stakeholders is the amount of time taken to undertake investigations.

Most matters, other than the most minor, are referred to the Professional Conduct Unit (PCU) for investigation. Over the last twelve months, the number on hand awaiting investigation has risen from around 40 to over 70. It appears to this reviewer that inevitable decision appeal "losses" at the Industrial Relations Commission (IRC) and GREAT, and criticism at times by the Ombudsman's Office, has led to a situation where little assessment or investigation occurs close to alleged incidents. Matters are generally referred straight to the PCU.

The PCU is overworked, with an establishment of three investigators, albeit supplemented at times by temporary appointments or the use of external investigators. The Department of Community Services, with around 5,000 staff, has 28 investigations pending at the time of writing, which translates to a case load of four to five matters per investigator.

The Department would argue that the particular demands of the Ombudsman and the Commission for Children and Young People (CCYP) require high-quality investigation by a central group. But the case load means that investigations are taking 12 months or more each to finalise, a situation unsatisfactory to the Ombudsman, the PSA and staff involved.

In the opinion of this reviewer, the PCU takes on some cases which would be better handled at a local level. While six of the case files reviewed during this investigation were of alleged assaults, four involved conduct matters which are considered to be quite suitable for resolution by Centre or Regional management. These conduct matter files can run to multiple volumes.

PCU procedures appear to have become increasingly legalistic, reports are longer and move to and fro between levels of management, despite the fact that PCU sits within Human Resources, not Legal Services. This again appears to be a reaction to "losses" and external criticism, but does not address the key issue: timeliness.

The Ombudsman is a demanding watchdog body, but what it requires is a level of investigation commensurate with the level of seriousness of an incident. Low risk physical assaults ("trivial or negligible") do not have to be reported to it. The Ombudsman's Office has indicated a willingness to be involved in designing a more integrated misconduct process for Juvenile Justice.

In September 2002 Corrective Services introduced its Management of Professional Conduct in the Department of Corrective Services procedures and guidelines. While it is acknowledged that the reporting of assaults on children and young people places particular demands on Juvenile Justice, the Corrective Services' approach is based on clear classification of types of matters, clear authority at multiple levels to deal with these, and a central assessment committee to agree what are "serious" matters for central investigation. It is considered that a similar (not identical) approach would work at Juvenile Justice.

Improving disciplinary processes would need to go beyond re-assessing the PCU's role. If Regional and Centre managers' roles and accountabilities are to be expanded, clear procedural guidelines and suitable training will be required, with attendant financial implications. The Department's Individual Development System (IDS), developed in July 2002 and updated in 2003, is consistent with Premier's Department guidelines but is considered by this reviewer to be overly complex for successful implementation in Centres. In response to this complexity, some Centres have simplified the IDS and produced professional supervision procedures and forms, which appear to be working. At present, though, the approach is not consistent across all the Centres.

Performance management is not an end in itself, but simple systems do play a key role in the continuum of professional conduct management. Corrective Services plans to introduce a new performance management system in 2005.

It is considered that Juvenile Justice is at the point where it needs to re-assess its approach to assessment, investigations, performance management, professional supervision and delegations to create a co-ordinated, system-wide Misconduct Process. This would need to be undertaken as a full time priority project by either an internal or contracted HR specialist.

3.2 Casual Employment

The Department traditionally employed "casual" front-line staff as Youth Officers at its Centres to cover planned and unplanned absences of its permanent staff.

In an effort to reduce its reliance on casuals, the Department established a trial Relief Pool on a Centre by Centre basis in January 2004. 80 staff were appointed on a temporary basis for up to twelve months.

The Relief Pool was not intended to replace casual staff entirely, but to be used to cover known, planned absences, chiefly due to recreation leave. Thorough guidelines cross-referencing Award and PSM&E Act 2002 requirements were produced for Centre management.

Short term, unanticipated absences such as sick leave were still to be filled through casual employment.

The trial period is almost complete and the Department is initiating a review of its success. Stakeholders interviewed agreed that a well-functioning Relief Pool, based on 12 month projected rosters, was the most suitable way of covering planned absences. The trial period has been extended by three months to allow the review to be completed.

It would seem apparent that Juvenile Justice will always require access to some casual staff. Youth Officers interact with detainees in a far more direct manner than Corrective Services Officers, given their case management accountabilities. Unanticipated absences need to be catered for. Excessive use of overtime has both budgetary and quality of service/OH&S implications. Corrective Services itself does employ a small number of casual staff.

It is clear from Mr Dalton's report that Kariong both employed too many casual staff and used them in an inappropriate manner. Kariong's efforts in reducing overtime hours between 2003 and 2004 were accompanied by a 69% increase in sick leave, leading to the casual staff situation described by Mr Dalton. Neighbouring Frank Baxter, which also dramatically reduced overtime hours, saw only a 2% increase.

If the Relief Pool trial is deemed successful (and it appears it will), necessary modifications are made and reliance on casuals to fill planned absences is reduced, the remaining issue is really about training. Casuals undertake the same 27-day induction program as permanent staff, but are not paid for attending on-going training activities and only have access if positions on courses are not required by permanent staff. This issue is pursued further in the section of the report dealing with training issues.

3.3 Career Progression

The introduction of the Centre structure recommended in the 1999/2000 COCQOG review has provided a much improved career progression path for Youth Officers, Unit Co-ordinators, Unit Managers, Assistant Centre Managers and Centre Managers – at least on paper.

Juvenile Justice shares the same practical career progression difficulties as many other public sector agencies. Well-qualified new entrants (at the Youth Officer level) may aspire to moving up through the supervisory/management chain, and be willing to obtain the training and qualification to do so. But that becomes difficult if the Unit Co-ordinator/Manager positions are filled by staff who have reached a level of job satisfaction/comfort and have no desire to move further up that management chain. Numbers of these positions were filled by "older" Juvenile Justice staff members after the COCQOG review, following agreement on transition arrangements between the Department and the PSA. It would appear that at least some good Youth Officers leave the Department to take up better career progression opportunities in other human services agencies after completing their accrediting training.

As with performance management, a career progression "system" should not be an end in itself. While opportunities need to be available for bright employees to move upwards, the Department still needs some degree of stability at the Youth Officer/Unit Co-ordinator/Manager level. It cannot afford to have these staff "encouraged" to think about and plan their next career moves to the extent that it effects performance in current roles. It really needs to consider its overall workforce strategy. Should suitable staff be encouraged to move between the Centres, community based services and Head Office? In the course of interviews, this reviewer met individuals who had advanced their careers in the Department by doing exactly that. Other interviewees expressed concern that Youth Officers moving to community based services may be unwilling to return to the rigors of Centre work. But the three managers interviewed at Orana had come into their current Centre roles from community based services, and one at Frank Baxter had a Head Office background. The key would seem to be a workforce strategy which identifies benefits and costs of movements like this and puts a "package" of opportunities for staff progression together, firmly linked to the Department's desired outcomes.

Corrective Services has a formal rotation program to allow its uniformed staff to move through other areas of the Department. It makes temporary appointments to training, rostering and workforce planning for example, and between its 28 detention centres. Proactive rotation and secondment policies within Juvenile Justice may allow better career path opportunities for Youth Officers and reduce the attrition rate.

3.4 Entry Requirements

Entry level requirements for Centre staff virtually parallel Corrective Services' requirements for its custodial staff. Youth Officers can be employed with a School Certificate-level academic qualification, backed with some supervisory or trade experience.

Some Youth Officers enter with Higher School Certificate, Diploma or even Degree qualifications. Pragmatically, though, lifting the entry level requirement could lead to significant recruitment difficulties in country and some metropolitan areas for both permanent and casual staff.

The package of information provided to potential applicants is of a very high standard and is backed by information sessions at at least some Centres. It describes the Youth Officer role well.

The selection process then requires assessment of written applications, suitability testing, a panel interview and an independent psychologist interview, reference/referee checks and security/employment screening checks (discussed later in the report). Successful applicants are then either appointed to a permanent position with a 12 month probation period, placed on a casual availability list, or during the recent trial temporarily appointed to a Centre relief pool position.

Lifting the level of the academic entry requirement could also disenfranchise some highly suitable, mature age applicants.

There does not appear to be a convincing case for varying the current entry level requirements, as long as the Department can continue to provide high-quality training at four levels: initial induction, certificate IV in juvenile justice (youth work), refresher and staff/management development.

3.5 Induction and Ongoing Training

Quality training for detention Centre staff is essential. It is also expensive and can create difficulties with rosters if suitable backup for staff attending courses cannot be found.

The Induction program is comprehensive and well-designed, particularly on the theoretical side. There is a compulsory Youth Officer Completion Requirements Form which has to be completed for each inductee, and must be certified by a Training Officer and someone from Centre management. Both permanent and casual staff attend the program. It runs for 27 days, of which approximately six are devoted to practical experiences. A number of interviewees have suggested that the program would ideally be longer, with more supervised practical sessions, if the budget permitted. Centre staff commented on the difficulty of creating realistic simulations and role plays, and "teaching" skills involved in dealing with detainee confrontations and using appropriate restraining techniques, for example handcuffing. If the program were to be expanded, it would be in the "hands on" areas rather than case management theory.

The Corrective Services induction program runs over 10 weeks, which comes back to around 46 days training when parade training and graduation are excluded. 35 days are similar in content area to Juvenile Justice's program, with 11 days of specialist weapons and officer survival skills added.

Youth Officers work far closer with detainees than Corrective Services Officers. They have a mixed case manager/custodial officer role. There is an argument for a longer induction program with increased emphasis on practical detainee management skills, perhaps delivered over a longer period rather than in one initial block.

Youth Officers then need to obtain a vocational qualification, currently a Community Services Training Package (CSTP) Certificate III in Youth Work (Juvenile Justice), soon to be a Certificate IV. Juvenile Justice is a VETAB accredited Registered Training Organisation (RTO) and provides this training internally.

The training is competency based and was developed following an independent needs analysis. There is a formal Learning Pathway for Youth Officers and Juvenile Justice Officers. While the program is generally well regarded, the challenge of creating realistic role plays and simulations was again commented on during interviews.

Each Centre has its own Training Officer, who reports directly to the Centre Manager and has a "dotted line" responsibility to the Co-ordinator, Direct Care Development. The Training Officers organise Centre staff development days. In practice, these are variable in content and format across the Centres and probably should be driven by centrally-developed guidelines. It was suggested at interviews that these training days were not occurring at all at Kariong, but are at each other Centre.

The difficulties involved in making staff available for staff development and refresher training led to an observation by Mr Dalton that a half day detainee lock down in Centres may be the only practical way of winning some time. Centre staff have suggested that if this was combined with existing periods when detainees are in their rooms already and staff are present (for example, early Saturday mornings), this could be feasible.

Two further issues are worthy of mention. The first concerns budget and training effort. Delivering priority programs (Induction and Certificate III/IV) means that there is little time or capacity to provide training for non-Youth Officer stream staff, or management skills training in areas identified as requiring them, such as managing poor performance and professional supervision. There could be possibilities for accessing other agencies such as the Departments of Community Services (DoCS) or Corrective Services in these areas, or using accredited external providers. There are clear cost and rostering implications.

The second issue involves the ability of casual staff to access training. As noted, casual staff complete the same induction program as permanents. From there, though, they can attend other training but are not paid for their time and cannot claim expenses. They can only attend if a vacant position on a course if it is not required by a permanent. Given the high number of casual staff employed, and the events involving casual staff and their use at Kariong, this situation needs addressing, despite the budgetary implications.

3.6 Pre-Employment Checks

Juvenile Justice and DoCS perform essentially the same pre-employment checks. Every applicant recruited or staff member promoted is subject to a working with children and a NSW criminal record check, via contracts with the NSW Commission for Children and Young People (CCYP). Risk assessments from the CCYP are then considered by HR professionals (the HR Manager at Juvenile Justice, a Businesslink officer at DoCS) and recommendations to employ or not employ are made. Qualifications are sighted.

As noted earlier in the report's entry requirement section (3.4), Juvenile Justice applicants are interviewed by an independent psychologist and references and referees are checked.

Corrective Services undertakes a NSW criminal record check for all staff, plus a nation wide fingerprint check for all custodial staff. It has recently added a CCYP working with children check for staff at Kariong. It also has a literacy and numeracy test and a psychometric test. Views in the public sector on the value of psychometric testing vary. Premier's Department is soon to issue guidelines for its use.

Corrective Services HR staff also check for existing relationships between detainees and custodial staff. Qualifications are checked. There is a medical assessment. NSW Police-style fitness tests are not used by either Juvenile Justice or Corrective Services. There is an argument that Youth Officers require a certain level of fitness, although this may act against the recruitment of otherwise suitable mature age staff. Disclosure of existing medical conditions is probably sufficient.

Relationship checking of Youth Officer applicants could disenfranchise otherwise suitable staff, particularly in country areas.

3.7 Drug and Alcohol Testing/Contraband Screening

Mr Dalton's report alludes to the role of staff in contraband introduction at Kariong, but does not comment on drug and alcohol testing.

In May 2002 the Department sought Crown Solicitor's advice on the scope of its powers to test staff for the inappropriate use of drugs and to search staff for contraband. The Premier's Department policy on alcohol and other drugs states:

"Testing for the inappropriate use of alcohol or other drugs may be appropriate in areas of work that are safety critical such as in the provision of public transport. Organisations should develop their own guidelines in consultation with employees and unions where legislation permits testing. Guidelines need to set out the specific roles and obligations of managers and staff."

The Crown Solicitor's advice was that neither the Crimes (Administration of Sentences) Act nor the Children (Detention Centres) Act give the Department power to enforce drug and alcohol testing or contraband checking of staff, but that the Department could request staff to undergo tests or checks.

To apply some form of mandatory testing, such as that used by Police, Corrective Services and public transport agencies would require legislative amendment, and the advice contains suggestions for that.

Corrective Services has a drug and alcohol policy based on both reasonable suspicion (targeted) and random testing, plus post critical incident testing. These are backed by health education and employee support programs. They are essentially breath testing for alcohol and urine testing for illegal drugs.

No Juvenile Justice staff or stakeholder representatives interviewed during this review opposed drug and alcohol testing of staff *per se*. Virtually all agreed that reasonable suspicion-based testing should be the minimum, and many supported random testing as well.

Corrective Services and Police have wide powers to check for contraband under their respective Acts and use a variety of taskforce/undercover approaches in their investigations. All Corrective Services custodial staff have personal lockers and use clear plastic bags for any materials taken into their Centres. They also wear uniforms.

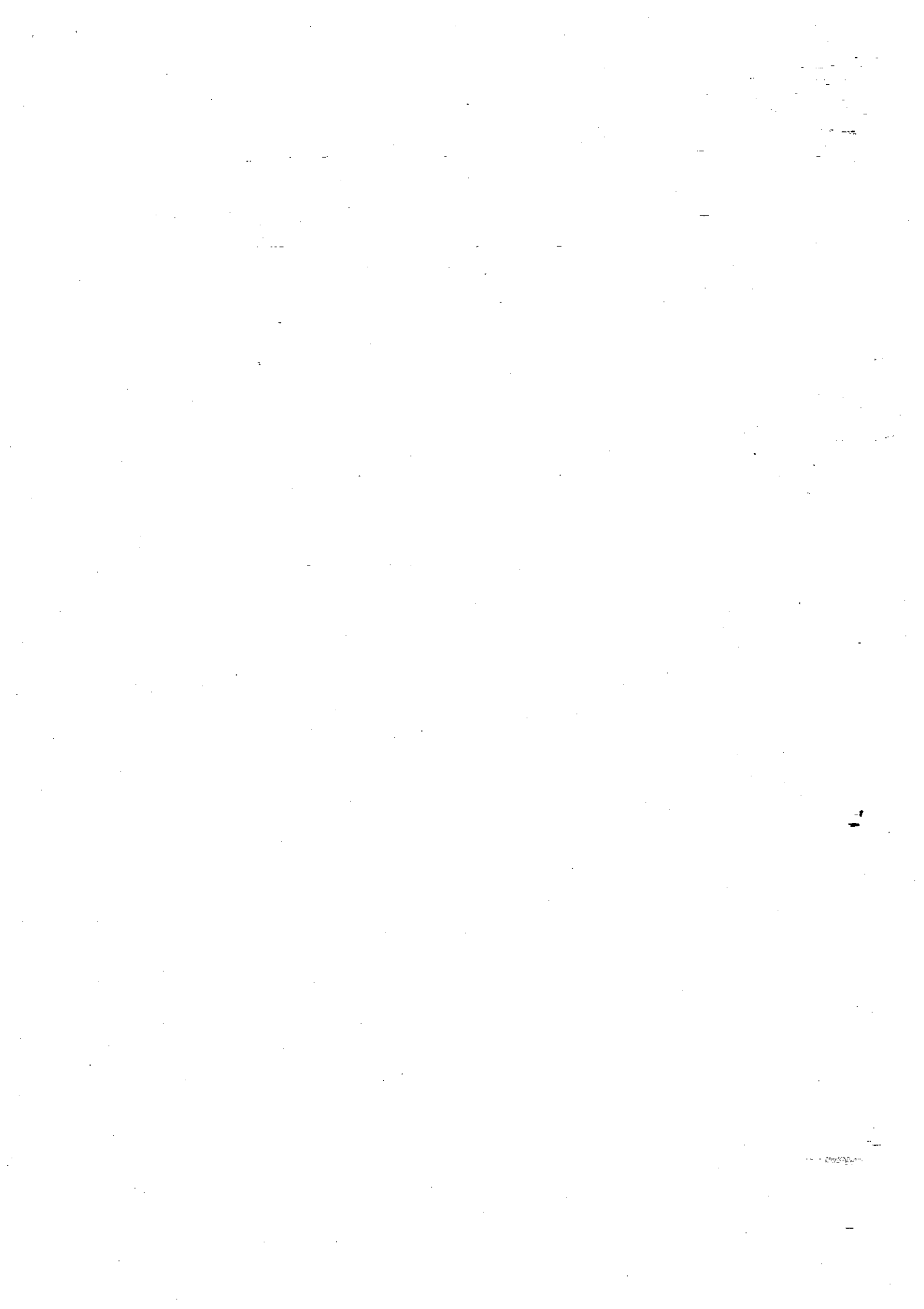
Juvenile Justice staff and stakeholder staff were supportive of intelligence-based testing of staff for contraband. A number supported the use of sniffer dogs.

While not directly covered in the terms of reference, the issue of uniforms and dress standards emerged as a strong concern in the course of the review. Interviewees felt the lack of standards contributed to a range of human resources and industrial problems around both staff and detainee behaviour, and created OH&S issues.

Staff at Orana approached management and suggested a standard, informal "uniform": black collared T-shirt with logo, dark trousers, sensible shoes. Staff supplied the clothing, the Department provided the logo.

There are divided views on whether a formal uniform is required. Clause 18 of the Award states that if staff are required to wear a uniform, then it should be supplied, and be laundered or a laundry allowance paid. There are obvious significant budgetary implications.

Setting a dress standard – collared T-shirts (preferably with a logo), dark trousers or shorts, sensible shoes – may be a suitable alternative. The standards would need to apply to all workers at Juvenile Justice Centres.



4. Recommendations

4.1 Disciplinary Processes

- 4.1.1 Set up a priority project to review assessment and investigative procedures, the current Individual Development System (IDS) and professional supervision models used in Centres; develop new investigative procedures, delegations and accountabilities; produce a co-ordinated, system-wide Misconduct Process.
- 4.1.2 Either take an appropriate HR staff member off-line or appoint a HR contractor to run the project; take up the Ombudsman's Office offer of assistance in developing appropriate assessment and investigation criteria; develop the new Process with reference to Corrective Services' The Management of Professional Conduct in the Department of Corrective Services.

4.2 Casual Employment

- 4.2.1 Complete the review of the trial Youth Officer Relief Pool system.
- 4.2.2 Tighten procedures for Relief Pool staff use (if review outcomes generally positive) and reinforce policy of using casual staff primarily for unplanned absences.

4.3 Career Progression

- 4.3.1 Consider initiating a project to develop an integrated workforce strategy which would encompass career progression policies and procedures.

4.4 Entry Requirements

- 4.4.1 Maintain current entry level skill requirements for detention Centre staff, backed by consistent, practical, available on-the-job training.

4.5 Induction and Ongoing Training

- 4.5.1 Undertake a quick re-assessment of the adequacy of practical components of induction and certificate training, with the assistance of an experienced Centre staff member.
- 4.5.2 Provide guidelines to Centre Managers covering the content and conduct of staff development activities, to develop some consistency.
- 4.5.3 Determine the practicality of providing additional training (supervision, management development, refresher) through extension of lock down periods.

4.5.4 Explore opportunities for using other providers such as DoCS or Corrective Services for provision of non-core skills training in areas such as front-line supervision and performance management.

4.6 Pre-Employment Checks

4.6.1 Consider introducing Australia-wide criminal records checks for Youth Officer position applicants.

4.6.2 Ensure adequacy of requirements for disclosure of pre-existing medical conditions or injury.

4.6.3 Consider document verification checks as well as document sighting.

4.7 Drug and Alcohol Testing/Contraband Screening

4.7.1 Request that the Manager, Legal Unit, confer with the Crown Solicitor's Office with a view to amending legislation as appropriate to enable intelligence-based drug and alcohol tests and contraband searches of Centre staff.

4.7.2 Ensure that all staff have lockers and that all items carried into Centres are in clear plastic bags.

4.7.3 Once the legislation is amended, prepare policies and guidelines for test/search procedure implementation, consistent with the Premier's Department policy.

4.7.4 Consider the introduction of either a uniform or a dress code for Centre staff.

Appendix 1

Review of the Department of Juvenile Justice Industrial Relations and Human Resources Practices Terms of Reference

In relation to the staffing and management of Juvenile Detention Centres run by the Department of Juvenile Justice you are asked to review and advise on the following issues:

Disciplinary Processes

The management of breaches of Departmental practices and procedures, up to and including pursuance of disciplinary action in accordance with the *Public Sector Employment and Management Act 2002*, with particular attention to the local level management of the disciplinary process and the time taken by the Professional Conduct Unit in processing actions.

Staffing Arrangements

The level of casual employment within detention centres, its impact on service delivery and whether there are any other appropriate alternatives. The appropriate balance between overtime and the use of casuals should be considered.

Whether there are sufficient opportunities for career progression for Youth Officers, Unit Managers and Co-ordinators into upper management including Assistant Centre Manager, Centre Manager and beyond.

Whether the current entry level skills requirements for detention centre staff are appropriate and if not what do you consider appropriate.

Whether the current level of induction training is appropriate and is the current regime of ongoing training appropriate. If not what enhancements should be made.

Compliance with procedures for and any necessary amendments to pre-employment checks such as, but not limited to, criminal records and working with children check.

Drug and Alcohol Testing

Whether there is a need for drug and alcohol testing and/or contraband screening of staff within detention centres.

If it is considered necessary, what would be an appropriate regime of testing and how could it best be achieved.

In advising on the above issues, consideration should be given to:

- achieving the objectives of a sound juvenile justice system;
- existing public sector practice and legislative provisions; and
- the need, if any, for policy and/or legislative change.

The standards pursued or advocated in the review should be referred in the process of the review to standards and practices within the Department of Corrective Services.

Appendix 2

Individuals Consulted

Juvenile Justice:

David Sherlock	Director General
Peter Muir	Assistant Director General (Operations)
Stephanie Cross	Assistant Director General (Management Services)
Kevin Hogan	Director, Human Resources
Steve Miller	Director, Southern Region
Bryce Wilde	Manager, Workforce Planning and Development
Gary Head	Co-ordinator, Direct Care Development
Greg Hearne	Co-ordinator, Drug Intelligence Unit
Sharryn Ryan	Manager, Legal Unit
Reinhard Hitzegrad	A/Manager, Employment Relations and Professional Conduct Unit
Leonie Bender	Manager, Orana JJC
Danny Rousianos	Assistant Manager, Orana JJC
Janet Curran	Assistant Manager (Client Services), Orana JJC
Steve Wilson	Director, Custodial Services, Frank Baxter JJC
Peter Reberger	A/Manager, Frank Baxter JJC
Steve Gilligan	Assistant Manager, Frank Baxter JJC

PSA:

Geo Papas	Industrial Officer
Mick Sinclair	Organiser

Department of Corrective Services:

Margaret Parmeter Director, Employment and Administrative Law Branch

David Huskins Director, Human Resources Services

Justice Health:

Richard Mathews Chief Executive Officer

Belinda Chaplin Chief Executive Officer and Director, Corporate Services

Premier's Department:

Chris Raper Assistant Director General

Department of Community Services:

Leon Newbery Manager, Group Human Resources

Ombudsman's Office:

Anne Barwick Assistant Ombudsman (Children and Young People)

Appendix 3

Documents Reviewed

Juvenile Justice:

- Annual Report 02/03
- Corporate Plan 2004-2007
- Management of Conduct and Performance guidelines and working drafts on processes
- Youth Officer Relief Pool guidelines and working documents on implementation
- Recruitment process guidelines, working papers, advertisements, applicant package
- Training programs, needs analysis, working papers
- Induction program and completion requirement forms
- JJs' Procedures Manual
- COCQOG review summary documents and bulletins
- Orana JJC professional supervision documents
- Individual Development System (IDS) guidelines
- 2002 Award
- Policy for the Management of Difficult Behaviour
- Position descriptions for Centre staff
- Organisation charts for Centres
- Ten Professional Conduct Unit case investigation file sets

Others:

- Dalton report on Kariang JJC (October 2004)
- Crown Solicitor's Office advice on Powers in respect of tests and searches (May 2002)
- CCYP Working With Children Check Guidelines (April 2004)
- Management of Professional Conduct in the Department of Corrective Services (September 2002)
- Department of Corrective Services recruitment packages, materials, forms, advertisements.