

INQUIRY INTO JUVENILE OFFENDERS

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Date Received: 02/03/2005

Subject:

Summary

FR. RAMSAY NUTHALL

Serving God Through Serving the Whole Community Under the Auspices of the Anglican Diocese of Newcastle.

Chaplain NSW Department of Juvenile Justice

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28 February 2005

Ms. Tanya Bosch
Contact Person
Parliamentary Select Committee on Juvenile Offenders
Parliament House
Macquarie St.
Sydney NSW 2000

Dear Ms. Bosch,

Please find enclosed the Submission of the Juvenile Justice Sub-Committee of the Civil Chaplaincies Advisory Committee to the Parliamentary Select Committee on Juvenile Offenders.

Please feel free to contact me should you or the Select Committee desire to do so.

Yours sincerely,



Ramsay Nuthall

Submission to the Select Committee on Juvenile Offenders.

The Juvenile Justice Sub-Committee of the Civil Chaplaincies Advisory Committee.

The Civil Chaplaincies Advisory Committee is the body which mediates the appointment of chaplains to the government agencies of Health, Corrective Services and Juvenile Justice. It comprises representatives of all major religious bodies in New South Wales (Christian, Islamic, Jewish and Buddhist).

The Juvenile Justice Sub-Committee of the Civil Chaplaincies Advisory Committee comprises representatives from the parent committee along with full time and part time chaplains working within the Department of Juvenile Justice.

Departmental Chaplains', being 'in the system but not of the systems' are both close and independent observers to what has transpired within the Department over several years as well as in recent more times; we believe, therefore, that our perspectives may prove helpful to the work of the Parliamentary Select Committee.

We have attempted to address the issues raised in the terms of reference, in the main in more general rather than in more specific terms. A more specific focus may best be given by others more directly concerned with the varying areas.

Members of the Juvenile Justice Sub-Committee of the CCAC are;

Chairperson

Archdeacon Geoff Huard - CCAC representative
Anglican

Secretary

Fr. Ramsay Nuthall
Departmental Chaplain – Frank Baxter Juvenile Justice Centre
Anglican

CCAC and denominational representatives

Rev. Ian Duncan – CCAC representative
Baptist

Fr. Phillip Medlin – Diocese of Parramatta
Roman Catholic

Departmental Chaplains

Fr. Andrew Granc
Departmental Chaplain – Reiby and Keelong Juvenile Justice Centres
Roman Catholic

Pastor Martin Parish
Departmental Chaplain – Kariong Juvenile Correctional Centre
Baptist

Sr. Jan Syme
Departmental Chaplain – Yasmar Juvenile Justice Centre
Anglican

Rev. Richard Thackray
Departmental Chaplain – Cobham Juvenile Justice Centre
Baptist

Limitations of time and research / secretarial resources have not enabled us to expand as fully as we would have liked on the many aspects of this submission. We would be more than willing to expand on any points discussed should the select committee desire.

All correspondence to;

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Secretary
Juvenile Justice Sub-Committee of the CCAC
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Submission

Section (a). *Regarding the reasons for, and the consequences of, the transfer of management responsibility for the Kariong Juvenile Justice Centre from the Department of Juvenile Justice to the Department of Corrective Services including the impact on staff at Kariong and Baxter detention centres,*

Background and reasons for the transfer of management to the Department of Corrective Services.

The recent transfer of management of Kariong Juvenile Justice Centre to Corrective Services is really the culmination of several issues going back many years. These include;

1. The total inadequacy of the building and its environment for the purpose of housing the most difficult of juvenile offenders.
2. It needs to be acknowledged that Youth officers work in what is often an extremely stressful and demanding environment that offers little in the way of personal affirmation. This contributed to the often negative attitudes of some staff members that developed over several years. Perhaps this could have been alleviated by staff transferring out of the maximum security unit to other centres on a more planned and regular basis. Further to this, perhaps some individuals could have been more vigorously encouraged, by departmental management, to pursue other career options. This negativity on the part of some contributed to the difficulty of managing the Kariong Juvenile Justice Centre.
3. The Department of Juvenile Justice is undoubtedly one of the most scrutinised of all government departments, and this is as it should be. It could be argued, however, that the over zealous and often petty scrutiny of Ombudsman officials and Official visitors has created a management mindset throughout the entire department (on both a conscious and unconscious level) that works against management strategies based on practical experience, pragmatism and common sense.
4. Further to the above, it would appear that centre managers throughout the department are increasingly being swamped by the necessity of providing reports and explanations arising out of the naivety of people distant from the many problems that arise at the basic service delivery / operational level. This tends to

distract them from the essential centre management tasks and limits their ability to establish a working knowledge of both the staff and detainees for whom they are responsible.

5. Both major political parties have sought to extract maximum political advantage out of the so called "law and order" issue to the detriment of sound policy and good management of Juvenile offenders. Parliamentarians have often fed the various periods of media frenzy, or responded to such frenzy in an extremely simplistic and 'blaming' sort of way, thus not always offering departmental management the public support it deserves in managing a client base comprising essentially the most difficult young people in our community. It is clear that we cannot expect a responsible approach on the part of the media; however we can surely expect our elected representatives to demonstrate leadership in this respect. Only a bi-partisan "pact of common sense" with regard to juvenile offenders could end this truly destructive trend.

Section (a) *Consequences for young offenders.*

We would like to raise two significant issues of concern with regard to the treatment of young offenders detained at Kariong Juvenile Correctional Centre.

Firstly, the present total time of 'lock-down' for young offenders detained at Kariong Juvenile Correctional Centre. The Select Committee will hopefully question the present periods of detainee lock-down in terms of what benefits – apart from a perceived need of maintaining security within the Centre & perhaps a punitive element – are to be gained from such a lengthy period of daily lockdown? Indeed – it could be argued that such a practice may well serve to "harden" the young person even more & thus ensure recidivism. This would be a significant example of where young offenders are being denied an existence as conducive as possible to the necessary tasks of psychological development so necessary to the formation of pro-social adults. In this context, we would like to note the alarming silence of the Ombudsmen in relation to lock-down times etc. implemented at Kariong since Corrective Services have assumed management at Kariong. We feel that the Department of Juvenile Justice would never have been allowed such latitude.

We also feel that the present practice contravenes the spirit of the *United Nations Protocol – Rules for the Protection of Juveniles deprived of their Liberty: #67*, to which Australia is a signatory.

"All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned".

We feel, in this regard, that young people at Kariong Juvenile Correctional Centre are being deprived of developmental opportunities, perhaps even punished, for the failure of systems and practices totally beyond their control.

Secondly, access to detainees for Chaplains, Mental Health professional, counsellors etc. has been significantly limited since the transfer of management. The casework model appears to have broken down and rehabilitative programmes addressing offending behaviour and social integration have ceased.

We believe that when juveniles are, by necessity, placed in the extremely abnormal setting of a custodial institution, that every effort must be made for professionals, who attempt to provide normalising experiences for detainees, to be given as much access to the day to day environment as is possible. If this is not the case then we merely hasten the process of institutionalisation of young offenders.

It is essential that Department of Juvenile Justice levels of chaplaincy and therapeutic / casework care be maintained.

Section (a) *Consequences for staff.*

Needless to say the impact on the lives of some staff, particularly casual staff, has been devastating.

Forced disruption of employment circumstances has resulted in financial and emotional instability that in turn greatly affects family and community relationships.

Section (b) *As to whether the transition of Kariong Juvenile Justice Centre into a Juvenile correctional centre operated by the Department*

of Corrective Services is the most effective method of addressing management problems at that centre?

In quite simple terms, the answer has to be no! The most effective method of addressing any extant management problems is quite simply **to address them**. This would mean first addressing in a realistic way some of the issues raised above in the 'background reasons' section. It would then involve operationally sound and experienced people to manage according to legislation, policy and common sense without hindrance.

Section (c) *Regarding the issue of adult detainees sentenced as juvenile offenders at Kariong and elsewhere in the juvenile detention centre system.*

Our experience suggests that this is an issue that must be evaluated on a case by case basis depending on the rehabilitative prospects and welfare of a particular detainee, and as to whether the particular detainee in question is affecting a positive or deleterious influence on younger detainees. Younger detainees need older peers in order to facilitate normal personal development; however where the influence is negative, then a swift transfer to the adult system should be facilitated. Fundamentally we would not recommend a change to the present system.

Section (d). *Regarding the classification system and appropriateness of placements for detainees,*

The classification system must ensure that it remains responsive to a young persons growth and development, never be permanent as seems to be the case with some adult offenders (i.e. escapees) and ensure the swift and timely transfer of juveniles to centres more suited to their needs when deemed appropriate.

Section (e). *Regarding alternatives to the establishment of a juvenile correctional centre,*

We would recommend the eventual closure of the present Kariong site (it being totally unsuited to the housing of juveniles) after the establishment of a maximum security unit, probably best positioned as an extension of, though separate from the Frank Baxter facility. This

facility would be best managed by the Department of Juvenile Justice. Centre management with extensive operational experience would need to be managerially empowered to ensure that the recent Kariong predicament did not recur.

There is a great deal of confusion in the overall media, public, and indeed parliamentary mindset that a rehabilitative, offender focussed juvenile correctional system necessarily diminishes any attempt to establish an environment of firm discipline where the containment of antisocial behaviours is paramount. One must wonder as to whether this is also the mindset of many in the various extant monitoring authorities and even some within the department.

We would want to vigorously assert that firm and consistent discipline is the foundation of juvenile correctional endeavour rather than the enemy of it, and that the Department of Juvenile Justice is best equipped to design, implement and manage such endeavours.

In order to illustrate this pivotal point, we would like to borrow the point made by pastoral theologian and spiritual writer Henri Nouwen in his book 'Out of Solitude' where he explores the notion that any attempt at 'cure' (in our case correction) without 'care' can so easily roll over into abuse.

The Department of Corrective Services cannot, out of its staffing practices and operational styles, give the level of 'care' required by damaged juveniles in terms of assisting them to progress through the essential developmental stages of human adolescents. Several of our number can testify to the increased 'hardened and cynical' countenance of many young people who return to the juvenile system after a significant time in the adult correctional system.

The Department of Juvenile Justice can, however, be legislatively and managerially empowered to address its charter more effectively than is presently the case (these are large and complex areas where further expansion may be necessary).

Section (f). *Regarding the wider social implications of incarcerating juveniles in juvenile correctional centres run by the Department of Corrective Services,*

Incarcerating juveniles in a centre run by Corrective Services can only be seen as a short-term solution to the recent management troubles

at Kariong JJC. The hard and sometimes unpopular fact of the matter is that, no matter what their behavioural manifestations are, we are still dealing with and attempting to develop our delinquent young people who more often than not have themselves been seriously damaged by structures, powers and forces beyond their control, usually at a very early age.

The Department of Juvenile Justice exists in the necessary tension between behavioural containment which needs to be exercised in custodial terms, and parental / developmental / welfare responsibilities which must be expressed by the provision of an environment which is as least developmentally delaying and damaging as is possible.

This is an extremely difficult balance to achieve, and we must not delude ourselves into thinking that the Department of Juvenile Justice succeeds in any great measure. For a whole host of reasons, often reasons beyond its control (ref. background reasons above) it does an often less than satisfactory job. Yet we must not minimise the harsher reality, which is that this is a balance that is not really on the Department of Corrective Services agenda to anywhere near the same extent.

There are individuals in the service of the Department of Juvenile Justice who strive quite valiantly to enhance the rehabilitative prospects of the young people in their care. The Department of Juvenile Justice needs to develop management strategies to support, retain, empower and encourage these people.

The wider and more long term implications of subjecting juveniles to a more repressive rather than interactive custodial regime is simply, to our mind, the halting or at least delaying of the pro-social development of our communities most problematic young people. This in the long term may well have unmeasurable affects in both individual and generational terms.

Section (g) *Management of staff assault issues in the juvenile justice system;*

The significant reality with regard to the Departments handling of staff assaults is that Youth Officers do not feel supported by departmental management after they have experienced an assault on either themselves or one or more of their number.

Youth Officers are required to operate (during a violent incident) in a context of raw and uncontained emotion and physical aggression. Their actions and reactions in such situations are most often not as well rehearsed and choreographed as the average Hollywood production. Yet they feel that their actions are examined and harshly criticised by the various monitoring bodies, as well as higher management, all of whom work out of air conditioned offices rather than the immediacy of the original moment in question.

It would be fair to suggest that corrective services staff and upper management are not burdened by this particular state of affairs to quite the same extent.

Section (H). *As to whether incarcerating juveniles in juvenile correctional centres achieves reduced recidivism, rehabilitation and compliance with human rights obligations.*

Any assertion in support of the notion that incarcerating juveniles in juvenile correctional centres would achieve reduced recidivism and a greater level of rehabilitation could only, it seems to us, arise out of the present social, media and political tendency to view matters of great complexity with disquieting simplicity.

We would doubt that any sound research of an appropriate longitudinal design, either qualitative or quantitative, could be quoted in support of such a notion.

Rehabilitation, as suggested several times above, is surely a function of sound moral and psychological growth and development within an individual. This growth and development is more easily and appropriately facilitated in the younger person, and the Department of Juvenile Justice, properly empowered and supported, is best placed to facilitate relevant developmentally orientated programmes.

The Department of Juvenile Justice is also best placed to ensure compliance with our human rights obligations.