

## **INQUIRY INTO JUVENILE OFFENDERS**

**Organisation:** NSW Ombudsman  
**Name:** Mr Bruce Barbour  
**Position:** Ombudsman  
**Telephone:** 9286 1000  
**Date Received:** 02/03/2005

---

**Subject:**

**Summary**



NSW Ombudsman

Our reference: ADM/ 3431

25 February 2005

The Director  
Select Committee on Juvenile Offenders  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Level 24 580 George Street  
Sydney NSW 2000

Phone 02 9286 1000

Fax 02 9283 2911

Tollfree 1800 451 524

TTY 02 9264 8050

Web [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

Dear Ms Bosch

### **Inquiry into Juvenile Offenders**

I am pleased to provide my submission to the inquiry in response to the invitation extended to me by the Committee Chair, Rev the Hon Dr Gordon Moyes MLC in his letter of 1 February.

I have limited my response to those terms of reference seeking comment upon the administrative arrangements and conduct of the Department of Juvenile Justice (DJJ) and the Department of Corrective Services (DCS). I consider it inappropriate in my role as Ombudsman to comment upon government policy and Ministerial decisions. The *Ombudsman Act 1974* empowers me to review the administrative conduct of most NSW government agencies. Schedule 1 of the *Ombudsman Act* expressly excludes the conduct of the Governor, a Minister of the Crown, Parliament, committees of Parliament and officers of the Parliament from my jurisdiction. My comments are therefore focussed on how DCS and DJJ have administered the changes to the law and not the Ministerial decisions transferring responsibility for Kariong to DCS.

My office has taken a particular interest in Kariong over recent years as part of our general oversight of the Department of Juvenile Justice (DJJ) and particularly its juvenile justice centres. We regularly visit each juvenile justice centre and take complaints from detainees, their families and others. Detainees have ready telephone access to my office.

We also regularly inspect and deal with complaints from inmates in the adult correctional system and have a special corrections unit within the general team of our office staffed by five full time employees to conduct that work.

We have monitored the transition from the Department of Juvenile Justice to the Department of Corrective Services and have met and been briefed by senior and operational staff with responsibility for the running of Kariong. Ombudsman officers visited Kariong within days of its takeover by the Department of Corrective Services, and more recently on 2 February. The juvenile inmates at the centre continue to have free telephone access to my office.

You'll also be aware that I am currently conducting a statutory review of the *Children (Criminal Proceedings) Amendment (Adult Detainees) Act 2001* which also involves regular contact with Kariong as the majority of detainees sentenced for serious children's indictable

offences have been either held at or transferred from Kariong into the adult system. The report of that review is to be completed in the latter part of 2005.

### **Previous Ombudsman reports**

I refer the committee to two special reports to Parliament made by my predecessor, Ms Irene Moss, copies of which should be available from the Parliamentary library. The first of these is the March 2000 *Report of Investigation Into Kariong Juvenile Justice Centre*, which examined the operation and management of the centre following a series of riots in 1999. The investigation found deficiencies in the overall design of the centre, its security systems, and also found significant divisions among staff, and between staff and management. At that time, the most effective way to deal with its difficulties was considered to be to close Kariong for a time to allow concerted rethinking and planning for its future role. Other less radical recommendations were included, but it was acknowledged that improvement through more conservative approaches would take concerted effort, commitment and time.

The second report is the earlier 1996 *Report of the Inquiry into Juvenile Detention Centres*. While dated, this two-volume report provides a detailed historical background of the state's juvenile justice centres, including Kariong. Some of the issues raised remain relevant today. Key findings related to staffing issues and the existence of a staff culture of fear, intimidation and low morale. Kariong Juvenile Justice Centre was specifically identified as requiring urgent action. I particularly draw the committee's attention to Chapter 16 Transfers to the Adult Correctional System and Chapter 26 The Culture within Juvenile Justice Detention Centres.

### **Response to Specific Terms of Reference**

*2(a) 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.*

It is not appropriate for me to comment upon the reasons for the decision to transfer responsibility for Kariong to the Department of Corrective Services. This involves Ministerial conduct and government policy that is outside my purview.

As stated above, my office has closely monitored arrangements surrounding the transfer of Kariong from DJJ to DCS. Juvenile inmates who spoke with my staff during inspections of the centre in November 2004 and February 2005 generally commented favourably upon the transfer, stating DCS officers are consistent and fair in their treatment. Although DCS is operating the centre with almost half the number of staff previously employed by DJJ at the centre, it appears to be functioning well. The number of incidents within the centre has also reduced.

I understand many of the former Kariong staff were transferred to Frank Baxter Juvenile Justice Centre. I am unable to comment upon the impact on staff at Kariong and Baxter detention centres, other than to remark that some former Kariong staff have expressed dissatisfaction with the decision and the limited notice given to them of their changed

employment. I am unaware whether any retraining or re-orientation was provided to staff moving from Kariong to other positions within DJJ. My office has not pursued these matters as Schedule 1 specifically excludes from my jurisdiction:

2. Conduct of a public authority relating to:
  - a. The appointment or employment of a person as an officer or employee, and
  - b. Matters affecting a person as an officer or employeeUnless the conduct:
  - c. Arises from the making of a protected disclosure...
  - d. Relates to a child abuse allegation or child abuse conviction ...or to the inappropriate handling or response to such an allegation or conviction.

*(b) 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*

I am unable to say that the transition is the most effective method of addressing management problems. I can state however that it appears to have been an effective method of doing so. As stated in response to (a) above, the centre appears to be running well, with fewer staff and fewer incidents, but with much the same juvenile population. DCS has introduced a number of changes, including a hierarchy of privileges, which detainees appear to have welcomed. DCS' preparation for the transfer, and in particular its selection and training of officers to manage and work within Kariong appears to have been successful.

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

This issue is closely linked to my current review of the operation and effect of the *Children (Criminal Proceedings) Amendment (Adult Detainees) Act 2001*, as provided by section 4 of that act. My report on the review is to be released in the latter half of 2005. I consider it inappropriate to comment on the matter at this time.

*(d) the classification system and appropriateness of placements for detainees*

The Department of Juvenile Justice has recently refined its classification system. While the new more detailed system appears an improvement, it is too early to comment upon its effectiveness. The department has now centralised all detainee placement decisions which should ensure more consistent and co-ordinated placement and transfer of detainees.

*(e) alternatives to the establishment of a juvenile correctional centre*

This was touched upon in the 1996 and 2000 Ombudsman reports, which discussed the need for the department to consider the placement of older detainees, those who are serious offenders, and/or those who present management difficulties for the Department of Juvenile Justice.

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

This is a social policy question that perhaps can only be answered following some longitudinal research. I do not consider it appropriate at this point in time to express any view on the matter.

*(g) management of staff assault issues in the juvenile justice system*

My office has not received any individual complaints from staff members of the Department alleging defective management of issues arising from assaults upon staff by detainees. I have therefore not had the opportunity to investigate this issue in any depth. In any event, such matters would generally be considered to be matters affecting a person as an employee and therefore outside my jurisdiction.

My office is required to monitor the way the department responds to allegations of staff abuse of detainees under 18 years as provided by Part 3A of the *Ombudsman Act*. Detainees will also report allegations of assault and mistreatment to us. Some of these complaints and notifications do involve cross allegations of assault by detainees on staff members so we do indirectly have some information holdings on alleged assaults upon staff. However, we have no statutory function to examine how the Department manages its staff when they are assaulted and the Department is not required to provide detailed information to us about that aspect of these events.

While the department's reporting and investigation of incidents of alleged detainee abuse have improved, we continue to work with them, as with other agencies, to further improve their systems for preventing and responding to reportable allegations.

The 2000 *Report on the Investigation into Kariong Juvenile Justice Centre* details events surrounding a series of disturbances at the centre which included assaults on staff and allegations of staff assaults on detainees. The report illustrates many of the difficulties confronting the department in this area.

*(h) whether incarcerating juveniles in the juvenile correctional centres achieves reduced recidivism, rehabilitation and compliance with human rights obligations.*

Again, this is a social policy question that can only be answered following some longitudinal research. It is not appropriate to offer any view on these matters at this point in time.

Yours sincerely



Bruce Barbour  
Ombudsman