REPORT OF PROCEEDINGS BEFORE

GENERAL PURPOSE STANDING COMMITTEE No. 3

INQUIRY INTO ISSUES RELATING TO THE OPERATIONS AND MANAGEMENT OF THE DEPARTMENT OF CORRECTIVE SERVICES

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At Sydney on Monday 3 April 2006

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The Committee met at 10.00 a.m.

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PRESENT

The Hon. A. R. Fazio (Chair)

The Hon. P. J. Breen
The Hon. Dr Arthur Chesterfield-Evans
The Hon. C. J. S. Lynn
The Hon. E. M. Obeid
The Hon. I. W. West

CHAIR: Welcome to the third public hearing of General Purpose Standing Committee No. 3's inquiry into issues relating to the operations and management of the Department of Corrective Services. The Committee will also be holding a fourth public hearing on Thursday 6 April.

The Committee previously resolved to authorise the media to broadcast sound and video excerpts of the public proceedings. Copies of the broadcasting guidelines are available from the table by the door. In reporting Committee proceedings, the media must take responsibility for what they publish, including any interpretation based on evidence before the Committee. In accordance with these guidelines, while a member of the Committee and witnesses may be filmed or recorded, people in the public gallery should not be the primary focus of footage or photographs. Under the standing orders of the Legislative Council, evidence and documents presented to the Committee that have not been tabled in Parliament may not, except with the permission of the Committee, be disclosed or publish by a Committee member or by any other person.

Protection of footage of Committee witnesses under parliamentary privilege should not be abused during these hearings, and I remind witnesses to ensure that the matters raised are directly relevant to the terms of reference. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside the Committee hearings. Therefore, I urge witnesses to be cautious about their comments to the media and others after they complete their evidence, even if it is said within the confines of the building. Such comments may not be protected if, for example, another person decided to take action for defamation. Witnesses, members and their staff are advised that any messages should be delivered through the attendant on duty or through the clerks. I ask people to turn off their mobile phones during the hearing as they interfere with Hansard's recording.

IAN HENRY PIKE, Chairperson, New South Wales State Parole Authority, Level 9, Roden Cutler House, 24 Campbell Street, Sydney, and

PAUL DAVID BYRNES, Director and Secretary, New South Wales State Parole Authority, Level 9, Roden Cutler House, 24 Campbell Street, Sydney, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee? Are you appearing as an individual or as a representative of an organisation?

Mr PIKE: As the Chairperson of the State Parole Authority.

Mr BYRNES: I am a representative of the New South Wales State Parole Authority.

CHAIR: Are you conversant with the terms of reference?

Mr PIKE: Yes.

Mr BYRNES: I am.

CHAIR: If at any stage you consider that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Would you like to make a short opening statement?

Mr PIKE: Yes. I have prepared a general opening statement, which is an outline of the work of the parole authority. Perhaps if I have your approval to read that on to the record.

CHAIR: Yes.

Mr PIKE: We are here today at your invitation to discuss the parole authority's involvement in regard to the interstate transfer of parolees. Before I address this particular issue I will briefly outline the role, functions and structure of the New South Wales State Parole Authority and the legislation that governs its operations and responsibilities. There are two specific pieces of legislation that impact on the operations of the authority. They are the Crimes (Sentencing Procedures) Act 1999 and the Crimes (Administration of Sentences) Act 1999. Sentencing procedure in New South Wales is governed by the Crimes (Sentencing Procedure) Act 1999. Section 44 of that Act provides:

> (1) When sentencing an offender to imprisonment for an offence, the court is first required to set a non-parole period for the sentence (that is, the minimum period for which the offender must be kept in detention in relation to the offence).
>
> (2) The balance of the term of the sentence must not exceed one-third of the non-parole period for the sentence, unless the court decides that there are special circumstances for it being more (in which case the court must make a record of its reasons for that decision).

Section 45 of the same Act provides that a court may decline to set a non-parole period in certain circumstances. Obviously, the parole authority only becomes involved with those sentences where a non-parole period has been set by the court. Parole in New South Wales is of two types: court-based parole and parole granted by the State Parole Authority. For sentences which do not exceed three years, the sentencing court sets the non-parole period and the inmate is released on parole at the expiration of the non-parole period, subject to the standard conditions, together with any additional conditions imposed by the court.

The authority will only have any involvement with such a parole order in two circumstances: first, if there is an application made to revoke the order prior to release in circumstances where the inmate does not seek parole or is unlikely to adapt to a normal lawful community life; and, secondly, if the authority is informed that the inmate has breached one or more of the parole conditions it may revoke the parole order. When the sentence exceeds three years and the court has fixed a non-parole period, release is determined by the State Parole Authority of New South Wales. The authority formally existed as the New South Wales Parole Board. By amendment to the Crimes (Administration of Sentences) Act 1999, the parole board was retitled the State Parole Authority effective from 10 October 2005.

The authority is an independent statutory body set up and governed by the Crimes (Administration of Sentences) Act 1999. In summary, the authority decides which inmates whose sentences exceed three years and include a non-parole period will be released on parole; sets the conditions of release; determines if and how a parole order should be revoked; and determines if and how a home detention or periodic detention order should be revoked, substituted or reinstated. When deciding whether to release an offender on parole, the authority considers the interests of the community, the rights of the victim, the intentions of the sentencing court and the needs of the offender. In particular, the authority must have regard to the provisions of sections 135 and 135A of the Crimes (Administration of Sentences) Act 1999 when considering the question of releasing an offender to parole. Section 135 (1) provides:

> The parole authority must not make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest.

The need to protect the safety of the people of New South Wales is of paramount importance in the authority's deliberations. The authority considers a broad range of material when deciding whether or not to release an inmate to parole, and must have determined that it has sufficient reason to believe that the offender, if released from custody, would be able to adapt to a normal lawful community life. The principal purpose of granting parole is to serve the public interest by closely supervising the offender during his or her period of reintegration into the community. In all cases strict conditions of parole are imposed, and the authority may also set additional conditions specifically tailored to address the underlying factors of an inmate's offending behaviour.

In the case of serious offenders, the authority in the first instance forms an intention to grant parole and then stands the case over to a review hearing to allow any victim registered on the victims register the opportunity to make a submission. By standing the matter over to a future date it also allows the State to make a submission should it so wish. It is only following the receipt and consideration of all submissions that the authority makes its final determination. If a parolee fails to comply with the conditions of a parole order, it is the authority's role to consider the revocation of that parole order, whether the order is a court-based parole order or one granted by the authority. The authority may also consider the revocation of a court-based order prior to release in the circumstances referred to above.

Similarly, revocation of home detention orders following breach of the conditions of an order and revocation of periodic detention orders following unauthorised absences or evidence of unsuitability for an order are also responsibilities of the authority. In some cases this may involve the substitution of a home detention order for a revoked periodic detention order following an assessment of suitability. The authority also considers the reinstatement of home detention or periodic detention orders where the offender has served three months in full-term custody and there is an assessment of suitability. The authority may also consider the release of an inmate before the expiry of a sentence or non-parole period if the offender is dying or there are exceptional or extenuating circumstances.

The authority consists of four judicial members: chairperson, alternate chairperson and two deputy chairpersons; four official members—two probation and parole officers and two police officers—and 14 community members, one of whom is specially appointed to represent victims' interests. The authority sits in divisions presided over by one judicial member and contains two official members—one probation and parole member and one police member—and four community members. The parole authority has two types of meetings. The first meetings are private meetings. In those private meetings a division of the authority meets to consider release to parole of inmates and applications to revoke parole and miscellaneous applications, for example, to consider granting consent to a parolee to travel overseas.

If the authority at that meeting decides to grant parole, an order for parole is made without the authority necessarily seeing the inmate. If the authority does not grant parole it makes a determination of an intention to refuse parole. If there is an intention to refuse parole, the inmate may seek a review of that determination. In such cases the authority sits in court and conducts a review hearing with the inmate appearing by video link and being represented by a lawyer. Where at a private meeting the parolee’s parole is revoked the authority orders a warrant to issue. When the inmate has been apprehended by the warrant and returned to custody he or she is entitled to have a review of the

order for revocation. The inmate appears at that review by video link and is entitled to be represented by a lawyer.

With regard to the interstate transfer of parolees, as mentioned in our letter dated 12 January 2006, the New South Wales State Parole Authority does not have any formal protocols or agreements with the parole or correctional authorities from other Australian States in respect of the interstate transfer of offenders or parolees. The administration of the interstate transfer legislation is the responsibility of the New South Wales Department of Corrective Services and the Attorney General's Department. The New South Wales State Parole Authority receives notification from the Department of Corrective Services when an interstate parole order is registered in New South Wales. However, unless intervention is sought by way of a breach report or other application received in respect of the transferred parolee, the New South Wales State Parole Authority has no direct involvement in the management of such parolees while they are in the community.

The New South Wales State Parole Authority would support the introduction of formal protocols for the interstate transfer of parolees, including sex offenders, subject to the development of suitable supervision arrangements in the receiving States. As was also mentioned in our correspondence, the authority is aware that the Commissioner for Corrective Services in New South Wales has recently taken action to formalise protocols for the interstate transfer of parole orders. The New South Wales State Parole Authority supports the development of formal protocols between all Australian States.

The New South Wales State Parole Authority is of the view that the combination of strong family or community support and the availability of supervision and program support via the Probation and Parole Service is the best combination to protect the community and to assist the offender. The ability to facilitate appropriate supervision arrangements in other States is therefore intrinsic to the overall protection of community. That is the brief presentation.

CHAIR: Do you have anything you wanted to add, Mr Byrnes?

Mr BYRNES: No, not at this stage.

The Hon. PETER BREEN: Mr Pike, you mentioned in your opening remarks about the role of victims. You indicated that the rights of victims are taken into account?

Mr PIKE: Yes.

The Hon. PETER BREEN: Is it your experience that if a victim or a victim's family strenuously opposed parole, it would be the normal course that parole would be revoked?

Mr PIKE: I cannot recall an instance where we have had a victim's representation in regard to somebody who was currently on parole. Can you recall any?

Mr BYRNES: No, not really.

The Hon. PETER BREEN: What about before parol is granted?

Mr PIKE: Yes, before parole is granted, if they make representation, that is taken into account. It would not necessarily lead to a non-grant of parole, but particularly with serious offenders where we encourage the victim to attend and to make both oral and written submissions a great deal of time is taken to get them to understand the parole process, what the law provides and to understand the limitations of the Parole Authority. Generally we find that the representatives of the family, when they can understand that, do take a very understanding approach to it. They realise that at some stage—

The Hon. PETER BREEN: They will have to get out?

Mr PIKE: Yes, but they may have some specific request, for instance, that they not live within a certain area. Of course, we put conditions on in accordance with those requests.

The Hon. PETER BREEN: So, it would be more likely, perhaps, that conditions would be imposed as a result of the victims making submissions than parole being opposed altogether?

Mr PIKE: Yes, that is more than likely. That is, if it is generally in the community's interest that parole be granted. If they have addressed their offending behaviour and all those issues have been taken into account.

The Hon. PETER BREEN: There have been a couple of high-profile cases where people have been released into the community on parole and there has been a great outcry, particularly from the press. The case of John Lewthwaite comes to mind, and there was a case of Patrick Horan, where the press door knocked the street where these people lived and said things like, "Do you realise there is such and such an offender living in your street?" What is the reaction of the Parole Authority to this situation? Is there ever a question of the person's parole being revoked as a result of that kind of publicity?

Mr PIKE: I cannot recall a question of it being revoked. Lewthwaite was granted parole before my involvement with the Parole Authority but I certainly remember the matter of Horan. We have no control over what the press writes and it can write what it wants to. What we try to do, in cases that are likely to be high-profile, is to give lengthier and detailed accounts for all our reasons as is possible. For instance, there was the matter of Russell Cox, who was a very high-profile offender, and knowing that the press would be very interested in that I drafted a very lengthy and detailed judgment, a copy of which was available to the press on the day of the parole order. The result of that was there was hardly any mention or criticism of the grant of parole because all the reasons for granting parole were carefully explained in the determination to which all the members of the division gave their assent. I think the fact that there is a great deal of publicity about a matter is not likely to lead to the grant or non-grant of parole. The authority's duty is to do what is correct within the statutory framework in which it operates.

The Hon. PETER BREEN: You also mentioned in your opening remarks the new protocols in place for the interstate transfer of parolees. Do you have a view about the new system generally? I have in mind the issue of support, particularly family-based support, for a particular parolee in a State. In the past it would simply be done as a matter of course, that a prisoner after serving his or her sentence would be transferred to the State where the support base is. It appears under the new rules or protocols that the type of offence, particularly a sex offence, may override other issues such as where the support base is. Do you have a view about that?

Mr PIKE: These protocols are purely an administrative matter. They are not made by the Parole Authority. We are not invited to make any contribution to determining those. We merely operate within the rules that are set, whether they be by statute or regulation or by protocols worked out between interstate or interterritory people. As I said at the end of my opening statement, generally we think if parole is to operate as effectively as it should, and I think it is generally taken that parole is for the good of the community in having a phased, under supervision procedure to get an inmate back into the community, we would prefer to see them in an area where they did have that supervision and family support if it is available. If it is available it is a very good thing. But we do not interfere. It is a matter for governments and the departments who are working on, perhaps, other guidelines and things that impact on them and not on us. We just follow—

The Hon. PETER BREEN: You do as you are told?

Mr PIKE: Yes, that is right. We are completely independent within the statutory framework in which we operate.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When do you get the cases? Do you get them when they are about to be discharged?

Mr PIKE: About 60 days prior. We look at them prior to the expiry of the non-parole. The procedure is quite a good one. They are listed for a private meeting and the members sitting at that private meeting—that is, one judicial, two official and four community members—have a full set of the file of every document that relates to the prisoner. We are reading a week beforehand.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You do not have any input at the time of their being sentenced? So you are not involved in planning their education or anything while they are in there?

Mr PIKE: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You do not get them the day they are sentenced and then plan their lives from then on? You only get them 60 days before, is that right?

Mr PIKE: We have nothing to do with the management of the prisoner. That is the Department of Corrective Services' responsibility or, for serious offenders, that is the Serious Offenders Review Council.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But you have no planning of their vocation for when they are discharged or anything like that?

Mr PIKE: No.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you have any involvement in the restorative justice programs?

Mr PIKE: No, although we have seen where it has been put in place. A purely personal view—I think it has been very good and beneficial.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Would you say it is underused?

Mr PIKE: I am not sure how it comes to be used in the first place. It seems to me to be the victim, the family of the victim or the prisoner might seek to be involved in it, but it does not have anything to do with us. We are simply informed if it has taken place.

Mr BYRNES: I work closely with the people from the victim's register and the restorative justice team. Through that contact, on occasions when there are issues that the victims may wish clarified, they will put them directly in contact with me and I then have the opportunity to provide them with more information about the process, the manner in which the parole authority considers cases, what happens following a decision and a review hearing. So, there is an involvement between the restorative justice people, Corrective Services and the Parole Authority, but it is more of an informal nature depending on the particular needs, if you like, of the victim.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What percentage of the Corrective Services budget does parole get?

Mr PIKE: I have no idea?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is it rising or falling?

Mr PIKE: I am sorry, I do not have that information.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: When you are doing health checks to supervise parolees with a drug or alcohol problem, who does those health checks?

Mr PIKE: The Probation and Parole Service. They are the ones that provide us with the information but then there are psychologists involved.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Actually testing the urines, because I was in general practice and we used to get patients to test.

Mr PIKE: While they are on parole?

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Yes.

Mr PIKE: Mostly private practitioners, is it not?

Mr BYRNES: It is the Probation and Parole Service. For instance, if the Parole Authority has stipulated that there will be drug testing or urinanalysis because part of their offending behaviour related to alcohol and drug usage, that would be applied to the parole order. Now the Probation and Parole officers who supervise those individuals in the community, yes, they will from time to time require that individual to go, depending on the location and if it is a country location, to a local doctor.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: And is there any protection of that doctor from threats?

Mr BYRNES: I think that is a question I have no specific knowledge of. Perhaps someone from the Probation and Parole Service who deal directly with the offenders and with the providers—

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You are really the people who run the judicial arm of it, not the practical arm?

Mr BYRNES: Yes, we are not involved in the case management whatsoever. Once they are released they are part of the Probation and Parole Service and the Probation and Parole Service is a division of the Department of Corrective Services; it does not come under the State Parole Authority.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The judicial arm is separate?

Mr BYRNES: Yes.

The Hon. CHARLIE LYNN: Mr Pike, in your submission on page 6 you state that the "New Wales State Parole Authority has no direct authority in the management of parolees"—and I am talking about the interstate transfer of parolees—"while they are in the community"

Mr PIKE: Yes. They are managed and supervised by the Probation and Parole Service and they report to us if there is need for any action.

The Hon. CHARLIE LYNN: I refer back to the transfer of the paedophile Otto Darcy-Searle last year. Who in New South Wales was party to the negotiations with the authorities in Western Australia for his transfer?

Mr PIKE: I do not know. That is something in the administrative arm. It does not affect us in the authority at all.

Mr BYRNES: I am aware that the commissioner had an involvement in that but, again, I was not involved.

The Hon. CHARLIE LYNN: Your commissioner?

Mr BYRNES: Yes, Mr Woodham. I understand he was involved but, again, I have no specific knowledge of it, so I am probably not in a position to be able to advise the Committee.

The Hon. CHARLIE LYNN: Are you able to advise us about the two officers from Murwillumbah who were suspended over that transfer?

Mr BYRNES: No. That is an internal departmental matter and again we have no involvement in it, so we would not be in a position to assist.

The Hon. CHARLIE LYNN: You say in your submission that there are no formal protocols at the moment for the interstate transfer of parolees, including sex offenders, but you would support the introduction of formal protocols and that you are aware that the Commissioner for Corrective Services in New South Wales has recently taken action to formalise protocols for the interstate transfer. How recent is that?

Mr PIKE: I think there was a meeting about four weeks ago held out at the Corrective Services Academy. I know the meeting was there because I was invited to a dinner at the end of the first day, as was the director, but I know nothing of the agenda or the discussions or what took place, but obviously it was designed to put in place some protocols, which will be effective and practical.

The Hon. CHARLIE LYNN: Should you have input into that process?

Mr PIKE: I am not sure that we are the people who would have the expertise in that. It is the people more at the coal-face who are handling the day-to-day supervision. We make the equivalent of a judicial decision in the grant of parole and make decisions if we receive reports as to failure to comply with parole, but in actual that the people at the coal-face, the Probation and Parole people, the people in Corrective Services, they are the ones who know how these administrative arrangements are best served. I cannot see that we would make a real practical contribution to that.

The Hon. CHARLIE LYNN: Can you explain your role in the process in the interstate transfer, and use Otto Darcy-Searle as an example?

Mr PIKE: That was a parolee coming into New South Wales, was it not?

The Hon. CHARLIE LYNN: Yes.

Mr PIKE: We have no input into that at all as an authority. That is done at an administrative level by presumably Probation and Parole or Corrective Services people. If an inmate from New South Wales wanted to return to Victoria, for instance, to live with their family, then in determining whether or not to grant parole, we have regard to the suitability of the proposals, what their living arrangements are, and that would have an impact on whether or not we grant parole. But at the present moment we would not grant parole until the transfer has been approved as we understand that there needs to be an administrative approval between the States.

The Hon. CHARLIE LYNN: So if the Otto Darcy-Searle case was in reverse, and he was coming from New South Wales to Western Australia, who would you negotiate with?

Mr PIKE: Corrective Services would presumably contact their equivalents in Western Australia and they would tell us whether there was a suitable address, whether the arrangements in place were suitable. If that, taken into account with all other information we have, would justify the grant of parole, then we would make a parole order, but if the arrangements were not suitable, we would decline to make an order.

The Hon. IAN WEST: Based on the number and type of breaches that come before the Parole Authority in respect of transferees, are there any additional checks or safeguards that the department might consider implementing to improve the system?

Mr PIKE: I cannot think of any. I think these statistics marginally favour the transferred parolees as being not as many breaches as our regular ones. I would have thought that as long as they are supervised as closely as ordinary parolees, there should not be a problem.

The Hon. IAN WEST: You would not have any raw data on the comment you just made about the fact that transferees are less likely, would you?

Mr PIKE: I think that is a statistical matter.

Mr BYRNES: From about 2005 annual report I can confirm that we received advice of 69 offenders being transferred to New South Wales from other States. Of those 69 offenders, we only breached four in that 12-month period, which is 5.8 per cent, if you like. Again, this is a very simplistic comparison and I would be reluctant for it to go out into the press, simply because it is not a similar comparison with the four of 69 that I have given. Total releases into parole in 2005—and this includes Parole Authority releases and automatic court based—was 4,662; total breaches of parole in that 2005 period was 1,522, so it is a very rough percentage of 32.6, but I qualify that: It is not a true comparison, the 1,522 of the total number of parolees, because quite a significant number obviously of the people that were revoked in 2005 would have had parole orders from preceding years.

So it is not a comparison that is worth making, but from the perspective of trying to give you an indication and over a 12-month period—and I am sorry we have not been in the process of collecting that sort of data except from the beginning of 2005—it would appear from that very small snapshot that the parolees coming from interstate are more successful, if you like, in completing their orders, and also these very raw figures would indicate, but I want to emphasise that it is a very small particular snapshot and obviously from a research perspective, such things should be taken over a much greater period before you are going to get something truly accurate.

The Hon. IAN WEST: Mr Pike, you indicated in your opening statement that the Parole Authority would support the introduction of formal protocols and the development of suitable supervision arrangements in receiving interstate transfers for parole. Can you enlarge on what you mean by suitable supervision and formal protocols?

Mr PIKE: Yes, I was not referring to the actual details of how that is done. What I was referring to mainly is the mechanism that enables us to release inmates on parole who are going to be living in other States. I think that is for the good of the whole justice system and gives greater flexibility between the various States and Territories. Obviously, each case requires an individual approach as to supervision and how they should be supervised but, generally, I would support that a parolee who is to be moved interstate, be subjected to the same type of close supervision as they would get if they remained within New South Wales.

CHAIR: Thank you very much for your attendance here today. Your comments will be very helpful to the Committee in its consideration of the terms of reference relating to parole.

The Hon. CHARLIE LYNN: Madam Chair, I have one more question.

CHAIR: Put the question on notice.

Mr PIKE: We will be happy to provide any other information that members of the Committee would like.

(The witnesses withdrew)

HOWARD WILLIAM BROWN, Licensed Private Inquiry Agent and President of the Victims of Crime Assistance League sworn and examined:

CHAIR: Are you conversant with the terms of reference for the inquiry?

Mr BROWN: I certainly am.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request.

Mr BROWN: I understand.

CHAIR: Would you like to make a short opening statement?

Mr BROWN: Only a very short one, bearing in mind the restrictions of time. One of the difficulties I always believe that we encounter in any of these committee-type structures is the delay between the provision of information from organisations such as the New South Wales Parole Authority and the Serious Offenders Review Council [SORC] and often the documentation and empirical statistics that are available to victims organisations are quite out of date. For example, the most recent report of the Serious Offenders Review Council only gives us figures up to December 2004, so we are a little at a loss to understand why in April of 2006 we still do not have figures available from SORC in relation to 2005, so obviously some of our comments have to be predicated on the basis that our information can be, at some stages, considered to be out of date.

The Hon. CHARLIE LYNN: Are you satisfied that current parole arrangements in New South Wales would prevent a recurrence of the murder of Yolande Michaels?

Mr BROWN: Unfortunately, no. One of the difficulties we have as an organisation is that recommendations that are made to the Parole Authority are often recommendations that come through organisations such as the Serious Offenders Review Council and also from prison officers who are attending to particular prisoners. Prisoners are often classified as being a low risk prisoner but that is actually a classification which is done in relation to prison management, as opposed to community management and so for us it becomes a real concern.

I was just recently involved in a parole application where the person was classified by Corrective Services as being a model prisoner. The difficulty was that this person was a person who had committed a murder. It was a murder based on a sex offender's profile, yet this person at no time through his full 15½ years of incarceration, never, at any stage, conducted any programs or participated in any programs that related to his offending behaviour. I find it somewhat ridiculous to believe that a person be classified as a model prisoner when they have not completed these programs.

For the victims, it becomes quite distressing to receive a letter from the New South Wales victims register to advise that this person is now eligible for release to parole, is seeking parole and is classified as a model person when obviously we have major concerns that they have not addressed their offending behaviour in their full period of incarceration. That is a situation in which we are not particularly happy.

The Hon. CHARLIE LYNN: You are satisfied that victims of crime are formally notified now of the impending release of the prisoner?

Mr BROWN: That is all predicated on the basis that we have actually captured the victim ourselves as a support organisation or the other support organisations have, and have actually provided people with information so they can be registered as registered victims. If they choose not to be registered, they will not be notified.

The Hon. CHARLIE LYNN: Should there be a protocol? Yours is a voluntary organisation, I understand?

Mr BROWN: Most definitely.

The Hon. CHARLIE LYNN: With limited resources, I would think?

Mr BROWN: Yes. Most definitely.

The Hon. CHARLIE LYNN: Should there not be a formal protocol where the Government or the Parole Authority, or whoever it is, seeks to advise the victims of crime? There are undoubtedly many reasons why a victim of crime would not register, because they are traumatised by the crime, and endeavour to put it behind them.

Mr BROWN: It in essence is a conundrum. Normally at the time of sentencing of the offender, the Director of Public Prosecutions provides victims with sufficient literature to inform them of the ability to be placed on the victims register. Because some of these matters take so long before they actually get to court, the people are so highly traumatised by the process that they are not capable of absorbing information that they are provided with. Of course, as a result, they accept the documentation, file it away and often do not have a recollection of ever having received it. In fact, we often get complaints from victims that no-one told them about the register when we know that they have been advised.

Because of privacy laws, it is almost impossible to get to a situation where, at a later date, say five or six years down the track, you can locate these people for the purpose of saying, "Now that you have possibly moved forward, do you want to reconsider your position in relation to not being a registered victim?" Unfortunately for us as an organisation, we are often confronted by people contacting us perhaps a month before the prisoner is eligible for release to parole, saying, "I have just found out, because someone in the media has contacted me, and now I want to do something about it." We do not have a great problem as far as the intervention is concerned, but it gives us very limited time in which to obtain information relating to the prisoner so that we can make substantive submissions to the Parole Authority.

The Hon. CHARLIE LYNN: Do you think they should be automatically opted into that system, rather than have to elect to do so?

Mr BROWN: This is another difficulty for us. It is something that we have put to our members, an opting-in and opting-out system, to try to determine from our own victims what they would prefer. It is almost a 50-50 split. Some people believe that it should be a system where the victims are automatically registered and have the option to opt out of that process and there are others who say, "No. Once we get the court matter finalised we don't really care." The bottom line, unfortunately, is that they may feel that way at the time but in five or six years' time their attitude may be completely different.

The Hon. CHARLIE LYNN: What is your personal view on that issue?

Mr BROWN: My personal view is that all people should be registered and be given the option to opt out at a later date. Purely through experience we find that the greater number of people who have chosen not to be on the register decide at the last moment that they really do need to be on the register. It would make life a lot easier for me if they were on the register because we can treat them with compassion and respect, and we can give them a sufficient amount of information. If they then choose not to make any submissions, either to SORC or to the Parole Authority, they are doing so in full knowledge of the facts and that makes the process much easier for us.

The Hon. CHARLIE LYNN: Do you get any Government support for your organisation?

Mr BROWN: Our organisation is funded in Newcastle in the Hunter region. We receive roughly $148,000, which provides the ability for my committee to employ two people full time in Newcastle. But those funds are specifically to service the Hunter region. Here in Sydney, for example, we are not funded at all. We have approximately one dozen volunteers who will do court support, who will go with people to the Parole Authority to hold their hands and deal with some of those matters. Regrettably, and the Hon. Peter Breen would be aware of this, I spend

somewhere between 50 and 60 hours a week in a voluntary capacity just dealing with victims issues, so it is a substantial impost on me.

The Hon. CHARLIE LYNN: Have you applied for funding support? If so, what has been the result?

Mr BROWN: I have never sought funding for Sydney. The reason for that—and I do not like being political in Committee meetings such as this—is that as an organisation there are times when we have to be critical of government. We have no choice. When poor decisions are made we have to be critical. I do not believe that our organisation can do the right thing by its victims if there is the appearance that the lobbying section of the organisation could be affected by government funding. Hence we have made no such application.

The Hon. PETER BREEN: Will you explain how your organisation is different from other victims' organisations? Will you explain how it came into existence and how it stands at the moment?

Mr BROWN: Most definitely. For a start, the Victims of Crime Assistance League [VOCAL] is a non-crime specific victim support organisation. You would probably be aware of an organisation here in New South Wales called the Homicide Victims' Support Group, which deals specifically and solely with homicides. It obviously has a far lesser crime base than we have. Back in 1988 there were two quite serious murders, both dubbed "fatal attraction murders". In both instances ex-boyfriends had stalked former girlfriends. One—her name was Tracey Gilbert—was shot and killed in a hairdressing salon in Newcastle. The other resulted in the death of my mate, a chap by the name of Andrew Hudswell, who died trying to protect the life of a lass by the name of Penny Beam, who had been stalked, and subjected to substantial stalking, by an offender early in August of 1987. The person had been charged and released to bail but he constantly breached his bail and the police refused to do anything about it.

My father died on 15 January 1988, which was a Friday. Andrew and I had been taking it in turns to provide assistance to Penny. As a result of my father's death I needed some time to deal with my father's funeral and so, on the Monday morning I was at my office at Milsons Point when I received a phone call to say that the offender was on the site. I arrived on site to find my friend bleeding profusely from three bullet wounds to his chest. I gave him cardio pulmonary resuscitation [CPR] until the ambulance arrived. He was taken to Royal North shore Hospital and I was taken to Chatswood Police Station. An hour after I arrived at Chatswood Police Station a police officer came in and said, "Your mate just bundied off." That is how the police advised me that my mate had died—they had no idea what the relationship was between us—and, of course, I was really ticked off about that. With Tracey Gilbert's death at the same time, we realised that there was absolutely no support for victims of crime so we held a huge public rally in Maitland and we formed the Victims of Crime Assistance League.

We were inundated with members. We realised there was no court support for these people, no lobbying going on and that the laws were totally inadequate and so we formed our organisation to be a support for other victims. Like Topsy, we have grown to the point where now we are dealing with everything. We are dealing with court support, preparing submissions to the Parole Authority and the Serious Offenders Review Council, and appearing before the Mental Health Review Tribunal, which is an organisation that deals with forensic patients—those people found not guilty of murder on the grounds of insanity. That is a difficult process because those particular forensic patients have to be examined every six months. There are public hearings every six months and the victims have to go through all that, and we are there to provide support to them at all levels.

The Hon. PETER BREEN: Does your organisation have an identity and standing separate from other organisations that currently exist?

Mr BROWN: We certainly have a far different profile to the Homicide Victims Support Group. That organisation is somewhat fractured at the moment. There have been two breakaway groups as a result of that fracturing—the Homicide Victims Survivors Association and the Survivors after Murder Group. I provide assistance to both groups in relation to preparing submissions to the Parole Authority and the like.

The Hon. PETER BREEN: Is your group the peak lobby group for victims?

Mr BROWN: I guess that is a subjective matter, really. We spend a great deal of time lobbying and approaching Ministers and trying to point out to them what the law actually states. I note, for instance, that one of the potential questions to be asked of me today relates to the interstate transfer of prisoners. To be perfectly frank with you, I do not think at any time the average member of government has any real understanding of what that legislation entails and what is involved with the interstate transfer of prisoners. We see ourselves as being a peak group, but we would never have the audacity to refer to ourselves as "the" peak body.

The Hon. PETER BREEN: The fact that you are getting funding for the Newcastle area would suggest that your organisation should also get funding for the Sydney area. If there is a conflict, surely it also exists in Newcastle.

Mr BROWN: All the lobbying of government is generated from Sydney, because Sydney is seen as the seat of power for the New South Wales Government. We have our own chapter of VOCAL set up in Sydney and, apart from providing court support and all the assistance that we provide to victims, we do all the lobbying from Sydney so that we can be completely separated. I should also point out that, up until probably next Monday, we have not had a forensic counsellor available in Newcastle. NSW Health had deemed it unnecessary and so the demands that have been placed on our Newcastle office are of a slightly different nature. For example, we are nearly always involved in identification of bodies as a result of homicides. Our volunteers go with the families of the deceased because we do not have a forensic counsellor available. There are just huge gaps in the Hunter region. When I speak of the Hunter region, we are actually dealing as far north as Tweed Heads, so the Hunter region has been somewhat expanded for the purposes of assisting victims. We are more support based in Newcastle and we try to diversify and segregate the lobbying purely to Sydney.

The Hon. PETER BREEN: Do you have any comment to make or opinion to express about the management of high-risk prisoners by the Department of Corrective Services?

Mr BROWN: I have a real difficulty with the way Corrective Services deem prisoners to be of a high risk nature. Again in line with my previous comments relating to classification of prisoners, obviously we have certain prisoners within the New South Wales prison system that are easily identifiable as high-risk offenders—such as those people who have been recently arrested for terrorist activity. There is no real question—

The Hon. PETER BREEN: They are not offenders, though.

Mr BROWN: Well, that is technically quite correct. And there are a number of people who have, throughout their periods of incarceration, easily identified themselves as being high-risk offenders. But I would put it to you that there are people within the prison system who are not classified as high-risk offenders who should have been. I think the most vivid example of that is the recent shootings in Granville. Mr Chami, who is now deceased, had previously served a term of 5½ years in a New South Wales prison institution for manslaughter. He stabbed a person to death.

The Hon. PETER BREEN: But, are you not confusing the risk to the community when they are outside as opposed to the risk when they are inside? This Committee is really looking at what is happening inside prison.

Mr BROWN: No. I guess that is my point. We are aware of this because we have been given the opportunity to go to the various prisons. Mr Luke Grant, one of the Assistant Commissioners of Corrective Services, has been most accommodating to us as an organisation by providing us with sufficient information so that we understand what is going on within the prison system and can make our victims aware. One of the difficulties is that a lot of these people who are in prison that are classified by Corrective Services as high risk and so classified because of their ethnic associations—such as their gang membership and gang affiliation. If a person comes into the prison system, who has not been identified, for whatever reason, as being a member of a gang-style organisation, they are not classified as high risk. One of the difficulties is that you then have a situation where they really should be classified internally as high risk and yet they are not. If they were classified as high risk it would

create additional problems at times for us because obviously one of the big problems for prisoners classified as high risk is greater difficulty for them in gaining access to various forms of rehabilitation programs.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You have not applied for government funding because you are obviously frightened the Government will get you dependent on it and then tell you to take it easy or you will lose it?

Mr BROWN: Basically, yes.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If the Government were minded to give you money but not do that—I know that is what has not happened in the disability sector and so on—if the Government could be trusted, would you apply for funding?

Mr BROWN: Oh, yes. As I said, I do not like being political in these Committee meetings. Regarding that comment in relation to seeking funding, if I were able to receive an assurance from whoever was in office, of either political persuasion or the major political parties, Yes. I mean, without being totally rude about this whole thing, I had to sell my house in 2000 in order to continue to do what I do. That clearly indicates that I have a great passion, and that great passion comes about because I believe that victims are badly done by. People ask me why I do it and my response is, "Because I can." But I had to sell my house in order to continue to do what I am doing.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably some of the functions you perform, such as accompanying supporting families when they are identifying bodies and so on, could be done by the Government without compromising your political lobbying?

Mr BROWN: Exactly. That is one of the things that we have lobbied for with NSW Health and we have been advised that hopefully an announcement will be made next week to say that a new forensic counsellor has been appointed to Newcastle, which will take that task away from our people. It will not necessarily solve all our problems, however, because we will probably still be responsible for getting those people down to the morgue.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But it will help.

Mr BROWN: Certainly.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You made the point that with regard to a model prisoner, presumably one that does not bash warders or is not making trouble within the prison, you would like a classification system that states what risk they present on release. Is that the essence of what you are saying—or a separate classification?

Mr BROWN: Basically both.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: You would like two classifications?

Mr BROWN: Yes, both within the prison system and their potential for offending at a later date, because I believe one follows the other.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are your members greatly helped by restorative justice rather than just lump sums, which presumably are not very much?

Mr BROWN: Victims compensation will never be an adequate tool to deal with the grief and loss that people suffer. In cases of serious sexual assault and homicide we just stress to our victims not to look at the quantum because the quantum is never going to reflect the abject seriousness of what has occurred. The difficulty with restorative justice is that there is still a huge reticence among victims to participate in restorative justice. I would estimate that in those cases in which we have been involved in restorative justice about 80 per cent have been successful.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it has about an 80 per cent success rate when it is successfully done, which presumably is delicately negotiated, is that right?

Mr BROWN: Yes, most definitely.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are you involved in those negotiations with the parole—or which group does it?

Mr BROWN: No, there is a separate section within the Department of Corrective Services called the Restorative Justice Unit. We have negotiations with the unit when it wants to make contact with victims in order to determine whether they would be willing to be involved in a restorative justice meeting, of essence. Unfortunately, in many cases people just say no.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What percentage enter into that process?

Mr BROWN: Of the victims that I am aware of it would be less than 5 per cent.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So it is a very small—

Mr BROWN: It is a very small number. It is a huge hurdle to get people over. One of the greatest inhibitors to restorative justice is the sentencing regime. People see sentences for certain matters as being so light that the restorative justice program is never going to redress that anomaly. As a result they want nothing to do with restorative justice.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But do you think that longer sentences make victims happy?

Mr BROWN: Most definitely. In the majority of cases they do. We tried to demystify the sentencing process for victims so that if we have a tariff which they consider to be particularly light we will try to rationalise that to assist them. But it is a very difficult process to rationalise a sentence of, say, five years for a serial sex offender who has substantial antecedents, and it is a decision with which, obviously, I not happy myself. It is very difficult to rationalise that sentence to the mother of two young girls who have been sexually assaulted.

The Hon. CHARLIE LYNN: Could you explain the role of a forensic counsellor?

Mr BROWN: We have three forensic counsellors attached to Westmead and Glebe coroner's court. Their function is to go with the victims through the identification of the deceased, explain to those people what is going to go on in the post-mortem process. You need to understand that culturally a lot of people have great difficulty with the removal of organs, which is obviously quite often a necessity in a murder investigation. So that entire process is explained to them and they are with these people basically during that identification process. They then determine whether they believe that person is going to require additional assistance and then hopefully refer them on, although currently the situation is that in a homicide—and that is obviously the only time when a forensic counsellor is going to be used at the morgue—that referral automatically goes to the homicide victims support group.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you support rehabilitation programs in prison?

Mr BROWN: Most definitely. It is one of the misconceptions about how victims organisations operate. Unfortunately, there are some victims organisations, albeit quite small, that dwell on rehabilitation being a complete and utter waste of time. One of the things that we encourage in our membership is to say, "The only positive that you can derive out of a serious crime is the knowledge that the person will not reoffend." If you can assure a victim of that it makes their healing a hell of a lot easier. The only way you can do that is by having a substantive rehabilitation program. John Lewthwaite is probably a classic example. He was a paedophile who broke into a house in Greystanes in an endeavour to kidnap and sexually abuse a young child. He was disturbed by a little girl. He stabbed her to death—something like 18 times. He went through the prison system and refused point blank to be involved in rehabilitation until he realised—through constant submissions by me before the parole authority on behalf of the family, the Hanns family—that he was not getting out

until he did rehabilitation. He started doing rehabilitation programs. He has been out for five years now and he does not even look like putting a foot out of place. It works.

The Hon. IAN WEST: Mr Brown, could you give the Committee your thoughts or comments, or does VOCAL have any comments it wishes to make, in respect of the recent changes to the interstate parole transfer system?

Mr BROWN: This is for me a great difficulty because these changes are still basically in their infancy. I think one needs to have an understanding of the rationale behind all of this. I heard the questions that Mr Lynn asked of Mr Pike in relation to it. We all know the history behind why these changes occurred. There are a couple of things you need to bear in mind. Unfortunately, New South Wales has the record of the greatest number of prisoners in custody. The problem we have is that we transfer more prisoners out of New South Wales than we receive from other jurisdictions. So when you have a prison system affected by numbers there will be some degree of desire, I suppose, by the department to remove prisoners from the system as quickly as it can and send them to other jurisdictions. Basically, we are looking at a situation now where unless they can substantiate that their system is identical to ours they are not going to go. That is a real problem as far as I am concerned because you cannot reflect identically offences from one jurisdiction to another. Here we have the offence of aggravated sexual assault in company. There is no equivalent charge in Western Australia. So there is a problem in relation to transferring prisoners interstate about whether the other State will comply with our rules and regulations and vice versa. The other difficulty that we have is that we have no idea of what rehabilitation programs are used in other States and jurisdictions. We have no understanding as to what level of probity those programs had in comparison to our programs. Here in New South Wales we have approximately five sex offender programs. I believe only one of those is worthwhile, and that is CUBIT. It is a very rigorous program. It is a one-on-one type of program and it has a maintenance program attached to it. It is a fantastic program and it seems to be generating great results.

The Hon. PETER BREEN: It has a very high failure rate, though, nine out of twelve fail.

Mr BROWN: Yes, but the bottom line is that other jurisdictions do not have even close to an equivalent program. That is one of the difficulties. In the changes that we are talking about in relation to the transfer of interstate prisoners the protocol has not yet fully developed for us to be able to determine whether it is working or not. It is a bit convoluted but that is probably the best I can do.

The Hon. IAN WEST: Does VOCAL endorse the recent ban on the parole transfer of child sex offenders?

Mr BROWN: Yes, we do in that until such time as there is greater clarification and a far greater openness as to what is going on we do not believe it should be happening. Victims need to understand with great clarity exactly what the situation is. It needs to be transparent and, unfortunately, at the moment and in the past it has not been transparent. When people are not on a victim's register and then people find out about a person moving into a new location it creates problems. Because of the tag that goes with paedophilia or sex offenders local communities can be easily aggravated into taking action which is in my view totally inappropriate. We saw this with a serial paedophile who was driven from the State by people throwing rocks—

CHAIR: He went to Queensland.

Mr BROWN: Yes. The last thing you want to do with a sex offender is to drive him underground. You need a system where you can maintain them on the outside, provide them with as much support as you possibly can, because if you do not they are going to reoffend and when they reoffend we just get extra members, which we do not really want.

CHAIR: Does VOCAL have any comment to make in respect of staffing levels and prisoner levels in the New South Wales prison system?

Mr BROWN: We certainly have a comment in relation to prisoner levels. Perhaps I should refresh the Committee's memory that I am a member of the New South Wales Sentencing Council. One of the first reports that we finally convinced our Attorney to release publicly was our report

which recommended the abolition of prison sentences of less than six months. I am more than happy to stand by that report. The council was very proud of the report because there were four community representatives, who one would tend to think would be the "lock them up and throw away the key" style of people, yet unanimously we were in favour of the removal of prison sentences of less than six months. This is because they do not work. If we could remove prisoners serving sentences of less than six months we would not be asking questions about staffing levels and prisoner levels because we would be reducing the prison population by between 2,000 and 2,500 people. That would make our prison system far more manageable. One of the difficulties we have—I guess this partially comes back to my issue in relation to funding and the like—is that there is this misconception that all victims groups are the "lock them up and throw away the key" type. We are not about that. What we are about is trying to prevent people from reoffending, because it is the only substantial thing that a victim can take from the crime, the assurance that the person is not going to reoffend.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So money is not really the issue?

Mr BROWN: No. For us, putting a serial shoplifter in gaol for three months makes absolutely no sense, because all you are going to do is teach them how to shoplift better and how not to get caught. What we need to do is to put them on a program such as a periodic detention program or a home detention program, and in order for that to reduce the prison populations we need to make weekend detention or periodic detention or home detention available to every potential offender in the State, whereas at the moment the majority of these people are denied access to both periodic detention and home detention because of geographical limitations.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Should they be under parole rather than corrective services?

Mr BROWN: Obviously, I have some concern about the operation of probation and parole. I am sure the Committee is aware that ICAC is about to commence inquiries into the operation of the Probation and Parole Service.

The Hon. PETER BREEN: I am not aware.

Mr BROWN: Well, now that the Committee is aware that ICAC is commencing inquiries into the operation of the Probation and Parole Service—in any organisation where you have human beings you are going to have error and the potential for corruption, and sometimes corruption by omission. Periodic detention and home detention do not place a huge demand on the Probation and Parole Service.

The Hon. CHARLIE LYNN: Could I ask you a question about the perception of the victim? When they are the victim of a crime there are two elements. One is that they need to know that the person who committed the crime will be punished in some way for that crime, and I believe most of them would support a rehabilitation program. But at the moment the system seems to be totally oriented towards rehabilitation and not towards punishment. We know that when they close doors behind you that is a punishment, depending on the extent of the crime and how long is the question. But what is your view on the perception from a victim's viewpoint?

The Hon. PETER BREEN: Do you agree with the proposition that the system focuses on rehabilitation rather than punishment?

The Hon. CHARLIE LYNN: No, I am talking from a point of view of the perception of the victim. They believe there should be two aspects to it. One is that the perpetrator should be punished for the crime, but they also support, after that punishment or in conjunction with that punishment, a rehabilitation process. But the perception at the moment is that it is all rehabilitation and a lot less punishment.

Mr BROWN: Unfortunately that is often the perception when it is far from the truth. I do not know whether the members of the Committee are aware that one of the motivating factors for the sentencing council's report into the recommendation of the abolition of prison sentences for less than six months is that a prisoner who is incarcerated for 12 months or less does not have access to rehabilitation programs. Full stop; End of story. It is only about punishment and that is a huge

difficulty, because if you are purely and simply putting a person in gaol as punishment and not providing them with a crutch to deal with their offending behaviour, if you will pardon the expression, you are into the wind; all that will happen is that the prisoner will come out at the other end really ticked off. Really ticked off ex-prisoners become really violent ex-prisoners.

Again, we have a situation where we are adding to our membership. This is one thing that really annoys me, because I believe that governments, plural, see that victims want those people locked up and the key thrown away. That is not the point. Obviously for serious offenders that is the only way that they can be dealt with. We are not talking about only serious offenders going to gaol. It is one of the great anomalies about the Serious Offenders Review Council, where they classify 7 per cent of the prison population as serious offenders.

The Hon. PETER BREEN: I think the current figure is 628.

Mr BROWN: That is correct. That is such a waste. We have people in gaol who are habitual sex offenders but because they are serving sentences of only five years or less, they are not classified as serious offenders. They just sit there in prison, wait till their term expires, come out the other end having had no rehabilitation—although they have had access, they have chosen not to accept rehabilitation. We know that sex offenders on the whole commit between 25 and 30 offences before they are apprehended.

The Hon. CHARLIE LYNN: Is that a policy failure or a resource problem?

Mr BROWN: Both. People need to recognise what a serious offender really is and put a statute or a requirement on what constitutes that. It is not a homicide or manslaughter. Generally a non-parole period of 12 years or more does not address what a true serious offence is. I would be happy to come back if the Committee requires more from me.

(The witness withdrew)

(Short adjournment)

HARRY JAMES HERBERT, Minister of the Uniting Church, Civil Chaplaincies Advisory Committee,

PATRICIA MARIE STAUNTON, Administrator, NSW Chaplaincy Service, and Member, Civil Chaplaincies Advisory Committee, and

RODNEY VICTOR MOORE, Anglican Priest, Corrective Services Chaplaincy Co-ordinator New South Wales, affirmed and examined:

CHAIR: Reverend Herbert, in what capacity do you appear before the Committee?

Reverend HERBERT: As the Secretary of the Civil Chaplaincies Advisory Committee.

CHAIR: Are you conversant with the terms of reference of this inquiry?

Reverend HERBERT: Yes.

CHAIR: Sister Staunton, are you conversant with the terms of reference of this inquiry?

Sister STAUNTON: Yes, I am. I am known as Sister Pauline in religious life. I am appearing as a member of the Civil Chaplaincies Advisory Committee and as an Administrator of NSW Chaplaincy Service.

CHAIR: Reverend Moore, are you conversant with the terms of reference of this inquiry?

Reverend MOORE: Yes I am. I am a member of the Civil Chaplaincies Advisory Committee.

CHAIR: I advise you all that if you should consider at any stage that certain evidence you wish to give or documents you may wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Would anyone like to make a brief opening statement?

Reverend HERBERT: The Civil Chaplaincies Advisory Committee, which has been in existence for more than 40 years, is an important committee that represents nearly all of the Christian churches together with the Jewish, Buddhist and Islamic faiths. It acts as the intermediary in organising chaplaincy services with the Department of Corrective Services, Department of Health and the Department of Juvenile Justice, and any other government department which may from time to time appoint chaplains.

The Hon. PETER BREEN: There is the difference between the Civil Chaplaincies Advisory Committee and the Prison Chaplaincy Service. Could you explain the difference, they appear to be two different organisations?

Reverend HERBERT: I will explain that. The Prison Chaplaincy Service is not a formal organisation. The committee has appointed Reverend Rod Moore and Sister Pauline Staunton as the Co-ordinator and Administrator of the Prison Chaplaincy Service. Those positions are funded by the Department of Corrective Services, but our committee selects the appointees to those positions. I do not think the Prison Chaplaincy Service is a formal organisation whereas the Civil Chaplaincies Advisory Committee is a more formal organisation.

The Hon. PETER BREEN: Does the Civil Chaplaincies Advisory Committee have any involvement with the prison ministry Kairos?

Reverend MOORE: Yes, the Kairos prison Ministry is operating in 16-17 prisons in New South Wales. Its ministry and program operates in conjunction with and under the auspices of a sponsoring chaplain in those centres.

The Hon. PETER BREEN: Would any chaplain who is involved with the Kairos Ministry also be a member of the Prison Chaplaincy Service?

Reverend MOORE: Yes, all prison chaplains working in correctional centres in New South Wales are appointed by the Civil Chaplaincies Advisory Committee and have to come from membership organisations of that committee.

The Hon. PETER BREEN: Do you personally support the work of the Kairos prison Ministry?

Reverend MOORE: Yes, very much so. When I was full-time chaplain at Cessnock Correctional Centre for nine years previous to this appointment as co-ordinator I sponsored and ran 10 Kyros programs as chaplain of that centre, and still remain very involved with their board on behalf of the chaplaincy service.

The Hon. PETER BREEN: Would you like to see the Kairos program extended to all prisons in New South Wales?

Reverend MOORE: Yes, eventually, and we are working towards that. It is a very positive program.

The Hon. PETER BREEN: I think at the moment it depends on the governor of each jail as to whether it is allowed to operate.

Reverend MOORE: It depends on several things. Another issue is that it has not moved to many of the centres because of the inability to recruit team members from the wider community, especially in isolated country centres. Kairos itself has a problem with that.

CHAIR: For the benefit of other committee members, can you explain what the Kairos chaplaincy is?

Reverend MOORE: It is not Kairos chaplaincy. Mr Breen is talking about a program called Kairos, which exists here and has existed in America for the last 20 years. It is a large lay-based, community-based program from a wide variety of Christian churches that goes into a prison with about 40 civilian members. They run a program for three and a half days with up to 24 inmates in the program. They offer them many Christian talks and an experience of Christian community, if you like, during those three and a half days. That is followed up for six months with a weekly or fortnightly meeting to consolidate the three-and-a-half day experience and give ongoing support and mentoring to the inmates who complete the program. In most centres they run another three-and-a-half day program at the end of six months and add to the pool of inmates in that centre who have completed the program. It is sponsored by the chaplaincy service to do the organisation of the three and a half days, to look after the team and offer them some security on behalf of the governor and to facilitate the program's delivery in the centre each week.

The Hon. PETER BREEN: There was a recent case in Victoria, I think, of someone complaining from within the prison system to the Anti-Discrimination Board about the fact that their particular belief system, which I think was some kind of witchcraft, was not catered for in the chaplaincy service. Can you explain to the committee what are the criteria for belief systems before a prisoner would be entitled to benefit from the chaplaincy service?

Reverend HERBERT: The Civil Chaplaincies Advisory Committee represents Christian, Buddhist, Islamic and Jewish faiths, so therefore we would not have a member representing witchcraft on our committee. I think that would be the answer to that! If it went on, it had nothing to do with us.

The Hon. PETER BREEN: What about someone from, say, the Baha'i faith who was in prison? How would they access the chaplaincy service?

Reverend MOORE: All prisoners of any faith or persuasion are registered on the roll of Corrective Services. If that faith is not a member of the Civil Chaplaincies Advisory Committee—for example, in the Baha'i faith there would usually be only two or three inmates in New South Wales

claiming to belong to that faith tradition—there is access by religious visitors as well as the chaplaincy service. The chaplains would in that case, if an inmate approached the governor or the chaplaincy service to see somebody from the Baha'i faith, for example, organise a religious visit by somebody from that faith tradition and make sure that inmate's religious needs were met.

The Hon. PETER BREEN: But the person representing that faith would be an ordinary visitor, not visiting as a chaplain. Is that what you are saying?

Reverend MOORE: They would visit only that person from that faith tradition.

The Hon. PETER BREEN: Are facilities for access by chaplains in New South Wales correctional facilities adequate? For example, are there adequate facilities to conduct a mass or other religious service?

Reverend MOORE: Yes, very much so. In 1995, the then Commissioner of Corrective Services made a commitment that all jails in New South Wales would have a designated chapel space. We have been undergoing a major building program since that time. There are now only three centres in New South Wales without that designated space. This year Corrective Services is funding the building of a chapel at Oberon Correctional Centre, which leaves only another two centres in New South Wales to have that facility.

The Hon. PETER BREEN: Which centres are they?

Reverend MOORE: Silverwater Works Release does not have a designated space and neither does Cooma. We also have a couple of small areas at Long Bay that will be looked after in that program. That is because of renovations and other building works. Corrective Services has caught up with all of that in 10 years—10 years ago over half the centres did not have that space—so there has been quite a big commitment and program. We also have an undertaking that every new facility built by the department will automatically have that space built into it. At Wellington, for example, which is being built at the moment, there will be a designated space.

The Hon. PETER BREEN: Is it designated as a Christian space or a prayer space generally?

Reverend MOORE: We call it chapel because all the different faith traditions have indicated that is the best working title for that space that they are happy with and can agree interdenominationally with Christian and inter-faith groups. We undertook that survey a couple of years ago. The space generally is an inter-faith, ecumenical, friendly space. Probably because of the demographic make-up of the inmates, the majority of things that happen tend to be Christian services, but certainly Muslims, Buddhists, Jews and others are made more than welcome to that space. They have hangings and artworks of their own in those spaces.

The Hon. PETER BREEN: I want to ask about the impact that prison religious chaplains and religious instruction generally have on prisoners, particularly high-risk prisoners. I notice that in Guantanamo Bay, for example, every Friday Muslim inmates are allowed to meet in small numbers to pray. Similar programs operate in other parts of the world. As far as I am aware, high-risk prisoners in New South Wales do not have the benefit of those kinds of communal services. Do you have a view about that?

Reverend MOORE: Firstly, can you clarify for me what you mean by high-risk prisoners? In Corrective Services that would cover a range of people, from sex offenders to mentally ill prisoners and sometimes those in the HRMU from a Muslim background or some terrorist background. Are you talking about all high-risk prisoners or just those who are incarcerated because of their current terrorism-related status?

The Hon. PETER BREEN: My understanding of high-risk prisoners is it is those who are designated in Corrective Services as being a danger while in custody. We are not talking about what they might do outside. Some are incarcerated in the HRMU and others are in segregation in other parts of the prison. They do not, in my experience, have any opportunity to meet with more than one other prisoner at a time. Would those people benefit from being able to meet with more than just one other prisoner; for example, in some kind of religious service?

Reverend MOORE: They would probably benefit. All people need to get into groups and have peer group support, especially when it comes to sharing faith, personal development and other things. Given the operational restraints, we find it very difficult to get that access. Certainly our chaplains have full-time access to those people, with some limitations. We are not happy about one issue at the HRMU. Chaplains there are not allowed to visit an inmate one-on-one. They either have to go in pairs, which is very time draining on our chaplaincy service at Goulburn, or we have to have a prison officer within earshot for the protection of the chaplain at that visit. One of my major concerns, and one of our concerns as a chaplaincy service, would be that that really inhibits confidentiality between the inmate and the chaplain. It bothers us that inmates might not share, or be open enough to share, their soul or their personal issues if a prison officer or somebody else is listening in as freely as they would if they had the confidentiality of one-on-one chaplaincy. But at the moment we have not been able to resolve that with the authorities on security matters.

CHAIR: We did an inspection of the High Risk Management Unit at Goulburn gaol the other week. They had rooms where they said a psychologist or psychiatrist could see a prisoner. It was a secure area in an interview room where the prisoner was placed with a desk and a couple of chairs for the professional counsellor or whatever to sit. Are those facilities not made available to chaplains when they see somebody in the HRMU?

Reverend MOORE: They are but they have to be in twos or have an officer very close by, even within that facility, to ensure safety or whatever. The only issue that we cannot work out with that is the issue of confidentiality so the prisoner can freely feel that they can share in confidence.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Picking up on that point, there was a little office that has a cage in one corner—to put it bluntly. The prisoner sits in the cage, the door of the cage is closed and the counsellor or psychologist sits outside the cage but in the office. I understood that that is quite confidential and lawyers and psychologists use it. Are you not able to access that facility or are you not aware of it?

Reverend MOORE: I am not aware of it so I cannot comment.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I believe it exists in Goulburn because we saw it in the HRMU. Does Kairos—which I did not know anything about—extend to ongoing support after prisoners are released?

Reverend MOORE: Not directly. Kairos in its own constitution encourages its volunteers not to get involved directly in post-release support for prisoners. It is an internal program that they deliver to the centre. They often work in conjunction with other organisations from the wider church who do offer post-release support and halfway houses and becomes sort of an introduction to inmates to move onto those programs. I believe that Kairos is looking at setting up in the future some post-release endeavours. They will then designate some volunteers to work only in that area and not be part of the internal program.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The church has a number of post-release programs, does it not?

Reverend MOORE: There is a varied number, from the Salvation Army to St Vincent de Paul and some independent ones set up by chaplains over the years in various regions of New South Wales.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Are a number of these government funded?

Reverend MOORE: I do not know how many are government funded. Some are just run free of charge by the church or funded indirectly. For example, the Salvation Army might or might not receive some government funding for their programs. This might be one of their many programs, I do not know.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do chaplains advocate on behalf of prisoners?

Reverend MOORE: Yes, that would be part of their daily work. Chaplains try to line up housing for inmates, clothing, post-release arrangements and some support for inmates who want it when they are back on the street. That is very much a part of the chaplains' work.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So if someone did not tap into the chaplaincy program—if they were not religious—they would not get that advocacy. Is that the situation?

Reverend MOORE: No. Many inmates also get that sort of support from welfare officers, sometimes drug and alcohol officers and sometimes some civilian halfway house ministries, such as Glebe House and Rainbow Lodge and other institutions around the State. The CRC rehabilitation committee does a lot of that work. So inmates have a varied range of people and organisations to tap into for that sort of support.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: So chaplains are only one of the advocacy bodies that are funded within the prisons.

Reverend MOORE: The chaplains are the only civilian advocacy group funded into the system. All others are government employees or organisations with direct funding from the department.

The Hon. CHARLIE LYNN: I imagine that the reason for the security at the HMRU and the lack of privacy for visits would be motivated by the suspected terrorists there. There are a number of Muslim clerics, for example, who could be able to transfer information in and out of the centre. What is your view? Did you see that as the main sticking point to access?

Reverend MOORE: Yes, that probably is the reason for the tight security. But we have an agenda as chaplains and a belief that everyone has a right to express their own religious feelings free from that. Inmates get very few visits from anybody in the system who can freely and non-judgmentally listen to them as individuals and human beings and allow them to share things in confidence. I suppose that the Chaplaincy Service believes that all individuals in society have a right to that freedom.

The Hon. CHARLIE LYNN: What screening or security checks do you do on people who apply for access to prisons under the chaplaincy arrangements in New South Wales?

Reverend MOORE: I will ask Sister Pauline to answer that question. She does that work for us.

Sister STAUNTON: All intended chaplains are required to have a criminal record inquiry completed and returned with a "clear" or "no trace" result as a hard copy, either directly from the CIG, which is the Corrections Intelligence Group, or returned by the regional superintendent and signed to that effect. That must happen before any chaplain is endorsed and then accredited by the commissioner. They are endorsed by the Civil Chaplaincies Advisory Committee and accreditation is sought from the Commissioner of Corrective Services. Criminal record inquiries are renewed each two years for chaplains and yearly for other visitors. The applicant fills in the current form—the annexure 15.7, New South Wales Corrective Services Authority—to carry out a criminal record inquiry. The signature is witnessed by a departmental employee, the chaplain or the administrator. The form is returned with a photocopy of the driver's licence and passport, showing photo and signatures. These are checked against the signature on the form. The form is sent to the regional superintendent at Long Bay for authorisation and for a check to be carried out. He forwards it to CIG and then the result is returned to the administrator.

The Hon. CHARLIE LYNN: How could somebody like the Muslim cleric Al Barq slip through a system like that? I understand that when he applied he had a criminal past. Were you aware that he had changed his name in an effort to gain unsupervised access to New South Wales prisoners?

Sister STAUNTON: I did not understand that he had changed his name. The form that I received had the same name on it as his driver's licence. The first criminal record inquiry that was carried out on him came back with a clear result. But I noted on the first form that he said that there was no criminal record against him. When we did the second check sometime later when he was to be appointed as a full-time chaplain that is when the trace came back. You would have to ask CIG how it got through.

The Hon. CHARLIE LYNN: I think this goes back to my original question about heightened security at the HRMU, where security is so lax as to allow a person with a criminal past and a name that should ring alarm bells in this day and age to slip through the system as a cleric and gain entry to the heart of our prison system—our super max. Does that concern you?

Reverend HERBERT: Can I answer that? I need to say that the Civil Chaplaincies Advisory Committee was not very pleased about the way in which Mr Anwar Al Barq was treated publicly. The story that he changed his name was a complete fabrication and, as Sister Pauline has just said, it did not occur. Even to this day no-one can really say that. The only thing we know about Mr Al Barq is that he had been convicted of an offence in the United States sometime previously. But that of itself—a previous criminal offence—does not normally mean that the commissioner would not, giving it due consideration, accept a person as a chaplain. It has occurred in the past that people with a criminal record have served as chaplains because their criminality is well in the past. It is the very strong view of our committee that that ought to continue. A person should not be excluded from chaplaincy simply because way in the past they had some criminal conviction.

The Hon. CHARLIE LYNN: But we are talking about a different sort of criminal in this respect, are we not, who has an association with terrorist-type organisations—and having regard to the current environment.

Reverend HERBERT: I am not aware that Mr Al Barq had any association whatsoever with any such organisation. If you know that, I accept it but I am not aware of it. Our committee has never been advised of that. We had the assistant commissioner come to our meeting to discuss this matter and he did not tell us that there was any such allegation. I think certain stories were spread in the *Daily Telegraph* but I would strongly recommend that you do not regard the *Daily Telegraph* as a source of valuable or vital information.

CHAIR: I concur completely.

Reverend HERBERT: It says things about politicians that are not always true, too.

The Hon. CHARLIE LYNN: You are preaching to the converted.

CHAIR: I have a couple of questions. In your submission you state that a limited number of people come to prison to serve as assistants to chaplains. Are these people subjected to the same level of security checks as apply to chaplains?

Sister STAUNTON: Yes, they are and we keep those copies on file. I attend to any that come through Long Bay but the chaplains in the various centres would be required by the governor of each centre to make sure that there is a criminal record inquiry. I do not keep copies of those. That would be in the realm of the chaplains. But certainly any that come through Long Bay I would have a record of and they would be on file.

CHAIR: How often does the commissioner reject an application for accreditation as a prison chaplain—that is, somebody who has been recommended by your committee—and in what circumstances would that happen?

Sister STAUNTON: I only know of one case when someone was rejected. He had been employed as a chaplain at Junee and Junee obviously did not do the appropriate criminal record check on this man. When he was to be appointed to the mid North Coast correctional centre we did a criminal record inquiry on him and there was a flag against his name. The commissioner immediately made the decision not to appoint him.

CHAIR: In your submission you state that the Civil Chaplaincies Advisory Committee is close to completing a memorandum of understanding with the department. Has this been completed and, if so, can we have a copy? What are the other significant points contained in the memorandum?

Reverend HERBERT: I can answer that. The memorandum was put in place some years ago and were signed by us and Dr Keliher, when he was the commissioner. It is a useful document, setting out the arrangements that are in play between the department and us. We have over the period of last year been revising it, as one does with such things, and the new revision has not yet been completed but we are very close to it. The Assistant Commissioner, Mr Luke Grant, came to our committee meeting this year and put to us that he wanted a higher level of training in clinical pastoral education for chaplains to be included in the memorandum. We have agreed to that. So I would be expecting a memorandum to be signed shortly. Yes, it is a public document and can be made available.

CHAIR: Thank you. We visited the HRMU and went through two different lots of screening. Are prison chaplains subject to the same physical searches upon entry to New South Wales as other visitors?

Reverend MOORE: Yes, exactly the same.

Sister STAUNTON: In some centres electronic screening takes place each time a person enters the centre. All staff are now required to carry with them a plastic bag so that what is in the bag can be seen. If something is detected a more thorough search is undertaken. Chaplains and others may be subject to a physical search.

The Hon. IAN WEST: With regard to the maximum security unit at Goulburn and segregation in other than the Goulburn establishment in terms of high-risk people, I am assuming you visited both. If that is the case, can you give us your opinion as to the difference between the two?

Reverend MOORE: They are all very different in most centres that have any segregated area. Our chaplains visit all those areas and quite freely in most places except for the HRMU. We visit there regularly, every week, but with some limitation of confidentiality. But everywhere else our chaplains visit freely. They probably get more access than most other staff to see inmates in those areas because the chaplains are very aware that those inmates get less exercise and less visits and generally need more visits. If you want me to comment on the actual areas and the accommodation, it is very different in every centre. So it would probably have to be centre by centre, I think.

The Hon. PETER BREEN: There is a view in some quarters that many prisoners become interested in religion only as a flag of convenience and that when they leave the prison system they also leave their religion behind. Do you have any figures about the retention rates of people who use your services in prison and whether they maintain their religion after they leave prison?

Reverend MOORE: No, there have never been any recidivism studies done on that.

The Hon. PETER BREEN: Recidivism?

Reverend MOORE: Whether they come back or not or whether they stick with their faith. That is a question I have had flagged at me before. If people are serious about their faith why do they come back to gaol? It is not as easy—I do not think anyone has ever done a study. We have been asked by the assistant commissioner at the CCAC level to do some self-evaluation in the next year or two on the service, and I imagine that we will start to look at some of those issues in that self-evaluation, but there has never been anything done so far.

CHAIR: Do you have anything else you want to tell the Committee?

Reverend HERBERT: I would just like to emphasise with the Committee the important and crucial role that the chaplaincy service plays. In New South Wales, as compared to other States, we have a very well organised system, and CCAC would take some of the credit for that but I think the department deserves some credit. The department in New South Wales allocates significantly more resources for chaplaincy than some other States in Australia do. I would agree with Assistant

Commissioner Grant when he met with our committee this year and he said that relations between the department and our committee are absolutely excellent and that we get along very well even though at certain points we will have disagreements and decisions will not always be agreed with. All the people who serve as chaplains are nominated by their religious body and a great deal of care and thought goes into those people. So it is not anybody off the street who can serve as a chaplain.

Sister STAUNTON: In response to the Hon. Peter Breen's question, I think in the far distant future it would be a pipe dream of ours that we would have a community chaplaincy so that when inmates leave our centres they will move into the community and the community chaplains will pick them up. But we are not at that stage yet because of funding and so forth, but it is a pipe dream and the next time we appear here we might be able to tell you something about it.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do you not have an entire network of parishes that could do that?

Sister STAUNTON: We do have a network of parishes but I am talking about community chaplains, people specifically set aside to pick up where the prison chaplains leave off.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: The average parish priest would find it a bit tricky.

Reverend HERBERT: Some do and some do not.

(The witnesses withdrew)

(Short adjournment)

RONALD GEORGE WOODHAM, Commissioner of Corrective Services, Henry Deane Building, Lee Street, Sydney, and

DAVID LUKE GRANT, Assistant Commissioner, Offender Management, Department of Corrective Services, Henry Deane Building, Lee Street, Sydney on former oath, and

BRIAN RAYMOND KELLY, Acting Assistant Commissioner, Security, Department of Corrective Services, 20 Lee Street, Sydney, sworn and examined:

CHAIR: Mr Kelly, in what capacity are you appearing before the Committee? Are you appearing as an individual or as a representative of an organisation?

Mr KELLY: I am representing the Department of Corrective Services.

CHAIR: Are you conversant with the terms of reference?

Mr KELLY: Yes.

CHAIR: If you should consider at any stage that certain evidence you wish to give or documents you wish to tender should be heard or seen only by the Committee, please indicate that fact and the Committee will consider your request. Do you have an opening statement?

Mr WOODHAM: No.

The Hon. PETER BREEN: The last of the questions that the Committee wrote to you about is No. 34. The Committee notes that amendments to the Prisoners (Interstate Transfer) Act have not been proclaimed. The amendments increased the number of factors the Minister may have regard to when considering welfare transfers. What is the likely impact of these changes on the interstate prisoner transfer system? The question looks at the new protocols that are in place in relation to the transfer of prisoners. When you appeared before the Committee in December you indicated a net loss to prisoners in New South Wales as a result of the new transfer arrangements. Do you still hold the same view about the new protocols, about there being a net loss to prisoners in New South Wales? Are you satisfied that the new arrangements are a better way to process interstate transfers?

Mr WOODHAM: Are you talking about the interstate transfer of parolees or prisoners under the interstate transfer Act or the interstate transfer of parolees?

The Hon. PETER BREEN: I have confused the two, haven't I?

Mr WOODHAM: Yes.

The Hon. PETER BREEN: I was intending to refer to the interstate transfer of parolees.

CHAIR: That is question No. 28.

Mr WOODHAM: Since I spoke to you last I have chaired a national working party in relation to the interstate transfer of parolees. I will read to you—I can make available a document as a result of that meeting. Nominees from Victoria, Queensland, South Australia, Tasmania, Western Australia and Australian Capital Territory attended that working party that I chaired. The terms of reference were to develop standard guidelines for the transfer of parolees between jurisdictions to consider how to deal with short-term interstate transfers, in particular for transient indigenous offenders—that was particularly concerning indigenous offenders at the top end between Western Australia and the Northern Territory—and to look at how to incorporate risk assessment processes for the termination of transfers.

In relation to the standard guidelines for transfer of parolees between jurisdictions, we resolved—and I might add that these resolutions go to the administrators conference in Adelaide for all States and Territories in May and the results of that meeting will then go to the Ministers conference later in the year—that all transfer of parolees between States will require a structured

formal approval process which provides for the registration of the parole order in the receiving jurisdiction prior to relocation of the parolee across State boundaries. Approval for the registration of the parole order is to reside at a level higher than a probation and parole officer or community correctional officer. However, each jurisdiction will decide the appropriate level of authority at which this decision will be made. In New South Wales the level of delegation will reside with me.

In considering parole for an inmate, it is desirable to have the parole order registered in the State or Territory of proposed residence. The current legislation is limiting in failing to enable this process to occur in terms of parole orders that have yet to come into existence. Agreement was reached that it would be desirable for identical amendments to be passed by each jurisdiction in relation to the Parole (Orders Transfer) Act 1983 to enable parole orders to be transferred and registered in the interstate jurisdiction as soon as the offender is released from custody. In short, that means that every jurisdiction agrees there should be a formal process.

The Hon. PETER BREEN: A formal process operated before except it was put into effect after the relocation of the parolee and then if the parolee did not measure up he or she was transferred back to the place where they were incarcerated. Is that right? Is that what used to happen?

Mr WOODHAM: That is what used to happen. Of course, every State had an issue with it. Queensland had an issue with it when we sent Russell Cox to them and they did not know about it. Victoria had an issue with it when a sex offender was sent to them by Western Australia that blew up politically. Then we have the same experience here.

The Hon. PETER BREEN: With Otto Darcy-Searle.

Mr WOODHAM: Yes.

The Hon. PETER BREEN: Are you satisfied that the new arrangements will solve the problems that existed before?

Mr WOODHAM: There are another two areas of concern and that is people who go to cross State boundaries, for example, if you live in Albury and work in Wodonga. There has to be a process on the State borders of people being able to cross the border. There are another two pages I could read to you in relation to that but it still goes through a more formal process and agreement of both jurisdictions before those movements can occur.

The Hon. PETER BREEN: You do not think the controversy that surrounded the transfer of Otto Darcy-Searle is likely to happen in the future as a result all of these new measures?

Mr WOODHAM: That is correct. That is if the other jurisdictions agree with these guidelines at the Ministers' Conference later in the year.

The Hon. PETER BREEN: It is likely that they will agree, is it not?

Mr WOODHAM: It is, yes.

The Hon. PETER BREEN: Will you be the chair of the committee that oversees that once it is implementing?

Mr WOODHAM: I would imagine so. That is the norm.

The Hon. PETER BREEN: Could I ask you briefly about the high risk management unit [HRMU]? There have been a number of complaints to the Committee about conditions at the high risk management unit in relation to circulation of air and in relation to light, and the opportunities that prisoners have to get out of their cells. The problem seems to be, if I can be so bold as to say so, that there does not seem to be any review process in place that enables prisoners who are in the HRMU to either have their incarceration in the HRMU considered generally or to have their particular circumstances considered so that they might have more privileges than they would otherwise get under the regime imposed from the top, if you like.

Mr WOODHAM: For a start, that type of inmate will never dictate to me or my staff what they will and will not get. That is the first thing. They will get what we think they should get and what we think they should lose when they lose it. We have a document here about air flow and natural light in need HRMU. It is adequate. It does meet international standards, and that has been tested by independent people. As to the complaints about natural light, as you saw on your visit they can get out into an exercise yard every day. Even in Unit 7 they have an exercise yard where they can have access to fresh air and natural light—much different to the conditions of the facility we are demolishing at the present time, Katingal.

Mr GRANT: I would like to comment on the point made about the mechanisms for review. I am not sure what you saw when you went down there and what was made available to you, but in terms of the procedures for managing people in those environments, the people who live there have access to a number of recourses. One of them is that they can access the Ombudsman's office to make complaints. Depending upon their classification and whether they fall beneath the orbit of the Serious Offenders Review Council or the general classification process, there are mechanisms for review that enable offenders—not because they are dissatisfied with the classification decision, but because they have additional information that has not been taken into consideration—to have that decision reviewed in the first instance internally.

The Serious Offenders Review Council is always able to respond to inquiries, letters and submissions made to it when members of the council meet inmates in person in relation to their classification and to place them before the Commissioner. The Ombudsman's Office operates with all classification of inmate anywhere, to take complaints, as does the Corrective Services support line, which is a telephone line that enables inmates to make complaints of all classifications across the system about the circumstances in which they are being managed. I do not think it is true to suggest that there are no mechanisms to review or consider particular issues they may raise in relation to their treatment and management.

Mr WOODHAM: May I just take that a bit further? You are really talking about the issue of ventilation and light, are you not?

The Hon. PETER BREEN: That is what most of the complaints are about, yes.

Mr WOODHAM: Much has been made about the ventilation system in the HRMU and the alleged lack of fresh air. I think there is much misinformation there as well. Goulburn is an area that experiences extreme weather conditions. The design of the facility indicated the need for a mechanical ventilation system. The heating ventilation and airconditioning [HVAC] system is in line with the relevant building codes and the Australian and New Zealand Standards of Ventilation systems. The HRMU has also been tested by a mechanical engineer and also by an environment health officer. When testing the carbon dioxide levels in the cells they were rated as normal 405 ppm, whatever that means, and not much different from the outside air of 309 ppm, which indicates that the amount of fresh air exchange is good. The percentage of outside airflow was also measured and recorded as 24.4 per cent, which is considered well above the minimum specified in the standard.

The Hon. PETER BREEN: I am particularly interested in the regime that operates in the HRMU or determining privileges. At the top end prisoners can mix with one other prisoner, for example, in the exercise yard or on the basketball court. At the bottom end they stay in their cells, I think for 22 out of 24 hours a day. Is that regime determined by the department? If so, is there any prospect of that being reviewed on the basis that, certainly from the inmates' point of view, it is a harsh regime? It is a regime that, to my mind, that does not offer very much incentive. I know that probably goes against what your information is, that inmates to respond to the privileges regime, but it is so minimal in my view that any response would be one of desperation. Will you tell me what the process is of reviewing that?

Mr WOODHAM: There is a review of the entire program in train at the present time. That will review all procedures and processes that we undertake at the HRMU, but a lot of the association depends on their behaviour, as the reward. We have some inmates that just cannot associate with some of the others because they are enemies outside prison and enemies inside prison. So, firstly, they cannot pick and choose her they want to beware. When they get to the stage where they can associate with someone else, we pick that person and we rotate take them around so they do not keep

associating with the same person. If you know anything about maximum security gaols and how escapes and assaults are planned, just leave some of these heavies together for long periods of time. By mixing them up and moving them around, keeping them on the move, it is fairly hard to put a detailed plan together where certain individuals are going to back one another up to do something. That is part of it as well. A lot of people do not think of that. Mr Kelly might like to take that a bit further.

Mr KELLY: Yes, I would. Thank you, Commissioner. First of all, as a background to the inmates we're talking about, I went on a tour the other week. There are thirty-six inmates currently in the HRMU. Some of them are related to different gangs and backgrounds. Some of them have opposing crime groups. Of the 36 inmates, six are unsentenced. The other 30 are serving a total of 622 years with 23 natural life sentences. There are 21 inmates who have been convicted of murder and that relates to 42 murders. Of those inmates eight are serving natural life sentences and five are facing terrorist charges.

The Hon. PETER BREEN: They can only have two-man basketball.

Mr KELLY: One-on-one, it is called.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I have had it put to me that when a judge sentences someone, that sentence is entirely carried out by Corrective Services; and if there is anything apart from a period of time specified, it is not always carried out. Is that the case? Do you try to carry out sentences that are beyond just custodial sentences? For example, this person needs to have their drug and alcohol issue addressed.

Mr WOODHAM: Yes. As you know, the judiciary very seldom directs us to do anything. They recommend. Of course we take notice of the sentencing remarks in our reception committee and our screening process. Our screening process throws up the special needs of individual inmates as well, when they are received.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Presumably, though, the trial would have been a more comprehensive analysis of that person than any screening program you would be able to put into place. The sentencing remarks would indicate whether the person had an issue with alcohol or drugs or whatever. Would you go through the evidence in that situation?

Mr WOODHAM: Yes, and right through their sentence, and I am sure it is part of the consideration of the Parole Authority as well, that they have addressed what the sentencing magistrate or judge recommended.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: We understand from evidence before the Committee this morning that the Parole Authority only gets to see the prisoners 60 or 40 days before they are released.

Mr WOODHAM: Yes, but the parole officers prepare their prerelease reports prior to that so they have the reports from the parole officers well before that period of time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: If they are in there for 10 years, does that mean that the Parole Authority comes in the last couple of months?

Mr WOODHAM: No. The parole officers have contact with these people well before their release. There are parole officers working in the gaols all the time.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But they are just different parole officers? But, not the ones that do the community work.

Mr WOODHAM: They are the same ones that write the reports to the judges, the prerelease reports. They are the same people they have input into the reports to the Parole Authority. Plus we have a deputy superintendent at the Parole Authority who is responsible for getting intelligence and reports from their customary your experience to be Parole Authority as well.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do they have a life plan worked out for them when they go into gaol?

Mr WOODHAM: Yes. They have a case plan.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Does the case plan only deal with the time they are in prison, in terms of their classification and privileges, or does it deal with their education and getting them ready for discharge? Is it a life plan or a life of sentence plan?

Mr WOODHAM: It is a through-care plan and I will get Mr Grant to take that further with you.

Mr GRANT: We do have a case plan for every offender and the case plan is developed based on a rigorous assessment at the front end, when someone comes into custody. Nearly everyone who comes into custody has had some contact with the department previously. We place some reliance upon the type of information that we get from when they previously had contact with the department. They quite often have been on a community-based order and we rely upon that information, particularly if there has been a presentence report, in addition to the assessments we do when someone comes into custody and put in place the case management plan for that person. That case management plan that is done in custody is not a fixed object because opposing changes. We get to know more about that person, we looked at their ability to respond to the types of programs that are available and it changes through the time that someone is in custody. It places different emphasis on things that different points in time. In relation to their post-release planning, we have an exit planning process that kicks in six months before a person is to leave, so that the whole plan ultimately is preparing someone for their release and attempting to get them to address the issues surrounding their offences during the course of their sentence.

In relation to the integration issues, which are quite different—about where we live and what sort of identification papers and so on you have—we have an exit planning strategy that we have put in place. For people who are going to be managed—because not everyone is managed by us under supervision in community offender services, but where someone is—there is a case plan that takes the person into their community stage. The idea of having a whole-of-centre case plan that is fixed from the outset is something that we do not adhere to because we need to see how the person responds to treatment. Different things are important at different points in time and we emphasise those things at those points in time.

In relation to employability, education and those types of issues, they are an integrated part of the case plan from the outset. We do an assessment. We use an actuarial risk assessment instrument increasingly to workout who the highest risk offenders are. The resources that we have are prioritised towards those people who are at the highest risk of reoffending. We also have regard to the literature that suggests that you need to have a reasonable period in which to treat people. We do not waste resources on a short-term program or on a one-hour visit with a drug and alcohol worker but increasingly there is an emphasis on longer duration programs of maximum intensity matched to the risk of reoffending of the individual.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: But if someone is illiterate and they might have a better chance of getting a job if they were put on an education program, would you start introducing that at six months out when—

Mr GRANT: No. Education is one of the programs that runs even when people are on remand. We do an education profile. If required, we then do an assessment. We have an exhaustive and intensive education program. At the moment we have 101,000 hours of education, I was reliably informed today by our education people.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Per year?

Mr GRANT: Per year. That is 101,000 hours of teaching.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Is that not nine or ten hours per person? You have 9,000 prisoners and 101,000 hours.

Mr GRANT: If 101,000 is divided by 10 the result is 10. However, there are 22 people in each class potentially. So it is not just per person. The teachers do not do one-on-one teaching; they do work with a group of people. In addition we have about 15,000 TAFE hours. So education is a really big part of our program. Last year we increased our teachers by 26. So the emphasis on teaching has really increased in our service.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: What is the total number of prisoner hours attended, taking into account the ones that are in class?

Mr GRANT: I am happy to take that question on notice but I can tell you the number of people that are involved in education in any one month is about three and half thousand. So about 40 per cent of all people are involved in education in gaols at any one time. We also have traineeships. In terms of employment skills, we are putting a new emphasis on the way people work in our industries. The industries now have a program which is called the Work Readiness Program. The emphasis is on recognising that a vocational certificate alone is not enough. If you have antisocial tendencies, if you cannot take instruction from people and if you cannot work co-operatively with other people it does not matter whether you have a forklift driver's certificate. We have mapped out a broad set of employability skills and that framework has been rolled out in all of the correctional industry programs around the State. When someone comes into custody we try to identify their deficits and we try to build on those deficits. We even provide them with a reference now when they are finished their work in relation to what they have achieved with those employability skills.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do they only relate to high risk within the prison system or do they relate to what they are likely to be when they are released?

Mr GRANT: I am sorry, I do not understand the question.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: There is a classification of high-risk prisoners and medium risk. Does that relate to just whether they are going to bash a prison officer or does that relate to their chance of reoffending when they get out?

Mr GRANT: The term "high risk" is used in a lot of different ways in our environment. We talk about people who are at high risk of harming themselves, a high risk to others and people who are at high risk of reoffending. Each of those categories are taken into consideration at various points in the way you develop a plan and how you are going to manage them. The significance of the high risk of reoffending category is just in ensuring that those ones who we can identify do get the maximum benefit from the programs we have available. There is also very good evidence in the literature that suggests that if you put a person who is at low risk of reoffending into an intensive high-risk program, even though this might sound counterintuitive, it increases the risk of reoffending. So we want to be sure that we are matching the right person to the right intensity of treatment.

The Hon. CHARLIE LYNN: Commissioner, what is [*name suppressed by resolution of the Committee 3 April 2006*] position with the DCS?

CHAIR: We have dealt with this matter before. When you previously raised this line of questioning the Committee determined that this was not within the terms of reference. Could you please ask questions that relate to the terms of reference?

The Hon. CHARLIE LYNN: It is in regard to security, Madam Chair.

CHAIR: No, we have already dealt with this. We have had to deal with adverse mentions in relation to this matter so I am ruling this line of questioning out of order.

The Hon. CHARLIE LYNN: Inappropriate fraternisation and inappropriate physical contact between them and inmates is a security issue.

CHAIR: As I said before, that was dealt with at a previous deliberative meeting and this matter is not within the terms of reference of this inquiry. Could you please turn your line of questioning to something that is relevant to the terms of reference?

The Hon. CHARLIE LYNN: I believe that security is within the ambit of the Committee.

CHAIR: As it relates to the high-risk management unit at Goulburn, and that matter was not relevant to that correctional centre.

The Hon. CHARLIE LYNN: With all due respect, Madam Chair, something involving inappropriate photos being taken and something being downloaded onto computers is a security issue.

CHAIR: No, you are not going to get these allegations onto the record by some backdoor method. Could you please ask questions within the terms of reference or, if you do not have any other questions, the Hon. Peter Breen will ask questions.

The Hon. CHARLIE LYNN: I have plenty of questions. Mr Grant, during the last appearance, in answer to questions about the effect of prison industry on external business you said, "the samples you had seen that were made in prison and those made externally were entirely different". Last week this Committee was shown two packaged samples of curtain fabric, one made by World of Curtains and the other by Corrective Services Industries. These were identical right down to the packaging and price tag. They were identical in all aspects. All that separated them was a small serial code on the packaging. How can you maintain your stand, and Minister Hatzistergos's, that any curtains made in the New South Wales prison system are purely import replacement?

Mr GRANT: There are a number of aspects in your comment that I could respond to. The first is that the notion that something is import replacement does not depend upon having a fabric that is made overseas or a fabric made in Australia. I think that was established when people gave evidence before the Committee last week. The fabrics that I did not have the benefit of seeing I understand were from the Ishatar range of curtains. It was manufactured previously by World of Curtains, and I think it ceased manufacturing that curtain around 2001. Whilst I understand that the curtains look superficially the same, our advice from the company that manufactures both of those curtains is that in fact they are different. I do not know whether you took them out of the packaging to examine them. If I might have the indulgence of the Committee, Madam Chair, I brought along two samples of curtains that look ostensibly the same. They are both from the Ishatar range. I am sure that if you look at them you would say that, other than some slight colour variations, they are the same. May I show them to the Committee, Madam Chair?

CHAIR: Yes. We had green curtains last week.

Mr GRANT: This range comes in nine colours. This is the curtain that is currently manufactured—cut, make and trim—by Corrective Services Industries at Long Bay in the Ishatar range. If you hold it up to the light and look at the back of it, which I cannot do effectively here, you will notice that it is a 100 per cent block out curtain. The other curtain, which looks superficially the same, is called a one-pass fabric. This is not capable of withstanding and blocking out light to 100 per cent. Having said that, I believe that this is a bit of an irrelevance, whether Corrective Services Industries is engaging in import or other replacement. The other fabrics that I showed the Committee last time were from a range called Trieste. They were called the same but they looked entirely different. I have samples of those fabrics as well.

The significant issue in relation to curtain manufacture is that a number of companies were working for Wilson's curtains doing a cut, make and trim activity and producing curtains in the community. My understanding, based upon the advice provided to us by Wilson's, is that those companies stopped making those curtains some time around 2001. The person who was selling the fabric could not continue to sell those curtains at the cost that they were able to provide them for and as a result those fabrics were removed from sale. This fabric, the new range of Ishatar, is a more expensive, high-quality fabric. The advice that we have received from Wilson's curtains is that if Corrective Services Industries were not producing here then no other cut, make and trim operation could produce it for a competitive price and therefore their only option would be to take this off shore. I appreciate the significant problems that World of Curtains has encountered in doing business and that it has lost business. At the last meeting we provided a copy of a report by Australian Business Ltd, which is a representative organisation of a large number of manufacturers. It sits on our

Corrections Industries Consultative Council, along with the Labor Council and the community representative.

We chose a person on the council to do that because they are a person very well experienced in business and also because they are on the council to stand up for the interests of manufacturers. They did a review and, as you saw, the person who completed the review formed the conclusion, which has been formed over and over again—I believe it was stated in the evidence last week by the Labor Council—that if Corrective Services Industries was not making these curtains the business would not be carried on elsewhere in Australia because the business would be off shore. That is what we mean by import replacement. If you look at our outputs—that was also in the report—you will see that in the period since we commenced manufacture in 2003 our average production rate has not increased. We have not increased our productivity, yet another company is saying that it has lost work because of what has been given to us. That is just not true. We did not increase our production as another company was losing production.

We are also advised by the company that engages us to make the curtains that another entirely separate product which was being manufactured by that company, the Lyndhurst range of curtains, ceased production. So on a number of different levels, as I mentioned at the last meeting, we take this very seriously. We are totally committed to not putting people out of business because of inmate labour. If there was any capacity for that argument to be sustained we would immediately withdraw from the market involved. We take it so seriously that we have established the Correctional Industries Consultative Council. We are the only jurisdiction in Australia that has such a function, where we have community members, unions and manufacturers' representatives to protect Australian business. Because of this process issues may not even come to the table. We very rarely put forward projects that we think can cause problems for people in the community.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Disabled groups feel that you take work that they could do. I gather that you put little grommets on Qantas headsets, which is not highly intelligence based.

The Hon. CHARLIE LYNN: Could we just get back to my time? Perhaps if there is more time at the finish you could pursue that line of questioning.

CHAIR: Before we proceed to other questions I advise members in relation to the discussion that the Hon. Charlie Lynn and I had before in relation to adverse mentions that any comments made during the hearing are covered by privilege but any further comments that the media may make may not be protected if, for example, a person decides to take action for defamation. I wanted to remind you of that in case you were not here earlier in the day when I gave the briefing about media coverage of today's hearing.

The Hon. CHARLIE LYNN: Commissioner, was a phone call made to Mr Jeff Strange at Parramatta gaol last year informing him that he had not been successful in his application for a more senior position at Long Bay? Could you give us an indication of the outcome of that call if one was made?

The Hon. IAN WEST: What part of the terms of reference does that come under?

The Hon. CHARLIE LYNN: Could you just wait until the Commissioner answers?

Mr WOODHAM: I did not make that call. If you are suggesting that I made a call, I did not make a call to Mr Strange about anything.

The Hon. CHARLIE LYNN: Were you aware of any calls that had been made to Mr Strange?

Mr WOODHAM: No, but I could take that on notice to find out.

The Hon. CHARLIE LYNN: I understand that Mr Strange was later promoted to a senior position at Long Bay gaol.

Mr WOODHAM: Yes, he was.

The Hon. CHARLIE LYNN: Multiple witnesses at these hearings have suggested that the New South Wales prison system is overcrowded. Would you like to comment on that?

The Hon. PETER BREEN: He may have a view about the evidence provided by the victims of crime group earlier today about not sentencing people for regular offences, imprisoning them for less than 12 months.

Mr GRANT: Sorry, was that a question?

The Hon. CHARLIE LYNN: No. The question was about overcrowding, a lot of witnesses have suggested that there is overcrowding.

Mr WOODHAM: On 19 March 2006, there were 9,110 inmates in correctional centres and 9,536 operational beds. Therefore, on paper there were 426 spare beds in correctional centres. Operational beds do not include beds that are offline because they are being refurbished or otherwise currently unused for a variety of reasons. In addition to the 426 beds currently available for inmate placement, there are more than 600 beds currently offline across the State. For example, currently there are 460 beds at the Long Bay complex and 80 beds at Parklea as part of that figure.

The Hon. CHARLIE LYNN: If that is the case why are prisoners, including accused murderers, shuttled between court and police cells in Gosford and Wollongong? The Committee heard evidence that they are being held in what could be described as mobile prison vans.

Mr WOODHAM: First of all, being held in vans is not like locking them in ships on the harbour. We do not leave prisoners, like I read in some of the evidence, where they were driven around the beaches. That would not be very good, because the vans do not have windows so they would not had any view of the beach.

The Hon. PETER BREEN: If they stood up that could see out of the slit.

Mr WOODHAM: They cannot see anything. What was your question?

The Hon. CHARLIE LYNN: If there is not overcrowding in the prison system why are prisoners shuttled between the courts and police cells?

Mr WOODHAM: Some go to courts at both ends of the State within two or three days. That is one reason. We run the cells 24-hours a day at either 9 or 10 locations around New South Wales. If all those beds were full in the courts, and we cater for form 7 prisoners—that is a person who has been arrested overnight and goes to court the next day—they come under Corrective Services care as well these days. We have taken that function off the police and there are 24-hour cell complexes. We can hold in the vicinity of 550 prisoners in cells overnight outside the gaols. But from time to time the number has run to around 100-120 in cells overnight.

Also we transfer a lot of prisoners who are going from one end of the State to the other and drop them off at court and leave them at court and move them on the next day, feed them, toilet them, and things like that. We take people from Sydney to Broken Bill and from Sydney to Grafton, so it makes sense to do that. It adds up into the court figures. There are a number of reasons why people are contained in court cells overnight.

The Hon. IAN WEST: Why is it that 5AA inmates on the High Risk Management Unit [HRMU] only recently have been allowed to associate?

Mr KELLY: Of the AA inmates in New South Wales, as you correctly indicated, only five are in the HRMU and they were placed on segregated custody following their reception in the Goulburn Correctional Centre. That is why until recently they have not associated with other inmates. They were placed in segregated capacity on the recommendation of the general manager of the HRMU who considered information provided to him, and who observed them following their reception into the Goulburn Correctional Centre. The general manager formed the opinion that the

inmates presented a high risk to the good order and security of the correctional centre and that they were at high risk from other inmates.

Since their reception the department has continually assessed their level of risk as information has become available from relevant law enforcement agencies. This has been a fairly slow process as the information has filtered through various layers of different agencies, both State and Federal. I advise that the segregated custody directions were reviewed on 21 February 2006 and a decision was taken to revoke the directions and to allow associations in the controlled environment of the HRMU, where the level of risk can be managed appropriately. I still maintain that those inmates would present a threat to the good order and security of a correctional centre if they were placed in the mainstream population.

The Hon. IAN WEST: The inmates are on what level of the program of privileges that are in vogue at HRMU?

Mr KELLY: Currently on level 1.2. Since your visit they have been move from unit seven to unit eight. They have progressed at a relatively slow rate because they refused to engage in a case management process. This situation of refusing to participate in the process I am advised was under instruction from their legal representative. The privileges they are currently entitled to on that level includes three phone calls per week, plus any additional legal calls; one visit per week; up to four associations, provided they are not on segregated custody direction; access to day room, day yard, education areas and sports yard; up to three books, magazines or newspapers or tapes; canteen buy-up; activity buy-up; board games, cards, education material, religious material; up to 20 photographs; a radio or a Walkman; a jug; and in the day room, access to a microwave and refrigerator.

The Hon. IAN WEST: Since the introduction of the ban on the transfer of child sex parolees to New South Wales, can you advise how many child sex offenders have been refused permission to transfer their parole from New South Wales to another State? That is question 33.

Mr WOODHAM: Two child sex offenders have been formally refused permission to transfer their parole interstate from New South Wales to another State since August 2005. Child sex offender inmates have been advised that parole transfer applications will not be accepted. So I am unable to ascertain how many such offenders who previously would have lodged transfer applications have not done so.

CHAIR: When did the management regime section 23 come from?

The Hon. PETER BREEN: What is section 23?

Mr KELLY: It is a recent addition to our operations procedures manual. It flowed from the new legislation relating to AA and category five classifications. It provides comprehensive instructions and guidance to our operational staff to manage these inmates. A policy has been developed to ensure the safe and secure custody of inmates who have been given an AA for males, or category five for females, security classification pursuant to the Crimes (Administration of Sentences) Regulation 2001. The definitions of both AA and category five inmates are those inmates who in the opinion of the commissioner represents a special risk to national security; for example, because of the perceived risk they may engage in or incite other persons to engage in terrorist activities.

They should at all times be confined in special facilities within a secure physical barrier that includes towers or electronic surveillance equipment. Inmates classified as AA or category five are governed by a firm but fair management regime. The policy outlines a management regime that ensures the protection of the community, the safety of staff, the wellbeing of individuals and the security of the correctional centre.

CHAIR: Recently the Committee visited the High Risk Management Unit and I thank the commissioner and staff for facilitating that visit. The Committee received a positive response from the staff who were working there, they seem to think that the centre is working well. What do you think are the positive benefits of the HRMU from both a management and an inmate perspective?

Mr WOODHAM: There are many ways that the HRMU can be effective. Some aspects of effectiveness will be difficult to measure because no doubt they will be manifested in incidents that do not occur in the mainstream correctional environment, because these people are where they are. An analysis has been conducted. It examined the race of correctional centre offences committed by inmates who have been or are in the HRMU. That analysis is at a preliminary stage and will likely be reported more fully in the HRMU evaluation that is currently being undertaken. The analysis looked at rates of violence, correctional centre offences for HRMU inmates before they came into the HRMU and allows estimates to be made of an expected rate of offences based on that rate.

The analysis relates only to officially recorded correctional centre offences. It does not include externally adjudicated charges or the main offences for which inmates have been imprisoned. The analysis suggests that the number of violent offences committed by inmates in the HRMU are substantially lower than would be expected based on the inmates history of violent correctional centre offences prior to entry to the HRMU. A similar analysis of all other correctional centre offences taken as a group suggests similar conclusions: that is, that inmates commit far fewer correctional centre offences in the HRMU than would be expected based on the history of committing correctional centre offences prior to entry to the HRMU.

There are very few incidents in the HRMU. Interaction between staff and inmates is highly professional. Staff in the HRMU interact every day with some of the most violent offenders in the correctional system. It was a deliberate intention of mine, when we built the HRMU, that we would not duplicate the electronic zoo that was constructed at Katingal, where staff had no physical contact with inmates, and sometimes at all. In the HRMU, staff have to have personal contact with the inmates virtually every time they open the cell. You cannot open them electronically and let all the doors fly open like you see in American movies. They have to go through each individual door, unlock it, talk to the prisoner and make sure they are okay.

It is my view there are few incidents because of the professionalism of the staff and the way they manage and treat these inmates. These types of inmates would not tolerate mistreatment or abuse by staff. They would react to that. The inmates are managed under a strict regime with high levels of supervision, but the conditions are humane and they are treated fairly. If the conditions were as dire as some allege, it is my considered opinion that the inmates would react to that. This is not the case. They would have known you were there the other day. There is no way they would not have been kicking doors, singing out and screaming if they wanted to bring attention to themselves or their plight.

Program involvement by inmates is higher in the HRMU because of its focused case management approach. These same inmates would in all probability be housed in segregated custody units if they were in the mainstream correctional system. Their jail offence history tells us that they would be involved in assaults, standover, drugs, and planning escapes and therefore it would be necessary to place them into segregation. In segregated custody they would not get the intensive programs aimed at addressing their offending behaviour. There would also be a higher number of incidents in the mainstream correctional environment, which undermines our duty of care to provide safe custody for the other inmates. I think the HRMU is very effective in many ways.

CHAIR: I understand the department has a video of a guided tour around Katingal. Would it be possible to get a copy of that video for the benefit of other committee members, because I think I am the only one silly enough to have gone to have a look at Katingal after it was turned into a showpiece of what not to do, and who has been to the HRMU as well?

Mr WOODHAM: Yes. There is a long version and a short version and I will make sure you get both. It depicts what was wrong with that facility. As a matter of fact, when we were designing the HRMU, I made sure I took the architects through Katingal to ensure that we never again made the same mistakes that we made when we built that place, to make sure that we did it differently and properly this time.

CHAIR: The time for questions has expired. There will be two quick questions, one each from the Hon. Dr Arthur Chesterfield-Evans and the Hon. Peter Breen.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: I was wondering about disabled groups who say they have been adversely affected by Corrective Services. What steps have you taken to ensure that that is not the case and are you certain that that is not the case?

Mr GRANT: No, I am not certain that that is not the case because I am not sure of the claims and what groups you are talking about. However, the Correctional Industries Consultative Council would be very pleased to take any submissions from such a group. I point out that the types of activities we provide also include activities and work for people with disabilities in correctional centres. Therefore the appropriateness of the work for those people who are disabled and have the same rights to work as other offenders often comes home to that area. For instance, we have a Qantas headset-making unit attached to our intellectual disabilities unit in Goulburn.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do disabilities groups liaise with your disabled inmates to make sure it is all being done in the same way?

Mr GRANT: In relation to the industrial aspects of it, I have had no complaints from those groups about their losing work or any other adverse impact of our work. We are very prepared to listen to those claims. As for whether we liaise with those groups, we have an intellectual disability services unit and a disability services unit not limited to intellectual disabilities, and they liaise in great depth with a number of the advocacy groups for people with disabilities. We have maintained a very good connection with those groups and I am unaware of the types of concerns or complaints that you raise.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS: Do only disabled prisoners do that sort of work?

Mr GRANT: No, from time to time other people do it as well. A lot of the work in correctional centres is of that kind because we have people who come into custody for a very short period of time. It is a very routine manual type of work and it characterises some of the work that we do.

The Hon. PETER BREEN: When we visited the HRMU, 35 prisoners were incarcerated there. It costs, on the latest figures I have seen, $6.3 million a year to run the HRMU. If you divide $6.3 million by 35, it works out to be $180,000 a year to keep a prisoner in the supermax. Do you think that is a good use of the DCS resources?

Mr WOODHAM: I do, because tomorrow there could be 40 in there. There have been more than 35 in there. As you would have seen recently, there could well be a female there very shortly as well. The facility was built for men and women. We are just deciding now where the woman who has been charged with terrorist offences will be placed. It could well be in that facility.

The Hon. PETER BREEN: So there will be no more two-man basketball?

Mr WOODHAM: There will not be a man and woman basketball team!

CHAIR: We submitted a number of questions to you, some of which we have asked here today. I think there were 34 from the committee and 10 supplementary questions from the Hon. Peter Breen. Would it be possible to take those on notice and give us written answers?

Mr WOODHAM: Yes.

CHAIR: Thank you very much. Thank you for your attendance. I will look forward to getting the long and the short versions of the video. Once again thank you for facilitating our visit.

(The committee adjourned at 1.22 p.m.)