

CORRECTED

REPORT OF PROCEEDINGS BEFORE

SELECT COMMITTEE ON JUVENILE OFFENDERS

At Sydney on Friday 8 April 2005

The Committee met at 12.00 noon

PRESENT

Reverend the Hon. Dr G. K. M. Moyes (Chair)

The Hon. C. E. Cusack

The Hon. A. R. Fazio

The Hon. C. J. S. Lynn

The Hon. E. M. Roozendaal

The Hon. Dr P. Wong

CORRECTED

ANDREW JOHN JAMES, Acting Sergeant, NSW Police, The Rocks Local Area Command, 132 George Street, Sydney, affirmed and examined:

RACHEL JOY BYRNE, Sergeant, NSW Police, Police Headquarters, 1 Charles Street, Parramatta, and

CATHERINE ELLEN MACKSON, Senior Programs Officer – Youth, NSW Police, 1 Charles Street, Parramatta, and

SUZANNE KADY, Senior Constable, NSW Police, 1 Charles Street, Parramatta, sworn and examined:

CHAIR: I note that none of you wish to make an opening statement and you will just be happy to answer questions.

The Hon. CATHERINE CUSACK: Have any of you ever visited Kariong Detention Centre?

Mr JAMES: Yes.

The Hon. CATHERINE CUSACK: In what capacity did you visit the centre?

Mr JAMES: As supporting juvenile detainees to and from court, in a police capacity.

CHAIR: Mainly transportation?

Mr JAMES: Yes.

The Hon. CATHERINE CUSACK: Could you outline for the Committee how those transport arrangements worked between the police and juvenile justice?

Mr JAMES: To the best of my ability I would be told by my station that I had to report at our transport centre at a certain time in the morning and that I would be going from Kariong to a certain courthouse. I will be given the name of the juvenile that I would have to collect and go up in a police truck or a prison van. Once you get to the detention centre the detainees are usually set up in docks in a holding area. You are met by the juvenile justice workers who give you the opportunity to take that juvenile aside to search him to make sure they have not got anything on them that is dangerous to themselves or us. Depending on the way you are transporting them, whether you are handcuffing them or not, depending on their risk rating, you would then convey them to the court. Some courts have different setups. I do not know if you wanted to go into that.

The Hon. CATHERINE CUSACK: No. Are you familiar with the memorandum of understanding between the police and the Department of Juvenile Justice?

Mr JAMES: No.

Ms MACKSON: Are you aware that a memo is being redrafted as we speak?

The Hon. CATHERINE CUSACK: No, I was not aware of that.

Ms MACKSON: The memorandum of understanding has been in place for some years. It is currently under review. It has been broadened out to cover issues of responsibility in situations of hostage or unrest in a centre. Assistant Commissioner Chris Evans has the responsibility for that memorandum of understanding and, as far as I am aware, it is currently being signed off by both the Commissioner of Police and the Director of Juvenile Justice.

The Hon. CATHERINE CUSACK: So is there a single memorandum of understanding between the police and juvenile justice to cover a range of issues including transport?

Ms MACKSON: That one primarily deals with transport, that is what it was originally instituted for. There has been a rollout across the State over a number of years looking at the transfer of responsibility for transport of juvenile from police to juvenile justice. That first commenced in the north of the State and the review of the memo is about rolling that out across all of New South Wales. But in the process of reviewing that and expanding the transport guidelines the decision was it was also an opportunity to look at the broader issues as well.

CHAIR: Just to elucidate, is the Department of Corrective Services responsible at all for any transportation to and from court?

Ms MACKSON: Juveniles?

CHAIR: Yes.

Ms MACKSON: Not as far as I am aware, no.

Mr JAMES: At some courthouses they would take custody of the juvenile when you got there and they would then transfer them from the cells to the court. That would be their only involvement.

The Hon. CATHERINE CUSACK: How has the transfer of Kariong to corrective services impacted on that memorandum of understanding in terms of transport arrangements and the liaison police have at the centre?

Ms MACKSON: The redraft would have got to the point of no further consultation prior to the transfer taking place. So it has probably not been tested under the new MOU. I am trying to visualise what the MOU said to think about what that might be.

The Hon. CATHERINE CUSACK: My understanding is that the rollout for juvenile transport taking responsibility has included Baxter detention centre. I believe that juvenile justice is now doing some transport arrangements for Kariong, and that has continued through.

Ms MACKSON: Yes, I think so.

The Hon. CATHERINE CUSACK: But the police still play a role, is that correct, in transferring from court to the detention centre?

Ms MACKSON: Until a young person has been admitted into juvenile detention under the custody of the Department of Juvenile Justice they remain in police custody. I am not quite sure what would happen with corrective services taking over the role because corrective services, while they are mentioned in the MOU, it is more in terms of liaison and providing advice and correctives health, if there is a health issue, they can have some involvement in that.

The Hon. CATHERINE CUSACK: But at the moment a juvenile admitted into custody who is charged with a very serious offence and is going to go to Kariong—

Ms MACKSON: They are transferred by police to court. From court they become the responsibility of juvenile justice.

The Hon. CATHERINE CUSACK: At the court I believe juvenile justice are admitting them to the juvenile system and then immediately transferring them to corrective services. A police officer would then transport them to Kariong, is that right?

Ms MACKSON: It would depend. If they are admitted into juvenile justice custody and it is a court that has the capacity to say that they be transferred to Kariong by juvenile justice or corrective services, I suppose. I am not 100 per cent sure.

The Hon. CATHERINE CUSACK: As far as the MOU is concerned, what we are trying to do is ensure that as soon as the court orders that young person into the custody of juvenile justice we then cease to have responsibility for their transport. Is that everywhere?

Ms MACKSON: Because the MOU has been rolled out over various places there are still places where it would not be working that smoothly. But as far as I know, it is juvenile justice when taking kids to Kariong, but I am not 100 per cent sure. I could take that as a question on notice if you like.

The Hon. CATHERINE CUSACK: If you would not mind, because I know in the past there have been some very dangerous alleged offenders transported under high security by police to Kariong. Juvenile justice is not really equipped to deal with that situation.

Ms MACKSON: Because the first area that was involved in the trial of that arrangement was actually not in the Sydney metropolitan area—it was in the north of the State—it would only be fairly recently that police would not be doing that. So I would expect certainly sometime ago for police to be involved in transport, but that should not be occurring with this draft of the MOU. I will take that question on notice and find out for you.

The Hon. CATHERINE CUSACK: I would appreciate the progress on which areas have not been included. The issue of young people in custody is a problematic issue for police, is it not?

Ms MACKSON: Yes.

The Hon. CATHERINE CUSACK: Do juveniles have to be treated differently to adults in custody?

Ms MACKSON: They have to be treated differently to adults in custody. That is not a problem for police. It may provide some practical rearrangements that need to occur but we are very committed to treating young people according to their developmental capacity, and ensuring that their custody is appropriate for their needs.

The Hon. CATHERINE CUSACK: If a person is charged with committing offences as a juvenile when they were 17½, but is 18 years old, an adult, when arrested, do police treat that person as a juvenile or an adult in custody?

Ms MACKSON: They can still be dealt with in the Children's Court even though they are 18. They cannot be dealt with under the Young Offenders Act, even though they might have committed the offence as a 17 year old, if they are an 18 year old when they are caught. So most police, in my belief, would treat that young person appropriate to their age and development. Certainly if the offence were something that was juvenile in nature, mischievous, risk taking or those sorts of offences it would be taken into consideration by the police officer involved. If the nature of the offence was very serious—involving violence to another person or a great threat to the community—then by the time that we catch up with them as an adult it is possible that the police would deal with them a little bit more sternly. In those cases, however, the likelihood that that young person has continued to remain a threat to the community is quite high.

The Hon. CATHERINE CUSACK: When a person has been arrested, particularly in country areas where they cannot be taken straight to Cobham, is there a different set of black and white rules for juveniles in custody compared to adults in custody?

Ms MACKSON: Yes.

The Hon. CATHERINE CUSACK: I understand that juveniles, wherever practical, need to be kept separately?

Ms MACKSON: Yes.

Ms KADY: They are called vulnerable persons.

The Hon. CATHERINE CUSACK: Do you classify someone who is 18 years old as a vulnerable person because their offence for which they have been arrested was committed as a juvenile or do you treat them as an 18 year old?

Ms KADY: They get treated as an 18 year old but in certain circumstances, if you know the young person and there are other issues involved, you may still put in those supports just to satisfy yourself that you are actually looking after the young person.

The Hon. CATHERINE CUSACK: If you have arrested an 18 year old as part of a group of gang rapists—a very serious offence—because the offence was committed as a juvenile there is a requirement to move that person to Kariong or to a detention centre as quickly as possible. Is that correct?

Ms KADY: In the process of an investigation it would go through, yes, but only when the investigation would be completed.

The Hon. CATHERINE CUSACK: If they have been arrested and put in a police cell, I understand the police are trying to move juveniles out of the police cell as quickly as possible into a detention centre?

Ms KADY: That would be right, yes.

The Hon. CATHERINE CUSACK: Does that apply also to someone who is 18?

Ms KADY: Probably not as expedient but because they have turned 18 you really do not have that legal requirement to try to move them on or get them out of custody, but you still like to look after them.

The Hon. CATHERINE CUSACK: Do your procedures for the treatment of juveniles in a police cell relate to the actual age of the person with whom you are dealing?

Mr JAMES: Yes.

The Hon. ERIC ROOZENDAAL: Would a youth liaison officer explain your role in terms of juvenile detainees?

Ms BYRNE: We generally work business hours so there might be offenders who are brought into custody while we are not there. But if we are there then generally the operational police will come and see us and we can play some role in terms of advising them. Some of the operational police are really up to speed on how to deal with juveniles and others might be a bit hazy so we are there to offer assistance and guidance. We basically are there just to touch base out in the charge room with the custody manager and just see that all the processes are being put in place appropriately.

The Hon. ERIC ROOZENDAAL: Is your responsibility to liaise with other police rather than detainees?

Ms BYRNE: We can get involved in that side of things as well. Generally it is the responsibility of the officer in charge but then we can also come in and assist them with that as a support role.

CHAIR: Do you also liaise with the community in general, for example, in Macquarie Fields?

Ms BYRNE: Yes, that is our role as well in the community and the schools and so forth. I answered the question as to our role when a juvenile was brought into custody.

Ms MACKSON: Youth liaison officers are also responsible for the lower end of offence management. So it is through warnings, cautions and referrals to youth justice conferences that primarily the management of that within the local area command falls primarily onto the youth liaison officer. They make sure the police know what they are doing, so they are not the kids that end up in detention centres. They are the ones we ensure do not end up in detention centres.

The Hon. AMANDA FAZIO: Part of the role of this inquiry is to look at alternatives to putting kids into juvenile detention centres. Do you have any comments about the relative success of things like youth justice conferencing or circle sentencing?

Ms KADY: It is definitely making a difference out there in the community. Because our role is educational as well as dealing with that lower end of the offence rate, we are educating the kids. So we have actually got the contact with them to start with. Once we start educating young people about their responsibilities in the community and about the new laws, for example, the move-on legislation, once kids know that we can move them on for certain reasons there is less likely any antagonistic response out there on the street. In Coffs Harbour our level of that first lot of antagonism has dropped considerably because the young people are actually informed. So that is the starting-off process.

The next level if they do come under notice then we can deal with them as we have had contact with them. We can inform them of their responsibilities, and that goes right through to the conferencing process. When they are actually coming into a conference they are finding out from a greater range of people just how much it affects them, and where the legalities are. It is really cutting down. Each stage cuts down the amount of young people coming into the system so what we actually get left with going into detention centres is basically what we call our failures—we have tried everything we can and for some reason or other they have just progressed onto that next level. It is definitely working out there and it starts from having youth liaison officers on the street talking to kids right through to the youth conference which is the last step before court.

The Hon. AMANDA FAZIO: Do you think that as a result of those sorts of diversionary programs and alternatives to custodial sentences that the make up of the kids in juvenile justice centres is actually becoming hardened because you are getting more hard-core offenders?

Ms KADY: Definitely the ones who are going to court have quite extensive records, except those who commit a very serious crime first off, for whatever reason, but if you take out that small percentage, the ones who are going through and get to that level have a lot of other issues, such as a dysfunctional family and social issues. They are hard cases and it takes magistrates quite a time to deal with them so that they can look at their history and work out what is best for them. They are pretty hard cases.

The Hon. AMANDA FAZIO: One of the issues that has come up during consideration of the establishment of Kariong was the concept of consolidating the most serious offenders—both in terms of what they have done and their behaviour problems within the juvenile justice system—into the one centre. There is only one Kariong in New South Wales so you are taking kids from right across the State and putting them in there. They are separated from the community and their family surroundings, which is particularly significant for Aboriginal offenders. Do you think that the management of juvenile offenders would be better achieved by localising the detention of serious offenders?

Ms MACKSON: It is difficult to say. The success of the diversionary options in the Young Offenders Act assumes that the principles of restorative justice are the most effective way of dealing with the first, second and third time offenders, and I think that is self-evident by how successful it has been. But those principles fall down when the communities themselves do not have the capacity to deal with the extraordinary sorts of behaviours that some offenders exhibit. Any sort of localised detention of those serious offenders would have to, first of all, ensure that the community has the capacity to respond to that. I am not sure.

CHAIR: Can you elaborate on that? In what ways will the community become more involved with the offenders?

Ms MACKSON: With serious offenders or less serious ones?

CHAIR: No, with the more serious offenders I am thinking of, because part of the whole purpose of custodial sentencing is to get them out of the community.

Ms MACKSON: Thinking about it in terms of the principles of restorative justice, where a young person feels that they have not been completely cut off from the supports in the community and

the place where they have a sense of belonging, they are more likely to respond to diversions obviously, but certainly rehabilitation and program development. That is what the principle says. Even though a young person might not have access to the community, so they are locked away, it is still possible for them to have a sense of belonging and a feeling of wellbeing in that they will be visited.

Also, if they progress to being granted day release or work opportunities or to return to school, then the principles would say that all of that would be much more effective if it is in their local community. If the local community is not prepared to do that and is not prepared to welcome them back and have them, then I am not sure that it really makes a great deal of difference and, from society's point of view, having them in a place where they can be well-managed and their education and job opportunities are provided for them by the system rather than by the community, is not necessarily still a good way to go.

Certainly, where we have young people who have been involved in conferencing—so they are starting to get down that harder end—where they come back and they are put into a work or school program and it is dealt with very positively, that is when we get the good outcomes, but if those schools, TAFE or whatever say, "No, we don't want this very violent person who has been charged with a very nasty offence in our school or in our TAFE or doing an apprenticeship with us", then I am not sure that moving them back into the local area would be—I am not saying that it is good or bad; I just do not know whether that will work. Has that answered the question? I got a bit lost.

The Hon. AMANDA FAZIO: Yes.

The Hon. ERIC ROOZENDAAL: There is a fair bit of discussion, with Corrective Services taking over Kariong, that it is more likely that people who go through Kariong will end up in the adult prison system. Do any of you have a view on that?

Ms MACKSON: Not specifically in relation to the transfer of the management of Kariong but in general—and the research backs this up, both from Australia and overseas—that young people who have all of the high-risk factors for criminal mentality, behaviour and actions who end up in juvenile detention are the most likely ones to become criminals in their adult life. Yes, I guess from the evidence certainly from Queensland and what we are seeing so far—although it has not been properly researched in New South Wales—I would expect that there would not be a significant change from the number of juvenile detainees currently becoming adult criminals now under Juvenile Justice managing it than if Corrective Services did. What may be different is how the young people feel about their detention or what sorts of attitudes they come out with, but based purely on the research and statistics to date, we are not greatly reducing recidivism through detention.

The Hon. ERIC ROOZENDAAL: Have any of you had experience or interaction with anyone who has been through Kariong?

Ms MACKSON: I am just trying to think whether it was Kariong or Baxter.

Mr JAMES: I have, but not for the long term. He was only being held in there on bail and then he got transferred to another institute.

The Hon. ERIC ROOZENDAAL: Did you ascertain any of his views about being in Kariong?

Mr JAMES: Sorry, no.

CHAIR: Other witnesses have given evidence that in moving the oversighting of Kariong to the Department of Corrective Services there is a more rigid custodial approach to looking after these young offenders whereas previously there was greater emphasis upon rehabilitation. Do you have any comments about that?

Ms MACKSON: Anecdotally, I have had comments from other people that where there is more of that custodial response young people are better behaved, if you like.

CHAIR: But does that equal rehabilitation?

Ms MACKSON: No, I do not know that it does.

CHAIR: My mother used to make me eat pumpkin but that has never made me like it.

Ms MACKSON: Exactly. I think for most young people, particularly if it is the first time that they have ended up in serious detention, given that most of them have been in trouble with the police for many years, either find it so threatening or uncomfortable. Whether it is more of a custodial or more of a rehabilitation focus, it is taking them away from their communities and achieving the purpose of having them removed from society, but also punishing them for their wrongdoing. But for those who are very familiar with police and have little regard for authority or for the systems that are trying to punish or rehabilitate them, I am not sure that it makes much difference, because they are the ones who are going to not be very interested in their own rehabilitation and not be very interested in the fact that a youth worker might be attempting to engage them in a productive process as opposed to a prison warden, who might be just trying to contain them.

CHAIR: Are those of you working with young people concerned that future legislation might move young people into the more custodial type of care and oversight? Is that a concern?

Ms KADY: The kids who get up to that level are, unfortunately, in situations where they actually see it as a badge of honour to finally get to custodial sentencing, so they finally get to a detention centre and they have achieved—

CHAIR: They have made it?

Ms KADY: Yes, unfortunately. If it is not a big shock to them when they actually get into the centre, then they are more likely to actually go back. Some of them do come out and say, "I want to go back"—a very small amount of them—but, for the majority, it is a process that they continue going through, and I think it has all the other social issues and crime is just a factor in there.

Ms MACKSON: I think one of the highlights of the New South Wales juvenile justice system is that we do assume that a young person's needs and developmental processes are very different from adults, even if they are walking down the criminal path, and the fact that we have separate juvenile detention centres and they are not part of the adult prisons, and the fact that we have a very successful Young Offenders Act and diversions systems are critical to what we are doing for young people in this State. I think any future legislation that minimises the importance of those diversions or minimises the importance of keeping juveniles and adults who are criminals separate within our system would be a shame.

The Hon. CATHERINE CUSACK: When you say that we have a very successful Young Offenders Act what do you mean by that? What are your measures of success?

Ms MACKSON: The majority of young people who come to the notice of police are diverted and never end up in the court system, never end up in the juvenile justice system.

The Hon. CATHERINE CUSACK: How do we know that?

Ms MACKSON: From our own police statistics.

The Hon. CATHERINE CUSACK: Do we have any knowledge of what happens between the juvenile and adult systems, given the way juvenile records are kept sealed and secret? Is there any real information about recidivism rates for juvenile offenders, particularly those who have been in custody?

Ms MACKSON: I suppose it is only what comes out of the research and I think the most recent one was about five years ago in New South Wales, last year in Queensland.

The Hon. CATHERINE CUSACK: Is there any New South Wales research that tracks young offenders from the juvenile system into the adult system? Is there any research at all?

Ms MACKSON: Yes, I am fairly sure. I would have to look at which study it was.

The Hon. CATHERINE CUSACK: If you could provide some references to the Committee, that would be invaluable because I am certainly not aware of any research tracking juveniles into the adult system.

Ms MACKSON: The Queensland research is interesting. I know it is not our State.

The Hon. CATHERINE CUSACK: Exactly, and I am aware of national stuff that has been done but it is not relevant because it does not deal with our Act. You cannot measure the success of our Act on that.

Ms MACKSON: I am fairly sure the one that was done, the Act had been in place for about three years and they looked at court versus conferencing and then tracking some of those into the adult system.

The Hon. CATHERINE CUSACK: I understand that juveniles going into conferencing are less likely to offend than juveniles going into custody but that does not surprise me because juveniles in conferencing have pleaded guilty and taken responsibility for their offence and it does not intellectually surprise me that they are less likely to offend having done that. The role that conferencing is playing is dealing with a less likely to reoffend group in the first place so I am just not quite sure how we are measuring that. In terms of success, your definition of success would mean less reoffending.

Ms MACKSON: Yes, less reoffending right from the word go.

The Hon. CATHERINE CUSACK: Would you agree that the Young Offenders Act is more successful at that lower end, that is where the successes are coming in, but at the harder end, the custodial end I suppose—

Ms MACKSON: That does not really deal with it.

The Hon. CATHERINE CUSACK: —and that is a different type of problem. How significant is it to have an adult family member in the life of a young person for police to work with that young person to turn their behaviour around?

Ms MACKSON: It is very important.

Mr JAMES: If you have someone at home who they have some respect for, it makes the process of trying to restore them with their community a whole lot easier than if they live in a fractured home where mum and dad might not care. It is invaluable. If you do not have that, you lose the kid and you have no-one to assist when you are not able to assist.

The Hon. CATHERINE CUSACK: So it could be the difference between success and failure?

Mr JAMES: Yes.

Ms MACKSON: And not just having someone there but having someone who has some respect for the authority that the police are representing as well. Some young people who end up in detention have parents but their parents have the same sort of attitude towards both the police and the court system.

The Hon. CATHERINE CUSACK: That was going to be my next question. Are things like cautions and conferencing more effective in middle-class families where there is a parent who is willing to come down, follow through with the child, than in a family where the parent is not even willing to turn up at the police station, let alone participate in the process—if the police have to go to the home and no-one will turn off the television while a is being processed.

Ms BYRNE: I worked in an area in terms of gangs and street kids as well and there is a significant difference when you can. I worked in that area and then I worked in an area where you could get a parent all the time, the parents would come in all the time. So I think it is a significant issue, just from working in two different areas where it was a problem in one area trying to get a parent, you could not get a parent to come in, you always had to get a support person from a different agency, as opposed to this area where you always get the parents.

The Hon. CATHERINE CUSACK: I am just wondering what this Young Offenders Act offers those at that end of the scale.

Ms KADY: With conferencing, when the convenors go out to prepare the parents and the young person, if the parents are not willing or in a situation to be there for them or not really supportive, the convener will look around for any support person, whether it is an extended family member, a very good friend or a youth worker. So they make sure that there is a connection there with someone. Their job is to make sure that that happens. So we might as youth liaison officers when they come in for their caution—mum and dad or an older brother or sister or someone might come in with them—at the conferencing they definitely make sure there is a support person there to support the young person.

The Hon. CATHERINE CUSACK: I appreciate what you are saying. I am concerned about getting to the stage of conferencing which means that someone must plead guilty and take responsibility for their actions. I am concerned that 44 per cent of juveniles in custody are Aboriginal and there is another 11 per cent of other indigenous communities from our region, including Maoris. I am concerned about the family profiles of those young people and I guess very low Aboriginal participation rates in youth conferencing. So if you are not prepared to plead guilty you cannot get into that system at all. What does the Young Offenders Act offer to young people who are not pleading guilty or getting into conferencing?

Ms MACKSON: It offers the same opportunities. What we have to do is work harder because often the kids who do not have parents who are willing to be part of that process still may have adults who can provide that sort of role model. We encourage police to try to link them in. Part of the responsibility we have is to look at some of the reasons why young people are not admitting the offences and giving themselves the opportunity to be dealt with with the lesser sanctions, and New South Wales Police take that extremely seriously. We know that there is an overrepresentation and we are working on any possible way that we can try to ensure that kids have the opportunity to be diverted, that they fully understand their rights so that the decision not to be interviewed or not to admit the offence is made while fully understanding the implications of that. That is not to diminish the legal advice given.

The Hon. CATHERINE CUSACK: Is there a residual group of young people in our community for whom conferencing and cautioning will not be as effective and their behaviour does not alter as a result of any of those processes? They are not getting into conferencing and cautions are simply not being taken seriously and they are progressing because they do not have in the home those supports to put boundaries on their behaviour or to say that a caution by a police officer is a serious matter as opposed to a joke.

Ms MACKSON: There is a small group for whom that is true. I think the larger group is young people who are not admitting the offences and not giving themselves the opportunity to be dealt with under the Act, partly because of advice they have been given.

The Hon. CATHERINE CUSACK: A first offence?

Ms MACKSON: Yes. I think we are missing that group, and we are a trying to address that situation. But for a very small proportion of that group, it will never make any difference because they do not have the supports but I think that is a much smaller group of that 44 per cent.

The Hon. CATHERINE CUSACK: I agree but they are more likely to progress into custody.

The Hon. AMANDA FAZIO: We are talking about recidivism and people progressing from, say, Kariong into the adult prison system. At Kariong now they have 100 per cent participation in both the education and the workplaces that are available at the centre. Do you think that that level of participation with that group of offenders will help in getting them to the level of responsibility where they may not be as certain to progress into the adult prison system?

Ms MACKSON: I think without that level of participation the likelihood of them continuing with criminal activity is extraordinarily high. I think there is a strong likelihood that they will continue with criminal activity if it is a much easier way to make their money than doing that through working hard and going to school. But if they are not given the opportunity to get an education and some work skills then they will not have any choice because there are easy ways to make money out there that are illegal.

The Hon. Dr PETER WONG: With regard to Aboriginal youths, we are always being told that there are not parents and no community or tribal leadership, no elders who can discipline the younger generation? Are we seeing the system break system as a result? Is the whole system falling apart?

Ms MACKSON: For the harder end of offences. With the diversion options I think it is improving. We are across what several agencies are doing. Particularly out west, a lot of the issues that are evident in the community are probably contributing as much to the criminal justice system. We are finding younger kids stealing cars because they want to go from one town to another out west and there is no transport and they do not have families that will drive them. A lot of structures are breaking down.

The Hon. Dr PETER WONG: An emerging problem with the refugee settlement program is we are seeing a lot of youths—and I am sure you know more than I do—and they ask me and I am passing the question on to you how do you deal with youths from a refugee background who suddenly find new freedoms and there are no restrictions? Do you see an emerging problem and how do we deal with that?

Ms KADY: Because they are under the refugee status they come under our law just the same as our citizens.

The Hon. Dr PETER WONG: But is it not a problem?

Ms KADY: I am from Coffs Harbour and at the moment I have 112 Sudanese and we are educating them at the school. We are basically trying to do what we do with the normal citizens of our town, to educate them so they know their rights and responsibilities and to cut down on any antagonism that flows through to crime. It is still the educational process. Obviously I have a much smaller area than Sydney has, particularly places like Auburn, where you have a much higher content coming in. One of the strategies is to educate and then we have to deal with them. When they come in for their cautions, if they do come into the system, it is trying to educate not only them but whoever comes with them, their support people. So, it is an ongoing process.

Ms MACKSON: It mainly falls to the youth liaison officers [YLOs] in any given community, whether it is refugees or whatever, if there seem to be kids taking advantage of freedoms they have not had before and are cutting loose a little. It is difficult to ensure that every single police officer on the street understands that that young person might have a different background and a different experience of authority. But we are aware of them and we certainly try to do whatever education and training of police we can, and particularly in those local area commands where we know there are issues, we will certainly talk to the local area commands and the crime management unit about taking those things into consideration and using the youth liaison officer in the schools about how we can provide education and look at other ways of helping those young people deal with those freedoms they might not have had before without getting into trouble.

Mostly, I would hope that police would not err on the side of this kid is doing the wrong thing and I am not going to give him any consideration for what his background is. Mostly where that is an issue the police have some understanding of that. Certainly the youth liaison officers do. They know very well who their communities are. It is a struggle to get the community elders, for want of

another term, involved in that process. They may themselves have the same suspicions of police and authority that young people have, but we are certainly trying to do that. We have done some work with the Community Relations Commission about identifying appropriate people who might be able to engage community members in cautioning processes or talking with police or being part of projects. So, NSW Police is looking to the other people who might be better informed about who in the community are the right people to deal with them.

Ms BYRNE: At Blacktown we have an effective program running with the police citizens youth club [PCYC] as well, with Sydney's refugee population coming in as well and them not knowing the laws. I spoke to them about the program they have running there to educate them and get them into the clubs. They are certainly trying to target that issue there.

The Hon. AMANDA FAZIO: I have one question about the diversionary programs. Say, for example, a boy of 14 or 15 was arrested on the grounds of another school. He had gone to another school and threatened to beat somebody up or even had a knife on him and said he hates Joe Smith and wants to stab him, and that was the first time that kid had had ever been in trouble. What sort of avenues would be available to try to get that kid back on track or would doing something like that automatically put him into a custodial sentence?

Ms BYRNE: I just had a recent occasion of that happening but that was more serious, where a knife was used to slash. He has been sent straight to court. Even though it was his first offence, due to the seriousness of it he was sent straight to court, but the court can still decide how to deal with it.

Ms MACKSON: In an example like that the knife ups the ante considerably, but if the police officer involved chose to caution, one of the things he might look at in the cautioning process is if the kids are very angry—they might have a particular reason why they might hate the other kids—or looking at programs through the PCYC or remediation programs or working with the school. All of those things are possible. Mostly police are very good about encouraging kids to do that. Certainly, if anything happens at school they can work with the school and the school counsellors to try to find out whether this is a bullying issue. Is it something that happens out-of-school or within school, or may be other options. That is a good example of the middle-of-the-road stuff. If it is something minor for which a police officer could give a warning, they probably would not worry about anything invasive, but if it looks like it is something that might escalate or would involve other people or disrupt the school community, they would certainly be giving some consideration to how they can ensure it does not happen again.

In the last little while I had a couple of conversations with youth liaison officers out west where they have young Aboriginal people who are really pushing the edges of what is able to be dealt with by diversion and I have been very impressed with the lengths to which the youth liaison officers will go to try to bring these kids in and keep dealing with it as a caution or conference so they have maximum opportunity to talk to them and engage other people in addressing their behaviour. I think mostly they will be trying to do that.

The Hon. CATHERINE CUSACK: How many youth liaison officers are there?

Ms MACKSON: There are 80, one in every command. Two commands currently have the position vacant and two commands have two designated youth liaison officers and another command has a backup that might help out. As a general rule there is one in every command.

(The witnesses withdrew)

(Luncheon adjournment)

RODNEY DAVID BLACKMORE, former Senior Children's Magistrate, 85 Duffy Avenue, Thornleigh, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee, as a private citizen?

Mr BLACKMORE: I am here as a private citizen.

CHAIR: Do you wish to make a brief opening statement before we come to questions?

Mr BLACKMORE: Yes. I cannot emphasise too strongly the view put forward in my submission that the United Nations rules apply in relation to detention centres for juveniles in New South Wales, particularly those rules which suggest that adults should not be contained in the same facility as juveniles. That applies, in my view, to both juveniles being in gaol or adults being in juvenile detention centres. Firstly, that simply makes sense. I have not had the advantage of hearing all the people you have heard from, particularly on that aspect. This is a matter I have been putting to governments for the best part of 20 years, and I suspect that there are those who are saying, "Here is Blackmore on his hobby horse again." Whereas nobody—I mean nobody—has ever come to me and said, "You are wrong about this." Nobody has come to me and said, "Sure, that is what United Nations rules say but they do not have full importance, something that we are legally bound to follow."

I know that the Ombudsman in one of his reports did discuss the legal effect of the United Nations rules. Certainly it is my view that United Nations rules do not have the same effect as, say, the United Nations conventions on the rights of the child. Nevertheless, they are in my view very persuasive. Australia, and New South Wales, sent delegates to the conferences which led to the compilation of those rules. My understanding from people who came back from those conferences many years ago was that the particular rule relating to adults and juveniles being in the same facilities was one which was at the forefront of being put to the conferences by the Australian representatives. So is something that in my view is more than persuasive and something that we should take up.

I was interested to read the parliamentary debates on the bill that this Committee arises from, both in the upper House and in the Assembly. I was interested in one particular aspect, that is, the assurance of the Ministers that, whatever was happening now at Kariong under the changed arrangements for corrective services, Kariong would continue to be operated under the guidelines which are set out in a document called "Australasian Standards for Juvenile Custodial Facilities". I understand that is a document the Committee will have access to, and I commend a comprehensive study of it. Firstly, it will be seen that the authors of the document were apparently of the view that the United Nations rules have something to offer, because they quote liberally from the rules throughout, but then they place their own spin on the various rules. Secondly, you will not find anywhere in the document any reference to the question of adults in juvenile detention centres. You will not find any reference to the two particular rules that I have quoted in my submission, which are clauses 13.4 and 26.3 of the Beijing Rules.

This document, "Standards for Juvenile Custodial Facilities", in my view, appears to relate to guidelines for the treatment of people, who are legally children, in detention centres; it has nothing to do with the way adults might be treated there, or whether they should be there at all. I just wonder how that comes about. Did the authors of the document intentionally decide that this was a subject they would not tackle? I suspect that may be the case, because when I looked at the composition of those who are the authors of the document, I see that the co-ordinator and chairman of the committee was one Ken Buttrum, the former Director-General of Juvenile Justice in New South Wales—a person about whom I very vocally expressed disquiet when his appointment was being made. I did that publicly and to the Minister.

Mr Buttrum was well-known as a weak-kneed administrator in the juvenile justice area. He was closely identified with the failed policies of the Walker era. It is not surprising, in my view, that we have this sort of document that results from that committee. I can only say if this document represents the principles of the Department of Juvenile Justice in relation to juvenile justice centres—or detention centres I suppose they should be called—or even the guidelines for that, it is little wonder that the difficulties that have arisen at Kariong have arisen. As I say, they are guidelines for the treatment of children. I think they are the matters I wanted to emphasise.

CHAIR: In your long experience as Senior Magistrate of the Children's Court and working with the Department of Juvenile Justice you would have realised that, over a number of years, there have been some problems in the management at Kariong. They have been highlighted by the Ombudsman. Why do you think those problems continued over successive changes of leadership?

Mr BLACKMORE: One reason might be if they are following this document as the guidelines for the way in which Kariong should be operated. It does not canvass the problems that have arisen with the sorts of people who are there, who are serious offenders with behavioural problems and the like. If staff is constrained to operating simply along those guidelines, they have not much control over the situation.

CHAIR: Why do you think the Department of Corrective Services has been able to achieve, in areas where the Department of Juvenile Justice was unable to achieve, in the same facility?

Mr BLACKMORE: Because of the training of the officers, who are there as custodial officers primarily rather than as people who are exercising a welfare role, or a social welfare role in amongst what they might see as a custodial role. The Corrective Services people would be directive more towards the inmates than the Juvenile Justice people would be. It is my view that Kariong should be returned to Juvenile Justice control, but that the officers firstly be given appropriate guidelines for management, and that they receive the appropriate training, which is rather akin to the training that correctional officers receive, rather than the other background to which I have referred.

CHAIR: In your long experience as Chief Magistrate, and, I suppose, having sentenced many young people to a period of detention in Kariong, during the era when you are actually doing that were you satisfied that Kariong would have achieved the objective you hoped it might when you sentenced young offenders?

Mr BLACKMORE: When I sentenced, magistrates did not sentence to a particular institution. We were, of course, well aware of Kariong. We had visited Kariong as Children's Magistrates and saw what it was like. We saw that it was a necessary place for the containment of people who were otherwise difficult to control in a more free environment, which at that stage was Mount Penang, before Baxter was built. Of course, I had the history that Kariong was built when Endeavour House had to close. There had been problems at Endeavour House. They had had better years in Endeavour House, when certainly it was a harsh sort of place, the living environment. It was known that people would misbehave in the general population, and even escape, with the object of going to Endeavour House where they had more one-to-one, face-to-face discussion about their problems with the superintendent who was there at the time than they would have in the ordinary population. That changed when the superintendent left. They had problems, such as a suicide, and so on. It was quite clear that the place had to close and that Kariong was a necessary and good replacement at that time.

The Hon. AMANDA FAZIO: I want to ask you about some of the issues raised in your submission. You said that you think that the staff of the Department of Juvenile Justice could be trained up to manage these inmates effectively, and that you support the centre returning to the control of the Department of Juvenile Justice. Just to flesh that out a bit, why do you think the Department of Juvenile Justice failed to adequately address the problems identified in successive Ombudsman reports into the management of Kariong? Do you believe the changes made by Corrective Services staff could have been achieved Juvenile Justice staff?

Mr BLACKMORE: You never know whether the Juvenile Justice staff, as they were, could have been adequately trained, or whether their background was so sufficiently entrenched that they would be hard to adapt to a firmer role than they had. It might be more of a matter of recruitment of appropriate officers, some of whom might in fact come from Corrective Services and become Juvenile Justice officers in Kariong. But, so far as I can see, looking from the outside, the problems arise from the top and, as I say, they arise through guidelines that were presented to the officers as to what they could work under.

The Hon. AMANDA FAZIO: I get the strong impression from your submission that you have always been opposed to any one over the age of 18 years being kept in a Juvenile Justice Centre,

even if they had been convicted of a crime had some time when they were under the age of 18. Do you think it is really appropriate—if they had, say, only a year to serve—to take that person, when he or she turns 18, out of the juvenile justice system and put them into the adult correctional system for the final 12 months?

Mr BLACKMORE: Firstly, it is not entirely correct that I say that everyone over the age of 18 should be banned from being in a Juvenile Justice Centre. I think there are unsophisticated offenders, intellectually handicapped persons, who have, nevertheless, been sentenced to detention, who might survive quite well in that sort of environment.

CHAIR: And be no threat to juveniles?

Mr BLACKMORE: No. Would you repeat the second part of your question please?

The Hon. AMANDA FAZIO: To what extent do you think that the changes that have been put in place by Corrective Services staff could have been handled by Juvenile Justice staff?

Mr BLACKMORE: Only if the juvenile justice staff had been permitted by its hierarchy to exercise the same sort of control as corrective services staff would.

The Hon. AMANDA FAZIO: I know that these are some of the issues that come into our terms of reference and you did not really cover them in your submission so I was interested in finding out what you thought about things like measures that we can take to divert people in the juvenile justice system so that they do not end up going to places like Kariong and also what we might be able to do to reduce recidivism rates for juvenile offenders?

Mr BLACKMORE: Since 1989 sentencing to detention or imprisonment has been the last resort for the courts and all the measures which might be taken in the community are well available, for instance in the children's court, and they are available to the higher courts as well to a lesser extent; the higher courts are dealing with much more serious offences, but the measures which are open move through a hierarchy of cautioning, bonds, probation, community service, I think perhaps even periodic detention. But they are all measures where you will find that the people who have been sentenced to detention have either committed a very serious offence or they have continued to repeat even though they have had all those other opportunities in the system. I think that is typical of an offender's record.

The Hon. AMANDA FAZIO: What was your view on removing serious juvenile offenders from their community and family surroundings and concentrating them in a centre like Kariong, and particularly the impact that might have on Aboriginal offenders? Do you think it was better before Kariong was put in place where every centre has a view of the more difficult to manage or more serious offenders in it?

Mr BLACKMORE: Before Kariong was there, there was Endeavour House. Before Endeavour House there was McCabe cottage at Mount Penang. There has always been a secure facility for those who are hard to manage. But of course it is the clientele which has changed over the years. Those who are coming into detention now are more likely to be serious and perhaps violent offenders rather than in previous years when lots of kids were there simply because they had run away from home.

The Hon. AMANDA FAZIO: We heard that. We had some people from the police youth liaison here today and they said because some of the diversionary programs are working so well that you tend to find that people getting custodial sentences are either repeat offenders or have committed a very serious offence.

Mr BLACKMORE: I think that is the case, and as you talk about, whether they are Aborigines or whether they are otherwise, if they are serious offenders it is very likely that they are going to end up in detention and if there are management problems it is more likely they are going to a place like Kariong. But there must be a lot of young adults in Baxter as well who, as you pointed out earlier, are perhaps serving the remainder of a sentence which was imposed before they were 18. I do not oppose that as long as they are not there for some years after they turn 18.

The Hon. AMANDA FAZIO: Do you think that the employment of some youth workers at Kariong had more of a welfare-oriented approach rather than a custodial or corrective approach might exacerbate the management of detainees?

Mr BLACKMORE: I do not know about exacerbate it, but it would not have helped in the overall mix of trying to provide control, which in a situation can be rather volatile in Kariong.

The Hon. CATHERINE CUSACK: Would you mind just spelling out why you feel so strongly that it is undesirable to mix children and adults in detention? I note that at the moment about a third of our detention system has adults and I believe it was over half in Kariong?

Mr BLACKMORE: Firstly, I think it is wrong in principle, and the United Nations has said so, in my view. It simply makes sense and in fact only an accident of birth that with some offenders and co-offenders, one will end up in a jail and one will end up in a detention centre. They are both probably around about the age of 18.

The Hon. CATHERINE CUSACK: Do you think adults have a negative effect on the rehabilitation of the younger offenders?

Mr BLACKMORE: Yes. I think that is well documented. In fact, I quote the Commissioner for Human Rights in his view as to what that effect can be.

The Hon. CATHERINE CUSACK: Do you think it is beneficial for adults to be in facilities designed for children, from the adult's point of view?

Mr BLACKMORE: No, because they achieve a certain eminence in the eyes of those who are younger, which is not a good influence on the younger ones to be looking up to those who are probably going to become long-term criminals. One would think that people of like age should be detained with each other and that they have programs which are then appropriate for each other.

The Hon. CATHERINE CUSACK: You have looked at the legislation fairly closely and I think what you are saying about the separation of children and adults in custody has been the expectation of the community, and it has in fact been supported by all parties in Parliament in the passage of legislation that tries to reduce the number of adults in juvenile facilities. I am wondering if you have any views as to why the prevailing opinion in the efforts to legislate through the Parliament seems to have been so unsuccessful in achieving that separation?

Mr BLACKMORE: I think the courts have been at fault, particularly the higher courts who, in my view, have a misguided view that it is better for a person's redemption that he be treated along with juveniles rather than in an adult facility.

The Hon. CATHERINE CUSACK: Is it fair to say the courts are trying to look at the merits of an individual rather than looking at the merits of the system when they are deciding these matters?

Mr BLACKMORE: That could be true, but they are also influenced one way. That is, they have got counsel for the accused young person obviously trying to do the best he can for his client, the best to see that the client is not in gaol but they are rather in a lesser facility such as a detention centre. They then have reports which are prepared for the courts and if they are prepared by officers of juvenile justice, again they are prepared more from a welfare-oriented background rather than a justice background. Then the prosecutors are not jumping to their feet on the question of sentencing and saying "This person, although he is only just 18, should be in a facility with other adults of the same age rather than a detention centre". So the higher courts are easily influenced, in my view, to find special reasons, as they must, now for placing the child in a detention centre. How can you call them special when they are used so often?

The Hon. CATHERINE CUSACK: Do you agree the environment in juvenile detention is very different to the environment in prison and that the gap appears to have widened in recent years?

Mr BLACKMORE: There is a big difference, yes. I cannot say that from the time since I retired that I have the experience to say just what has happened in that regard.

The Hon. CATHERINE CUSACK: During your time when you were observing did you notice any changes in the culture of Juvenile Justice?

Mr BLACKMORE: There were many over all the years that I was with it, a constant change. It got to the stage where more of the offenders coming before the court were not there for just stealing cars or theft but for violent offences, such as assault and the most serious offences being rape and murder. I think we have seen much more of that.

The Hon. CATHERINE CUSACK: You mentioned the superintendent at Endeavour House in a positive light. Have there been times when the maximum-security facility has been better managed and other times when it has not been so well managed?

Mr BLACKMORE: Endeavour House is a prime example of that because it opened up as a very militaristic institution where you were not allowed to look at officers in their face and had to keep your head down. You could not speak unless you were spoken to, and that ended up in a number of riots, after which a particular superintendent, whose name eludes me now, came in. He talked to the inmates. He called time-out at any time of the day and they would all sit around in a circle and talk. They were still well controlled but they were also receiving attention that they were not receiving down at Mt Penang where an officer might be walking around with 15 kids and never have a chance to talk to them. But they were a different type of problem too. They were not the same serious offenders that we now have in detention.

The Hon. CATHERINE CUSACK: You said you thought that Kariong was an appropriate replacement at the time—I think there might have been a high security unit at Minda?

Mr BLACKMORE: That is right. There was an interim period when Endeavour House closed—and I was critical of the fact that it was closing without having a real alternative available. However, Minda was opened and I think we had a riot or two there in the meantime. I thought Kariong was necessary and a good facility.

The Hon. CATHERINE CUSACK: Would that still be the case today?

Mr BLACKMORE: I have heard that various security measures and so on—physical secure measures—may have broken down, but that is only something I have read about in some parliamentary debates.

The Hon. CATHERINE CUSACK: In the time you overlapped with Kariong did you notice that at times it was better managed than at other times?

Mr BLACKMORE: I think it was after I retired that there were concerns about the administration which was there, and other officers were put in. I think that was happening just about at the time I retired.

The Hon. CATHERINE CUSACK: Prior to your retirement did you have concerns about Kariong?

Mr BLACKMORE: No, it seemed to be operating quite well from my observations.

CHAIR: Do you have any advice about the grey area between those who are sentenced to Kariong detention centre, for example, who may have been almost adult when they committed their crime, and during the service period of that time they stayed in a juvenile centre?

Mr BLACKMORE: This much depends on how long their sentence is.

CHAIR: If they had to serve a short sentence?

Mr BLACKMORE: If they are sentenced before they turn 18, and they have only got a short time to complete after they turn 18, by all means it is likely they stay in a detention centre, such as Kariong.

CHAIR: Those who come under the Young Offenders Program into Correctional Services seem to be mixing with people who are much more mature and experienced in their crimes?

Mr BLACKMORE: If they are in a program which takes them up until they are 24, certainly some of those offenders have become much more mature than those who are 18. I suppose there is a limit to the number of classifications you can make.

The Hon. Dr PETER WONG: Clearly what you are talking about seems to be those who have committed a crime while they are young people. Do you suggest there should be more juvenile correction centres rather than juvenile detention centres?

Mr BLACKMORE: The problem with that is that Juvenile Justice does not now have a secure centre simply for those juveniles who are under 18 who have become a management problem and Juvenile Justice should have such a centre.

The Hon. Dr PETER WONG: The committee has been informed over and over again that there were serious designer faults in Kariong. You said earlier to the Hon. Catherine Cusack that in your time there was really no serious problem. Why did the design fault suddenly become so obvious? Is it because the people committing offences have changed?

Mr BLACKMORE: It is partly that the offenders are becoming more serious. But otherwise it is a matter of perception as to whether the facility is still appropriate. Intrinsicly I do not think the centre has changed. My view still remains that it was a necessary and a good facility and the various security measures that they had, while some people seem to think it was an electronic zoo, worked very well.

The Hon. Dr PETER WONG: The Minister seems to think a swimming pool in such a facility hinders the rehabilitation and discipline aspects of that detention centre. What do you say about that?

Mr BLACKMORE: I would have thought that one would have kept a swimming pool as part of its appropriate mix of programs and facilities that are available. If you have got kids being able to swim on a hot day they are less likely to be toey with the officers than otherwise.

The Hon. Dr PETER WONG: As you know, we have a different system in Juvenile Justice from other States. Is that a good thing compared to other States? Has it been a successful scheme?

Mr BLACKMORE: Other States such as South Australia and New Zealand—not that it is a State of Australia—but as a comparison, they have both adopted the term "youth courts" instead of "children's court" as a reaction to the way in which the clients of the court should be perceived. Whether the age limit of 18 is appropriate, there are variances on that. In some jurisdictions they have come down to 17 as the changeover point. That is always the trouble with an arbitrary limit. Some people are going to fall one side or the other, and that is a lot of the difficulty which now arises with these adults being in with juveniles. I do not recommend any change of the age limit, but certainly changes can be made as to where they are kept if, in the last resort, they are people who have to be detained.

The Hon. Dr PETER WONG: You said that during your time, Kariong was operating okay. What has changed to make it worse? Is it partly the management of Kariong? If it is, in what way has the management changed?

Mr BLACKMORE: I am suggesting that the management was constrained by guidelines, which they had from above, as to what form of control they could exercise, even if they wanted to, in respect of the inmates who were there and who were causing difficulties. It is the problems that the inmates have caused that probably have changed over the years, needing firmer control and they have not been able to be given that.

The Hon. Dr PETER WONG: Obviously, there was a report of conflict between management and the staff, and the inmates concerned.

Mr BLACKMORE: Yes.

The Hon. Dr PETER WONG: Is that part of the problem as well?

Mr BLACKMORE: I can understand the problem between staff and management.

The Hon. Dr PETER WONG: You mean that problem did not exist before?

Mr BLACKMORE: It was not existing at around about the time that I retired in 1995.

The Hon. ERIC ROOZENDAAL: I was interested in your comment that you thought there was no problem with the design of Kariong. It was opened in 1989, is that right?

Mr BLACKMORE: About 1990 or 1991.

The Hon. ERIC ROOZENDAAL: I am surprised that there was no school incorporated into Kariong when it was first opened. I understand there are some other issues, but I would like to get your comments on the fact that there was no school there when it opened, but it had a swimming pool.

CHAIR: It actually still has a pool.

The Hon. ERIC ROOZENDAAL: No, it does not.

CHAIR: Yes, but it is full of dirt instead of water.

The Hon. ERIC ROOZENDAAL: I call it a lawn; you call it a filled-in pool; fair enough.

Mr BLACKMORE: And things like basketball courts and so on.

The Hon. ERIC ROOZENDAAL: They have that, but I am interested in your views on why a school was not incorporated as part of the Kariong design. There are other issues about having three-storey buildings, which become pretty dangerous if detainees climb onto the roofs.

Mr BLACKMORE: I think any facility tends to age in its appropriateness and the way the building deteriorates. When Minda was built you would remember how it was subject to a great deal of criticism, in the 1980s particularly. But I can remember when kids wanted to go to Minda because it was so much better than whatever else existed. I suppose the same might be said now of Kariong; that it has aged, it is 15 years or so old. It probably has not been treated well by the inmates themselves. Some things that were working when it opened might not work anymore. But I take your point so far as the provision of a school is concerned. It is not so much a physical activity. They could, no doubt, fit a school in there if they wanted to take it away from being used for some other area.

The Hon. ERIC ROOZENDAAL: I am interested in your comments about rehabilitation. You have made an interesting statement in your submission.

Mr BLACKMORE: It needs to be understood in its context.

The Hon. ERIC ROOZENDAAL: I am about to ask you that. You have never encountered an instance of a person being rehabilitated as a result of incarceration, whether as an imprisoned adult or a detained juvenile. You go on to talk about deterrence rather than rehabilitation.

Mr BLACKMORE: Yes, but I need to explain what I mean by "rehabilitation".

The Hon. ERIC ROOZENDAAL: You have that in here as "reforming your attitudes to societal norms".

Mr BLACKMORE: The fact that a person does not offend again does not necessarily mean that he is rehabilitated. He might well be deterred; he does not want to be caught; he does not want to go back to gaol. That is not rehabilitation.

The Hon. ERIC ROOZENDAAL: Kariong now has a school with 100 per cent attendance and they have workplaces, which are also 100 per cent filled. By giving them physical training in doing work duties or giving them educational opportunities that a lot of them missed out on, do you think that would help progress them towards rehabilitation?

Mr BLACKMORE: It would go towards rehabilitation, yes, in some respects. When you talk about education, some people would say that it only makes people cleverer criminals.

The Hon. ERIC ROOZENDAAL: Obviously, you have had a lot of experience over many years with children and youth coming before you. Do you think the types of serious crimes that we seem to be seeing going to Kariong are more serious than they were in your day?

Mr BLACKMORE: They are. I do not think there is any doubt about that.

The Hon. ERIC ROOZENDAAL: Do you think that reinforces the need to have a structure like Kariong run by Corrective Services because of the nature of some of the offenders within it?

Mr BLACKMORE: I think Corrective Services should be running a place, not for the juveniles who are there but elsewhere, with other adults of the same age in a prison population and with appropriate programs. Juveniles who remain in that situation, in my view, should be there with Juvenile Justice personnel but Juvenile Justice personnel who are differently trained to those who are in the mainstream detention centres and who are able to carry out the form of control that is necessary with the type of inmates who are there. There is nothing unusual about this. There are other fields, such as the mental health field, where people who carry out the custodial work have to adapt to people who are violent and cope with that situation. They have to have the sort of training which enables them to do that and they must have the support of the government department that conducts the facility.

CHAIR: I would like to take that a little further, if I may. On that point you said in your submission that you felt that if Juvenile Justice personnel were trained in some of the methodology of Corrective Services, they could take over Kariong once more. Is it also true, going the other way, that if Department of Corrective Services personnel were trained in some of the arts of Juvenile Justice, they could continue caring for Kariong?

Mr BLACKMORE: They could. It is just the same person with a different label, isn't it?

CHAIR: Do you have any other comments about that, such of the desirability of it?

Mr BLACKMORE: Well, it then comes back to which department has oversight of the facility.

CHAIR: In your mind is there any fear that change of legislation could see more centres going under Corrective Services rather than under Juvenile Justice?

Mr BLACKMORE: Not that I am aware of, no.

The Hon. AMANDA FAZIO: Earlier I asked you whether the success of diversionary programs had led to a heightening of the seriousness of offenders who get custodial sentences. Do you have any comments on other more general societal issues that might be helping to increase the seriousness of the offenders who are coming into juvenile justice?

Mr BLACKMORE: I think firstly there is a greater focus on what is really a smaller population than there used to be. Because it is last resort and it is the most serious people or the most frequent offenders who get there, there is more focus on those rather than having a large centre with a greater mix of population. So I think that is how they come to be there firstly and how we are now focused on that group.

The Hon. AMANDA FAZIO: But given the length of experience that you had in the Children's Court, do you have any comments to make on general societal factors that have caused people to come into the juvenile system?

Mr BLACKMORE: There is a whole range of things. One talks about social disadvantages, and you have spoken about Aboriginal people who obviously as a group are disadvantaged. There are all the aspects of break-up of marriages and single parents—a whole range of social issues which leave children on their own to a large degree to find their own way. To start exploring that, one could talk I suppose for a week on various aspects that bring kids before the court.

The Hon. CATHERINE CUSACK: There has been a suggestion that perhaps we do not need to have a secure facility in juvenile justice and that all the different centres should be managing that range. I know that the Australian Capital Territory has one detention centre that manages a range of detainees, including women, but in New South Wales we have specialist facilities for girls, very young boys, maximum security. Is it your understanding that that has always been the case, that we have streamed it that way, and is that something you support?

Mr BLACKMORE: I think it is still necessary to have a secure centre. But in times past when Endeavour House was therefore boys we also had Hay for girls and then they were brought back to Kamballa at Parramatta as a secure centre. Eventually there were so few girls there and so few girls in the system generally that we could not justify a separate place for them. I do not think we have reached that stage with boys.

The Hon. CATHERINE CUSACK: No, but we do separate very young boys, do we not?

Mr BLACKMORE: We keep the young boys away from the others.

The Hon. CATHERINE CUSACK: If you had a 13-year-old boy from wherever around the State he would still go to Reiby detention centre.

Mr BLACKMORE: Yes, you would not put them in Kariong.

The Hon. CATHERINE CUSACK: And it is in his interests to be in a separate facility as opposed to—

Mr BLACKMORE: One expects a child of that age to be much more malleable and responsive with measures to control him than you would expect of someone who is 17 or 18.

The Hon. CATHERINE CUSACK: Is it fair to say that Endeavour House and Kariong were not intended as facilities that people were sentenced to? First, people were not sentenced to those facilities.

Mr BLACKMORE: That is correct.

The Hon. CATHERINE CUSACK: But, rather, people who were in the system came to those facilities.

Mr BLACKMORE: It is a question of classification.

The Hon. CATHERINE CUSACK: Yes, and they were admitted into those facilities from the system, not from the court.

Mr BLACKMORE: Yes, that is correct, although sometimes the courts would recommend a particular centre that the person would go to. It was up to the department as to whether it complied with the recommendation or not.

The Hon. CATHERINE CUSACK: But the high security unit is part of a holistic system.

Mr BLACKMORE: Yes.

The Hon. CATHERINE CUSACK: Is it fair to say that it was not intended for detainees sent there to be there necessarily for years and years, but sometimes it might be to improve behaviour and perhaps a few weeks would be the term spent there?

Mr BLACKMORE: I agree with that. That is the way it was.

The Hon. CATHERINE CUSACK: And that is certainly the way it was at Endeavour House?

Mr BLACKMORE: Yes, and there would be very few adults in the system in the older days but nowadays the higher courts are sentencing you are finding these sentences where they direct, as they can, that they be held in detention.

The Hon. CATHERINE CUSACK: Which is a new approach. Given that there was this concept that those who were unmanageable in the other detention centres would be sent to Endeavour House or later on Kariong—

Mr BLACKMORE: Yes, well, they would come back to them.

The Hon. CATHERINE CUSACK: Would it be fair to say that that was an alternative to transferring them to prison?

Mr BLACKMORE: Yes it was. There were certainly some who did go to prison. I can recall in my early days how some juveniles did go to prison even at the age of 15, which is now something considered to be quite extraordinary.

The Hon. CATHERINE CUSACK: And were they going to prison from Endeavour House?

Mr BLACKMORE: They were people who the department felt it could not control.

The Hon. CATHERINE CUSACK: But they would try Endeavour House first?

Mr BLACKMORE: Usually, yes. They were usually for things like escape rather than violence within the system.

The Hon. CATHERINE CUSACK: Generally unmanageable in a general centre.

Mr BLACKMORE: Yes but they would generally go back to the mainstream detention centre.

The Hon. CATHERINE CUSACK: But the concept of these facilities was that behaviour would be modified so they could be returned back into the general detention centre.

Mr BLACKMORE: Indeed.

The Hon. CATHERINE CUSACK: Could that be one explanation as to why there was not a school there and it was equipped instead with workshops?

Mr BLACKMORE: As I understand it, Endeavour House had a school at one stage, perhaps in its late stages.

The Hon. CATHERINE CUSACK: A technical school?

Mr BLACKMORE: I do not recall the details of the education.

The Hon. CATHERINE CUSACK: You mentioned the concept of youth courts instead of the Children's Court. Can you expand on that?

Mr BLACKMORE: Yes. It is a difficulty because the Children's Court is dealing with both care and protection matters. It is hard to attach the label of "youth courts" to that sort of activity. On the other hand the age group of offenders appearing before the Children's Court now is older than it was and tends to be over 16. It would be appropriate in my view for that division of the court to be called a youth court. I think that the public at large is fairly cynical about some of these things, when they talk about kiddies courts, people getting slaps on the wrist and that sort of thing. They would be more assured to have something like youth courts.

The Hon. CATHERINE CUSACK: The Children's Court deals with care matters and criminal matters. In your experience as a magistrate did it depress you to find children coming up before you on care matters up until the age of say 11 or 12 and then you see them again in criminal matters?

Mr BLACKMORE: I was never depressed.

The Hon. CATHERINE CUSACK: Sorry. Was it your experience that that happened?

Mr BLACKMORE: That was the situation, yes, because of that parental situation which left the children vulnerable to influences which would bring them into the criminal system.

The Hon. CATHERINE CUSACK: Do you think that affects the attitude of the magistrate?

Mr BLACKMORE: There are various magistrates—

The Hon. CATHERINE CUSACK: Are they able to separate that that was a care case last year but this year I am dealing with a criminal matter?

Mr BLACKMORE: Yes. For magistrates like Barbara Holborow the main focus was care and protection matters whereas mine was the criminal side. Although I had a lot to do with the administration of care and protection, I did not have much to do with hearing particular cases.

The Hon. CATHERINE CUSACK: Because it is a small subsystem of the legal system, you would be seeing the same members of families before you, I presume?

Mr BLACKMORE: Yes.

The Hon. CATHERINE CUSACK: And you would know the cases very well revolving through the courts.

Mr BLACKMORE: Yes. Can I perhaps draw the attention of the Committee, although it is not closely related to what we are saying today, but there is an article of mine in this month's *Law Society Journal* about the Children's Court, which is 100 years old this year. It is a somewhat critical article and touches to a small extent on what we have been talking today about our relationships with the Department of Juvenile Justice and the Department of Community Services.

CHAIR: That is in the current issue of the *Law Society Journal*?

Mr BLACKMORE: The current one.

CHAIR: And the name of the article?

Mr BLACKMORE: It is on page 26. It is called "Children's Courts are 100 years old ... and we still deserve better says Rod Blackmore"

The Hon. AMANDA FAZIO: I had not thought about Parramatta Girls Home for a long time, but as a young girl growing up in the western suburbs of Sydney it was a very powerful threat. People would say, "If you don't behave yourself, you will end up in Parramatta Girls Home." We would toe the line—it had a reputation for being terrible.

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Mr BLACKMORE: My father was a magistrate at the Children's Court when I was growing up. When I was doing something that he disapproved of, the threat came down, "If you don't pull yourself together you might find yourself before the Children's Court." My attitude changed dramatically.

(The witness withdrew)

JOHN ORMONDE CRAWFORD, Children's Court Magistrate, sworn and examined:

CHAIR: In what capacity are you appearing before the Committee?

Mr CRAWFORD: I have been asked to appear in lieu of Mr Scott Mitchell, Senior Children's Magistrate, who is engaged elsewhere in the country.

CHAIR: Do you wish to make a brief opening statement?

Mr CRAWFORD: No, I just wish to make myself available for questions.

The Hon. AMANDA FAZIO: As a magistrate involved in the administration of the legislation, do you have any concerns about the Juvenile Offenders Legislation Amendment Act 2004 or the implementation of that Act?

Mr CRAWFORD: Perhaps time will tell as to how effective it is. I have some concerns whether it is addressing the right problem, rather than trying to contain a growing population of older and more serious offenders within the detention centre, as to whether the real question should be whether it is appropriate to be operating a dual system with young offenders in the adult system, more or less a parallel system with the same objectives. What seems to happen over the years, for whatever reason, the makeup of offenders within Juvenile Justice has become increasingly slanted towards older and more violent offenders, including a greater number of adults. That has had the flow-on effect of extending in a way which the system applies to younger offenders whose needs it was set up to meet.

Perhaps an analogy might be—perhaps it is not a very appropriate one—that if you had a high school that had a structure of students coming from 13 to 18 and then you suddenly introduce or progressively introduce into that system a whole lot of other people who are 19, 20 and 21, who are in the system for a lot longer and their influence on the system is more pervasive, it has a flow-on effect as to the type of staff you will employ. For example, you have a problem at Kariong because you have so many adults. You might have a disruptive offender who is younger than that but should be in Kariong to settle down. They are kept back in the detention centre where they are and a more disciplined or a more structured system introduced into the lower system, which may not benefit a lot of the other offenders who are appropriately there. So, that is a concern I have.

I have some concern because I have not been able to clarify some aspects of what regulations govern the detainees, juvenile inmates, whatever the term is now in Kariong and whether they are managed pursuant to the adult system or whether they are managed pursuant to the juvenile system. That may have some influence in respect of drug tests, sniffer dogs. I am not quite sure about what system they operate under. I clarified that they operate in relation to classifications under the adult system but I have not been able to clarify what regulations they are subject to. So, I have a little bit of concern, if you are going to apply all the adult systems, should it all apply, particularly to offenders who might be there because they are under 18 and disruptive.

The Hon. AMANDA FAZIO: Could I ask you something on the reason for having a centre like Kariong?

Mr CRAWFORD: Yes.

The Hon. AMANDA FAZIO: Do you support the basis for segregating out the most serious offenders and centralising them in the one location in New South Wales, even though that takes them away from their family and community links?

Mr CRAWFORD: It probably takes them in most cases no further away than where they were, because they come from all over New South Wales to be at Cobham or Mount Penang, and I am not sure that it makes a lot of difference to most of them to be at Kariong. I think generally it is better to have a structured system with staff who are trained up as best they can to manage that group of people rather than try to disperse them throughout the system and then try to manage them within systems that probably have lower security. I know you are putting all your problems in the one place, but if you have the staff there trained to handle them it may be more appropriate than to spread them

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all over the place probably to the detriment of other staff who may not have the experience and certainly to the detriment of other detainees.

The Hon. AMANDA FAZIO: At Kariong they do not just have really serious offenders; they also have people who are transferred in from other juvenile justice centres who muck up, who have behaviour management problems.

Mr CRAWFORD: They are usually not exactly clean skins. I am not saying they are little angels who are just having a bad day.

The Hon. AMANDA FAZIO: No, they are little horrors, or big horrors, who are just not abiding by the rules in the centre they are in. They get transferred into Kariong and once their behaviour settles down they can be transferred back out again. Does that leave the potential for some of the other centres to think that if an inmate or detainee is getting a bit much to handle he can be transferred into Kariong to be sorted out so that rather than manage a difficult problem themselves they have somewhere they can pass the buck to?

Mr CRAWFORD: Some people in the lower detention centres might have that perspective but I do not think it actually ends up happening. It is actually very hard to get yourself into Kariong. The younger you are it is almost impossible to do something that gets you there. It is retained as a last management option virtually for those that are incorrigible.

CHAIR: Would you elaborate your thoughts about Kariong for that serious group of offenders? We have had evidence that some youth workers under juvenile justice who are responsible for their oversight are very reluctant to set limits or boundaries on behaviour of some of the detainees. Do you have any comments about that?

Mr CRAWFORD: I do not think I could comment from personal experience. It would not surprise me if people whose perspective is being very helpful and saving wayward 15 and 16 year olds might have a fair degree of problem in dealing with adults who they are trying to discipline when perhaps discipline is not part of their philosophy but rather helping and encouragement. I do not know whether that is the case but it would not entirely surprise me.

The Hon. ERIC ROOZENDAAL: I am interested in your views on the discipline environment at Kariong.

Mr CRAWFORD: Is it disciplined or is it structured?

The Hon. ERIC ROOZENDAAL: I think it is a bit of both, actually.

Mr CRAWFORD: I must admit that I am not familiar with disciplinary policy in relation to Kariong.

The Hon. ERIC ROOZENDAAL: To give a quick synopsis of my perspective—I am sure Committee members can correct me if I am wrong—it is run like an adult prison.

Mr CRAWFORD: With lockdowns and all that sort of thing.

CHAIR: Deprivation.

The Hon. ERIC ROOZENDAAL: Punitive behaviour management systems so that if you are well behaved you get certain privileges and if you are not well behaved you lose certain privileges.

The Hon. CHARLIE LYNN: Does that relate to when they were talking about the difference between a social welfare role and a custodial role earlier?

CHAIR: Yes.

The Hon. CHARLIE LYNN: You are talking about a custodial role.

The Hon. ERIC ROOZENDAAL: Yes. The argument is that having a corrective services structure at Kariong does not assist these detainees being rehabilitated. I think the previous witness said there is no such thing as rehabilitation. Assuming that there is, do you think it assists if they have a structure to assist the rehabilitation or does it harden them?

Mr CRAWFORD: It probably depends on the reaction of individual, but I do not think that you can have a regime aimed at rehabilitation which does not have a structure. It is like the unmanageable class and the conscientious teacher. The teacher can do their best but they cannot really operate within a classroom that is chaotic. There has to be a structure. Everyone, particularly juveniles, has to know the limits. Those limits have to be clear and they have to be adhered to, because they will always push the boundaries. But at the same time the other side of it is that there has to be fairness in the administration of it. There cannot be people playing favourites. It all has to be above board. The staff have to be adequately trained to deal with crises as they arise. There have to be incentives and there have to be opportunities for rehabilitation. Rehabilitation is not necessarily going to be confined to a subjective change of mind in the way you want to follow your lifestyle. There have to be opportunities for improvement. Realistically, in a gaol setting there have to be incentives as well. They might be minor rewards or privileges but you can go a long way with them because they become very important within a closed environment.

The Hon. AMANDA FAZIO: We have heard that the offenders in Kariong are worse than they used to be in the past. Their sentences are longer—that may be due to sentencing policies—but the crimes they commit to get there are more serious. What sort of social impacts do you think have helped contribute to that?

Mr CRAWFORD: The crimes committed by all the people appearing in the Children's Court are more serious than they used to be. You would only have to go back and look at the list 20 years ago and compare it with what it is now. There are so many drug offences and particularly robberies, and robberies committed with violence and in company. A lot of that has to do with fashionable things like mobile phones. Everyone walking off a railway station with a mobile phone in their pocket is just a target for being robbed. If you got through a year without being robbed you are probably doing pretty well. It is very pervasive. There are the drug issues and the gang issues. Juveniles are now more involved in high order crime than they were—more organised drug distribution, car rebirthing. It was unheard of 30 years ago. People at that stage were getting locked up, if at all, probably for breaking and entering and pinching something from a garage—three or four times and just kept doing it. Girls pinched makeup and clothing. But now it is drugs and violence. The violence has been pervasive and increasing over the last 20 years. The statistics would tend to support that.

CHAIR: A greater number of assaults on persons.

Mr CRAWFORD: Yes. Sometimes, admittedly, the assaults might be at the lower end. There are robberies and there are robberies. Sometimes with children robbery might mean someone going up to another boy and pinching his hat off his head and running away with it or saying, "Give me your hat or I will punch you." But there are a lot of pretty fair dinkum robberies out there as well, and organised, on McDonald's, 7-Elevens, Pizza Hut delivery boys and that sort of stuff. It is pretty serious stuff a lot of it.

CHAIR: Not that we think that years ago they were all very simple crimes. In my earlier life I was a parole officer and probation officer and I had 104 on parole probation at one stage and the majority of them had actually taken the lives of other people.

Mr CRAWFORD: Juveniles were probably not in that category over 20 years ago.

CHAIR: I did have juveniles too in that category. But that is an irrelevancy. I am just saying—you are probably balancing up, perhaps, a way in which I was being overdramatic in one direction.

The Hon. Dr PETER WONG: As you know, statistics consistently show that up to 20 per cent, perhaps more, of detainees suffer from mental illness, and a high percentage of those have

schizophrenia. As someone with experience, when you see cases in such as that in the court, what alternative do you have, apart from sending offenders to a Juvenile Justice Centre or to Kariong?

Mr CRAWFORD: I would not encounter 20 per cent of people with mental illness, depending on how you define "mental illness", and whether you define it as attention deficit disorder. It has been quite a while since I have had anyone turn up with what I would call a genuine assessment from a psychiatrist, saying that they had schizophrenia. but, other than that, I could probably go back a couple of months. I might have quite a few people that have depression that no one has picked up. I know that studies have been done about intellectual disability, showing a higher level of those with intellectual disability appearing before the court. That would certainly show up if there were any statistics.

But the court does not get a lot of opportunity to make those assessments unless it is drawn to their attention of the court. That may be done by way of a background report prior to sentencing. It may be through the child's lawyer or the family raising the matter. Sometimes you actually get it when it turns up in applications for apprehended violence orders [AVO], where a parent has taken out an AVO, which of course are not criminal proceedings—perhaps out of desperation because the child is displaying signs perhaps consistent with some degree of mental illness. If they cannot get any help anywhere else, out of desperation and the last thing they try to do is to take out an AVO for their own protection.

The question of mental illness has been almost overlaid by difficulties in assessment with drug use. There is a very high incidence of cannabis use by those coming through the juvenile court and sometimes it is a bit hard to say whether the signs are psychiatric illness induced by cannabis use, or just the cannabis use in itself which has set them off—four, perhaps, other drugs as well. Getting back to your question about my options. Under mental health legislation you can send people off to a psychiatric hospital for an assessment. I think experience in the Local Court is that they almost invariably come back, the hospital saying that they do not think they are bad enough, or that they are not mentally ill within the terms of the legislation.

We can ask for reports occasionally from the Children's Court clinic, which is starting to do a few assessments in relation to criminal matters. It was set up to deal with care and protection cases. We could engage a private psychiatrist to undertake an assessment, whether they are in or out of custody, and then prevail on the Attorney General's Department to pay for it. There are means of obtaining assessments, but the court has to be alerted that perhaps the circumstances warrant an assessment.

The Hon. AMANDA FAZIO: Could I just ask a follow-up question. I was a member of the Select Committee inquiry into mental health. We were told that there is someone at the Central Court in Sydney who runs a quick eye over the people coming before the court to see if they have some form of mental illness or intellectual disability, so that it can be identified and appropriate support services can be provided.

Mr CRAWFORD: It is probably a psychiatric nurse, or someone like that.

The Hon. AMANDA FAZIO: Do you have someone like that in the Children's Court system?

Mr CRAWFORD: no. I do not think we could justify it. They would be doing a lot of sitting around waiting for someone to turn up on the doorstep. We have to actually get them there, have the matter raised and seek an assessment from that point. All the children who appear before the Children's Court are legally represented. The Legal Aid Commission, particularly in the metropolitan area, should be pretty attuned to getting those reports.

CHAIR: Without asking you to commit all your fellows within the Children's Court system, would the magistrates as a whole favour the evolution of places such as Kariong, so that it is no longer a part of the Juvenile Justice Department that now comes under Corrective Services?

Mr CRAWFORD: I do not think I could say that. I think there would be a variety of views. One of the concerns I would have would be of adults being shifted back into Kariong, perhaps because the numbers there are have dropped, leaving a vacancy.

CHAIR: You would be thinking of young adults, perhaps aged 21?

Mr CRAWFORD: Yes, that is right, even 18-year-olds who are perhaps thought to be a bit vulnerable in gaol. The last place you would want to put them would be into Kariong because they would be probably more vulnerable there than they would be in gaol.

CHAIR: Would magistrates as a whole have a view that they wanted a place which was tougher on discipline than the social work environment?

Mr CRAWFORD: I think views would differ on that. I think there would be people who would see the benefits of people being kept in a juvenile Justice facility which had as low as possible level of security. Others might see the benefits of a more structured system. The judges seem to have a very considered all consistent basis of finding that there are special circumstances for putting people into Kariong, notwithstanding Parliament's efforts to define it as a special circumstance to get there. It seems to be a bit like "My Child" legislation. Who does not think that their child is not special?

The Hon. Dr PETER WONG: Whether it be Juvenile Justice or Corrective Services the success rate of rehabilitation is very low anyway. What is the difference, really? Is it the social welfare aspect that sees them sent to a Juvenile Justice centre if there is no difference in rehabilitation?

Mr CRAWFORD: I think we have to wait and see whether there is a change in rehabilitation because these systems evolve over time. We do not know whether Kariong will get "tougher" than it is. Will it shifted back to a sort of welfare rehabilitation philosophy? The problem with Kariong as I see it is that it is really quite a small place. It is quite a small building in itself and there is not a lot of flexibility there. You do not have a lot of detainees and so you almost had to deal with them in a group setting. If the main focus is going to be on discipline and structure, not everyone is going to respond favourably or in the same way to that, perhaps including the staff. It is a matter of seeing how it is going to evolve.

One of the problems—this was raised with Mr Blackmore and I think he agreed with it—is that Kariong, as I understand it, was really never set up to deal with long-term detainees. The approach was to sort of get them in and get them sorted out, and then send them somewhere else. I seem to have a vague recollection that when Kariong was originally set up, it was said that Juvenile Justice, or it would have been Child Welfare, Youth and Community Services but I am not sure what the name was at the time, would not have been unhappy if there was no-one in the place. It was never going to be used as a facility just to fill up for the sake of numbers. Getting back to what I said before, I would be a little bit concerned that the pressure on numbers in the adult system—

CHAIR: There would be an osmosis?

Mr CRAWFORD: There would be a little bit of a drift down into Kariong perhaps under the guise of some of the troublemakers needing more security which is in Kariong, but is not in somewhere else, and filling up the place with even more adults who I see as basically the problem.

The Hon. CHARLIE LYNN: One of the issues that seems to be associated with Kariong is the issue of the number of casual staff. You mentioned the need for training. People who are dealing with a clientele that is right at the end of the road need to be highly trained to be able to identify who is affected, you know.

Mr CRAWFORD: I would have thought that they would probably need better training than those in some of the lower security sections, but I think that all of the people need training for the people with whom they are actually dealing because they have different needs.

The Hon. CHARLIE LYNN: The use of casual staff would actually be a contributor, do you think?

Mr CRAWFORD: I think you would have to see who the casual staff are and what their level of training is. If they are just pulling in people because they happen to live in the area and five years ago they worked for Juvenile Justice for six months and they are just put in there, I think that if you are going to have a program which is related to rehabilitation, a commitment to rehabilitation has to be given both by those who are trying to bring it about and those who are perhaps the recipients of it. The trouble I would have, perhaps, with a lot of casuals is, firstly, is there going to be a continuity of programs, and also are these people going to be committed to that sort of philosophy, or are they just filling in the time?

CHAIR: We heard evidence as well that it was not only the continuity of the program but it was the consistency of discipline and oversight.

Mr CRAWFORD: That would be one concern I have—the way in which this was implemented. It seemed to have been done very quickly. I understand that the psychologist who is now involved at Kariong is a psychologist from Corrective Services. Now formerly that would have been a psychologist from Juvenile Justice who would have been at Baxter. I mean, I do not know whether that means that the psychologist who built up a relationship with the detainees suddenly disappeared one Friday and someone else came in there and said, "I am your psychologist. Tell me about your childhood." I think that could have been a loss, and if it did happen, perhaps it could have been handled a bit better.

The Hon. CHARLIE LYNN: I have worked in one program in the bush with some kids from Father Chris Riley's camp.

Mr CRAWFORD: Yes.

The Hon. CHARLIE LYNN: They had some social workers, so to speak, on the program. These kids seemed to me, as an observer, to have been playing them off a break. One of them said to me that when Father Chris arrives, you will note a change in them because butter will not melt in "their pretty little mouths", as he put it, because with Father Chris they knew exactly where the boundaries were whereas with the others, they were pushing. That leads me back to the difference between a social welfare role and a custodial role. I think there is a role probably for both of them, but for kids who are at the end of the line—those who are unmanageable in the other centres—they would need, I would think, more of a disciplinary role for a time because, as you said before, they all need incentives and opportunities to improve.

Mr CRAWFORD: Yes.

The Hon. CHARLIE LYNN: But there has to be a discipline phase in their lives before they can see the need, the light or the want. Would you like to comment on that?

Mr CRAWFORD: Well, I think that applies right throughout the juvenile system. It is not a system set up on the basis of welfare. You know, it is not a care and protection system. It is a system for containment and detention for the purpose of rehabilitation. So there has to be that structure in which rehabilitation is going to operate; otherwise, you cannot just leave it for everyone to run it their own way because it will never happen. After all, you are dealing with juveniles. Unless you structure them—

The Hon. CHARLIE LYNN: Yes. The lines seem to have been blurred, though, judging from some of the evidence—or at least that was my interpretation of some of the evidence. At one stage they may have gone too far on the social welfare role rather than the disciplinary or custodial role.

Mr CRAWFORD: I do not know that I can comment directly on that. I had an impression that the Juvenile Justice management of Kariong tended not to head off problems in advance. Then when there was a big blow out there, they then had to sort of step in and try to manage it by putting in a more disciplined and structured system that might have avoided the problems if that had been there in the first place. When you are dealing with kids of this age who are always pushing the boundaries, always trying to manipulate, always trying to get one little benefit more than they are entitled to, to the

detriment usually of the staff and sometimes to other detainees, it is not always easy to deal with them on a 24-hour basis. I mean, the family problem that they have got today about which they are imploring you to give them an extra phone call to ring home becomes the privilege that they expect next week. As I say, the indulgence becomes the privilege that is expected. Sometimes you give a little and you give a little, and then you find that you have given to much and you have to pull it back again.

The Hon. CHARLIE LYNN: I suppose it would be very hard to be tough in a situation like that, dealing with those sorts of kids.

Mr CRAWFORD: I think you have different forces within the detention centre, too. You have the welfare-oriented people and then you have the more custodial disciplinarians, not feely-thinky type of people, who say that everything is black and white.

The Hon. CHARLIE LYNN: It is a constant search for a balance between the two.

Mr CRAWFORD: Yes. I think that is a continuing challenge for everyone who is dealing with juveniles, whether they are in detention centres or schools, or wherever. That is probably the only way I can answer your question, I think.

The Hon. CHARLIE LYNN: You mentioned the impact of drugs before.

Mr CRAWFORD: Yes.

The Hon. CHARLIE LYNN: Can you give us an indication of the percentage of juveniles in the system who are there because of drug-related stuff and those that are non-drug related?

Mr CRAWFORD: They do not often go out of their way to tell you, but it will turn up in Juvenile Justice reports quite often that they are using cannabis. In fact sometimes it will be presumed almost as a mark of pride that they are down to using cannabis only once or twice a day. There was some program of assessing an intervention for cannabis use in the Children's Court, and we found almost no-one entered into the program to get assessed because, by the time they got to the court, or at least by the time they had spoken to their solicitors, they had all given up the use of cannabis and had been rehabilitated and were not going to use it again.

The Hon. Dr PETER WONG: For the time being.

Mr CRAWFORD: But the program did not quite get off the ground, as far as we saw it. It would be a high number.

The Hon. CHARLIE LYNN: So almost in the system where you have got kids affected by that, there would almost be two separate needs of demands in handling them, between the non-drug users and the drug users I would think. My experience has been in a couple of programs I have been involved with that the kids with drugs have absolutely no self-respect and if they have no self-respect they certainly cannot respect any system or any other person until they get that self-respect, which means they would need handling at a much lower level than, say, a kid that has not been impacted by that.

Mr CRAWFORD: The opiate type offenders usually end up in the youth drug court unless they have got really serious offences. So we are really dealing with the cannabis users. I would say probably 30, 40 per cent would admit to using cannabis pretty regularly, and on some occasions fairly high amounts. With kids it is not always reliable in relation to what they tell people because they do tend sometimes to brag and sometimes they will come along and say they have got that drug problem because they think the youth drug court is an easier way out, and then they find out it is not and they come back and their drug problem was not quite as bad as they were trying to tell you it was.

Of course, once they are in the detention centre they should not have access to drugs, and that will be another concern I would have because obviously drugs have been far more prevalent within the adult system than it has been within the juvenile system. I would not like to see that emerging as a greater problem than it has been in the past.

The Hon. CHARLIE LYNN: But there would be greater opportunity for that to happen, you would think, in an adult system in corrective services as opposed to juvenile justice?

Mr CRAWFORD: You would think so. The 14-year-olds probably do not have girlfriends who are trying to smuggle drugs into the gaol for them. The other thing is that the younger group I think are perhaps more likely to ingratiate themselves with the staff by having a quiet word in someone's ear and actually do someone in, whereas it might be more of a closed shop amongst adults who would not perhaps be as willing to do that.

CHAIR: The children's court magistrates had Kariong as one of their options, even though it was perhaps one of the last options that they would use, and then it changed and came under the Department of Corrective Services. Do you know if the magistrates were consulted at that time about the change?

Mr CRAWFORD: I do not believe so. I have not spoken to Mr Mitchell about it and the first I became aware of it was when I was sent a copy of the bill.

CHAIR: Did it concern you about the speed of the change?

Mr CRAWFORD: It depends upon the reasons because I do not know what the reason for the speed was. I might have more concern about the disruption with a change of staff than actually whether the magistrates were or were not consulted; I mean what appears to be everyone out one day, another lot in the next day, I am not sure how that was handled within the detention centre and whether that contributed to the stability or not.

The Hon. Dr PETER WONG: A lot of speakers spoke about parental influence and that would determine the outcome of somebody who went into a detention centre. Is that part of the reason why a role model out of corrective services or juvenile justice has not been successful? If it is, do you see a mentorship of some kind as part of the answer to the problem?

Mr CRAWFORD: I think most of the people who are in Kariong are probably beyond something like a mentor program. If it would work I cannot see a reason not to try it. I did get a copy of the corrective services submission to the Committee. I was concerned just on that rehabilitation aspect that they identified their programs as educational, I think in gardening and those types of programs. I did ascertain that they do have a psychologist and they do have a welfare officer and they do have a D and A program, and they are in the process of trying to set up a violent offenders type program. So I think that those programs within the detention centre are more appropriate than people coming in from outside. Perhaps a mentoring type program might be more useful at a parole level rather than trying to deal with people within the detention centre.

The Hon. AMANDA FAZIO: You had some concerns about the impact on detainees of the changeover. I was advised that the juvenile justice psychologist stayed on at Kariong for about six weeks after corrective services took over and that that psychologist and the corrective services psychologist did a case review of all the inmates. Do you think that that was a satisfactory way to try and ensure that there was minimum disruption to the programs they were getting?

Mr CRAWFORD: I cannot say whether it was satisfactory. It was obviously better than not doing it at all. But perhaps the psychologist who was actually dealing with the juveniles might be in a better position to tell you whether that psychologist thought it was a satisfactory way of terminating the relationship.

CHAIR: This is a very complex issue for legislation. Some of these problems are not always best handled by legislation. We thank you for what you are doing and thank you for your guidance to us.

(The witness withdrew)

(The Committee adjourned at 3.50 p.m.)

CORRECTED