

CORRECTED

REPORT OF PROCEEDINGS BEFORE

SELECT COMMITTEE ON JUVENILE OFFENDERS

At Sydney on Monday 14 March 2005

The Committee met at 10.00 a.m.

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

CHAIR: I declare open the second day of the inquiry into juvenile offenders. Previously I have given details of warnings to the media and witness, which I need not repeat as they are displayed on the door of this room. The Minister need not be sworn as he is to give evidence under the normal parliamentary oath.

DONALD PATRICK RODGERS, Acting Senior Assistant Commissioner, Department of Corrective Services, 24 Campbell Street, Sydney, sworn and examined:

CHAIR: Minister, do you wish to make a brief opening statement?

The Hon. JOHN HATZISTERGOS: No.

The Hon. CATHERINE CUSACK: Minister, I understand that the transfer of Kariong from Juvenile Justice to Corrective Services was a whole-of-government response to the issues at Kariong. Is that a fair description?

The Hon. JOHN HATZISTERGOS: Everything that involves legislation is a whole-of-government response.

The Hon. CATHERINE CUSACK: Why was it necessary to transfer Kariong from Juvenile Justice to Corrective Services?

The Hon. JOHN HATZISTERGOS: The reasons for that were fully stated in the Minister's second reading speech and they emanate from the matters that were dealt with in the Dalton report.

The Hon. CATHERINE CUSACK: I understood that the legislation was part of that response; though the legislation was specifically to give you legislative authority over management of the centre. I guess what I am getting at is, what were the root causes of the need for the legislation?

The Hon. JOHN HATZISTERGOS: Those matters were discussed in the second reading speech. I am happy to detail them for you, but they are in the second reading speech. Again, they are reflected in the report of Mr Dalton, which I presume you have read. It details a fair bit of objective investigation into the root causes of the circumstances that led him to ultimately make, amongst others, a recommendation that the Department of Corrective Services take over the running of Kariong. You are familiar with that report. I am not anxious to waste time by taking you through details that are already a matter of public record.

The Hon. CATHERINE CUSACK: Mr Rodgers, how many work parties were in operation at Kariong before Corrective Services arrived?

Mr RODGERS: The information we received was that we were to take over Kariong, from memory we were told on 3 November. Myself and Peter Maa, who was designated to be the officer in charge, started selecting staff and we had them at the academy two days prior to the takeover for a workshop to familiarise them with the transitional way we would operate the centre until our legislation was confirmed.

The Hon. CATHERINE CUSACK: Did you identify the main legislative management differences between Juvenile Justice and Corrective Services?

Mr RODGERS: That was done by our ministerial liaison unit.

The Hon. CATHERINE CUSACK: They were addressing what?

Mr RODGERS: The memorandum of understanding.

The Hon. CATHERINE CUSACK: Was some training undertaken on those matters?

Mr RODGERS: Yes, by the Juvenile Justice training officer who attended our training as did their senior manager, Mr Steve Wilson.

The Hon. CATHERINE CUSACK: Mr Rodgers, in the submission by Corrective Services there is a list of the changes that were made to the centre. That seems to be the preamble resulting from the management changeover. The legislation was proclaimed on 20 December. What additional changes have occurred at the centre since that proclamation?

Mr RODGERS: The centre has now been designated as the Kariong Juvenile Correctional Centre. The centre is run under our Department of Corrective Services regime and legislation.

The Hon. CATHERINE CUSACK: In an operational sense, what impact has that had on operations?

Mr RODGERS: From 10 November until now there has been very little impact on the way we have dealt with trainees or handled our day-to-day operations. The MOU was all-encompassing and allowed us to do our job in conjunction with juvenile justice legislation until ours became enacted and we were able to operate. The shift was fairly seamless.

The Hon. JOHN HATZISTERGOS: I can tell you some of the changes that you may be interested in, Ms Cusack. You would be aware that the three significant issues that were addressed in the legislation were: the discipline system of Corrective Services, which is now in place; the capacity to be able to transfer offenders from the juvenile correctional centre into the adult system, and that is in place; and the capacity of Corrective Services officers to use their powers as they would in an adult system, and that is in place.

CHAIR: Minister, you made the point that members of the Committee have read the Dalton report. However, mention has now been made of the memorandum of understanding. The Committee does not have a copy of that; could you provide it?

The Hon. JOHN HATZISTERGOS: I do not have it with me, but I have no problem with you seeing it. It has been, in effect, overrun by the legislation; so in an operational sense it does not have much significance, if any.

The Hon. CATHERINE CUSACK: Have there been any changes to the discipline procedures at the centre since proclamation of the legislation?

The Hon. JOHN HATZISTERGOS: The disciplinary regime of Corrective Services now operates.

The Hon. CATHERINE CUSACK: But it was operating prior to 20 December.

The Hon. JOHN HATZISTERGOS: No. I do not know whether you are familiar with the differences, which are fairly dramatic in Corrective Services. The question you should have asked is: have we applied those extensive powers that we have under the discipline system in Corrective Services.

The Hon. CATHERINE CUSACK: I am asking what changes have been made to the operational system.

The Hon. JOHN HATZISTERGOS: I can give details—which are contained in the legislation—of our capacity to discipline an offender for misconduct.

The Hon. CATHERINE CUSACK: They are applied to the operations of the centre, surely?

The Hon. JOHN HATZISTERGOS: They are applied to the operation of every centre.

The Hon. CATHERINE CUSACK: I am asking in relation to Kariong.

The Hon. JOHN HATZISTERGOS: There are no differences now. We now have a centre that is part of the Department of Corrective Services. We do not have some little sanctuary that is stuck on the Central Coast and operating in a vacuum. It is part of the Department of Corrective Services. That means that we have a discipline system that applies to them in the same way that it applies to anyone else in the correctional system.

The Hon. CATHERINE CUSACK: Minister, I understand that after the signing of the memorandum of understanding the Department of Corrective Services took control of the centre and immediately introduced a system of discipline and rewards at the centre.

The Hon. JOHN HATZISTERGOS: It took over the management of the centre, but the discipline was run under juvenile justice legislation.

The Hon. CATHERINE CUSACK: That is right. I am trying to establish what changes were made to the discipline practices at the centre after proclamation of the legislation on 20 December.

The Hon. JOHN HATZISTERGOS: I do not exactly know what you mean by "discipline practices". There is a system of discipline that operates in juvenile justice that is different from the system of discipline that operates in Corrective Services. I am more than happy to provide you with details of the system of discipline in Corrective Services. That is what applies when the legislation operates. The issue of whether we have had to use any of the sanctions in that discipline regime is the question you should be asking. If you want to ask me that question I am quite happy to tell you that, yes, we have applied some of those sanctions.

The Hon. CATHERINE CUSACK: I am not up to asking you that question, Minister. I will proceed with questioning you in the order in which I intended.

The Hon. JOHN HATZISTERGOS: Ms Cusack, you do not understand that a different regime operates in Corrective Services from the one that operates in juvenile justice. For example, at a very basic level, we have a system of buy-ups that operates in Corrective Services. One of the disciplinary sanctions that the Governor has is the power to remove an offender from accessing the buy-up system, and that has been done. That would not have happened under Juvenile Justice, because it did not have that same system. I hope that explains what I am trying to get across to you. We have a system of discipline that operates across the entire correctional system and it operates at Kariong in the same way that it operates for everyone else. If a person breaches discipline there are consequences.

The Hon. CATHERINE CUSACK: Minister, I understand you have established disciplinary powers under the legislation, I want—

The Hon. JOHN HATZISTERGOS: No. It is just powers, it is a regime, a regime that includes sanctions.

The Hon. CATHERINE CUSACK: Mr Rodgers, when you took over management of the Kariong centre did you institute clear penalties for abusive, indecent and threatening language to staff and to other detainees?

Mr RODGERS: We worked under a memorandum of understanding until 20 December. As the Minister said, we then worked under our legislation.

The Hon. CATHERINE CUSACK: Were penalties instituted for abusive, indecent and threatening language at the centre?

The Hon. JOHN HATZISTERGOS: We have not had any!

The Hon. CATHERINE CUSACK: I beg your pardon?

The Hon. JOHN HATZISTERGOS: We have not had any since we have been at Kariong.

The Hon. CATHERINE CUSACK: My understanding is that detainees have been advised that if they swear at a staff member there is a certain penalty and if they swear a second time there is an increased penalty and for a third time there is an increased penalty. Are you saying that there is no penalty for that?

Mr RODGERS: No, I am saying that I do not know about inmates being advised that if they swear at an officer or abuse an officer on a first occasion or a second occasion they will be punished. I am not aware that.

The Hon. CATHERINE CUSACK: Would you take that question on notice?

The Hon. JOHN HATZISTERGOS: No. You see the question is inexact and that is what makes it difficult. You say that we do not have penalties. We do have penalties, and they are set out in the legislation, and that is the Crimes (Administration of Sentences) Act and the regulations under that Act. That sets out the penalties. The issue is whether we have had to use any of those penalties in the legislation for the conduct you have described. The answer in relation to threatening and abusive behaviour or insulting staff is that we have not had to use it. But for other kinds of misconduct, yes, we have.

The Hon. CATHERINE CUSACK: I ask that you seek further advice on that, thank you.

The Hon. JOHN HATZISTERGOS: Perhaps you might clarify on notice the exact information you are seeking, and we will be happy to respond.

The Hon. Dr PETER WONG: There have been concerns that there was not enough consultation with Kariong before the transfer of Kariong from Juvenile Justice to the Department of Corrective Services. Can you comment on that?

The Hon. JOHN HATZISTERGOS: I have read some of the discussions you have had. That is really a matter for Juvenile Justice. Minister Beamer piloted the legislation and dealt with the recommendations of the Dalton report.

The Hon. Dr PETER WONG: Can you also comment on concerns expressed about possible breaches of United Nations human rights for young people under the management of Corrective Services. Do you share the concerns?

The Hon. JOHN HATZISTERGOS: No. I should indicate to you that article 37(c) of the United Nations Convention on the Rights of the Child, which is the main one that people seem to be throwing around in this inquiry, is one that the Federal Government has maintained a reservation in relation to and has not adopted. The second thing is, the standards that Australian juvenile jurisdictions have adopted are the Australasian juvenile justice administrators standards. They are effectively guidelines for the management of offenders, and overwhelmingly we comply with those. There are some areas that we will not, I make that quite clear. One of the standards says we have to give preference to what juveniles want to eat. We will not do that. We will always put the needs of good nutrition ahead of what people demand. We do not resile from that.

CHAIR: There may be dietary considerations and medical reasons?

The Hon. JOHN HATZISTERGOS: There are issues where it may be appropriate, but we are not going to have hot dogs. If you ask a lot of these people what they would like to eat they would probably like hot dogs or pizzas, which I understand they used to have. We put the needs of good nutrition ahead of those sorts of matters.

The Hon. Dr PETER WONG: The care of the juvenile inmates indefinitely would be difficult and different from adult inmates. What differences do you see and how do you intend to manage this new area that the department has not been involved in in-depth in the past?

The Hon. JOHN HATZISTERGOS: We have a lot of experience with young offenders in the corrective services system. We have more people in the age group of juvenile justice—16 to 21—than does Juvenile Justice. A lot of those are in juvenile offender programs that we operate at John

Moroney, at Oberon and at Brewarrina, particularly in relation to indigenous young offenders. So, we have a lot of experience. We also have a lot of experience in dealing with serious offenders, which a lot of people who are at Kariong clearly. Indeed, we have much more experience in dealing with issues relating to serious offenders than the juvenile justice system, simply because of the large number of serious offenders in the adult system.

We have a program, which I think has been outlined to you, that involves stages. Each one of those stages involved privileges. There is a 14-day assessment period when offender comes in and they are effectively on stage one, inducted into the system and progressively they go up to stage two and stage three, and each of those stages tries to reinforce in the detainees the concept that their conduct has consequences. They earn privileges but, just as they earn them, they can lose them. The system is working quite well. The detainees are responding to that. We can give you the numbers we have regressed if you want those figures. We can provide them to you, but overwhelmingly it has been a system of progression.

The other thing you can look at is the number of confinements that have occurred before misconduct. That has radically reduced compared to what it was when we came in, and we can give you that detail if you need it. The other thing is the number of people who have been transferred from Kariong into the adult system and vice versa. I am pleased to say that since the Department of Corrective Services has been at Kariong four offenders have gone back to Juvenile Justice. In other words, they had behavioural problems. They were able to be addressed and they returned to the juvenile system. Only three offenders have gone into the adult system. Two of them requested that they go into the adult system and only one was for misconduct of a nature that we believed was best addressed in the adult system.

Each offender participates in a structured day. The school is now full at 18 and we are seeking additional places for that school. That is pretty remarkable, and the outcomes, from what I am advised, of participants at the school are also very encouraging. We have work at the centre, which is very important, keeping them occupied. A number of different positions have been established and we will be progressing that aspect of the operations at Kariong to include traineeships for those who wish to participate in those. The detainees will either go to work or to school and in addition to that they will have to attend various programs to address their underlying offending behaviour. I hope that answers your question.

The Hon. Dr PETER WONG: There have also been allegations that there could be relative loss of availability of legal services or visiting hours or visits by relatives. Can you comment on that?

The Hon. JOHN HATZISTERGOS: That is just not true. We have extended the visiting hours since we have been there. We have four sessions on weekends. We have never knocked back legal practitioners. We are prepared to consider visits out of hours if that is, strictly speaking, necessary. One of the things that disappoints me most about this aspect, and I had it relayed to me as recently as this morning, is that we have people who are booked for visits, in some cases parents, who do not turn up. The young offenders get quite excited about the prospect of these people turning up. Because we are trying to manage the visits in a way that gives everyone an opportunity to maximise visits through bookings, we want to encourage those to take place. They book visits and the detainees get quite excited and look forward to visits, and for no reason someone does not turn up.

I am not sure how we are going to deal with that but I will look at it because I think it is grossly irresponsible on the part of people to make appointments, and potentially deprive other young offenders of the capacity to have an additional visit if that was required, and not turn up. Those sorts of concerns should be addressed to that aspect, more than to us restricting visits. Visits are extremely important. We do not use them as a sanction under any circumstances except that we do use them as a privilege. We allow additional visits as they go up the stages, and we do allow additional phone calls as they go up the stages of progression.

CHAIR: You said before you would give us information if we wished about issues of confinements. What is the maximum length of time inmates in Kariong may be confined alone in safe cells?

The Hon. JOHN HATZISTERGOS: Operationally or legally?

CHAIR: Operationally.

The Hon. JOHN HATZISTERGOS: Twenty-four hours in a safe cell.

CHAIR: Now legally?

The Hon. JOHN HATZISTERGOS: The legal situation under the Act is 24 hours.

CHAIR: Do you consider that the 24 hours breaches rule 67 of the United Nations standards on juvenile custodial sentences facilities, which you mentioned previously?

The Hon. JOHN HATZISTERGOS: We have only had to use it once, and I do not think it does.

CHAIR: Are cancellation of visits or limitations on phone contacts used as behaviour management tools?

The Hon. JOHN HATZISTERGOS: No.

CHAIR: I noted you said you use it as a privilege?

The Hon. JOHN HATZISTERGOS: No. There is a basic amount that everyone gets. I do not have the details at this stage but I can provide that to you, if you want. As they go up the stages we allow them additional phone calls—I think it is six phone calls a week that are provided. If they get to stage three they can request additional phone calls above the six.

CHAIR: We heard at the previous meeting about the total number of daily lockdown hours at Karióng. How does that compare now with the hours before the transfer?

The Hon. JOHN HATZISTERGOS: I cannot detail anything about what was happening before we came to Karióng. The structure that we operate means that cabin doors are opened at 8.00 o'clock. They get locked in at lunch, except if they are at stage three, and they are let out again, and then lockdown is at 4.00 o'clock in the afternoon. I understand in Juvenile Justice they have a later lock in, about 7 00 p.m. Someone said it was 8.30 but it is 7.00 p.m. So, the lock down in Juvenile Justice is at a later hour. Are you referring to lockdowns due to searches?

CHAIR: No, I am not going on to searches at this stage.

The Hon. JOHN HATZISTERGOS: That is the normal routine. You get locked in at 4.00 o'clock. The cabin doors are opened at 8.00 and you get locked in for lunch unless you are in stage three.

CHAIR: Does that vary in any way from other correctional centres for adults?

The Hon. JOHN HATZISTERGOS: It is certainly consistent in maximum security, which is what this centre is.

CHAIR: Mr Rodgers, how many hours do inmates have access to sporting fields or the gymnasium?

Mr RODGERS: Inmates are allowed access to the sporting areas everyday when they are let out.

CHAIR: For how long?

Mr RODGERS: For one hour, when they are let out after lunch. They go back to school at 2.00 p.m. So, they have access to the oval and the auditorium and the tennis courts in a structured way, they do not just go where they wish to go. It is a very structured. On Friday afternoons, the entire afternoon, like a normal school, is sports afternoon. Inmates have access to the oval that whole

afternoon. Over the weekends, Saturdays, Sundays and public holidays, it is very important that structured sport takes place as it does. On Saturdays and Sundays there are structured activities across the three areas that we use.

CHAIR: What sort of hours are involved with those?

Mr RODGERS: The same hours out of cabins, as the Minister said, 8.00 a.m. to 4.00 p.m., but instead of the school and programmed activity, it is replaced with structured sporting activity.

CHAIR: That would involve organised sports, such as basketball, soccer—

Mr RODGERS: Touch football and tennis.

The Hon. JOHN HATZISTERGOS: If I can make this announcement now, seeing I approved it only this morning. On a trial basis—and I emphasise on a trial basis only—stage three inmates will be allowed to stay up till 7.30 before lockdown. We will trial that for three months and see how it goes with behaviour, We have had some consultations about it and we will have the capacity to be able to do that on a trial basis.

CHAIR: Later we will be hearing evidence from another person concerning issues of transfer of offenders into the adults system and the issue of informed consent. Do you want to make a comment on that?

The Hon. JOHN HATZISTERGOS: I do not understand?

CHAIR: There are standards that say that the inmate must know what is happening if they transfer into the adult system.

The Hon. JOHN HATZISTERGOS: What is there to know? I am happy to take that on notice. I do not understand. Only three inmates have gone there. Two inmates requested that they go there.

CHAIR: The question is, is there informed consent by those people? Do they understand what will happen to them if they move into the adult system?

The Hon. JOHN HATZISTERGOS: They understand. I thought the question was going to whether they had a choice.

CHAIR: No. The question here is do they understand and do they have the capacity to understand?

The Hon. JOHN HATZISTERGOS: The regime is structured under the legislation to have a difference between those people aged 16 to 18 and those who are 18 and above. As you would be aware, 18 and above can go into the adult system anyhow: they get a choice. They get an induction program and they are advised. Aged 16 to 18 is in a different circumstance. That requires a recommendation to me by the Serious Offenders Review Council in which the offender has rights of participation in a hearing of the Serious Offenders Review Council and can be legally represented. So there is a fairly full inquiry that takes place before a person between 16-18 can actually go into the adult system, and so far we have not had to move anyone in that category, and hopefully that will continue.

Aged 18 and above requires a recommendation to me by the Commissioner for Corrective Services. As I say, I think they are the people you are talking about in terms of informed consent. They are people who have a right to request it, as two have. In one case an individual was moved because it was a better option in terms of dealing with the issues of that individual, and also for the safety and security of other detainees.

The Hon. AMANDA FAZIO: As you are aware, the Committee undertook a site visit to Kariong. One of the issues raised by detainees was about the amount of food they got. I have a 14-year-old son so I know how much food young boys can eat in a day. After the evening meal and

before breakfast, even though the detainees are given extra slices of bread and they have toasters, they complained that during that time they were hungry. Do you have any comments in relation to that matter? What options are available to the inmates?

The Hon. JOHN HATZISTERGOS: There is a buy-up system. If they are at school or working or want to work they will be given a credit of money which will allow them to access the buy-up system.

CHAIR: That is operating now?

The Hon. JOHN HATZISTERGOS: Yes. The buy-up system will be expanded. They get a weekly supply of buy-ups but, of course, as I indicated in answer to an earlier question, that is a withdrawable privilege—and we have not had to withdraw it too many times. As the system will be expanded the buy-up system will include toiletries. At the moment toiletries are given to the inmates—that was the regime that operated under Juvenile Justice but that does not operate under Corrective Services. They will have to purchase them out of their earnings. This will encourage budgeting and responsibility and will enable them, if they wish, to be able to purchase additional items above those that are currently supplied to them because the range will be increased and eventually it will be managed entirely by Corrective Services industries. As you correctly indicated, every inmate at lock-in gets half a loaf of bread. They have condiments which they can use. They have access to a sandwich maker and, as I said, they have got their buy-ups.

The Hon. ERIC ROOZENDAAL: Would you outline the physical changes that the department has carried out at Kariong since it has taken over?

The Hon. JOHN HATZISTERGOS: Since we have taken over? We have pulled out the swimming pool—we did not pull it out. We have filled it in and we have got grass growing over it and the inmates are attending to the maintenance of that and the rest of the grounds concerned. That is one of the jobs that we have there. The barbecue has been taken out. There will be an extensive range of works worth \$4 million that will be undertaken, which I have announced, to improve the security of the centre to upgrade the visits area and the gatehouse, amongst others. It is not, as I have indicated before, the best designed centre, in fact, far from it. I do not know why anyone would build a centre on the side of a hill with a perimeter which is like a dog shape so that you have cameras just about everywhere to try to keep track of the outer perimeter of the facility.

A substantial investment of public money has gone into that particular facility and the choices that we had as a Government were to close that down and waste all that money or try to make some use out of it, as bad as it is. The best option is to try to make it work better within the limitations of what we have, and that is what we are doing. It did not have a school in it, by the way, when it was first constructed.

The Hon. ERIC ROOZENDAAL: Which Minister was that under when it was built, just to refresh my memory?

The Hon. JOHN HATZISTERGOS: That is a matter of public record. I will not be too provocative.

The Hon. ERIC ROOZENDAAL: That is my job. How has the life of inmates changed? Would you outline the different levels. What do you do with inmates who are under risk or immature?

The Hon. JOHN HATZISTERGOS: Everyone is case managed at the centre. There is a weekly meeting case management team that assesses them in terms of the various stages and the issues so there is a fair amount of work that goes into that. I think by and large—and this was probably reflected in the visit by the Committee at the centre—inmates are generally happy. I am not suggesting that they are necessarily comfortable or doing what they want to do but they certainly appreciate the fact that there is some consistency and fairness and that they are responsible for their own conduct. I think that the most important change that we have made there, and this may seem very basic, is to ensure that they are fully occupied.

I took the view, when it was first put to me about taking this over, that it was ludicrous that you could have young people simply going to school or sitting around doing nothing. It was for that reason that I made it fairly clear that if we were going to take over it had to be operated on a Correctional model and that meant that they had to either work or go to school. We are going to have incentives put in such a way that it encourages them to do one or the other. The response we had particularly to the work positions for those inmates who did not want to go to school or had completed their schooling, bearing in mind that school finishes at around aged 18, was very positive. I spoke to a number of the detainees when I first went out to the site. They were approaching the Governor and there was quite a bit of competitiveness for some of the positions that were made available and quite a lot of interest and enthusiasm towards working.

The Hon. AMANDA FAZIO: At the Committee's last hearing it heard evidence in relation to a submission it had received that the people concerned thought that Department of Corrective Services staff would have been too brutal to care for young inmates. My understanding is that there was a fairly careful selection process to get people from other institutions to work at Kariong to make sure that it had the appropriate mix of skills and the best staff possible to manage that group of inmates. Would you outline the selection process?

The Hon. JOHN HATZISTERGOS: I am glad that you have mentioned that question because I think one of the undoubted reasons for the takeover of Kariong being as productive as it has been has been due to the professionalism of the staff that have been employed there. We had a lot of expressions of interest from staff who wanted to go there. The team that is there is extremely committed, hardworking and coherent. They were carefully selected. Mr Rodgers could give you more details about that, from a number of perspectives, but bear in mind that we are now at a stage where we are advertising for staff to make those placements more permanent. Initially we had to move in on a fairly quick basis and, although we did very well in the selection of those who we did, we have to now go through a more vigorous process of selection in accordance with the appropriate public service requirements, and that will be undertaken.

The incidences of sick leave, for example, at the centre have been negligible. I think we have only had one day of sick leave since we have been there, and virtually no workers compensation claims and no overtime: It is quite remarkable. In terms of some of the other issues that you have identified, the staff are extremely professional. We have the only dedicated Corrective Services Academy in the whole of the country. We train not only officers for Corrective Services but also officers from interstate and overseas who come to Brush Farm to be trained. We will, as part of the changes that the Government has announced, also be providing modules for training Juvenile Justice staff on a broader basis, that is, staff in Juvenile Justice beyond Corrective Services. Those modules will be developed and rolled out. All of the staff went through appropriate screening with the requirements under the child protection legislation and were trained as the Acting Assistant Commissioner detailed. I reiterate that dealing with young offenders is not something that is foreign to the Department Of Corrective Services. We do have a very extensive Young Offenders Program and later on this year I will be announcing a young offenders action plan of which Kariong will be a part.

The Hon. AMANDA FAZIO: I do not know whether the Committee has paid enough attention yet to one of its terms of reference in relation to recidivism rates for young offenders in juvenile correctional facilities—we only have the one at Kariong. I know that you have put a lot of effort into keeping the inmates busy and emphasizing education and TAFE training. What is the potential to do more to ensure that the recidivism rates are lower with Kariong as a juvenile correctional facility rather than a juvenile justice centre?

The Hon. JOHN HATZISTERGOS: This is a difficult issue to address. I think you have got to look at recidivism rates with an element of caution—and I have always emphasised that—because they do not reflect necessarily the work you do in an atmosphere like Corrective Services. Remember we have no choice about who is sent to our system: The courts determine who is sent to the system. The second thing is, we do not determine how long they stay in the system, and that is particularly important. Thirdly, recidivism is also a factor of other factors such as policing. If you have more effective policing you have more chances of being able to grab people. Recidivism varies enormously dependant upon the crimes people commit, and the studies have shown that.

For example, if a person has come into custody for some property related crime they may get a relatively short sentence which appropriately reflects the nature of the crime that that person has committed. But beneath that crime—stealing, robbery or whatever it is—is underlying health issues such as drug and alcohol matters of that nature that need attention. Depending on the length of the sentence the department may have an opportunity to be able to address that in a way that limits the capacity of that individual to reoffend or not. On the other hand you can get murderers, and generally the recidivism rates amongst murderers is very low. They have generally murdered who they wanted to murder and do not have a particular passion for doing it again. It does not always apply, but that is what they do. So recidivism is a variant.

Even within reoffending you have to be very cautious. Sometimes we get people who have been in custody for lengthy periods of time reoffending for serious crimes, crimes involving violence, but they come back to the system for reoffending. But when you look at the reoffending it might be a driving offence and that may not be a product of the fact that they have some underlying predisposition towards crime but simply because of the fact that they have not been driving for the lengthy time they have been in custody. There are elements of caution that must always be exercised with recidivism figures per se. Having said that it is not designed to abrogate responsibility for addressing underlying causes and issues where we can.

The good thing about many of the young offenders we have is that some of them have very strong supportive family networks, and that can be very productive in them not reoffending when they come out. But that is not always the case so there is much a variant. As I say, you have to look at each individual to see what impact you can make upon their chances and opportunity for reoffending. There are a lot of things other than what we do that impact upon that.

The Hon. AMANDA FAZIO: When inmates are released from Kariiong, will they go back under probation and parole, or will they go back under the Juvenile Justice jurisdiction, if they are under 18, for post-release monitoring or whatever?

The Hon. JOHN HATZISTERGOS: We have not taken over the probation and parole functions of Juvenile Justice for that category of person, but many of the offenders who are in Kariiong, even for lengthy periods of time, will go into the adult system and they will be supervised by probation and parole.

The Hon. ERIC ROOZENDAAL: Have there been many changes to the inmates' cells? The second question which is ancillary to that is: What other circumstances in which you use the cells that have two bunks in them?

The Hon. JOHN HATZISTERGOS: They have had some changes. The electricity has been upgraded in all of the cells and that was done deliberately because they needed to be able to support the regime of additional facilities we provide as part of our rewards and sanctions scheme—a toaster, for example, the TV set, the jug and the fan. Those are the things for which we needed to upgrade the electricity system—to be able to support the necessary level of power into the cells. The Acting Senior Assistant Commissioner will explain the two-bunks system to you. Some of them actually want to study and they want single cells so that they can study at night, and we would obviously give preference to those who want to do that. They do not want to have TV on at night. They want to go into their cabins and study for school. We support that and we will give them a single cell. I think we have been able to accommodate just about everyone's preferences.

Mr RODGERS: Yes, we have. The two-bed cells are mainly sought after by an inmate who might come in there and need a bit of support for a few days and so would be put with another inmate as peer support; or two inmates might be studying the same subjects at school, and they can study in the cell after hours, during lockdown periods. No inmates are put in those cells as any form of punishment. We simply in no way place inmates in disciplinary supervisory capacities, not at all. So it is usually selected inmates who wish to go into those cells, either because they have like needs or one needs support during early incarceration at Kariiong.

The Hon. CATHERINE CUSACK: What is the operating budget for the Kariiong Juvenile Correction Centre?

The Hon. JOHN HATZISTERGOS: I can give you those details on notice. I have got them. I can give them to you.

The Hon. CATHERINE CUSACK: Perhaps you might like to keep the same reference and we will get the breakdown on capital works expenditure that has been undertaken and is proposed.

The Hon. JOHN HATZISTERGOS: I have actually announced that.

The Hon. CATHERINE CUSACK: I understand that there may have been some modifications to that, some adjustments to that.

The Hon. JOHN HATZISTERGOS: Right. I will take that on notice. I have got that, but I have to rummage through my notes.

The Hon. CATHERINE CUSACK: Can I ask how many offenders are aged under 21 in the prisons system, excluding Kariong?

The Hon. JOHN HATZISTERGOS: Yes. I have up-to-date information. I will come back to it, but I have got it here.

The Hon. CATHERINE CUSACK: Do you think there is inequity in that you can have an 18-year-old in the prisons system for violent offences whereas a person aged 20 on serious indictable offences is being accommodated in Kariong?

The Hon. JOHN HATZISTERGOS: No. Not necessarily, no. They are part of the same system, correctional system.

The Hon. CATHERINE CUSACK: As I understand it, Kariong has not had any admissions from the corrective services system even though there is that capacity to do that. Is that correct?

The Hon. JOHN HATZISTERGOS: What do you mean—transferring?

The Hon. CATHERINE CUSACK: That the admissions to Kariong have come from the juvenile system.

The Hon. JOHN HATZISTERGOS: Or they have gone straight to Kariong.

The Hon. CATHERINE CUSACK: Well, technically they are admitted to the juvenile system and admitted to Kariong.

The Hon. JOHN HATZISTERGOS: No, not technically. They are classified and they go into Kariong.

The Hon. CATHERINE CUSACK: How does that happened, Minister?

The Hon. JOHN HATZISTERGOS: Well, if a person is charged with a serious offence, they go to Kariong. They do not go to a juvenile system.

The Hon. CATHERINE CUSACK: So they are not being admitted to the juvenile system first and then transferred to Kariong?

The Hon. JOHN HATZISTERGOS: No. They might go via a centre, but they do not stay there.

The Hon. CATHERINE CUSACK: My understanding is that they are being admitted by the court, by a Juvenile Justice officer at court, and then immediately transferred to the Corrective Services system.

The Hon. JOHN HATZISTERGOS: Any serious offender, anyone who is facing a serious offence, goes straight to Kariong. Just to answer your question before, as at 30 January 2005, there

were 531 offenders under 21 years of age in full-time custody, which is 5.9 per cent of the total full-time custody inmate population.

The Hon. CATHERINE CUSACK: We have been provided with information from Kariong—hopefully you have a copy of it as well—regarding detainees held at that centre on 25 February. A copy will be given to you. I do not want to ask you about the specifics of the cases but I just wonder if you can assist me in understanding the information that has been supplied to the Committee. In particular, what is a public interest inmate? That arises from your submission, actually, that question. What is the category "public interest inmate"?

Mr RODGERS: A public interest inmate is an inmate who might have generated enormous publicity within the community due to the sensitivity or the sensationalism of their particular crime, or alleged crime.

The Hon. CATHERINE CUSACK: And that is one of the reasons why they might find themselves in Kariong?

Mr RODGERS: Yes.

The Hon. CATHERINE CUSACK: In this information that is provided to us, there is an 18-year-old person with a one-month sentence. I just wondered whether you could speculate that it is possible he is on remand for other offences? Is that what you would expect?

The Hon. JOHN HATZISTERGOS: Or there were behavioural issues that required him to be brought into the system, or he was unsentenced. I do not know. He may be unsentenced. He may be charged, but unsentenced. Generally, if a person is unsentenced and it is a serious offence, they have been charged and they are classified as maximum security. Obviously they have a lot to gain by trying to escape, so that is why we classify them as maximum security, unsentenced.

The Hon. CATHERINE CUSACK: Perhaps I could ask that differently. There are actually sentence details provided in the information. On this printout, can you identify whether or not people are on remand for additional offences?

The Hon. JOHN HATZISTERGOS: We can give you that information. I have got it and I will give it to you. Just come back to it.

The Hon. CATHERINE CUSACK: Mr Rodgers, we do not have any information about the sentences. Would you expect that means they are on remand because they are not sentenced yet and they are on remand, or they are awaiting sentence?

Mr RODGERS: Where there is no information on their sheet?

The Hon. CATHERINE CUSACK: Yes, regarding their sentence.

Mr RODGERS: If there is not a sentence determined there on that sheet, they would be on remand, yes.

The Hon. CATHERINE CUSACK: For sentence.

The Hon. JOHN HATZISTERGOS: Or they could not meet the conditions of their bail, which may be another issue. I am sorry, I can give you the details: Classified A2, there are 5; Classified A2 unsentenced, 7; Classified B is 3; Classified BU, which is unsentenced, 1; C1 is 7; E2, which equates with medium security B, is 4; and there are two currently under review. That is the latest information on hand.

The Hon. CATHERINE CUSACK: Does this identify who is an Aboriginal offender, this information?

The Hon. JOHN HATZISTERGOS: There is another document that does.

Mr RODGERS: No, this does not.

The Hon. CATHERINE CUSACK: Is it possible to get details as to the ethnic status according to the age of the offenders? You see, this information gives the age of the offenders and the length of their sentence. I am wondering if in addition to that information we can have it identified as to whether they are Aboriginal or not?

Mr RODGERS: But only Aboriginal and non-Aboriginal, or other nationalities as well?

The Hon. CATHERINE CUSACK: There is information about religion, I am particularly interested in ethnic background.

The Hon. JOHN HATZISTERGOS: We will take that on notice. I think we will be able to give it to you on a global basis.

The Hon. CATHERINE CUSACK: This information suggests that as at 25 February there were 15 offenders—sorry, inmates, I should say—aged 16 or 17, and there were a total of 16 inmates aged 18 to 20. The information suggests that are those offenders aged under 18, their sentences were relatively short, those who had sentences—I am the talking about under 12 months—whereas the older offenders appeared to have significantly longer sentences, up to 18 years. I wonder if you are noticing a trend for younger offenders being in there for behaviour management reasons, and that the older offenders seem to be the ones that are serving the longer sentences?

The Hon. JOHN HATZISTERGOS: I am sorry, but I do not understand what the question is going to.

The Hon. CATHERINE CUSACK: The ones who are aged under 18 who are in Kariong, are they tending to be admitted to the Kariong correctional system for —

The Hon. JOHN HATZISTERGOS: I have not done the analysis so I could not describe it. I could not detail it to you. I have to say that I know you have been running on this issue about people over 18 being in places like Kariong, but really if you exercised a little bit of thought about it, you would see that it is not as sinister as you might pretend because just about every juvenile justice system around the country has a similar arrangement. Secondly, there are benefits of having some older detainees in Kariong. The spread of ages impacts to some extent upon the success of the sentence in the sense that it can operate as a more maturing influence. I should make it clear that some of the detainees who may be in Kariong, and who may be in the adult system ultimately for a lengthy period of time, are not necessarily management problems. They are quite reconciled after a number of years to their sentences. They behave, they understand the routine, and they can act as a settling influence. I think that is our experience.

Mr RODGERS: Yes.

The Hon. JOHN HATZISTERGOS: And that is not only here but also in our Young Offenders Program. We also have a mentoring aspect in the Young Offenders Program. We have adult offenders in the Young Offenders Program who do mentor and do assist the younger offenders with their adaptation to corrective services life. So I think it is a little bit simplistic to make those sorts of arguments, as Patricia Forsythe recognised when she debated the amendments to the bill which restricted the age to 21 years when Carmel Tebbutt was the Minister. You will recall when you were the senior policy adviser to Virginia Chadwick that inmates were actually allowed to stay and to do all their time in juvenile justice, irrespective of when that expired.

The thing that has occurred since then is that the Government has changed the legislation to put a cap on it of age 21 with a capacity to go to an additional six months, if that would mean that the non-parole period would expire in that time. Now what the Government has done in legislation that your Committee is looking at is say that if a person is aged 18 and above and is not appropriately placed at Kariong—in other words, they are certainly not benefiting from having that person there, and that individual is not benefiting—they can be moved. All that we require is a recommendation from the Commissioner for Corrective Services to me. I have not knocked one back yet and I have had only one since I have taken over Kariong, and that occurred in appropriate circumstances.

The Hon. CATHERINE CUSACK: Are you saying that that is similar to every other system in Australia? Can you tell us which systems you are referring to?

The Hon. JOHN HATZISTERGOS: I will come back to you with that. I have not got any details but I did look at it at one point.

The Hon. CATHERINE CUSACK: I understand that they have a system with a training centre in Victoria.

The Hon. JOHN HATZISTERGOS: I will come back to you on that.

The Hon. CATHERINE CUSACK: But it is not the same as New South Wales.

The Hon. JOHN HATZISTERGOS: None of the systems are identical.

The Hon. CATHERINE CUSACK: No.

The Hon. JOHN HATZISTERGOS: But there is a capacity in other systems to have people over 18 years in juvenile justice.

The Hon. CATHERINE CUSACK: In relation to the George Anderson Walpole School, the information I have is that the school has 25 students enrolled, or had as at 28 February, and that four of those students were aged under 18, and 21 of those students were aged between 18 and 21. I am wondering if the school is appropriate, given that 21 students of the school are aged 18 or older; that is, 21 out of 25 students. Is the school still an appropriate model for that number of students, or are their needs perhaps getting beyond school when they are 18, 19, 20 and 21 years of age?

The Hon. JOHN HATZISTERGOS: The Department of Corrective Services does not run the school. Perhaps you can give us a bit of insight as to why you did not believe a school should be established at Kariang when you were the senior policy adviser to Virginia Chadwick when she was the Minister both for this portfolio and the education portfolio.

Clearly, at least in the time we have been there, there is an enthusiasm for education. And I do not believe that we should be depriving young people of that simply because they have had experiences in life which may have resulted in them missing out at an earlier age on being appropriately educated.

The Hon. AMANDA FAZIO: Are the literacy levels below average?

The Hon. JOHN HATZISTERGOS: Some of them are quite high.

The Hon. CATHERINE CUSACK: In terms of Corrections Health, which operates between juvenile and adult systems, has there been each change to the profiling and screening of detainees at Kariang since there has been a change in administration?

The Hon. JOHN HATZISTERGOS: You would have to ask Justice Health that.

The Hon. CATHERINE CUSACK: It is part of your portfolio, Minister.

The Hon. JOHN HATZISTERGOS: No, it is not. Justice Health is not part of my portfolio.

The Hon. CATHERINE CUSACK: In terms of contracting health services.

The Hon. JOHN HATZISTERGOS: We do not contract. They have a statutory right to manage the health of offenders. We do not have a choice about that.

The Hon. CATHERINE CUSACK: But they are under the direction of—?

The Hon. JOHN HATZISTERGOS: No, they are not under my direction.

The Hon. CATHERINE CUSACK: In the detention centre?

The Hon. JOHN HATZISTERGOS: They are not under my direction; they are under the direction of the Minister for Health. They are an agency of the Minister for Health. It would be totally inappropriate for a corrective services institution to be dictating what health issues of offenders they are going to address on some ad hoc basis. It is dealt with by the health Minister.

The Hon. CATHERINE CUSACK: You are saying that those services are not contracted by Corrective Services?

The Hon. JOHN HATZISTERGOS: We certainly do not contract them; we do not pay them money for it. They are budgeted by, and they are responsible to, the Minister for Health.

The Hon. CATHERINE CUSACK: In the juvenile system they are contracted—

The Hon. JOHN HATZISTERGOS: I do not know what you mean by "contracted".

The Hon. CATHERINE CUSACK: They operate within the context of the juvenile justice system. There has been negotiated a system of health screening, monitoring and data collection—

The Hon. JOHN HATZISTERGOS: That is not Justice Health—

The Hon. CATHERINE CUSACK:—between the two systems. My question is: Is that continuing under Corrective Services? It sounds as though your answer is no.

The Hon. JOHN HATZISTERGOS: "Contracting" suggests to me that somehow we put out a tender, we invite expressions of interest, or people, and then we make a selection. That is not what happens. Health in New South Wales, in every correctional establishment and every juvenile detention centre, is run by Justice Health, and Justice Health is responsible to the Minister for Health.

The Hon. CATHERINE CUSACK: The question I am trying to ascertain an answer to is this: Is there an inconsistency in the way Corrections Health is operating in Kariong compared with the way it operated prior to the transfer?

The Hon. JOHN HATZISTERGOS: It is exactly the same organisation. We did not kick one out and put the other in. It is exactly the same organisation. Presumably they are doing what needs to be done in the interests of detainees' health. I do not see how anything we have done could have impacted upon that, as far as their management of offenders and their health issues are concerned.

The Hon. CATHERINE CUSACK: Is it too much to ask for inquiries to be made on that issue?

The Hon. JOHN HATZISTERGOS: I have given you the answer. What is it that you want, beyond what I have given you?

The Hon. CATHERINE CUSACK: I will answer your question, Minister. There is screening and profiling of detainees in detention centres when they are admitted, and that is part of the data collection for juvenile offenders, people on remand and people in custody, for whatever reason, and that is part of the department's research process and it is also part of establishing the case plan for detainees. My question is: Is there consistency in those arrangements in Kariong today compared with prior to the transfer? I do not think I can be any clearer, but I am happy for that question to be taken on notice.

The Hon. JOHN HATZISTERGOS: It has taken you a long while to get to that question. It is a very different question to the one you asked before. I will detail this. Each Kariong offender is individually case managed, just as all other juvenile detainees are. Each offender, upon arrival at Kariong, undertakes a needs and risks assessment. The 14-day assessment covers induction screening, literacy and numeracy skills audit, risk assessment intervention, psychopathy, mental health—the link between mental illness and violence is quite complex, and thus it is compulsory that a mental health

examination and screening is conducted as part of the stage to identify the issues and specific characteristics which may determine a detainee's ability to participate in various programs and activities within the centre—drug and alcohol issues, domestic violence issues, behavioural issues, education needs and needs assessment. That occurs within the 14-day screening period.

In relation to the issues that specifically Justice Health deals with, I am happy to take that on notice and I will ask Justice Health. But it does not come from me; Justice Health reports to the Minister for Health, in the same way that the school reports to the Minister for Education and Training.

The Hon. CATHERINE CUSACK: In relation to the decommissioning of the swimming pool, was that made as a change to the security arrangements at the centre, or was it, as suggested in your submission, part of the enhancement of the facilities and services available at the centre?

The Hon. JOHN HATZISTERGOS: Security was an issue that led to that decision.

The Hon. CATHERINE CUSACK: Who made that decision?

The Hon. JOHN HATZISTERGOS: I did.

The Hon. CATHERINE CUSACK: You said in the Parliament that you did not make the decision, Minister.

The Hon. JOHN HATZISTERGOS: No. Ultimately it was made by me; it was made on advice. I think the issue you raised in Parliament was whether I took the media out there. But the actual advice came from the department, and I approved it.

The Hon. CATHERINE CUSACK: Did the advice come from the centre?

The Hon. JOHN HATZISTERGOS: No, it came from the Commissioner for Corrective Services.

The Hon. CATHERINE CUSACK: Was he advised on that matter by the people who had done the security review at the centre?

The Hon. JOHN HATZISTERGOS: We did not need richly paid consultants to tell us that the swimming pool was not going to work at Kariong, for what we were going to do. There was an adequate range of recreational activities to fulfil our requirements to ensure that inmates received appropriate exercise. That pool was appallingly located—I do not know why you put it there, in fact. I understand from some of the staff, the education staff in particular, that the shed, which was on a slope, was actually used as a diving platform by some of the detainees. When the detainees were misconducting themselves and staff were trying to get a hold of them, they would dive into the middle of the swimming pool and ask the staff to come in after them. I will not put up with that sort of nonsense. We are running a correctional facility here; it is not a convent. Quite frankly, if people want to have a swim in swimming pools, they ought to think about their crimes before they commit them.

The pool has gone. We do not have pools in correctional centres; we do not need them. And we are not going to have one at Kariong. If they want to behave themselves, they can go into one of the other juvenile justice centres where I understand they might exist, but we are not going to have them at Kariong.

The Hon. CATHERINE CUSACK: Is that one of the issues identified by the review of security that was initially conducted at the centre?

The Hon. JOHN HATZISTERGOS: I do not know. But I have explained to you why the pool was not put in. Apart from the fact that you need to have the supervision arrangements for having a swimming pool, and the staff training that you need to have in terms of the challenges that are presented by swimming pools are not stuff that I want the staff of the Department of Corrective Services to need to address. As I say, we have an adequate range of recreational programs. We use all the facilities, including the gymnasium.

By the way, I noted that you kept mentioning that there was a hole in the gymnasium. When I went out there the first week, I went searching for that hole and I could not find it. No-one could tell me where that hole was. So I do not know what it was that you claimed would not allow the gymnasium to be used. But I can tell you that the gymnasium is well utilised for various recreational facilities—

The Hon. CATHERINE CUSACK: The Minister was the one who closed the gymnasium—

The Hon. JOHN HATZISTERGOS: No-one can understand where this hole was. You claimed there was a hole there.

The Hon. CATHERINE CUSACK: The gymnasium was not closed?

The Hon. AMANDA FAZIO: You claimed during an estimates committee hearing that there was a hole in the wall in the gymnasium.

The Hon. JOHN HATZISTERGOS: That is right. I could not find a hole.

The Hon. CATHERINE CUSACK: They repaired it after I raised it—

The Hon. JOHN HATZISTERGOS: I went there the first week that we moved in, and I could not see any hole.

The Hon. CATHERINE CUSACK: Because it had been repaired. How could you find it, if it had been repaired?

The Hon. JOHN HATZISTERGOS: Did you find out where it was repaired?

The Hon. CATHERINE CUSACK: It was repaired after we raised it at the estimates committee hearing.

The Hon. JOHN HATZISTERGOS: I could not find where it had existed, and no-one could find where it was.

CHAIR: Minister, you said in reply to the Hon. Amanda Fazio that the main reason why Kariong is now running so well is that your staff are experienced and professional. Would you use those two terms to describe the staff at Juvenile Justice?

The Hon. JOHN HATZISTERGOS: I am not going to make a comment on Juvenile Justice staff; Mr Dalton has addressed that in his report. The Hon. Catherine Cusack, when she was the senior policy adviser, did not seem to have any problem with the staff, even though—

The Hon. CATHERINE CUSACK: Minister, can you clarify which era you are referring to?

The Hon. JOHN HATZISTERGOS: When you were the senior policy adviser. In relation to this issue, on 26 October this year the Hon. Catherine Cusack said, "We think Kariong needs a fresh start." That is what we have done: we have given it a fresh start. The Hon. Catherine Cusack did not particularly approve of us going into Kariong. She said—

CHAIR: I do not think we need this; it is on the public record, Minister.

The Hon. JOHN HATZISTERGOS: No, not all of it is. The Hon. Catherine Cusack criticised us—

CHAIR: That was in private somewhere, but it is not on the public record?

The Hon. JOHN HATZISTERGOS: What was in private?

CHAIR: You said that "not all" the Hon. Catherine Cusack said is on the public record.

The Hon. JOHN HATZISTERGOS: What I am going to refer to is that she criticised us quite significantly as to our capacity. She said we were "lurching to the right with this dangerous precedent of taking over Kariong". She said this—and this is on the public record—"It's not carefully considered legislation to advance the interests of justice, employees and the rehabilitation of young offenders. The Government has suddenly taken a wild correction to the right, and it is guilty of erratic and dangerous policy driving. The bill is not considered policy."

That is what the Hon. Catherine Cusack said about the legislation that you are examining and which we are dealing with here today. But when the Hon. Catherine Cusack went to Kariong and she had a look for herself, she went out on radio, again public, to Star FM, and this is what she said: "The concerns and anxieties I had were absolutely swept away. I couldn't believe how much better the centre is running."

I am here as a courtesy to you, to answer any questions you have about the running of the centre. But the Hon. Catherine Cusack has already given us a big tick of approval.

The Hon. Dr PETER WONG: With regard to the appropriateness of the placement of detainees, we are aware that a section of detainees from Aboriginal background are placed under the Department of Community Services. Our inquiry has been told, and I am sure you are aware, that about 20 per cent of inmates have a schizophrenia problem and more than 30 per cent have a mental illness. Do you have any policy programs for such groups—

The Hon. JOHN HATZISTERGOS: I am sorry, I did not understand the last part of your question.

The Hon. Dr PETER WONG: Do you have any policy programs for people with mental illness? We are aware that it is a separate category of inmates, that some of them are of Aboriginal background and that some are placed under the Department of Community Services. What is your policy of management for such groups, and what outcomes can be achieved?

The Hon. JOHN HATZISTERGOS: As I indicated, there is an induction process. A case management team reviews weekly each individual inmate. I am quite happy to give the details of the various programs in relation to the issues you have identified. I have the information here, but I do not want to take up the Committee's time so I will take the question on notice and provide you with that information.

The Hon. Dr PETER WONG: Item (e) of the Committee's terms of reference is to look at alternatives to the establishment of a juvenile correctional centre. You have referred to examples of changes that can be made. Would you like to comment on item (e) of the terms of reference?

The Hon. JOHN HATZISTERGOS: They are not matters for me. Juvenile Justice looked at these options in response to the Dalton report, which made various recommendations. The Government considered the Dalton report and Juvenile Justice proposals, and asked Corrective Services to take on the facility. When we are asked to do that, we do that to the best of our ability. The Hon. Catherine Cusack, at least, thinks we have done that, so that is encouraging.

The Hon. Dr PETER WONG: You talked about withdrawing privileges. How do you help the young people meet their energy and food needs? Do you have nutritionists looking after inmates in corrective centres? Do they have special targets and objectives, particularly for this group of inmates?

The Hon. JOHN HATZISTERGOS: We apply all the appropriate food standards. Corrective Services Industries is a very large organisation and they are responsible for the dietary needs of people throughout the correctional system. We did look at the possibility of serving to young offenders the food that we serve in the normal prison system but for a number of reasons we decided that we would continue the system that Juvenile Justice had, which was to cook the meals on the site. That was a more cost-effective way of being able to do that, bearing in mind the number of offenders there. But all the food that is prepared at every correctional facility meets the appropriate dietary

standards. We are quite insistent upon that. That is why we cannot adopt the guideline which suggests that we should give appropriate preference to what detainees want to eat. We can only do that within an overall requirement of meeting nutritional obligations.

The Hon. Dr PETER WONG: The ventilation is pretty poor. Obviously there were reasons why the windows were blocked—because of previous incidents and so on. What strategy are you undertaking to improve the ventilation system at Kariong?

The Hon. JOHN HATZISTERGOS: They all have fans—

The Hon. Dr PETER WONG: The windows are blocked.

The Hon. JOHN HATZISTERGOS: No, we have given them fans.

The Hon. Dr PETER WONG: I know, but there is no fresh air.

The Hon. JOHN HATZISTERGOS: You would not design the centre that way if you had your chance over again.

Mr RODGERS: Dr Wong, as you pointed out on your visit that day, we are looking at drilling more holes in the perspex to allow a better flow of air through the institution. As you are probably aware, in the early days those windows were viewed from the outside—people got out of their vehicles and they were copping abuse and so on. So there was a strategy put in place prior to us coming there to block up the windows. We put the fans in to try to get better movement of air through the cells and we will be looking at putting more perforated holes in the perspex to ensure that there is a better flow through of air. Bear in mind that you were there on a very hot day. The reverse applies in the winter: It is very cold.

CHAIR: Do Government members have any questions?

The Hon. AMANDA FAZIO: I understand from looking at the Ombudsman's submission that they have been there twice—

The Hon. JOHN HATZISTERGOS: They have been there more than that.

The Hon. AMANDA FAZIO: At the time of writing their submission they said that they had been just after the change-over then again in February. What has been their response to the changes at the centre?

The Hon. JOHN HATZISTERGOS: I think overwhelmingly it has been positive. You just have to read what he says, such as detainees had had ready telephone access to his office. He also says that the juvenile offenders have commented favourably on the transfer, stating that DCS officers were consistent and fair. He said that Kariong appears to be functioning well and the number of incidents within the centre has also reduced. He said that it appears that the transition has been an effective method of addressing management problems and that the centre appears to be running well, with fewer staff and fewer incidents but with much the same juvenile population. He said that the hierarchy of privileges detainees appear to welcome, and the selection and training of officers to manage and work within Kariong appears to have been successful.

The Hon. AMANDA FAZIO: An issue was raised in passing at our hearing the other day that I think is worth getting some comment on. The legislation refers to male and female inmates so it technically would allow female inmates to go to a juvenile correctional facility. Given that we have only one—Kariong—which is full of males, I hope there would be no suggestion that female detainees would be placed there.

The Hon. JOHN HATZISTERGOS: No.

The Hon. AMANDA FAZIO: We had some questions about all of these kids over 18 at Kariong who are going to school. You said that in the induction assessment during the first 14 days they are there they are assessed on their literacy and numeracy levels. Does that reveal that the

inmates aged over 18 who are doing high school courses—either school certificate or higher school certificate—need to do those courses?

The Hon. JOHN HATZISTERGOS: The literacy levels amongst some of the offenders are poor. I am advised that the basic literacy of many of those aged over 18 is not very good at all. I should also correct one thing: A number of offenders also do TAFE courses, not just normal education. We are very careful not to accept what an inmate tells us about their literacy and numeracy capacities. One of the common things that occurs in the correctional system is that an inmate will be too embarrassed to reveal their true literacy and numeracy capacities. For that reason we undertake testing to find out what it is and to try to assist that inmate to address the issues which have prevented them from previously being able to achieve satisfactory levels of literacy and numeracy.

The Hon. AMANDA FAZIO: It is my understanding—not that I am an expert in this area—that there is a strong link between improved literacy levels and improved behaviour. So if somebody leaves a correctional facility with improved literacy levels their prospects of being able to get gainfully employment and keep out of criminal activity is improved. Is that the case?

The Hon. JOHN HATZISTERGOS: It is true, Ms Fazio, but it is also true that that in itself may not necessarily lead to a successful outcome. That is why we insist that an offender not only addresses educational issues where they can but also must address their offending behaviour through various programs—drug and alcohol and other programs—which deal with the underlying issues. If you do not address those issues and you simply educate a person you can just get a more well-adjusted and well-educated criminal. So you need to address those underlying issues. But education is certainly an important part of preventing reoffending.

The Hon. ERIC ROOZENDAAL: Minister, the Committee has already received some submissions to this inquiry. Do you have any responses to any of those submissions, some of which have been quite critical?

The Hon. JOHN HATZISTERGOS: A number of them are from people who are very well meaning but who have never been to the centre. I can go through them if you wish.

The Hon. ERIC ROOZENDAAL: Okay.

The Hon. JOHN HATZISTERGOS: The Shopfront Youth Legal Centre refers to a number of standards which they claim that we have breached. As I indicated, we comply with the Australasian juvenile justice administrative standards for juvenile correctional facilities, which are guidelines for best practice. We do that in all respects except for a few that I am happy to identify if you wish me to that we have concerns about and that we have to modify somewhat in terms of compliance, such as the food one that I addressed.

The Juvenile Justice Chaplains raised an issue. I should point out that that the chaplain who is at Kariong now answers to the Corrective Services Chaplain not to the Juvenile Justice Subcommittee. I do not know what consultation they had with him in relation to the comments. But they said in their submission that an offender could be in isolation for five days. Confinement to safe cells, as I indicated earlier, is limited to a period of 24 hours. We do not use solitary confinement, reduction of inmate diet or deny access to or contact with family. As I have indicated, we are going to trial stage 3 offenders being able to stay out till 7.30.

The Indigenous Law Centre referred to what we are providing here as punitive rather than restorative. Again, that is a generalised claim. I do not know that they have even been to the centre to see what we do. But the detainees are perhaps the ones who provide the best answer to that and I refer you again to your own contact with them when you visited the centre. We do focus on programs, education and rehabilitation. All the offenders participate in a structured day, during which they go to school, complete assessment, participate in programs, have activities and also attend programs to affect their offending behaviour. We provide employment opportunities, such as ground maintenance and laundry and kitchen hand duties. We will be expanding that eventually to include traineeships for those offenders who want to go down the vocational route.

The Shopfront Youth Legal Centre also says that we do not have the experience. I have indicated to you what our experience is and that decision has been effectively ratified by the Parliament in passing the legislation, I suppose. The Indigenous Law Centre asserted that with the changes at Kariong more juvenile offenders will be relocated, and they expressed concerns about visits. We actively encourage visits. We have not at this stage got a videoconferencing facility at Kariong but we are looking at that possibility. We are using the one at Baxter for court matters. Eventually—we cannot do it in this cycle because we have other centres that we are committed to—we will get around to putting a videoconferencing facility in. I cannot say when that will be at this point but I will look at the options.

CHAIR: We are coming close to the end of our time, Minister. We have a few wrap-up questions. I have a couple of questions. You mentioned that you have concerns about some Australian juvenile justice standards and were not applying them. Which standards are they?

The Hon. JOHN HATZISTERGOS: The Australasian—

CHAIR: Yes, but which ones in particular?

The Hon. JOHN HATZISTERGOS: The standards for juvenile custodial facilities. One of those standards, standard 2.5, for example, says that a young person can maintain confidential contact with a legal adviser and advocates for young people within the justice system. We certainly accept that they can have confidential access with legal advisers but we do not accept that they can have that same access with advocates within the juvenile justice system. There is no way we would ever agree to such a proposition.

CHAIR: Are there any other points?

The Hon. JOHN HATZISTERGOS: There are others. There are obligations upon us to provide young people and their families and other significants with comprehensive information in accessible formats to inmates about their rights, obligations, programs and services at the centre as soon as practicable. We certainly provide that to the detainees. We will certainly supply that to family members to the extent that we can comply with privacy obligations and so on. But we will not supply it to anyone, which is what the standard seems to suggest we should do. There are a few others I could go through. There is the food one. As I said—

CHAIR: Minister, thank you for that much. Is adherence to those standards optional?

The Hon. JOHN HATZISTERGOS: The standards are guidelines.

CHAIR: They are just guidelines.

The Hon. JOHN HATZISTERGOS: Yes.

CHAIR: So you do not feel any necessity to adhere to the guidelines?

The Hon. JOHN HATZISTERGOS: No, as I indicated we will adhere to the guidelines except where—

CHAIR: If you agree with them.

The Hon. JOHN HATZISTERGOS: Except in those limited areas where we believe that their application—that is why they are expressed as guidelines—

CHAIR: Minister, I do not know whether I heard you correctly so can you confirm that you said a few moments ago that you do not use solitary confinement?

The Hon. JOHN HATZISTERGOS: We do not.

CHAIR: You do not. Mr Rodgers, when you were talking with us and Peter Maa you indicated that there was at least one person who had five days in solitary confinement.

Mr RODGERS: I have never used the word "solitary". "Solitary" is not a word used in Corrective Services.

CHAIR: What were your exact words?

Mr RODGERS: I would have said "segregation". There is a big difference. An inmate may be segregated for the good order of the institution where that inmate is a threat to staff or other inmates.

CHAIR: So that person would be in a cabin or an enclosed space.

Mr RODGERS: That inmate could undergo—

CHAIR: Segregated from everybody else.

Mr RODGERS: Maybe.

CHAIR: But not solitary.

Mr RODGERS: Not solitary.

The Hon. AMANDA FAZIO: Let him answer. You asked the question. I would like to hear the answer.

CHAIR: I am asking him to elucidate. Can you describe for me the meanings of the words "solitary", which you used, and "segregated"?

Mr RODGERS: I never use the word "solitary" and it is not used in the prison system. It conjures images of bread and water and people being locked away in dark cells. We simply do not do it. Segregation is a form that we use when there are no other options left, where that inmate is a danger to staff or other inmates and for that inmate to settle down. During that period of segregation there are very definite guidelines we undertake regarding exercise, diet, visits and very close supervision.

CHAIR: So, Minister, is that what you were meaning when you said—

The Hon. JOHN HATZISTERGOS: Yes.

CHAIR: —you do not exercise any kind of individual confinement?

The Hon. ERIC ROOZENDAAL: That is not what he said.

The Hon. JOHN HATZISTERGOS: No, no, there is no solitary confinement in the prison system. We do not do it in the adult system and we certainly do not do it at Kariong. There is a big difference between solitary confinement in the way that I think most people understand solitary confinement, which is where you are locked away and no-one contacts you or deals with you.

CHAIR: I am glad that the inmates understand the difference.

The Hon. JOHN HATZISTERGOS: Confinement to cells is a recognised disciplinary measure that we do use from time to time, but I should just point out that the incidence of confinement under Corrective Services has been dramatically reduced. For example, in March, so far this year we have only had one incident of confinement but prior to us coming there, confinement was regularly used up to 30 times a month, so the incidence of confinement have been reduced and that is because we have in place a structure and a process of discipline and stages where inmates are readily able to appreciate that they have to face the consequences of their conduct.

The Hon. CATHERINE CUSACK: Can you confirm that that confinement would have taken place in the isolation cell at Kariong?

The Hon. JOHN HATZISTERGOS: Not necessarily.

The Hon. CATHERINE CUSACK: Do you know where confinements take place in Kariong?

The Hon. JOHN HATZISTERGOS: Most of it is in the inmate's cell. We have only ever had to use the confinement cell once. It is just almost always in the inmate's cell. Confinement cells, as you know, have a few problems.

The Hon. CATHERINE CUSACK: Confinement cells?

The Hon. JOHN HATZISTERGOS: The confinement cells at Kariong.

The Hon. CATHERINE CUSACK: It is known as the isolation cell, as I understand it, at Kariong.

The Hon. JOHN HATZISTERGOS: Not by us.

The Hon. AMANDA FAZIO: Point of order: I understood that people were having last questions and that Ms Cusack was not getting a third round of questions at this stage.

The Hon. JOHN HATZISTERGOS: I am happy to stay on.

The Hon. AMANDA FAZIO: But I did hear the bell ring.

CHAIR: Would you finish off, please?

The Hon. CATHERINE CUSACK: When do you expect to finalise the arrangements for juvenile transport between the centre and the courts?

The Hon. JOHN HATZISTERGOS: As far as I am concerned we are not taking it over.

CHAIR: I think this is a convenient time for us to have a short adjournment.

The Hon. JOHN HATZISTERGOS: There is an issue in relation to segregation and confinement that I have to clarify, which you may not have picked up in the answers that were given. Confinement is to cells and that is the penalty that has been used by us. Segregation, which is not necessarily cells—almost always never is—is a discipline that we can use where we segregate someone. We have only used segregation once. So far we have managed to discipline by confinement, by confining to cells.

The Hon. CATHERINE CUSACK: It is a bit of a word game?

The Hon. JOHN HATZISTERGOS: No. If you are confined to the cells, you have access to the cells and material in it. If you are segregated you do not necessarily have all the amenities.

CHAIR: You do not have a toaster and fan.

The Hon. AMANDA FAZIO: And the television.

The Hon. JOHN HATZISTERGOS: We can take that away, anyway.

(The witnesses withdrew)

(Short adjournment)

ELIZABETH GAI MOORE, Lecturer, School of Humanities and Social Sciences, Wagga Wagga campus, Charles Sturt University, member of the Juvenile Justice Advisory Council and former Official Visitor, affirmed and examined:

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

Ms MOORE: As a private individual.

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

Ms MOORE: I would like to. I think it is probably important to let the Committee know what experience I bring here today. Also, I have put together a written submission that I suspect is before you now, only this morning. I thought I might just highlight some points around that, if that seems a good way to start. Are you happy with that, Mr Chair?

CHAIR: Yes, please go ahead.

Ms MOORE: Firstly, I want to thank the Committee for asking me to give evidence here today. By way of introduction, I have been a lecturer at Charles Sturt University since 1998. Among other things, I have been teaching a specialisation in juvenile justice, which was started about 10 years ago in response to various recommendations of various committees on juvenile justice that said it was a good idea to have connection between the universities and the training and education of people who worked in that area, so I keep that specialisation alive in the distant education offerings at Charles Sturt.

It is through that role that I am in contact with departmental staff who are also my students. I do have the knowledge, through that, of the human resources strategies that the Department of Juvenile Justice has been putting in place over the last few years. I have also supervised social work students on practicum in the Riverina Juvenile Justice Centre and some of my students have gone on to work in the system.

My employment background is: since 1983 I was a youth worker in Minda Detention Centre; I was a district officer for the Department of Community Services; I was a social worker at Bidura Remand Centre; and I was one of the first managers of the young offender support teams that were community-based initiatives in New South Wales. I was a Churchill Fellow in 1988 and went to the United States, Canada, the United Kingdom and The Netherlands to look at programs for girls. Since 1999 I was the Official Visitor for Riverina Detention Centre for two years, where I was visiting that centre probably more than once a month, although that was all I was required to do, and reporting to the Minister once every six months.

I have been on the Juvenile Justice Advisory Council from 2001 and during these times I have visited Riverina Juvenile Justice Centre, Orana at Dubbo, Baxter and Kariiong only once and Yasmar twice recently. In terms of my contact with the adult prison system, before I took up my current appointment I was leaving Sydney and was appointed as Official Visitor to Silverwater prison. I was only doing that role probably for four or five visits before I left for Wagga Wagga and so did not continue that appointment. The other contact with the prison system I have had is through visiting a female inmate in Mulawa prison. That is really my background.

My submission is qualified by a statement about the haste with which this transfer of Kariiong was made across to the Department of Corrective Services and then, of course, the enabling legislation. I feel that there has been not enough public access to information or discourse about the issues that are involved, and the issues are very complex and I say that my submission is limited by that haste. To put some of my concerns in context. Because I have worked in this area for so long I have experienced a time when there was a bipartisan approach to juvenile justice. There was a green paper in 1992, there was public consultation in 1993 and in 1994, a white paper. I feel that that process was in keeping with sound juvenile justice policy making, where you put an issue out and get consultation about it. In contrast, here we are with a management crisis and the transfer of Kariiong to the Department of Juvenile Justice.

CHAIR: Corrective Services, I think you mean.

Ms MOORE: Sorry, to Corrective Services. We have known for a long time that the Department of Juvenile Justice has had difficulty with managing the inmates in Kariong and the centre itself. That has been evident through media coverage and through two New South Wales Ombudsman's reports, one in 1996 and one in 2000. Now we have Vern Dalton's report to the Minister of 5 October. Of course, there are probably a lot of other reports that are not in the public arena—those that have gone internally to senior management of the department and, of course, the Council on the Cost and Quality of Government, which reported in 2000, and, of course, the six-monthly reports that go to the Minister, and no doubt past Official Visitors to Kariong have made reports.

So without the full knowledge of what the management issues are that were identified there or what has been done to address those recommendations, I think it is extremely difficult to assess the relative merits of any management solutions, but I think we can see that there are some recurring management issues. There is an overreliance on casual staff, unsatisfactory staff skills and training, ineffective communication between management line staff, poor inmate behaviour management systems and weak security. All of these contribute to low staff morale and poor staff-inmate relations that are conflictual and ineffective in delivering the required security, safety and rehabilitation programs.

The question for me is: Is this transfer an effective management solution? Well, I do not know, but I do know one thing: that the Ombudsman has documented very clearly the architectural problems with Kariong, and certainly they are not going to be changed by transferring it from one administration to another. I will not dwell on that but I have given you some quotes in my submission and we have heard this morning the Minister for Justice talking about a \$4 million budget to make some architectural changes perhaps.

My concern is really about the legislative basis for the transfer of juveniles to correctional centres. The process of introducing this legislation seems to me to be reactionary, piecemeal, ill informed and risks making juvenile justice policy a tool for political point-scoring once again. It has been introduced in haste. It has exploited negative public opinion by focusing on the heinous offences of a very small number of juveniles in custody and focusing on the violent conflicts between detainees and staff and the detainees' contribution to that.

But this Act goes far more than simply transferring Kariong from the Department of Juvenile Justice to Corrective Services. I have no problem with the difficulty that is presented by negotiating the boundaries between a juvenile justice system and an adult correctional system. That is a problem for all governments across all time and for all administrations. The Ombudsman, in the 1996 report, chapter 16, dealt with this very thoroughly. Unlike the Dalton report, the content of the Ombudsman's report is well researched and it provides an evidence base that quantifies the extent of the problems in terms of offence types and offender characteristics.

There is a further contrast in its recommendations, which are justified in light of international human rights treaties legislation and policy. This legislation is complex and amends at least three statutes. I am not a lawyer, I have not gone through it and I have not marked up the various statutes to really feel very confident about my understanding of it and, I have to say, I have spoken with a lawyer, who has submitted here, who says that they also do not feel confident about their understanding about how far reaching this might be, but we all have some concerns about it.

This legislation establishes a new kind of hybrid correctional centre—a juvenile correctional centre that sits between juvenile detention and adult corrections. It establishes a new category of detainee in the juvenile justice system called older detainees, who are 16 to 20. It establishes juvenile inmates in the prison system—those between 16 to 20—and it is not limited to Kariong but provides for other sites to be proclaimed as juvenile correctional centres, as far as I can see. It extends legal authority beyond the judiciary to the Director-General of the Department of Juvenile Justice and the Commissioner for Corrective Services to initiate administrative processes that will result in the relocation of selected juveniles aged 16 to 20 into juvenile and adult correctional centres. It creates a mechanism through which the Commissioner can initiate administrative transfers of juvenile inmates from juvenile correctional centres to adult correctional centres, on various grounds.

Having qualified my understanding of the potential negative impacts of the legislation, I still have to doubt that many of these provisions would uphold the United Nations rules for the protection of juveniles deprived of their liberty. My submission says, "No doubt many impacts of these provisions would contravene the United Nations rules." I think they would. I have not had time to go through the United Nations rules and match the scenarios against how the legislation might violate one of those rules. I have put up three scenarios that I think give you a picture of how far-reaching this legislation could be and some of the negative consequences.

The first is the transfer of a 16-year-old behaviourally disturbed youth. A 16-year-old girl or boy remanded or sentenced to juvenile detention acts out their distress or anger in a non-criminal way. This behaviour is considered by a Department of Juvenile Justice staff member to warrant the making of such an order. That is the broad scope in which the legislation is drafted. A recommendation is made to the director-general, who in turn recommends the young person's transfer to a juvenile correctional facility. The absence of any criminal charge or judicial oversight means approval can be given by an administrative review body.

CHAIR: There would be no appeal in that, would there?

Ms MOORE: No, no appeal in that process. A second scenario is the segregation of juveniles in adult correctional centres. I was alarmed to hear that we have 519 under-21-year-olds in our prison system today. This really is the basis of my concern. Here is an example. The comparatively small number of girls in juvenile detention means there is no economy of scale to justify the creation of a juvenile correctional facility for females. So a 16- to 20-year-old girl, older detainee, who is administratively transferred to a juvenile correctional facility could thus be placed in a segregated area of a juvenile correctional centre that accommodates males. Or would they place her in a women's prison that has been proclaimed for that purpose? I have seen a juvenile held in a cell in Mulawa women's prison where she has been effectively segregated because she could not be mixed with the other prisoners. I have seen a girl held in a male detention centre where she has been given male underpants because the whole centre was geared around males. Once you get these young people who are one-off in an adult prison system, you have really high risk of the centre simply not being geared to meet their needs. So boys could also be placed in segregated areas of adult prisons that have been so proclaimed.

Another scenario illustrates how there could be escalation from juvenile detention to an adult correctional centre. For example, three juvenile inmates in a juvenile correctional centre are transferred to an adult correctional centre due to behaviour management difficulties arising from conflict among a wider group of older detainees. Amongst the three is a 16-year-old who has been transferred from a juvenile detention centre due to behaviour determined by the Department of Juvenile Justice to warrant this action. So you have the potential for a behaviourally disturbed 16-year-old to be transferred up the system into a juvenile correctional centre and then on to an adult prison where they could be one of those 519 youths scattered throughout the adult prison system.

With these scenarios I am intending to demonstrate the potential reach of the legal provisions to relatively young people and also how the administrative transfers can be approved on the basis of conditions that are broad in scope and ill-defined, and through administrative rather than judicial oversight. Their impacts could well be to place 16- to 20-year-old youth in correctional centres designed for adults, under security and surveillance systems designed for adult offenders. Juvenile inmates would not have access to the health care and educational and rehabilitation programs offered in juvenile detention. They would be at risk of social isolation due to the need to segregate them from adults or they would be at risk of brutalisation by other inmates.

Another concern that arises from the conditions under which juvenile inmates can be transferred to adult correctional centres is that they can make a simple request to be transferred to an adult prison. A critical limitation here is, as has been raised earlier today, a young person's ability to give informed consent. The notion of informed consent has been developed in the medical literature. It is now widely accepted that the necessary conditions for informed consent are that consenting parties are competent to provide consent, receive a thorough disclosure of relevant information, understand that disclosure sufficiently well, are able to make voluntary consent and communicate that they do consent. I would say it could be argued that only the last of these five conditions could be met where a

16- to 20-year-old youth seeks transfer to an adult correctional centre. The Department of Juvenile Justice health survey of juvenile detainees conducted in 2003 provides evidence that a large percentage of the juvenile population will likely lack the emotional, intellectual and educational competence to give informed consent. In their executive summary they say the mean intelligence scale was in the low average range. Seventeen per cent had cognitive functioning scores consistent with a possible intellectual disability; 88 per cent reported mild, moderate or severe symptoms consistent with a clinical disorder; 30 per cent reported high or very high psychological distress, implying they may have a greater than 50 per cent chance of an anxiety or depressive disorder. Given that 16-year-olds in the general population would likely lack the maturity to be considered competent to give informed consent to be transferred to an adult correctional facility, I would say this population has to be much less competent.

The legislation does not require independent counselling, legal advice or advocacy. Juvenile inmates would be unable to access all the relevant information or to understand the possible implications. I have heard juveniles say that, and I have heard them give as the reason the buy-up schemes in adult correctional centres. One wonders why the Department of Juvenile Justice cannot implement those kinds of reward and punishment schemes that seem to be very effective in managing the day-to-day behaviour of inmates.

The Hon. CATHERINE CUSACK: I think that is the heart of the matter.

Ms MOORE: Yes. Another thing that happens in detention centres is that you get a wide age range when you have 20-year-old offenders in with young offenders, and young offenders are allowed to bring in personal possessions. You get what is called "standover" among the inmates. If a young person is subject to standover, they are afraid, they are going to ask to be moved on. They are not concerned about the long-term consequences, they are just concerned about how to get away from that thug who is brutalising them or threatening them.

Unlike the Dalton report, the Ombudsman's report's recommendations were evidence based. They gave us some sense of the numbers we are dealing with here and the age profile, the characteristics of the offenders and the changes in offence patterns over time. So we have a feel for exactly what the scope of the problem was. The Dalton report has not done that. The statements in the Dalton report are unsubstantiated, from what I have seen, unless there are some appendices that I did not receive.

In relation to the incarceration of juveniles in juvenile and adult correctional centres, the risks associated with the legislation include the establishment of a scattered system of juvenile correctional centres within the adult correctional system. There is no evidence that incarceration is effective in the rehabilitation of young offenders. On the contrary, the best predictor of imprisonment is prior imprisonment. I have said that young people within the adult system will number less than 100 in a prison population of 5,000.

CHAIR: It is 519.

Ms MOORE: Yes. A gross underestimation. I was really very shocked to hear that is the number of young people in the adult prison system. I think I would feel less shocked if I knew they were all there for indictable offences that were committed when they were, say, 17, and they have actually a long sentence to fill. My fear is that we would find that some of those young people are remanded and have not yet actually been found guilty of their offence, and some may well have been escalated. Some may be on what I would call iatrogenic offences, which could be offences within the juvenile detention system. If you become angry and act out when you are in a contained environment and damage property, or you are charged with assault of an officer, you can escalate into the prison system.

I feel concerned about the vulnerability of young people within the adult prison system and feel that it could compound problems of personal and social functioning by placing remanded youth with sentenced youth, exposing them to exploitation and brutality during incarceration, providing adult offender role models and networks that might continue into their release into the community, and reducing their access to treatment programs during their incarceration and post-release programs designed for young people.

I guess I felt concerned that I should come here with nothing constructive to say, so perhaps a way forward is consultative law reform that includes the option of establishing juvenile correction centres for 17- to 20-year-old youth, with legislation that incorporates the UN standards, and something that is more than a guideline so a Minister can decide whether to implement or not. Of course, a budget allocation of \$4 million might not be a bad start, and joint administration by the Department of Juvenile Justice, which is well placed to deliver programs for young people. We have heard this morning again about the effectiveness of the school education programs in juvenile justice.

In my experience they are one of the most effective things delivered in detention. They work very well in the juvenile system with provision for selected 17 to 20-year-olds to be detained in juvenile correctional centres. It is not a way forward to have a mix of people in juvenile correctional services who are there for serious indictable offences and young people whose behaviour management problems within the system have resulted in their escalation into a harder system, what is called a maximum security facility, which is operated according to adult legislation. State wards who have had difficult, troubled childhoods often fall into the Juvenile justice system and their behaviour problems are significant. Is this the pathway, the career, that we want to see them go into? I say also: disallow administrative transfer of youth from juvenile detention to juvenile corrections, or from juvenile corrections to adult corrections, and I thank you for listening.

The Hon. AMANDA FAZIO: You mentioned two juvenile offenders, under 18 years, being put into the adult prison system. Juvenile offenders who are under 18 years cannot be moved to the adult system without a recommendation from the Serious Offenders Review Council [SORC], and it is quite a detailed process to get that recommendation. The young person is entitled to legal advice. Does that proviso lessen your concerns to some extent about the possibility of offenders under 18 years being transferred from Kariong to the adult prison system?

Ms MOORE: No it does not, because it is an administrative process as I see it. I am not a lawyer and I am not qualified, and I am not across the implications of this well enough. My fear is that this ought to be under judicial scrutiny, not an administrative process.

The Hon. AMANDA FAZIO: You mentioned that you are concerned that some young people who were in a juvenile correction facility were subjected to being stood over, or received thuggish behaviour by other inmates, may request to go to an adult correction facility to get away from that intimidation. Kariong has a separate unit for inmates who are at risk, particularly from another cohort of offenders that they might have known previously. Would that overcome your concern about the standover, thuggish aspects of behaviour?

Ms MOORE: No, because when you start to separate out and classify populations into ever-smaller populations, you exclude them from access to the positive aspects of the programs; for example, the classification system of the Department of Juvenile Justice. It is beyond me to see how that can work with a girls population of 13, 14 or 15 in number. How can you segregate? At the Yasmar detention centre there are young women who have committed serious indictable offences together with young women, predominantly indigenous young women who have come from rural areas and not had access to the level of service that is available in the cities. You get two very different groups. Once you start classifying them you separate them into those who are allowed to go somewhere and others who are not. That just excludes them from programs and can eventually end up with one-off in a cell.

The Hon. AMANDA FAZIO: You said you had a concern about Kariong as a juvenile correctional facility, where inmates on remand are put in with inmates who have been convicted. That happened at Kariong anyway, did it not?

Ms MOORE: Yes. That is right through the juvenile system. There are particular management issues around managing juveniles and providing effective intervention programs or rehabilitation treatment, or whatever it you would like to call it. Typically juvenile sentences are short, much shorter, and they may wait for several remands. When they go for sentencing the remand period might be taken into account, so they might be remanded for two weeks, then remanded for another two weeks, and then another two weeks, and then sentenced. Already six weeks of a three months sentence has gone. It is very hard to do treatment programs with people who have not accepted

responsibility for their offences. And why should they when they are on remand? They have not yet been found guilty.

This is one of the big problems. Overall the Department of Juvenile Justice has a very difficult job in trying to provide intervention with young people who are there for short periods, whose needs are so diverse and you have this constant flowthrough of people. Perhaps this was heard in the discussion by the Minister for Justice this morning when he spoke about some of the younger population in Kariong at the moment are there for very short periods. It is very hard to run programs with one group of the flowthrough population and another group who know that they are going to be there for five years. It is very difficult to do that. Whatever solution the Government comes to, it really has to try to come up with a situation that is operationally manageable in delivering rehabilitation and providing stability in the day-to-day environment.

The Hon. ERIC ROOZENDAAL: You noted concern at the rate of young offenders in the adult system. Are you aware that currently there are more than 500 young offenders in the adult system run by the Department of Corrective Services? A number of specialised programs at the John Morony centre and another facility have proven to be quite successful. Are you aware of the reoffending rate for offenders who have completed those programs as compared to those who have not done the program?

Ms MOORE: No.

The Hon. ERIC ROOZENDAAL: I understand that the rate of reoffending is much lower. Would that change your view a little about the way that Corrective Services runs programs for young offenders?

Ms MOORE: I do not have a problem. The issue is that I do not feel that I am an expert, I cannot give evidence on the way that the Department of Corrective Services manages programs for young offenders. I have not looked at it actually, I am not familiar with it. I am saying that there may well be a case to establish a separation for 17 to 20-year-olds. It may be that the Department of Corrective Services has already established some effectiveness in working with that age group. But let us make sure that the people we capture in there are the offenders that ought to be there and not the State wards whose behaviour has escalated them and let them into the prison system for social disadvantage really and those sorts of reasons rather than for offending. I am open to evidence, as we all should be.

The Hon. ERIC ROOZENDAAL: You have made comments about transfers and reflected on the SORC and its history of process. Are you aware that it is chaired by a former Supreme Court judge, Peter Moss?

Ms MOORE: I am not familiar with the operations of the council, or its members.

The Hon. ERIC ROOZENDAAL: Would it give you a little more faith in the process to know that a former Supreme Court judge chaired it?

Ms MOORE: We would need to have that debate. I am not going to commit myself.

The Hon. AMANDA FAZIO: You expressed concern about the number of kids in juvenile justice centres who might be moved up to Kariong simply because of behavioural problems. More than half the people who have been moved out of Kariong since Corrective Services took over have gone back into other juvenile justice centres. Even if they are being put there because of behavioural problems, the flow back to Juvenile Justice is very strong. Does that ameliorate some of your concerns? Do you think that Juvenile Justice should try to do more behaviour modifications before it resorts to transfers?

Ms MOORE: Yes, I do. Rather than setting up another Big Brother system, whereby we transfer our behaviour problems into, dare I say, Alcatraz, and then back again and, why would we not have a behaviour management system within the juvenile justice system that is effective—the same reward and discipline system for consistency. I do not know the numbers that have been transferred

back, I did not catch that this morning. However I did hear that three Kariong inmates have moved on to the adult system, two having asked to do so.

The Hon. CATHERINE CUSACK: To clarify that, according to the Department of Corrective Services only four of the 21 detainees who have left Kariong had been returned to the juvenile justice system. You referred to State wards. There are two methods by which young people find themselves in Kariong; one relates to the severity of the offence and the other is whether their behaviour management had escalated out of other symptoms. Are you aware of any research that would assist the Committee to better understand their needs and would offer better options for managing their behaviour?

Ms MOORE: The drift of children from the welfare system into the juvenile justice system was addressed in a report by the Community Services Commission. That function is certainly with the New South Wales Ombudsman. I cannot recall the title of the report, but it is publicly available. This is another boundaries problem; if we do not work effectively with these very troubled children in the welfare they will progress into the juvenile justice system. I am not across literature to say that anything in particular has been effective, but we have not done the research.

The Hon. CATHERINE CUSACK: I have looked for more information about community statements.

Ms MOORE: We have not researched that. If we could use the Bureau of Crime Statistics and Research to look at some of this, because there used to be a juvenile crime index data. Currently that is administered within the Department of Juvenile Justice. There used to be a research function, which was quite strong, within that department and the head of that section, Michael Caine, produced several useful reports about recidivism and used that crime index data. I notice that this year the department's annual report does not provide the same amount of data as it had in the past, using that juvenile crime index. My concern is that decisions are being made without an evidence base. We really need to know how many young people make that career from the welfare system into the juvenile justice system and how many are on the boundary of being transferred into the adult correctional system.

The Hon. CATHERINE CUSACK: From your experience with the system, is necessary data being collected in order for that type of research to be undertaken?

Ms MOORE: No. No, I have not looked at the juvenile crime index for a long time and I do not know what state it is in at this stage. In the past, the problem with that data is that it counted individuals. So, if there was an individual with numerous entries or offences or sentences, they would be recounted. Probably the best research that unpacked some of that was done by Chris Cuneen and Garth Luke some years ago. They got behind the figures and followed it through longitudinally. I think there needs to be a generation of longitudinal data.

Having said that, I think the Department of Juvenile Justice, if it had the capability of being able to break down its data into local government area, which I believe it does, I think there could be some monitoring. I know it is currently revising its client information system and a new one is due to be implemented in the middle of this year, I think. I have not seen the specifications for that and I am probably not the person best placed to comment on that data. Someone like Don Weatherburn would probably be the best person to do that.

The Hon. CHARLIE LYNN: Earlier you mentioned a linkage—almost a breakdown in the system—between the overuse of casual staff and untrained staff and how that contributed to low staff morale and poor inmate relations. You also referred to a longstanding management crisis within the Department of Juvenile Justice. Also, you are concerned with the haste to overcome the problems with the media awareness of recent times. Do you regard this as being more of a political solution to take it out of the headlines rather than a sustainable management solution to the problems that exist there?

Ms MOORE: I did regard it that way, yes. I saw it as a hasty decision made with a lot of public attention on it. It was a disappointing decision given that the evidence has been there for some years that these other problems and these other things need addressing. The Dalton report really does

not provide the same evidence base that is in previous reports. So, I did see it as a hasty political decision.

The Hon. CATHERINE CUSACK: Is your main fear for young people in a juvenile correctional centre exposure to the correctional services system or exposure to other adult inmates?

Ms MOORE: My concern is both. If you quarantined, created a separate facility where there was no ability for that flow across the boundaries into the adult correctional system—the 9,000 population—I would have much more comfort around that.

The Hon. CATHERINE CUSACK: That is your key objection, is it, the relative ease with which inmates can move into the adult correctional system?

Ms MOORE: Yes, I would say definitely.

The Hon. CATHERINE CUSACK: Just on probation and parole and what happens to detainees when they are discharged from detention centres, do you believe that Juvenile Justice has adequate resources for those community-based services to do their jobs once the detainees have left, and to supervise offenders in the community?

Ms MOORE: I cannot comment on that. The department has put in place effective diversionary mechanisms. The thing about the juvenile justice system is that its shape has changed, deliberately, by policy initiatives that I think are quite sound. The establishment of diversionary mechanisms through cautioning, through youth justice conferencing, should filter away those young people who will never offend again. That was not done in the past. The department has been looking at better management of young people in detention. The rhetoric is about through care, it is about the idea of transitioning young people into the community, but really some of what it is doing is still at the policy development stage. In terms of community-based services, I know the department is doing a lot of work looking at the what-works literature, and I think that is very valuable and timely. It is not alone in revisiting how to be more effective. It is in line with international trends. So, having diverted some young offenders, it is now looking at interventions to be more effective with that group that remains.

I have written a case management paper and I have been thinking about how can I add constructively to its thinking about case management and community supervision. My feeling is that any system ought to be based on the knowledge of where the offenders are geographically, what the nature of the offending is, what the age group is therefore where to put your resources. I think too often bureaucracies lock resources into a geographic area or into a certain configuration and as the issue changes they do not necessarily have the flexibility to unleash those resources into what is now a new area—for example, rural areas. I think if we got Don Weatherburn to have a look at the data, we would find an overrepresentation of rural youth in community-based services and in detention, and indigenous rural youth. In rural areas the kind of specialisations that you do in the city do not work. So, that is another committee reference to Parliament and I will be making a submission there as well.

The Hon. Dr PETER WONG: Along the lines of what has been asked by the Hon. Charlie Lynn, are you suggesting that instead of reforming the juvenile justice system the Government ignore its own failure and punish the juvenile justice detainees by giving them a tougher deal?

Ms MOORE: In regard to?

The Hon. Dr PETER WONG: To changing from the Department of Juvenile Justice into the juvenile justice centre?

Ms MOORE: I think there is not a lot of political mileage on going soft on serious offenders and troublesome youth. We have seen both parties in government come down hard on offenders for those reasons. Yes, I guess many of us who work in this area would like to see us not react to the public pressure but to educate the public and commission research that can show us the value of the directions that were well spelt out in the 1993 green paper.

The Hon. Dr PETER WONG: My second question refers to article 39 of the Convention on the Rights of the Child, which states:

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse ...

And there are other definitions. Do you think that for the 40 per cent of female juvenile justice inmates who are in the care of the State and the 30 per cent of male inmates also in the care of the State, that juvenile justice programs achieve anything in regard to the intentions of article 39 of the Convention on the Rights of the Child?

Ms MOORE: That was a long question. I am not sure that 40 per cent of juvenile justice inmates are in the care of this Government here.

CHAIR: I think the honourable member wants information about whether the system allows us to uphold the Convention on the Rights of the Child?

Ms MOORE: I think so. I think in New South Wales, if that is what we are talking about overall, the juvenile justice system, there are some very sound policies in place. I think what happens is when difficult problems arise and hit the press that we get this lack of confidence, perhaps, in our leaders in wanting to go back a step and not being prepared to take the risk of following through on the values. But I think since the mid-1990s we have had some very sound policy developments and sound directions. It is rather sad that much of that change has not been well researched and it has not got out into the public arena for people to understand the sort of transition that can occur for young people.

CHAIR: Can I follow that up by saying you said the Department of Juvenile Justice had some sound policies in place but you also said the department over a long time failed to adequately address the management problems that have been raised in the Ombudsman's report. Why do you think this is so?

Ms MOORE: I think it is in relation to detention centres. That has been the difficult area. I think that the department has taken a systemic view. What it has done is lift the bar in terms of entry requirements for staff. It has introduced psychological vetting of staff. It has introduced in-service training, but I think it is very difficult to reverse a detention centre culture that is anti-intellectual, anti-professional. People who have been working in those jobs for an awfully long time and who let their families know about jobs that come up when they have a system that relies on casual staff—so, from my perspective the department is really trying to put in place some systemic change around the personnel issues but I think it will take a long time.

The Hon. Dr PETER WONG: With regard to the term of reference 2(e) would you say that for State wards a separate facility or facilities should be considered—say a properly operating ormond facility like before and which has been closed down?

Ms MOORE: No. I would think the best place to deal with children who have welfare problems is in the community.

The Hon. CHARLIE LYNN: There is recent legislation to lower the age of consent for boys from 18 to 16. It is clear here that they are looking at transferring now from 17 to 20 into the adult system, if you like. Do you see that this is a trend towards a juvenile finishing at 16 and from then on being an adult? Can you comment on that?

Ms MOORE: My only comment I can say is I think young people are dealing with a lot of competing trends. On the one hand, social policies are requiring them to stay in school longer and economic policies are requiring them to be dependent on parents and families longer. When it comes to their ability to form an intent to commit a crime, there was a discussion paper around the principle of *doli incapax* that suggested that young people, or children under 12, ought to be considered as being able to form a criminal intent. I find it difficult to really pick a trend. I think you know we have got very confused values and expectations of young people today.

The Hon. ERIC ROOZENDAAL: Are you aware of a new girls' and young women's centre at Lidcombe that will replace Yasmar?

Ms MOORE: Yes.

The Hon. ERIC ROOZENDAAL: What is your view on that?

Ms MOORE: A new capital works program has been in progress and I believe the Juvenile Justice Advisory Council will meet to see that in April, and that will be when we will see it.

The Hon. CATHERINE CUSACK: Do you support the inclusion of a mothers and babies unit in that new facility?

Ms MOORE: No, I cannot say I do because, once again, there is an issue of evidence base here. There is a lot of talk that we need a new mothers and babies unit but firstly we do not know how many young women have we had who were the full-time carers of their children before they came into custody. Who was caring for those children? There are also safety issues. If the child has come to the attention of the care authorities then there will be other orders in place concerning the wellbeing of that child. Also, the young women very often are in for very short sentences. I cannot say I am opposed to the creation of the unit but I do not think we have got the evidence for it.

CHAIR: Throughout your answers you have stressed evidence base?

Ms MOORE: Absolutely.

(The witness withdrew)

(Luncheon Adjournment)

MARTHA MAREE JABOUR, Executive Director, Homicide Victims Support Group Inc., of level 15, 189 Kent Street, Sydney and

HOWARD WILLIAM BROWN, Deputy President, Legal Affairs Officer, Victims of Crime Assistance League [VOCAL], of Post Office box 3331, North Strathfield, 2137, sworn and examined:

CHAIR: In what capacity do you appear before the Committee?

Ms JABOUR: On behalf of the Homicide Victims Support Group.

Mr BROWN: I appear on behalf of VOCAL.

CHAIR: Do you wish to make an opening statement?

Mr BROWN: I want to make a brief statement. I want to draw the attention of the Committee to some of the limited information that is available to our victims support organisations. We rely very heavily on the content of annual reports of the Department of Juvenile Justice to assist us in disseminating information to our victims. In the last annual report of the Department of Juvenile Justice, as at 30 June 2004, it was indicated that there were 281 male offenders within juvenile custody, of which 132 were indigenous and 84 were non-indigenous. There were 21 escapes from detention centres in 2004 but the most interesting figure of all documentation provided through the Department of Juvenile Justice was the fact that there were 282 claims for workers compensation emanating from workers from the department, that is, one more than the total number of male inmates within juvenile correctional facilities for that 2004. The average cost of each individual workers compensation claim was \$5,665. That indicates to our organisations that there are some major difficulties in relation to the manner in which inmates are being supervised and controlled.

CHAIR: What is your implication from that?

Mr BROWN: My implication is that there is a great deal of angst and anger within the detention centres being taken out against workers employed by the Department of Juvenile and Justice. I believe that one of the reasons for the increase in the number of claims has something to do with the fact that officers of Juvenile Justice have little redress in relation to disciplinary matters by inmates against them.

CHAIR: Do you have anything further you wish to say?

Mr BROWN: I suppose the reason I decided to open with that particular comment was that our organisation, VOCAL, is directed to assist victims of crime. Unfortunately one of our co-support group members is not with us today, but both Mr Marslew from Enough is Enough and myself often refer to our criminal legal system. We tend not to refer to the criminal justice system because we doubt that justice is actually being served. One of the few redeeming features for victims in relation to being a victim of crime is to see an offender brought before the courts and dealt with accordingly and, hopefully, provided access to some form of rehabilitation in the hope and in the desire that their chances of recidivism will be reduced quite substantially.

To know that a person is released from a correctional facility or from a juvenile detention centre with little prospect of reoffending is something that—I am loath to use the expression—makes the incident worthwhile, or perhaps makes the incidence of trauma to the victim a little less demanding than it would be than to have that situation where we have seen just recently in Macquarie Fields with an offender who has twice been incarcerated in juvenile detention centres and has escalated his degree of violence to such an extent that we have now seen in the last three weeks a quite tumultuous period. Victims find it very difficult to come to grips with the fact that these people are passing through correctional centres and juvenile detention facilities and coming out of them worse or, at least, not better.

That is quite a distressing feature because to go through the court process is difficult, especially in the adult sphere, but in the juvenile sphere it is even more difficult because the rights of the juveniles are paramount and, therefore, the views of the victim are rarely taken into account. We

hope that by these people being placed in juvenile detention centres that they will be given access to programs that are likely to see a reduction in their reoffending rate. Unfortunately, however, that does not appear to be the case when our victims hear about such circumstances of Juvenile Justice officers being assaulted to the level that I have detailed in my opening statement. It indicates that the level of control within those centres is somewhat scant and, therefore, one has to question whether the rehabilitation programs that are being provided to these young offenders is actually making a worthwhile contribution to their reintegration into society.

CHAIR: Do you wish to say anything?

Ms JABOUR: I come before the Committee as the executive director of the Homicide Victims Support Group. In 1993 our support group was formed essentially to support and counsel family members of murder in New South Wales. Unfortunately, the group was started up by two sets of parents—Gary and Grace Lynch, the parents of Anita Cobby, and Peter and Christine Simpson, the parents of Ebony Simpson—in order to give victims of crime of voice and to give victims of homicide somewhere to go to look at what it is that the system was failing them in.

Over the 11 years that I have been a part of this group, and as the executive director of the Homicide Victims Support Group, more and more juveniles are committing murder. It does cause a loss of angst to our family members when a young person has murdered their loved one and yet again they feel that the system is protecting these juveniles. Just this morning I held a support get together in my office. One of the mothers was incredibly frustrated by the fact that her son was murdered by a juvenile who, by the time he was 18, had 10 charges and had been in and out of juvenile detention centres. Her question to me was: "Why couldn't somebody do something with him before he murdered my son? Because there were plenty of opportunities for that to happen. He had been in correctional centres and why didn't somebody pick it up to." I could not give her answer.

Very often whether it be in juvenile justice detention centres or within the mainstream adult gaols the word "rehabilitation" is looked upon as a bit of a joke for some offenders. It is something that they very often do. They go into doing programs thinking "Well, that's going to help me get my parole" not necessarily because they want to be rehabilitated. Rehabilitation is not mandatory, it is a voluntary thing. So whether they take on the rehabilitation programs that are made available to them—and I know they are made available continually for these offenders—is entirely up to them. It is a form of frustration for a lot of our victims when these offenders sometimes come back out being juveniles or adults a whole lot worse off than when they went in. So I am hoping with this Committee that there will be some sort of policy put into place where there are less murders being committed by juveniles, children as young as 15, 16 and 17. It is a concern for our organisation

The Hon. AMANDA FAZIO: Can I ask both of you what the response was of your organisations to the transfer of Kariong from the juvenile justice system to the corrections system?

Mr BROWN: We were actually quite encouraged by that particular move. One of the greatest difficulties that we saw with Kariong and its operation prior to Corrective Services taking over the administration of that particular centre was that there were a number of disciplinary issues in relation to inmates where Juvenile Justice officers were being reprimanded for taking disciplinary action against the inmates. As a result, it got to a situation where it appears that the inmates were actually running the organisation. So when Corrective Services came in and instituted a new regime, almost overnight you saw a quite substantial change not only in the mind set of the young offenders but also in the complete organisational structure of it.

One of the big difficulties with Kariong during its control under the Department of Juvenile Justice was that the offenders basically had nothing to do. There was no structure to their periods when they had their free time. Of course, as my old parish priest used to say, an idle mind is the devil's playground. That almost became the situation at Kariong. With the introduction of Corrective Services into Kariong, they actually instituted a structure and a disciplinary system whereby these young offenders actually knew exactly what they could and could not do; they knew what would and what would not be tolerated.

They knew that if they stepped out of line, they were going to be put into the quiet room and that they would be put into the quiet room for extensive periods, sometimes up to eight hours and/or

they would have their privileges removed; whereas, under Juvenile Justice what actually would happen is that there were threats of privileges being taken away, but in fact they were not being taken away because it was one of the few ways that Juvenile Justice could maintain some degree of control—by allowing young offenders access to things like Gameboy and XBox and things like that. It was almost a housekeeping tool as opposed to a proper privileges situation. So the transfer to Corrective Services saw almost an immediate change.

Ms JABOUR: We found it quite astounding that there were juveniles who were not juveniles. They were actually adults serving sentences for murder, and two were awaiting trial for gang-rape. With one of the positions that I hold, it is as a community member on the Serious Offenders Review Council, the important role of this council is that we manage the incarceration of every serious offender, meaning an offender who is serving 12 years or more in New South Wales gaols. What that council does is monitor the incarceration and management of these inmates. That means that every six months we meet with these inmates face to face. It works well because we basically sit at a table like this and we say to them, "Well, throughout the last six months you have done these programs" or "have done no programs", or "You have had a gaol offence, and this is what will happen to you if you continue". So there is someone monitoring these serious offenders right throughout their incarceration.

With Juvenile Justice, there is not that overseeing body like the Serious Offenders Review Council where somebody guides these young people, where every six months they are seen by an independent body that basically says "Well, this is what you have been doing wrong. When you come to getting your parole, what is it that you think you might have achieved in order to get that? What programs have you done? What have you done for us to say to the Parole Board, 'Yes, they are eligible to get their parole?'" And the answer is nothing. So, having juveniles in juvenile detention centres without outside or independent management I saw, and certainly our family members where the murderer was a juvenile thought, that when they got to 18, they would be moved over to an adult gaol. We were not aware that they actually stayed there. There was a murderer who has 23 years old within the juvenile Justice system: That we found quite disheartening.

The fact that the Department of Corrective Services has taken over we think will bring more stability to these people—like Howard said, a lot more guidance. They will know what they can and what they cannot do. It is a case of accountability. Someone has to be accountable and what we saw is that it was a little bit out of control. That word "discipline" that we use in all of our lives—when mothers, fathers, whatever occupation we take, that word "discipline" comes in—and it seemed like the word "discipline" was not in their day-to-day life. So, by being taken over, we feel that there will be some discipline and certainly they will have an understanding that they are there because they have committed a serious crime. And that was not happening.

The Hon. AMANDA FAZIO: We visited Kariong. We heard from the inmates at Kariong that they actually prefer having a system that is more structured where they know that there will be an even-handed approach to how they are dealt with and that it does not matter if they do something which an officer sees them doing or whatever because they will get the same treatment; that there is a consistent approach to their behavioural problems and to their abiding by the systems that have been instituted there. Would you see that is being beneficial, if something a bit more structured like that were introduced in the other juvenile detention centres?

Ms JABOUR: Absolutely. If the juvenile offenders are telling you that themselves, you would have to listen to what they have got to say if only because they would know what is going to help them. They may be saying it because that is what you want to hear, but then, once you have got it in place, well it is there and they have to abide by it. But I think that more and more with a lot of family breakdown and a lot of, you know, the family group no longer being there in a lot of our communities, they will look for guidance. Another committee that I sit on is the Youth Justice Advisory Committee that looks at youth offender conferencing. That has been such a fantastic success with bringing the young person who has committed a crime together with the victim. That is certainly something I have advocated for because maybe that young offender who has committed a minor crime will not go on to commit murder down the track, and I will not see him in an adult court.

With these offenders, when they come across the victim, one of the things that the process brings together is: Why did you commit the crime? So we are looking at why this young person has

committed the crime and what are the things we are going to do to make sure that this young person does not reoffend. What we are finding is that 80 per cent of the young people that go through the victim and offender process when juveniles do not reoffend within the first year of their going through that process, if they offend at all. So we know that there are things that are working out there, but they do need the guidance. I would say that that would be quite true.

Mr BROWN: I think you have to bear in mind that the majority of inmates within Juvenile Justice come from quite disadvantaged backgrounds. There is a very large percentage of these young people with mental health issues, a large percentage of them who are illiterate and who have learning disabilities and the like. I am 50 and I have no children so I am probably not the right person to be preaching about this but I do actually have sisters who have children. I understand that all children require some degree of discipline and some degree of certainty as to what is going to occur. One of the things that Martha has spoken about is our youth conferencing.

I often go into youth conferences with victims of crime. A part of the process of youth conferencing is to develop a structured outcome for these young people. That may involve, for example, a recent case where young offender had been co-party to stealing a motor vehicle. We required this young person to actually do the shopping for the victim. Because her car had been stolen, she had no way of getting from her house to the shopping centre to do her shopping. The young offender was more than willing to do that shopping for the victim, but the problem was he had no idea how he should go about it.

We actually had to structure a program for him so that he knew what days to go and do the shopping and how to itemise the bill and all that. He actually attacked that plan of action with a great deal of gusto but if we had not stepped it out for him, he would have had great difficulty. That is one of the things—they require that degree of structure, which is something that we have seen that Corrective Services has been able to achieve at Kariong.

The Hon. AMANDA FAZIO: Earlier today before lunch we were talking to another witness about the role that the Serious Offenders Review Council has in looking at the issue of the people who are under 18 years being considered for a transfer from Juvenile Justice to Corrective Services. There did not seem to be a lot of knowledge out there about how that works. Could you comment on the importance of that role and just tell us how it actually it works?

Ms JABOUR: With serious offenders?

The Hon. AMANDA FAZIO: Yes, with the Serious Offenders Review Council having that role of considering requests for transfer from people under 18.

Ms JABOUR: I am not aware of a serious offender actually being transferred from a juvenile detention centre into an adult gaol. This is my second appointment to the Serious Offenders Review Council [SORC]. I have been a member for three years and I have not had that experience, although I suppose one of the biggest things for a juvenile offender would be a somewhat daunting one and that would be going from a juvenile detention centre into an adult gaol. Obviously their security would be something that they would be quite frightened about. I think that for the person who is in a juvenile detention centre, the Serious Offenders Review Council should still have that same monitoring role where they still meet with the independent council at the juvenile detention centre that they are at so that when the time came that they went into an adult gaol, the transition was not going to be one where it is very alien and they do not know any of the faces. We could guide them right from the very start and that is from the day that they start their sentence. Apart from that, I really have not had any experience of what the transition would be except to say that now that we know there are possibly about six serious offenders who would fall under the guidelines of a SORC inmate, that would be the way that I would do it.

Mr BROWN: That is the difficulty that Martha has in relation to her role on the Serious Offenders Review Council. Martha actually indicated that the majority of the people that SORC sees are prisoners undertaking sentences in excess of 12 years. There are some exceptional circumstances where a shorter sentence can bring a perpetrator under the purview of SORC, but the difficulty is that there are not a large number of juvenile offenders who have sentences in excess of 12 years so the

only time an offender would normally come before SORC would be in the case of, say, Bronson Blessington, who was one of the co-offenders in the Janine Balding murder.

Bronson Blessington at the time of committing the offences against Janine Balding was 14 years and 9 months. He received a life sentence. He is the youngest person ever to receive a life sentence within New South Wales. Bronson Blessington was not transferred to an adult correctional facility until he was 21, and the only reason that he came into the adult correctional facility was because his sentence was life. In the majority of circumstances, if a prisoner has less than three years to serve of his sentence when he attains the age of majority, it is normally considered unnecessary to refer the matter to SORC and it then becomes a matter basically for the discretion of the Juvenile Justice department.

The Hon. AMANDA FAZIO: My understanding is that there is a Serious Young Offender Review Council. We heard a bit about this during our hearing last week. It has a very similar function to the Serious Offender Review Council that Martha is on in that it is an independent body that considers, among other things, eligibility for leave, classifications, and things like that. Do you have a view on its operations or the work that it does?

Mr BROWN: I would actually like to pick up on something that Martha said earlier, which may go some of the way to answering the question for you. Part of the process of SORC within the adult system is obviously to assist in the classification of prisoners, to determine where they should be and what level of security is required, and also whether they participated in rehabilitation programs and various other programs which may make them eligible for release to parole at a later time. At the time that a person becomes eligible for release to parole, the Parole Board will normally look upon the recommendations of the Serious Offenders Review Council and make a decision in relation to the potential release to parole on the basis of recommendations made by SORC. SORC however comprises people who also represent victims and basically one of the reasons why Martha is on the Serious Offenders Review Council is because she is seen as being a very strong advocate for victims, and that happens to be a view with which I agree. That is one of the reasons why we were very happy to see her go onto SORC.

The Serious Offenders Review Council within Juvenile Justice does not have on it a representative of victims. What is more, in the parole process within adult jurisdiction, we as victims have the right to make submissions to the New South Wales Parole Board, either making recommendations against a person's release to parole or, on occasions—and we have done this—for a person's release, but subject to certain conditions. It may be random drug and urine analysis, depending on the nature of their crime. Within Juvenile Justice, however, that process is denied us as victims. It is something that is done by the Children's Court with full exclusion to the victims.

Our organisation is now into its sixteenth year. In the early 1990s Martha Jabour, Ken Marslew from Enough Is Enough, and I were considered to be particularly vociferous, and perhaps somewhat irrational, in relation to what we were putting forward for victims rights. Time has passed, and I think people have now come to see that we are a lot more rational about the way we go about doing these things, and that has been well demonstrated by our submissions to the New South Wales Parole Board.

One of the great factors for us, however, is that very few people, either in the adult or the juvenile jurisdiction, seem to take a great deal of specific interest in relation to a young offender. We do, because we are the victims of that young offender. So we follow their progress, and we are the ones who ask the question: Has this person undertaken a drug rehabilitation program? Have they participated in that program? Has their level of participation been one of full participation, or have they simply sat down the back? You have to bear in mind that, according to figures provided by Juvenile Justice, 90 per cent of all young offenders within Juvenile Justice facilities admit to previous cannabis use. These people have huge drug problems. If you do not fix the problem, and you release them, they are doomed to fail.

One of the things we do when we make our recommendations to the Parole Board is say: You have to integrate this person back into the community slowly. They only have four years left of their parole. If you take them right to the end, and then send them out, they have no supervision and they have no assistance. We believe we make rational submissions to the Parole Board. We say: Release

the person, make them subject to random drug and urine analysis, and maybe put them into an additional external program to assist them so they are not doomed to fail. Our view has always been: Let's try to reduce the degree of recidivism.

CHAIR: Taking up what you were just saying, do you think that the Serious Offenders Review Council does have the expertise to understand the special needs of juveniles?

Ms JABOUR: Absolutely. The Serious Offenders Review Council relies on a lot of professional reports, being psychiatric and psychological reports. When we do our interviews with the inmates, very often we would get a whole raft of information from people from welfare within the gaol system, including their reports on drug and rehabilitation programs and sex offender programs they are doing. We talk to the inmates themselves. It would be no different for juveniles, where we would get the same information. In fact, it could even be a little easier, because I think young people are so much more honest about what they need and want. Whereas, with adults we find that they basically sit back, and after we have gone we will say to their welfare worker, "I wish I had asked this, but I did not."

It is also about having trust with the young person, and also being independent. They very often ask us things. Our interviews with the inmates are done in private. If they do not want any of the correctional centre staff to be there, they can leave. It is entirely between them and us. So we do have that level of trust with a lot of the inmates, and I think with juveniles it would be exactly the same.

The Hon. Dr PETER WONG: I notice that the web site describes a research paper on child abuse and the impact of domestic violence. Would you like to comment on the fact that a significant number of people in gaol after having committed the crime you are concerned with had themselves been the victims of horrendous abuse, rape, torture and the like, and that many of these offenders are members of your support group?

Mr BROWN: What you say is exactly right: a large number of offenders, both in adult prisons and in juvenile detention centres, have themselves been the victims of abuse. There is no question about that. One of the figures that is often put to us, as a victim support organisation, by the business action group is that 70 per cent of those persons currently serving custody in adult prisons have been the victims of abuse themselves. I am not disputing that. However, 70 per cent of people who had been abused are not in prisons; in fact, the number of people who had been abused represents a very small percentage. The average person who has been the victim of abuse either seeks help from organisations such as our own, and we provide them with the tools to survive and to actually make a go of it. A very small percentage of these people who have been victims of abuse finish up within our correctional facilities, and I think that is a very important distinction.

But we try to assist anyone who has been the victim of abuse, whether it be domestic violence or child abuse, and who comes to us for assistance. Having said that, recently one of our victims was awarded costs against her by the Family Court. The Family Court fails to recognise that the New South Wales Police currently conducting an investigation into the abuse of two children is a legitimate investigation, and the court has considered the mother to be vexatious. So we have a cross-jurisdictional issue in which our New South Wales courts recognise child abuse yet our Family Court seems to ignore it.

The Hon. Dr PETER WONG: For those who happen to be victims themselves, does your group advocate different programs so that in view of what they have been through they should have separate programs, with separate objectives and separate outcomes?

Mr BROWN: One of the common threads that has come through from victims that we have been assisting who have been victims of young offenders—outside the conferencing process, because we find the conferencing process particularly successful; in fact, almost to the point where we are starting to question it. One of the victims who became involved in a youth conference has now befriended the perpetrator, to make sure that he does not get into strife again. We are talking about an 82-year-old woman who has almost adopted this young child. That was not really the intent of the exercise, but that is the way it has developed.

Ms JABOUR: But it does happen all the time now. We hear those great stories in which, through the conferencing process, the victim and the offender become friends, to the point that some offenders have actually been given jobs by the company they stole from, or written the graffiti all over, or whatever it might be. So it is a really positive thing we are doing, but we are probably not talking enough about it.

Mr BROWN: The common thread that we find with a lot of our victims who have been the victims of young offenders is that they seem to have a great deal of admiration for Father Chris Riley's Outreach Program, which seems to be particularly successful. Their recent trip to Banda Aceh clearly demonstrates what those young toe rags, as we would normally refer to them, have achieved by going through Father Riley's programs, which appear to be excellent programs with great results and virtually no recidivism. A program along the lines of those that Father Riley operates would appear to be something that should be given some consideration. The problem, of course, is that Father Riley is inadequately funded.

The Hon. Dr PETER WONG: We also have evidence before us that shows that a large number of young offenders are mentally ill. Do you think that having such young people in juvenile justice centres is in the best interests for them, and, indeed, for the people you represent?

Mr BROWN: That is a question that could almost apply in the adult environment as well. I guess one of the biggest difficulties we find is that there is such a paucity of facilities for people suffering from mental health issues. Even if the Government had a bottomless pit of money and it threw that entire bottomless pit of money at the problem, I do not know whether it would necessarily solve it.

The lack of facilities is obviously a major concern. We notice that now, because we have something like 480 forensic patients, as we call them, within adult custody. These are people who have committed crimes and been found not guilty on the grounds of mental illness. We do not have enough facilities to house these people and put them into proper facilities. A centre, purpose-built, designed and staffed to deal with mental health issues, is probably something that is needed within the current range of facilities. For example, it may be worthwhile to look at demolishing Yasmar and turning that into a mental health facility.

If we are to address mental health issues, we also have to look at the overrepresentation of the indigenous people within our youth detention centres. We are finding circle sentencing, which has been trialled in Nowra, a particularly successful process. Maybe we also need to look at a facility that works along the lines of circle sentencing and deals with the indigenous community.

Ms JABOUR: When we look at mental issues with young people, I think we have to look at that hand in hand with the abuse of drugs, especially marijuana, which we are now seeing as being the major contributor where a young person smokes marijuana on a regular basis, becomes paranoid schizophrenic and then goes on to commit a crime. We see that time and again in crimes right across the board. I think we have to look at facilities that deal with the mental health problem as well as the drug problem, which is a major problem.

Mr BROWN: Because of the 90 per cent of inmates who have indicated previous cannabis use.

The Hon. Dr PETER WONG: In supporting the existing juvenile justice system, can you see an alternative?

Mr BROWN: I am always concerned about throwing the baby out with the bathwater. I am also always concerned that it is very difficult in this environment to do anything but generalise. You can talk about specific cases—although we cannot talk about specific cases in juvenile justice because we cannot identify the young offenders. I believe that we require a mix. There is a saying "Beauty is skin deep and ugly goes all the way to the bone". Some of these young offenders that we have are at the high scale of antisocial activity. These are people who require the type of facilities, and the type of discipline and doctrine, that are being used at Kariong now. But for those offenders who fall outside the gambit of being eligible for youth conferencing—which we see as being a particularly successful tool—we do not want to see a situation where first-time offenders are being placed in a facility that

has, for instance, cliques, which has been one of the other issues with juvenile detention centres. Because we have not been properly segregating juveniles according to age, we have a situation where the older inmates have virtually started to run the place and there is a hierarchy within that system.

What Juvenile Justice does, in some areas, is absolutely fantastic, but it is not working. You cannot throw out the entire system. I think you need to adapt it, and to recognise those areas where you have a facility that looks after first-time offenders, first-time inmates to the juvenile justice program. The current program would seem to work well with those offenders. Once you start talking about repeat offenders, and those offenders at the higher end of the scale, I think you have to start moving on an incremental basis more towards the Kariong side.

The Hon. Dr PETER WONG: Father Chris Riley's program, as mentioned by you, seems to be much more cost-effective and have much better outcomes. What programs would you like to see in the juvenile justice system in order to ensure more cost effectiveness and better outcomes?

Mr BROWN: Chris Riley's programs relate to responsibility. Basically, Chris Riley gives an undertaking to these young people that he will do certain things for them provided they do certain things for him. It is what the Japanese call mutually beneficial. It is almost the carrot and stick, but without the need for the stick. Whereas, in most of these detention centres we have been using the carrot and the stick, but there has been no stick and the young offenders have been getting away with it. Chris Riley's programs remove these privileges from the people, to such an extent that they feel they have let the system down. We need to look at something like that, but within an enclosed environment.

The Hon. Dr PETER WONG: Is not one of the key elements that Chris Riley cares for them, loves them and has compassion for them whereas in the bureaucratic system it is a nine-to-five job?

Mr BROWN: I think probably, with deep analysis, that would be an excellent way of identifying it. I hate to beat our own drum, but organisations such as the Homicide Victims Support Group, Enough Is Enough and us only exist through volunteers—people who put their hands up and say, "I want to help". They are the people who really make a difference. Even though a lot of the people who work for Chris Riley are paid, they are paid such a pittance that they are virtually working for free. I guess that is one of the reasons why his program works. It requires dedication, and that is not something you can get by interviewing a person and saying, "For \$38,000 a year you do this". That is what it is all about.

CHAIR: Thank you. We will move to questions from Opposition members.

The Hon. CATHERINE CUSACK: Would it be fair to say that many of your members are seeking closure through the justice system and would like to see something happen as a result of the incident in order for it to have some meaning?

Ms JABOUR: Absolutely. A lot of our victims are under no cloud of delusion that, sooner or later, the person who murdered their loved-one will come back out into our community. They want to see justice done. They want to see that a proper sentence is given for the crime committed. But they also want to be assured that when this person comes back out into the community they will not reoffend. When it is time for an offender's parole families will often say, "I'm not going to oppose parole because I want them to be tested back in the community to see that they can adapt".

The Hon. CATHERINE CUSACK: I will interrupt there because I want to follow up that issue. How important is it that the justice system keeps victims informed as the offender is moving through the justice system?

Ms JABOUR: Very important.

The Hon. CATHERINE CUSACK: Can you explain to us how that is done in the corrective services system? What type of liaison arrangements are there and how do they work in a practical sense?

Ms JABOUR: Sure. It is very important for victims of crime to know where the offender is throughout their incarceration, what prison they are at, what sorts of courses they are doing and when they are coming out for any sort of outside release—whether it be works release, weekend leave or day leave. That is really important. Victims need to have a say in that process. So when the inmate has 12 months of their incarceration left before their known parole period is over SORC will write to the family. We do that through the victims register that is kept at Corrective Services. It is a volunteer register where victims of crime can register. They are kept informed by Norm White, who heads the register, about what is happening with that inmate. So very often the families—

The Hon. CATHERINE CUSACK: Sorry. What is Norm White's position?

Ms JABOUR: He is the victims registrar of the victims register within Corrective Services.

The Hon. CATHERINE CUSACK: Where does he physically operate from?

Ms JABOUR: From the Restorative Justice Unit at Roden Cutler House.

The Hon. CATHERINE CUSACK: Thank you very much.

Ms JABOUR: So families will have ongoing contact with Norm. He writes them a letter when the offender is moved around or there is any change at all in their incarceration. Once notified through Norm that the Serious Offenders Review Council is looking at perhaps giving this person day leave, weekend leave or works release, it gives the victim's family an opportunity to make a submission to the Serious Offenders Review Council. That submission is taken very seriously because sometimes the victim will say, "Well, I don't have any objection to this person coming out, but I don't want them to do works release in this area." So the victims have a voice and they are given the opportunity to put down some of their concerns.

The Hon. CATHERINE CUSACK: Do you know whether that liaison applies when the offender is on remand?

Ms JABOUR: No, only after they have been convicted.

The Hon. CATHERINE CUSACK: That is with SORC. What about prior to that?

Mr BROWN: No, it is only on conviction. The victims register does not exist for people on remand.

The Hon. CATHERINE CUSACK: Okay. Does anything happen prior to conviction? Is there any liaison with the victim?

Ms JABOUR: No.

Mr BROWN: No.

The Hon. CATHERINE CUSACK: Is that perhaps an area where we could do better?

Ms JABOUR: Absolutely.

The Hon. CATHERINE CUSACK: Is there any parallel with that in the juvenile system?

Ms JABOUR: There is a victims register within the juvenile system. However, yet again, because the young person is under age, the information that goes to the families is somewhat limited.

The Hon. CATHERINE CUSACK: I want to address the issue of confidentiality in a moment. In terms of the victims register, if a young person is moved from one detention centre to another would the victim be advised of that?

Ms JABOUR: No.

The Hon. CATHERINE CUSACK: But they would in Corrective Services?

Ms JABOUR: They would in Corrective Services.

The Hon. CATHERINE CUSACK: It sounds like in Kariong more information will be available to victims.

Ms JABOUR: We are hoping.

The Hon. CATHERINE CUSACK: Can you comment on the effect of the confidentiality provisions we have? Do you accept that there is a role for special confidentiality arrangements with juveniles or should we draw the line somewhere?

Ms JABOUR: Until not that many years ago a victim's family was not allowed to go into the courtroom when a juvenile offender was standing trial for the murder of a family member. The legislation changed to allow the family of the victim, plus support persons, to go into the courtroom even though it was a closed court. The Homicide Victims Support Group feels very strongly about the fact that once a young person has been convicted of murder they should be named. This still does not happen in all cases. That causes a lot of frustration for our families—he has committed the crime and he has been convicted so why not have his name now?

The Hon. CATHERINE CUSACK: Do you have a formal policy on that? By that I mean where would you draw the line? What is your detailed policy? Would you do it for manslaughter as well?

Ms JABOUR: Yes, we would.

The Hon. CATHERINE CUSACK: What about for negligent driving causing death?

Ms JABOUR: We do not deal with those deaths but Howard might be able to comment.

Mr BROWN: We deal with them all too often. Our view on all these matters is that, now the law has been changed to allow families to go into the courtroom, we know who the offender is. We know his name and we know who his parents are—we know the whole damn story. Yet for some unknown reason after that point we are supposed to say, "Well, okay, all my previous statements are now rendered inoperative. You're not allowed to know anything else about the bloke." That does not make sense because, for us, part of the moving-on process is seeing some positive—even if it is only a very small positive—derived from the process.

Not knowing when a person is being released—I can tell you there is nothing worse than a victim sitting down and reading in the newspaper that someone has been killed in a stolen motor vehicle and determining subsequently that the driver of that vehicle was also the offender in their case. And that is the first time we know about it. That only happens if the victim in the second incident comes to us for assistance and we say, "Hang on, that is the same person". We virtually have our own database but it is not something we can publicise. Technically speaking, we are not supposed to make that information available to other victims because we are in breach of those confidentiality arrangements. It is a farce; it is a deadset farce.

The Hon. CATHERINE CUSACK: Do you have a specific policy about when it is appropriate to name the offenders? Do you see the point that I am making? We need to draw the line somewhere. I am sure you are not suggesting that Juvenile Justice conferencing matters that are operating successfully—

Mr BROWN: No.

The Hon. CATHERINE CUSACK: So where do we draw the line?

Mr BROWN: We draw the line at incarceration. If they are incarcerated we need to know when they will be released. Even in the adult situation, one of the big difficulties we have—I have mentioned this before in relation to mental health—is that we have exactly the same impediment

placed on us for those persons found not guilty on the grounds of insanity. When those persons come up for release before the Mental Health Review Tribunal we are not allowed to name them in the press. So if someone has killed and decapitated someone and spends 12 months in a forensic institution and is then released, you cannot tell anyone that they have been released—even the mother and father of the young girl who had her head removed. How do you think they feel when they walk down the main street of Newcastle and walk slap-bang into the mongrel who decapitated their daughter?

It is exactly the same in the juvenile system. I recently assisted a young woman—she is 35; I am 50 so she seems young to me—who lost her 16-year-old daughter. She was a passenger in a stolen motor vehicle that was driven into an embankment at Taronga Park. The young offender responsible for that received 150 hours community service. That was his penalty. He was originally charged with dangerous driving occasioning death, it was reduced to negligent driving occasioning death and of course in the Children's Court he received 150 hours community service. That community service was to be conducted within the Sydney metropolitan area yet this woman has seen the young offender in her area, which is on the far North Coast. That has magnified her loss.

The Hon. CATHERINE CUSACK: So there has been no follow-up with that woman?

Mr BROWN: Except from us. We have tried to keep her head together.

The Hon. CATHERINE CUSACK: What should we do to rectify that situation?

Mr BROWN: I believe we need a proper victims register. I believe we need victim representation on the Serious Offenders Review Council and we need a degree of contact so that, at a bare minimum, our victims do not walk slap-bang into an offender upon their release. We need to be able to take precautions to protect ourselves. Not all our members are rational; not all our members are forgiving. One of the things that we like to ensure is that our members do not take someone's head off because then they will be in a worse situation than the offenders themselves.

The Hon. CHARLIE LYNN: At ages do you believe one is a juvenile and an adult? Is there something in between? Is there a bridging age?

Mr BROWN: This is a real difficulty because, the way the law recognises it, basically if you are under 10 you are a child. You can go out and kill someone and nothing will be done about it. As far as the courts are concerned it appears that from age 14 on you are talking about people who have some degree of cognisance and understanding of what they have done wrong. It is difficult to put an arbitrary figure on it because some kids at 12 would be quicker in and out of your car than you would be with the key. They know exactly what to do. I have no idea of the ages of the kids you take with you on the Kokoda Track, but I am sure you will have had experience of some kids who had the maturity of 30-year-olds and others who had the maturity of eight-year-olds and yet they were maybe 14 or 15. It is almost impossible to put an arbitrary figure on it. But certainly I would not be bringing it below 10 because I believe age 10 is a decent cut-off point. But there needs to be some sort of graduation from 10 through to 14 and some form of psychological evaluation to determine a child's cognitive abilities before you decide how to treat them.

The Hon. CHARLIE LYNN: I am interested in your comment in regard to drugs because when people ask me how to break the cycle, wherever it is, the word "drugs" is involved. You referred to the kids I took from Father Chris Riley. Every single one of them had been affected by drugs. They had no respect for themselves let alone for any other institution or anyone else. What suggestions do you have in regard to drugs and their relationship to the rehabilitation process?

Ms JABOUR: With Father Chris Riley's program and also when we talk about youth justice conferencing, it is a hands-on approach. It is actually sitting one-on-one with people who care about the young person. I think that is what has been the positive, especially with indigenous young people, with youth justice conferencing. You do have an elder from the community who comes into the conference. It could be their parent; it could be someone that they respect. It has got to be someone who is on their side. When you are working with young people they have to feel like the whole world is not against them. They have committed a crime and they have to be made very aware of it, but the

programs have to fit in with the fact that "Not the whole world is against you and this is what we are going to do, but you have got to do something back."

With youth justice conferencing there is an outcome plan at the end of the day, where the young person agrees to do this and the rest of the community, being everybody else involved in the process, agrees to do this. I think with Father Chris Riley's programs it works because it is the same sort of thing, where you give and you take but you meet halfway. I think that is why it works, because it is hands-on and everybody is heard. We are empowering the young person in a very positive way, not a negative way. We are encouraging them to talk to us about what it is that has led them to commit the crime. We get to hear about their drug problems and then we are able to fix them, with the people who are in this room—the police officers are involved, their parents are involved, the victims are involved; an independent person, a convenor, is involved, who keeps it all under wraps and works out that the outcome plan is fair.

It works because the focus is on that young person. For a lot of them, for the very first time they say, "This was the first time that anyone ever asked me anything. This is the very first time that I have been shown that people care." When you look at the programs that Father Chris Riley does, we are showing these young people that we care.

The Hon. CHARLIE LYNN: I would like your views on the impact of negative role models on young ones now going into the correctional services system because, even if they are 18, they are still impressionable. I would think that has the potential for great negative impact on the young ones who are taken out of a specialised juvenile justice system and put into that sort of environment. Do you have any views on that?

Ms JABOUR: I know with the Serious Offenders Review Council, when we are classifying inmates within the main gaol population, we take a lot of time, when we are moving inmates around, to what correctional centre they are going to go in. We would not send a young person who did not need to be in Lithgow to Lithgow. We would look at sending them to John Moroney perhaps, or to Kirkconnell or to Oberon.

We are very specific about looking at what their problems are. We know what the problems are within the different gaols, where more drugs are being done or where there are more older inmates, so we would not send a young inmate into a correctional centre that is predominantly older males. We do take a lot of time, when looking at moving these inmates around, to where we are going to send them, and that is really important.

Mr BROWN: And that has got to be the approach because if you were silly enough to take an 18-year-old out of even something like Kariong as it stands today and move them at the moment to Silverwater would be sheer lunacy, whereas if you move them to the second annex of John Moroney, you are actually talking about people who are predominantly adult first-time offenders and so there is not that hierarchy within that actual prison system.

One of the things that you need to bear in mind is that both Martha and I sit on the New South Wales Sentencing Council. We released a report—and I cannot even remember when it was but it was not that long ago—

Ms JABOUR: Before Christmas.

Mr BROWN: —where we recommended or we spoke about the abolition of prison sentences of less than six months. We were talking about within the adult prison system, but you need to bear in mind—and it is not that different within the juvenile justice system—that it takes about three months to integrate a prisoner within the adult prison system. So obviously if you are putting them there for, say, four months and a couple of days, they have only got basically a month and a bit after they have integrated into it. It is exactly the same when you are moving a juvenile from a juvenile facility into an adult facility, the difference being that that three-month integration that you see with a first-time offender to the adult prison, it is basically a six-month transmission across. So you have to be really careful because you could undo all the work that you have done, as you talk about, through negative influences from what we call the greater population.

The Hon. AMANDA FAZIO: Could I just clarify something? I have been advised that there is, in fact, a victims' representative on the Serious Young Offenders Review Panel, but I am not sure if there is an individual's representative of an organisation, because that came up couple of times.

Mr BROWN: We are not aware of that, but that is not to say that it is not someone who is an individual victim, because even our organisation, Martha's organisation and Enough is Enough, we obviously do not and cannot cater for every individual victim that there is.

CHAIR: Thank you for that elaboration. We appreciate your submissions and your contributions. The Committee will now have a short deliberative meeting and resume with other witnesses at 3.30 p.m.

(The witnesses withdrew)

(Short adjournment)

RAMSAY KEVIN NUTHALL, Anglican priest, Diocese of Newcastle, serving as Chaplain with the Department of Juvenile Justice at Frank Baxter Juvenile Justice Centre, Pacific Highway, Kariong, representing the Juvenile Justice Sub-committee of the Civil Chaplaincies Advisory Committee,

MARTIN GERARD PARISH, Chaplain with the Department of Juvenile Justice, Kariong Juvenile Justice Centre, Pacific Highway, Kariong, representing the Juvenile Justice Sub-committee of the Civil Chaplaincies Advisory Committee, and

IAN BRUCE DUNCAN, Baptist minister, Epping, representing the Juvenile Justice Sub-committee of the Civil Chaplaincies Advisory Committee, sworn and examined:

CHAIR: We have your submission to us, which we appreciate. Is it your wish that each of you or one of you speaks briefly?

Father NUTHALL: As we note, our submission was hastily put together due to time limitations and, if it is lacking in any way, I point out that we are not as well resourced as individuals as are perhaps some other people who have made submissions. I stress again that our submission is, as we state, in more general rather than specific terms. We believe that the more specific issues may be better handled by people who are more directly responsible for many of the areas involved.

I would also like to point out that in no way would we like to cast any aspersions on the present management of Kariong juvenile correctional centre. Our issue, in the main, is purely a philosophical one. By all reports, the present management of that centre is quite effective and quite sound, and we in no way wish to question the quality of that management.

We do, however, have a commitment to the corporate goals, aims and objectives of the Department of Juvenile Justice as they have evolved over the period of successive governments of both political persuasions. We believe those corporate aims and objectives represent, and could be the backbone of, certainly one of the best juvenile justice systems in Australia, if not further abroad. We value the role of the Department of Corrective Services in performing what is essentially its core business, which is the management and rehabilitation of adult offenders. We would like to affirm, however, the role of the Department of Juvenile Justice in its core business, which is the management and rehabilitation of young offenders.

By analogy we might say that the present situation is somewhat like that of a primary school that may well have suffered some difficulties after being taken over by the local secondary school. Both have valuable roles and significant skills and expertise in particular areas, and I think that is sound and appropriate. We would really like to see that distinction preserved.

CHAIR: Would either of you like to add anything further? If not, we'll start with crossbench questions.

The Hon. Dr PETER WONG: Can you briefly tell the Committee the importance of chaplaincy in centres such as Kariong? In what way do you provide spiritual welfare and counselling? What exactly is it?

Father NUTHALL: As in all juvenile justice centres, the role of chaplaincy is an important way of giving young people an avenue for expression and relationship that is not bound by the constrictors of other professions. Apart from giving what we normally refer to as a broader pastoral role, we facilitate worship and young people exploring their faith tradition. I note we not only look after young people of a Christian background but also look after young people of a Muslim or Buddhist background or whatever faith or spirituality they may choose to follow. In that way we fulfil quite a comprehensive role. Importantly in the juvenile justice system, and I suggest importantly also in the Corrective Services system, chaplaincy has a very significant role in providing a normalcy of presence in the centres.

As you would appreciate, custodial institutions of any kind are excessively abnormal institutions in which young people or adults are withdrawn from the mainstream environment and placed into an environment that certainly does not approach anywhere near normalcy. Chaplaincy in

terms of relationship, which is pivotal to pastoral care, enables young people to explore a more normal expression of themselves which by necessity custodial systems would allow.

The Hon. Dr PETER WONG: Have you noticed any changes from previously when they were under Juvenile Justice as compared to now when they are under Corrective Services? I ask that because of allegations that young people now have less access to legal advice, advocacy or visiting hours. Does that translate into them feeling less secure while they are in a prison system and, therefore, their loss of freedom affects them spiritually or emotionally?

Father NUTHALL: Our major concern in that regard is in terms of lockdown. As we pointed out in our submission, in order for disadvantaged and malfunctioning or dysfunctional young people to grow toward being pro-social adults they need to engage in normal growth experiences. That underpins and undermines the staffing policy and staffing levels of the Department of Juvenile Justice which, as you would be aware, are far greater than the staffing levels of the Department of Corrective Services. The greater staffing level allows young people to interact with adults, as young people should do and need to do. With a reduced staffing formula young people do not have the ability to do that. I note also the staff-inmate divide that is probably fairly famous, or fairly well known, in Corrective Services circles and is something that the Department of Juvenile Justice has strived to avoid.

The Hon. Dr PETER WONG: Does that translate into fear, insecurity, concern, lack of support, or level of care as they are transferred to Corrective Services? Do young people express to you that they are more fearful than before and less secure? Do they feel that the staff are less caring?

Father NUTHALL: Perhaps Pastor Parish might be better placed to answer that.

Pastor PARISH: We are going through a transitional time so the boys are adjusting from what was Juvenile Justice to Corrective Services, and there is a lot more isolation. I can only point out the specifics; there is a lot more isolation for the boys, a lot more time in their rooms. For boys who already do not have good self-images or who are easily threatened, yes, that would be the case. For boys who have not grown comfortable with their own presence that does affect them spiritually. Again, I point out that we are going through a transitional time with more changes to happen with, hopefully in the future, less lockdown time. So it would have to have a direct outcome on them.

The Hon. Dr PETER WONG: Is it fear? They feel no-one cares for them any more because they are in gaol not in the juvenile justice system where there is still hope for rehabilitation and more freedom and a better future?

Father NUTHALL: Could I answer that in a general sense. It is very often the case that young people return to the juvenile justice system. I am not talking about the Kariong correctional centre. Young people, if they are transferred to the adult system, often complete their adult sentence and then return to the juvenile system to complete whatever sentence they have left under the juvenile control order. Many young people express that they would really not like to go back to gaol; that compared to the adult system the juvenile system is certainly a much safer and nurturing environment. They are my words, not theirs.

Many young people in the juvenile system express with some bravado their desire to go into the adult system. But, as other people have noted, that is more because they can smoke cigarettes and they are certainly freer to do the sorts of things that are perhaps not conducive to pro-social development simply because of the necessarily reduced levels of supervision. We also notice in that sense that young people returning from the adult system in that sense are more personally hardened than the young people who have remained in the juvenile system. I have noticed that on several occasions.

I have been in the Department of Juvenile Justice for more than nine years. Before I went into the ministry I was a teacher with the New South Wales department of education for nearly 15 years, so I have some knowledge of young people and where they are at. As an observation the Department of Juvenile Justice, in accord with its basic purpose, provides young people with a safe environment.

The Hon. Dr PETER WONG: Assuming the juvenile justice system is better for detainees and inmates, where do you think it failed and led to it being taken over by Corrective Services? What reform do you see needs to be done in order to maintain a healthy juvenile justice system in New South Wales?

Father NUTHALL: The great failing of the juvenile system is, firstly, its failure to address some of the negativity of some of the entrenched staff of Kariong, which had been there for quite a considerable time. Also, after the 1999 incidents, Commander Don Rodgers managed the centre for some time, and had the centre running in a most excellent way. From our observation is an extremely competent individual in that regard, and that is to be affirmed. Perhaps it would have been appropriate to get someone like Don Rodgers, who has the expertise, to be introduced into the juvenile justice system and to place that alongside the other roles and focuses of Juvenile Justice. Perhaps that is a failing of Juvenile Justice. Again, that comes out of the tension between welfare and custodial demands. That is a very difficult balance to get and, as is pretty obvious, the Department has not always got that right.

The Hon. Dr PETER WONG: At the end of the day do you think that the failure of Juvenile Justice was due to staffing problems, from the manager right to the top political level of Ministers and chief bureaucrats who failed to put in the many reforms as recommended by the Ombudsman?

Father NUTHALL: Starting at the political level, it is my guess—and I am speaking for myself—that perhaps the Kariong Juvenile Justice Centre should have been closed a long time ago. Members of this Committee would be better placed to know, but politically the community seems to demand the image of the high fence, the high wall, so that we lock our problems behind that and the community feels safe. To some extent that is the comfortable illusion because fundamentally what we do is like throwing a burning rubber ball behind a high wall. Eventually it will bounce back if we do not do the right thing behind that high wall. However, that is a political reality and it is driven by the media and the climate of the day. Going down further into management, management of juvenile justice is, as we have said, under intense scrutiny.

No-one would doubt that that is appropriate. Anyone concerned with the welfare of children and who deals with children needs to be scrutinised as the age demands. However, it is sometimes the case that the scrutineer becomes very focused on scrutinising and the scrutinee becomes quite defensive in the process of being scrutinised. Again, as we said in our submission, you get a mindset at every level of the department, whether conscious or subconscious, that we have to do it; we have to be sure that we are seen to be looking after the interests of the young people who are involved so that we are not criticised or hounded in any way. I think you get my meaning in that sense.

The Hon. Dr PETER WONG: However, we also have the comments that no doubt people believe that juvenile justice is probably better for young people, but there is no discipline. On one day a supervisor tells a young detainee that that is the way to operate and the next day a totally different supervisor will change that direction. The young people then have no idea of what the rule is.

Father NUTHALL: There is a great deal of truth in that. The overreliance on casual staffing has contributed to that. I guess that is an issue of funding. Many of the problems at Kariong can be traced to people who could have performed better had they had the security of job tenure and perhaps more formalised and strict training and discipline that can be effected in the Department of Corrective Services. That is one thing that is to be admired in the department; it does have a good method of training its staff and disciplining the staff. That is the backbone of any school or agency that deals with people.

CHAIR: From my experience it is almost unheard of for an entire panel of chaplains to make a submission on management issues. What really drove you to do that?

Father NUTHALL: I refer again to our commitment to the corporate goals of the Department of Juvenile Justice in caring for young people. I repeat what I said in my earlier comments, that we believe that the New South Wales Department of Juvenile Justice, as it has evolved under consecutive governments, has a great deal to offer the welfare of young people. We would not

like to see the pendulum swing right to the other side. There is undoubtedly a case for the pendulum to swing more to the centre.

The Hon. AMANDA FAZIO: Mr Nuthall, I will direct my question to you but if anyone else was to say something, please feel free. I got the impression from your comments that you would not be unhappy if you saw some of the corrective services style of management of detainees—consistency of approach in behavioural standards and disciplinary matters, et cetera—introduced into other juvenile justice detention centres, is that correct?

Father NUTHALL: That is correct. I think the discipline at Frank Baxter Juvenile Justice Centre—which is where I work and I really only speak with some expertise there, and I have visited Kariong quite frequently in the past nine years—is quite good. Again, I think the issue of overcasualisation and that sort of thing can tend to undermine that a little. I think the consistency of management and that sort of thing also. I am not sure about this but I get the sense that the governor of a corrective services institution is more empowered than the manager of the juvenile justice centre. There are too many people pulling too many strings from too far away and it is often the people on the ground who are best placed to deal with what are very difficult people and circumstances.

The Hon. AMANDA FAZIO: In relation to the comments you made about section E of your submission, which is on page 6, where you say:

We would recommend the eventual closure of the present Kariong site, it being totally unsuited to the housing of juveniles, after the establishment of a maximum-security unit probably best positioned with the Frank Baxter facility.

Are you saying that because of the design flaws that we have heard about with Kariong or is it the whole premise of taking the most serious offenders and the people with the most difficult behavioural problems out of all the other juvenile justice centres and concentrating them in one facility where you probably have bad behaviour feeding off bad behaviour, and also it is more difficult for those young detainees to maintain family ties, or is it a bit of both?

Father NUTHALL: The total unsuitability of the present site sticks very much in my mind. I remember I was present during the 1999 disturbances and we had young people on the roof. When you have young people up three or four storeys high it limits anyone's options of how to deal with that situation, and everybody has to tread very carefully. From time to time there have been young people on the roof at Baxter. That is much more manageable simply because they are one story up rather than three. They are less likely to do themselves physical harm. You can take more appropriate measures, but when they are going to drop to their deaths it makes everybody very cautious. It was one of those buildings that was built but did not work.

It is an unfortunate reality that there are young people in the system who need more intensive management than others. We have young people incarcerated from the extremely violent and dysfunctional and mentally disturbed, perhaps, to young people who are really quite manageable and compliant. Even harking back to the old Mount Penang days, where there was a Carinya unit that kept first offenders totally separate. Again, for reasons of financial restraint that sort of principle no longer seems to operate, and to an extent that is a pity. The fact is there are young people whose behaviour needs close attention.

When you put young people of that sort together, you have an extremely abusive client base which then has an effect on staff who, in turn, become brutalised and, to some extent, opens the door to them taking hardened and impractical attitudes at times. I might also suggest that dynamic undoubtedly exists within Corrective Services if you go to a maximum unit, but that is not our concern, corrective services is not our focus. If you disperse them a little, you can more easily, perhaps, address the problems you have raised.

Again, I think, as we suggested, a facility built close to but separate from the Frank Baxter unit would also facilitate the greater transfer between one and the other. One of the problems I reflect on with Kariong Juvenile Justice Centre is that it was run in relation to itself very often rather than in relation to the whole system. I am not sure whether you know what I mean by that. Sometimes the young people would enter the Kariong centre and it was then: You are here and we are going to treat you with two fences and rough-type security, but the regime was not quite as well disciplined as it

could have been. Again, I think that gets back to the department attempting to respond to the various monitoring bodies that it has had to do over the years. Does that answer your question?

The Hon. AMANDA FAZIO: Yes, it does. Can I ask Pastor Parish the question in relation to the way the detainees are configured now in Kariong, where detainees who are at risk for a variety of reasons—whether there are co-offenders located in another wing or whether they are just vulnerable by age or physical build or whatever—are now in their own sort of areas where they are not at risk of harassment. Do you think that is a positive change in the way the inmates are configured there?

Pastor PARISH: I would see very little change between how Juvenile Justice is running and Corrective Services now. That is not to cast a slur on Corrective Services. Unit one, which Juvenile Justice used to call the Carinya unit, was for behaviour-oriented kids who were not settling in. There was more contained in the work with them. Unit two that we have right now, which was called the Watagan unit, was to work with those in between and it moved on to those who were placed there for serious indictable matters and did not present a risk at all. They were placed in that unit, where they earn privileges or trust to move up to what we call unit three, which is the Lawson unit. They are very much working on the same principles.

They do now have a special person's unit for those who are at risk. From time to time that would happen but in Juvenile Justice days it was more working with other boys in, probably, the trust unit or the Watagan unit, to befriend them and to provide them with the environment that they could eventually come out and feel as one and not threatened by the other boys. In answering that, we seem to have of late some real special kids and Corrective Services has opened a special person's unit, and it is probably far too early for me to make a comment on that.

Father NUTHALL: Could I just clarify that the Carinya unit that Pastor Parish spoke about at Kariong is different from the Carinya unit I spoke about earlier at Mount Penang. They are two separate entities.

The Hon. ERIC ROOZENDAAL: The Minister announced today the trial of 7.30 p.m. lockdowns. I understand it is for the level three inmates, is that the correct description?

Pastor PARISH: If it is level three, it would be those boys who are already given some extra privileges and they do not get locked down during lunchtime, so it would be them, yes.

The Hon. ERIC ROOZENDAAL: I know you have some criticism in your submission on the lockdowns. How do you view that if that becomes the situation, is the trial works, and the second part of the question, before you answer that, is how do you feel about the ability of the inmates to gain extra privileges or benefits if they adhere to the disciplinary regime of corrective services, keeping on the straight and narrow, so to speak?

Father NUTHALL: The issue with lockdowns is fundamentally this. As we point out, young people, in order to grow, need to be in environments where relationships and interaction can occur. That cannot happen when they are locked down at 3.30—7.30 is more reasonable, of course. The old lockdown time was 8.30.

The Hon. ERIC ROOZENDAAL: That was only for juveniles?

Father NUTHALL: That was only for juveniles, yes. I think that confinement or to be locked away from interactive and growth experiences ought not to be considered a punishment unless the young person is harming themselves or others or being a threat to the security of the centre. There is the mention of a cost benefit. I can tell you as a parent I am very much attracted to the cost benefit of locking my 19-year-old son and 17-year-old daughter up at 3.00 o'clock in the afternoon. However, there would be sufficient objection to that that I may well find myself a guest of Her Majesty because if I did that my actions would be quite abusive, in that I would be depriving them of the normal sorts of growth experiences. If you are going to lock somebody who is 25 or 30 away from the normal growth experiences, that is entirely another matter but to deprive young people of interactive opportunities, which is the only chance they have to grow in a pro-social way—and there is no better

time to do that than in adolescence; it is much harder to do when you reach adulthood. That is one of our great fears, that we start to get into cost benefits.

Again, if I did lock my children away, not only would it have repercussions for them but it would have repercussions for generations to come in their own social adjustment which they would then pass on. I often think of the work that Juvenile Justice is doing and think of it in generational terms. If we can make even a small advance in one person's life, that person can in some way improve the quality of their children's life in turn. That is a very significant investment for the community, not only for the present but for the future, and is something we must never lose sight of. That is the whole point about locking people down, young people particularly, at 4.00 o'clock or as a reward if they work hard enough. Possibly the people who are most difficult to manage are the people who need the most intensive interactive experiences of one sort or another.

The Hon. AMANDA FAZIO: In relation to the way someone can find themselves in Kariong, there is a certain class of people who are sent to Kariong because of the serious nature of the offence they have committed. Do you think there is enough flexibility in the system where you have someone, for example, who has admitted their offence, pleaded guilty and is undertaking as many training courses that they could get access to? Do you believe that sort of offender should have the possibility of leaving Kariong and going to a lower security facility as opposed to someone who has committed a similar offence but has contested it, is resistant to participating in any programs that might help modify their behaviour or improve their life skills? Do you think that flexibility would be better to give some additional hope of keeping the first offender out of the system once they have done that first sentence?

Father NUTHALL: I think I understand your question correctly. What was before the transfer of Kariong Correctional Centre was that young people who had committed very serious offences could move to lower security areas. This is an area where it is very difficult to generalise. We have encountered young people who have done at times most horrific things, and you find that even that has been to their amazement, shock and horror. I am not defending them but people at times find themselves in situations—perhaps I can use the case of a juvenile murderer who may well have only offended once. Now that is a very serious crime, no doubt, but that person can be, not always, and often is malleable and compliant and move in a pro-social way.

On the other hand at the other end of the spectrum you might have repeat offenders who have, in the main, committed minor property offences and offences of violence or constant violence that do not hit the headlines in the same way but who are, in terms of moving them in the direction of pro-social adults, is considerably more difficult. It is problematic for any department to try to manage that sort of thing. It presents everyone with dilemmas because on the one hand you are saying that this person has done this and so they deserve that, but in fact they are quite malleable and easy to work with or there is a lot of potential, and on the other side others have only just done a couple of break and enters and they are not at all approachable in that way.

The Hon. CATHERINE CUSACK: Currently Kariong has a 19-year-old inmate serving a 22 years and 6 months sentence and a 17-year-old serving a 3 months sentence. I suspect the 17-year-old is in that latter category you just described, a behaviour management entrant to Kariong. Are the rehabilitation needs of those two detainees different? I think you have partially answered that. Is it realistic to cater to the rehabilitation needs of both types of detainee in a facility that accommodates 30 or so inmates? Is it fair to say that most detainees at Kariong would fall into one or either category: a very serious offender with a long sentence or a recidivist offender who is in for behaviour management reasons?

Father NUTHALL: I would agree with that.

Pastor PARISH: Yes.

The Hon. CATHERINE CUSACK: Do they have very different rehabilitation challenges?

Father NUTHALL: I think so and I think every individual has different rehabilitation challenges as we all have different needs. Again perhaps as inadequate as the Department of Juvenile

Justice response to that is, at least, it is better resourced to attempt to cope with the individual needs of detainees and to determine them.

The Hon. CATHERINE CUSACK: Someone serving a 22-year sentence would have different expectations to a person serving a three months sentence. Surely the programs would have to be very different for those two types of offenders? Can you run both types of programs in such a small facility? Is it realistic to be able to do that because of the small size?

Father NUTHALL: I wonder. I guess it gets back to the situation of the individual. I am not sure I agree that both of those individuals would need totally different programs. It would depend where they are personally and how open to personal growth and development they as individuals are. The person doing the 22-year sentence may well be more open to those programs than the person doing the three months and it could be vice versa. That is something that needs to be assessed by the people who work with these young people.

Pastor PARISH: I have noticed in the centre when the kids who are behaviourally challenged rub shoulders with those who are there for the long-term it mellows them out and actually gives them some positive models to take notice of so there is a benefit as much as there are disadvantages as we have talked about.

The Hon. CATHERINE CUSACK: Does it balance the environment?

Pastor PARISH: It can balance the environment and it has.

The Hon. CATHERINE CUSACK: A number of nurses have commented to the Committee about the very high levels of casualisation of staff. Do you know why the department is operating with such a high level of casual staff?

Father NUTHALL: No, I do not. I can only imagine that that is in the current economic rationalist environment that everyone seems to be subjected to.

The Hon. CATHERINE CUSACK: My understanding is that a lot of the casual staff would love to be permanent employees, so there is no shortage of applicants?

Father NUTHALL: Yes, but can I add that one of the off-spins of that is also that a lot of good quality people apply initially for jobs as youth officers and because the work perhaps does not come as regularly as it might, they go off into other areas of endeavour, whereas if they were given a sound job in the first place they may well have remained.

The Hon. CATHERINE CUSACK: Are you suggesting that there have been times when Kariong has been better managed than at other times?

Father NUTHALL: Yes, I think that is true. I think certainly I mention Don Rodgers again. I would mention that under the present manager of Frank Baxter, Steve Wilson, it was managed quite well. I would also say that Mr Peter Reberger who is an assistant manager at Frank Baxter Juvenile Justice Centre has also during his periods of acting manager there seemed to have started to get things operating, perhaps, as they should.

The Hon. CATHERINE CUSACK: In your submission you say that the Ombudsman has not necessarily been constructive.

Father NUTHALL: I would like our comments there to be sort of received with a subtlety that it can be, okay? I think we respect the Ombudsman and the role of the Ombudsman and indeed of official visitors. They are very necessary. The problem again can be that when you are checking minute details of one thing or another then you can become a little obsessive or overzealous. The people who have attempted to manage the situation on the ground need to do that as best they can at the given moment and that is sometimes a privilege they do not have.

During the time it has not been managed as well as it might have been perhaps it was by people who have come into the system who are perhaps not as familiar with the culture of Kariong

who may not have been fully aware of what they were embarking upon, and may have found themselves in difficulties that they did not anticipate.

The Hon. CHARLIE LYNN: Pastor Parish, because the chaplains are of the system rather than in the system do you find that you have a bridging role between the youth officer and the manager as a confidant, an adviser or as a commentator on management systems within the running of the place?

Pastor PARISH: Are you saying more like an advocate between the manager?

The Hon. CHARLIE LYNN: Well, yes, because you are not in the system as such and are an objective observer so to speak, although you have a very powerful role to play, but if you saw that the youth workers were under incredible frustration because of some managerial direction, would you have a cup of coffee with the manager and act as a sounding board for those problems?

Pastor PARISH: I have enjoyed many occasions with the manager with situations like that where we have obviously frankly talked about issues like that in a general sense to give him such feedback.

The Hon. CHARLIE LYNN: A common theme in the submissions is that there has been a breakdown in the management of the centre for various reasons, for example, the casualisation of the work force, the different ideology of people who were running it at the time and so on. You refer to an incident and said the significant reality with regard to the department's handling of staff assaults was that youth officers do not feel supported by departmental management after they have experienced an assault on either themselves or one or more of their number. We heard a case where a youth officer was assaulted by an inmate and then was turned around and had to apologise to the inmate for saying something that caused him to punch him on the nose, so to speak. Do you have any comment on that?

Reverend DUNCAN: I cannot comment on that specific case. One of the great advantages of having a chaplain within any system like this is the independence that the chaplain has offered the detainees, the staff and management that no-one else can perhaps give. They represent not one or the other in an advocacy role but rather to give you personal strength and input to each of the stakeholders. We see the role of chaplaincy as being a great advantage to every member who is within any of these detention centres or gaols so that everyone becomes a winner out of whatever are the stress points.

The Hon. CHARLIE LYNN: The common theme within your papers is that you are totally against this system being managed by Corrective Services, which is an institution for adult detainees where you see a really important and valuable role for a juvenile justice system. It seems that you strongly object to the current system. Is that a fair comment?

Reverend DUNCAN: No, I do not think so. Credit where credit is due: the Department of Corrective Services is doing a good job in what it does well, that is, the management of the centre. Our great concern is that the Department of Corrective Services seems to lack expertise in dealing with juvenile offenders. Our great concern is that these particular detainees are missing out on those advantageous times and processes while they are within a detention centre.

The Hon. CATHERINE CUSACK: An earlier witness commented that separation of custodial from the program's functions seems to be part of the success that Corrective Services is having. Could Juvenile Justice learn something from that rather than trying to combine both in the youth officers position?

Father NUTHALL: I am not entirely sure about that. Since the empowerment of youth officers in casework to actually do the casework with the young people it has actually improved the relationship with young people with the youth officers. That then again creates that environment where interaction and relationship with adults both in a parental/authoritative way as well as a custodial/disciplinarian way is a little more closely related. The problem of splitting program people with the purely custodial functions is perhaps the sort of result that we have seen very much with young people's response to the police. They see them purely in terms of being authority figures and

they do not relate to police as human beings and so it makes that whole interaction much more difficult as we have seen fairly recently.

The Hon. CATHERINE CUSACK: Your submission also refers to the devastating impact that the transfer has had on previous staff at Kariong and I guess some of the Baxter staff or the casual staff. Can you expand on how that has affected in particular the casual staff?

Father NUTHALL: Well, I think a lot of casual staff at both at Baxter and at Kariong, with the transfer of permanent staff from Kariong to Baxter, no longer had work.

The Hon. CATHERINE CUSACK: And these would be long-term casuals who were depending on that?

Father NUTHALL: That was long-term casuals who were depending on that work, and in very many cases, very good people. I think that is probably the main impact. I guess the people who were permanent employees either had the option of taking redundancy or transferring to Baxter and so the impact on them has been less.

The Hon. CATHERINE CUSACK: How are the former Kariong staff faring at Baxter? Are they being accepted at Baxter?

Father NUTHALL: Yes, they are integrating quite well. That also occurred in that sense with the closure of Worimi when some Worimi staff came down. It takes a while for people to integrate and pick up the ethos of the Baxter centre, but that is certainly happening, I think.

The Hon. CATHERINE CUSACK: They are functioning successfully and professionally, would you say?

Father NUTHALL: Yes, yes, as far as I can see. Again, I am probably not in a position that is best placed to answer that.

The Hon. CATHERINE CUSACK: But since you are at Baxter —

Father NUTHALL: As a casual observation, yes.

The Hon. CHARLIE LYNN: Can you enlighten us a little bit on your bipartisan pact of commonsense with regard to juvenile offenders?

Father NUTHALL: Well, I am disturbed—and I think a lot of the people in the community are disturbed—by the current political point scoring by politicians. I really think it is something that you people have to pay attention to.

The Hon. ERIC ROOZENDAAL: Hear, hear!

Father NUTHALL: I know it is not your own responsibility and that also this is all fanned by the media. But, again, issues of great complexity, by necessity, are reduced, as I think we say, to disquieting simplicity. It is something that you have to probably struggle with because I am not a politician and probably never will be, but I know that as a group of people you are also driven by the media, by the shock jocks and by the various pressures that you are under—the need for an election coming up and to look good and all the rest of it, and that is fair and reasonable—but that sort of thinking has sometimes deleterious effects on the people on the floor who are doing sometimes a lot of very often hard jobs. I am sure I am not the only person—or we are not the only people—in the community who think that. I do not know what you are going to do about it but I would hope that you wrestle with it at least. Thank you for asking the question.

The Hon. CHARLIE LYNN: We are having an inquiry actually to try to work it out.

CHAIR: I think that is an appropriate place at which to draw this segment to a close. I thank the witnesses for being with us and for their contribution.

Father NUTHALL: Thank you very much.

(The witnesses withdrew)

The Committee adjourned at 4.34 p.m.