

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ASHLEY, YOUTH JUSTICE AND DETENTION IN TASMANIA MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY 13 FEBRUARY 2007.

Mr TOM KLEYN AND Mr TIM JACOBSON, HEALTH AND COMMUNITY SERVICES UNION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR (Mr Hall) - Welcome to the table, gentlemen, and that you very much for your submission which you have provided to the committee; for members, it is submission number 34. I invite you Tom and/or Tim to speak to that submission if you would like and then give the opportunity for members to ask any questions and have some discussion.

Mr KLEYN - You are obviously aware that we represent a significant number of members at Ashley.

CHAIR - What percentage, as a matter of interest?

Mr KLEYN - Probably 70-80 per cent, I would say. Certainly most of the operational staff would be members of ours.

We have had dealings with Ashley for a number of years. Back in 2001, there was a breakdown in negotiations - this was at the time of the refurbishments - and we had significant industrial disputations at the time.

In our submission we have focused primarily on the issue of security, safety for our members and educational programs and facilities at Ashley. For us, security is an issue of significant concern to our members. It has been an issue for a number of years, particularly the use of external security personnel. We have had correspondence from the department going back to 2000 where they indicate that it is not in the long-term interests of Ashley to staff the place with external security guards, yet they are still significant in number. I mention in our submission that there are significant differences in the training and induction between those workers and permanent Ashley staff, who are employed as youth workers and not as custodial officers.

Mr MARTIN - Do you know what the percentage mix is?

Mr KLEYN - It is 1:3; I think it is about 16 or 17 staff. I don't know exactly, but the figures that I have drawn from members show that in the period of a month they covered about 150 shifts, so they are used primarily to relieve sick leave, workers compensation, and where there is a shortage of shifts when people can't come in, but it is still far too extensive for our liking. One of the outcomes of the dispute back in 2001 was that external security staff would no longer be used, or would be phased out, and there would be sufficient permanent staff there to staff the facility without the use of Chubb as it was

then, Platinum as it is now. So there is certainly an issue in terms of the training of those people.

There is also the issue of adherence to standard operating procedures in terms of gender balance of staff and the requirement to ensure that females are supervising females and males supervising males. I think it is fairly clear as to what kind of vulnerability staff can get into when females are supervising males, and vice versa. There are certainly procedures around residents who are on very close supervision who require one-to-one supervision. That often does not occur because of insufficient staffing, and particularly if you have more than one person on very close supervision requirements then it is very difficult for staff to do what they are actually required to do. The same applies to non-association programs, which are programs where the residents, for reasons of misbehaviour or breach of guidelines or rules et cetera, do not associate with other residents, so they require further close supervision.

Members have raised issues regarding the level of security provided by the perimeter fence and whether there is a need for video surveillance.

CHAIR - Yes, I noticed that the Liberals yesterday put out some FOI information, and I thought the manager of Ashley mentioned last night in the media that they now have security cameras installed on the fence.

Mr KLEYN - We saw this press release from Bill Smith, the manager, which goes mainly to the issue of whether there should be a separate facility for 17- to 21-year-olds -

CHAIR - Yes, and that is another issue.

Mr KLEYN - which is something that was first recommended back in 2002, as I understand it, and has been recommended since on a number of occasions. As I understand it, I think Tasmania is the only State that has a one-size-fits-all youth detention facility. Generally speaking, depending on the crime, you would go to a so-called minimum security kind of facility, whereas here in Tasmania we tend to put them all together, which in itself creates security problems, because obviously the more recalcitrant residents are going to require closer supervision.

CHAIR - It is probably a product of the size of Tasmania.

Mr KLEYN - Yes, it is, but there was a perfect opportunity to do something about it with the redevelopment of Risdon Prison, and that should have been taken up. It was also suggested by members that closed-circuit television might be a good option in public areas, and this was also something that came out of the last review, not just for the safety of staff but also for the residents and security for their belongings, so that one resident would not steal from another or pick a fight. The occupational health and safety -

CHAIR - Excuse me, John, you have encapsulated our terms of reference well, so we have just dealt with, from your point of view, current security. I might ask if members of the committee want to ask any questions on that before we move to the next part.

Mr WILKINSON - I hear what you say in relation to another facility to cope with 17 to 21-year-olds - perhaps it should be 16 to 21-year-olds because under the old act, as you

know, you could be sentenced to a term of imprisonment if you were 16 and then go to Risdon and some people, unfortunately, are quite recidivistic and could be committing crimes at the age of 16 and 17. Is there a place presently in Risdon where these people can go that would keep them away from mainstream Risdon?

Mr KLEYN - On our understanding, no, we do not believe so.

Mr WILKINSON - Right.

Mr KLEYN - There is no specific facility for youth at Risdon, so they would be put in with the male adult population, as I understand it.

Mr JACOBSON - And it is not just a question of facility, it is a question of the capacity for those people who work at Risdon to be able to provide the necessary support. The reality is that a decision needs to be made about whether in fact we are simply talking about incarceration or about rehabilitation.

Mr WILKINSON - Still, at that age, there should be rehabilitation.

Mr JACOBSON - Exactly, and I guess the capacity for that is one issue in relation to the facility itself, whether the facility is here but also the capacity of Risdon to do it. We do not believe, at this point, that either exists but Tom Lynch may well be able to expand a little bit further on that.

Mr WILKINSON - So what are you saying should happen? If there should be a facility to cope with these people, where should it be?

Mr KLEYN - We think it probably should be at Risdon but as a separate facility, certainly not mixed with the adults, in a similar that the women's prison is, I guess. That, to me, would be the logical place, but it does not necessarily have to be there.

Mr WILKINSON - Right, thank you.

Mr DEAN - On that point, have you explored that with the authorities? Have you said that you are concerned about your members and the fact that you have these 17- and 18-year-olds there and that there should be this separate facility? Have you taken it up with them, and if so, what has been the result?

Mr KLEYN - We took it up in a roundabout way, not in such a direct manner as to argue for a separate facility but, over the years, we have raised concern of our members that the resident mix is creating problems. The older kids are influencing the younger kids and we have raised that as an issue on a regular basis. We have not put it in terms as such that we believe there should be a new facility, but there have been other recommendations by people more expert than us. But we certainly have raised issues regarding the resident mix.

Mr DEAN - Any result? Have you had any answer back?

Mr KLEYN - Not to our satisfaction; not to the extent where they have actually addressed the concerns that we have. It has been more about trying to manage it from within the facility itself, rather than looking at addressing it in a different way.

Mr JACOBSON - And I guess an expression of that is the recent increase of staffing levels at the facility to cope with unrest, particularly at night.

Mrs JAMIESON - I was interested in your comments that the external staff required are not trained to the same degree. Are they undertaking any other roles apart from security or do they act as surrogate youth workers?

Mr KLEYN - Yes, they act as surrogate youth workers.

Mrs JAMIESON - But they are not trained in that area?

Mr KLEYN - When they come on the expectation is that they do the same job as the youth workers.

Mrs JAMIESON - Right, and not just security as such.

Mr KLEYN - No, they are not an additional security to the staff that are there.

Mrs JAMIESON - Do we have any idea how much the services of Platinum might cost?

Mr KLEYN - No, I don't, but I imagine it would -

Mrs JAMIESON - Because we have been assured through the parliamentary system, if you like, when I have asked questions about this before, that Platinum is 'adequately trained' but it is never enlarged upon. So when I read that I thought 'Mm'.

Mr KLEYN - Well, our members do not agree with that, that's for sure; they don't believe that they are adequately trained.

Mrs JAMIESON - Right, thank you.

Mr DEAN - You mean in the youth worker role.

Mr KLEYN - Yes. They might be adequately trained for security purposes, but not as youth workers.

CHAIR - So all of the direction to Platinum is given by Ashley management - is that correct?

Mr KLEYN - Yes.

Mr MARTIN - This morning we received a question that could not be answered. Are all your members trained in youth work?

Mr KLEYN - They are all expected to be trained in youth work or undergoing training in youth work.

Mr MARTIN - That is a prerequisite for employment?

Mr KLEYN - I don't know if there are any essential qualifications that they are required to have as a prerequisite to working there. They are required to undergo training as part of an industrial agreement we have with them, but as I understand it that may occur once they are engaged. When they are engaged they go through psychological testing. They go through quite a rigorous induction process and I think in addition to that they are expected to undergo further training. Again, I don't think there is an essential requirement that they have to meet.

Mrs JAMIESON - So they are youth workers specifically for Ashley or could they then get another job elsewhere as a youth worker? In other words, have they met a specific academic standard or whatever is required of them?

Mr KLEYN - It is my understanding that they are youth workers specifically for Ashley and they are not generic youth workers.

Mr MARTIN - It appears from what you have in your submission that there have been a fair few commitments given over the years to ending the private security staff. What reasons have been given at the moment?

Mr KLEYN - We don't have enough staff, sick leave, injuries, workers compensation. It has really been an ongoing excuse; 'Yes, it is our intention to get rid of them but we can't at the moment'. There has been no specific reason given as to why it is essential to have external security guards or an external security company on campus.

Mr MARTIN - Supposedly they are being used to cover shortfalls in staff?

Mr KLEYN - It begs the question why are there shortfalls of staff? Why isn't it adequately staffed?

Mrs JAMIESON - What types of workers compensation? Is it stress or physical injury?

Mr KLEYN - Stress and physical injury.

Mrs JAMIESON - To any great degree?

Mr KLEYN - Yes, to quite a significant degree. I tried to get some figures but our members were unable to get that from management.

CHAIR - Thank you. We will move onto staff issues including OH&S.

Mr KLEYN - The OH&S and staff issues are very much linked to security, obviously. One of the outcomes of the dispute we had in 2001 was to establish a staff ratio of one staff member to three residents. It then became an issue. Members are now saying that the team leaders should not be included as one of the three staff, that the team leaders may be responsible for a unit or might be responsible for two units and then often have to leave to deal with an issue away from the unit they are in, so it leaves two. So our view, certainly on our members' advice, is that the team leader should be outside the 1:3 ratio,

that in fact we should have three youth workers and the team leader should be providing management support and doing more with the educational side of things.

There have also been a number of incidents and I haven't reported many of them. As I said, I haven't been able to get a lot of figures on injuries but certainly members have suggested that things like the crib board should be built into the table, chairs should be foam - foam cubes or things like that - because anything that can be used as a weapon sometimes will be. They want to reduce any risks of being injured or of residents injuring themselves or of having to intervene.

Staffing levels have been increased on night shift from six to eight and it is our view that this needs now to be a permanent arrangement because it is required. It means that you have two staff for each unit rather than one-and-a-half staff for each unit, so that would provide certainly a lot more safety for the members.

Mr MARTIN - Have management indicated that it is a permanent arrangement?

Mr KLEYN - No, they haven't. It is a temporary arrangement at present so we are pursuing it. In fact I think about three weeks or a month ago I wrote to the department about a number of issues. I still have not a response yet. It was written about a month ago to the deputy director and it raised issues of safety for our members in terms of physical abuse and staffing levels. It is one of those ongoing issues; staffing levels and getting rid of security personnel are all part of ensuring that staff are safe.

The other thing that members raised was some kind of debriefing process for all staff, particularly a time-out room, somewhere they can go and sit down and talk to somebody quietly away from the residents.

There was concern raised about the memorandum of understanding between Ashley and Risdon. This goes to the issue of a separate facility but it also raises issues of safety for members regarding the kind of residents they are dealing with, particularly the older ones. It is not only physically dangerous at times but it is also takes them away from what they should be focussing on, which is rehabilitation of young people.

CHAIR - So that transfer of prisoners between Ashley and Risdon is not a function of Platinum Security; it is a function of your members?

Mr KLEYN - No; it is a memorandum of understanding between the departments of Justice and Health as to when should a resident be transferred out of Ashley.

It appears to us that you end up in Ashley simply because of your age rather than because of what you have done or how many times you have done it. What our members are saying about the memorandum of understanding is that there is not a suitable facility to put these kids in and it is also a fairly slow and bureaucratic process that does not allow for quick removal of problem residents.

Mrs JAMIESON - I noticed in the last comment here that you are frustrated because the memorandum of understanding is still being reviewed and no action has been taken to implement the recommendation. Do you have any knowledge of why this happened?

Mr KLEYN - Again, I don't know. I suppose it does get very frustrating dealing with the bureaucracy in the sense that they have a memorandum of understanding and they believe it works well. Our members find it frustrating because it does not work quickly enough at times, and it is not flexible enough to work quickly enough, so there are these processes that they go through.

Mr WILKINSON - Problems often go away if it doesn't work quickly.

Mr KLEYN - That's right. The problem from the Justice department's point of view is where do they place them. People are saying these kids shouldn't be in Ashley but where do we put them.

Mr DEAN - Where is the breakdown in the process? Where does the breakdown occur with this memorandum of understanding and the further discussions and no action being taken? Is it within the facility at Ashley or is it a file within DHHS?

Mr KLEYN - I think it is at a higher level. I don't think it is at Ashley itself. The failure is probably at the senior bureaucrat level rather than at Ashley.

Mr JACOBSON - Certainly what has been reported to me in some discussions that I have had is that Ashley management seek to put in place the arrangements under the memorandum of understanding on a regular basis. There are blockages at a higher level within the DHHS or in the justice system. It would not surprise me, given the difficulties Justice have in placing people, that it is there the blockage occurs.

Mr DEAN - Thanks for that.

Mr WILKINSON - I can understand with your representation that you have to do all you can to make sure it is a safe place to work for people within your organisation. Have you any statistics as to how many people have been injured in recent years?

Mr KLEYN - No, unfortunately I don't. I tried to get that information but our members couldn't get it, so unfortunately I don't have it. We could continue to try to get it but I am sure that it is something that a department could provide.

CHAIR - That would be useful.

Mr KLEYN - I will see what I can do.

CHAIR - Any reason why you were not able obtain that? Anecdotally over the years there have been a lot of injuries and assaults on staff, as we all know, so it would be useful if we could have that.

Mr KLEYN - Okay. I will see what I can do and try to get some more information on that.

Mr WILKINSON - You would think that information would be available because those people may have had time off.

Mr KLEYN - The department should have that.

Mr WILKINSON - They would have it without a doubt, I would have thought.

Mr JACOBSON - They would have it. I don't know if the department have been before the committee at this point but they would certainly have detailed statistics.

Mr WILKINSON - In relation to that injury, is there any history at all as to what caused the injury and what recommendation is now in place as a result of that?

CHAIR - Following on from that, are you aware of any current or ongoing litigation between any of your members and the department in regard to any assaults or injuries?

Mr KLEYN - I am not sure. I do believe there are still members on workers compensation as a result of injuries incurred but I cannot tell you how many or the duration. I certainly know there are members who are still on workers compensation.

Mr MARTIN - You have asked for the information from the department?

Mr KLEYN - No, I haven't formally asked the department for the information. I tried to get it from our members, even anecdotal information that I could provide, but I haven't formally requested figures from the department.

Mrs JAMIESON - In your opinion do you think the Department of Health and Human Services should be the lead agency, or should the whole of the Ashley project be moved into another department - so we are cutting up the memorandum of understanding?

Mr KLEYN - What, and transfer it to the Department of Justice?

Mrs JAMIESON - Or set up a new -

Mr KLEYN - It is an interesting question. I haven't given it a great deal of thought. In a lot of the conversations and a lot of the negotiations that I have been involved in with the department, one of the criticisms we made of the type of facility they build, the mix of residents, was not so much who should administer it. I don't think anybody has raised the issue of whether it should be in the Department of Health and Human Services or in the Department of Justice. I guess there is this dichotomy. It is, in a sense, a semi-correctional facility but it is run under Health and Human Services so there is that inconsistency, but going to Justice and becoming a more correctional facility is not, I do not think, in the best interests of the residents.

Mr JACOBSON - Having said that, however, a significant number of young people in Ashley have been the responsibility of the State for longer than simply their time in Ashley. The reality is that the Department of Health, the secretary and the minister have been responsible for those people since early on in their life and up until the age of 18, so to a degree there is some rationale for them to remain within that DHSS environment.

Mr KLEYN - Education and training is probably one of the long standing complaints we have had going back a number of years. It certainly the view of our members that there is insufficient meaningful vocational and educational programs. Look at some of the programs they run like rubbish removal, moving sand from part of the facility to another. What do you call them? Vortex throwing. They seem to focus on get busy, get active

type activities or sport and recreational activities, rather than vocational activities that actually skill the people to do something when they come out of the facility. I say in the submission that we do not believe the department or the Government has adequately funded this aspect of Ashley. They have spent considerable amounts in building a new facility but they haven't put sufficient funds into resident programs.

The other concern that I raise is whether the school-age residents there are actually attending school for anything more than a few hours a day, and I think whether they are getting adequate schooling is something that needs to be addressed. I understand that the schooling at Ashley is quite different to elsewhere, but still, if we are serious about the centre being a place for rehabilitation rather than incarceration, the programs are critical to it. There have been an ongoing negotiations with the department, and it comes down to funds - how much money they are prepared to put into it. We don't believe that the facilities they run are adequate, and too much of it is just sort of recreational rather than vocational

CHAIR - If we look at the educational side, as the committee did last week, obviously the teachers there are employed by Education and not by the Department of Health and Human Services. I put the proposition to you that it seemed to me that the teachers there actually take the normal school holidays and therefore there is quite a gap, so from your point of view, would you see that it would probably be better to try to fill that gap somehow and still continue the school curriculums, if you like?

Mr KLEYN - Yes, in some ways, sort of like summer schools or something along those lines - and real vocational training, like carpentry or mechanics, things like that.

Mr WILKINSON - Can I touch on that, Tom, because it seems to me that if the money is not available within the department to bring that to Ashley, then perhaps the money can be available because it would not take as much to take those students to a TAFE course on the north-west coast or wherever it might be to carry out that type of course.

Mr KLEYN - That is an option too. It would probably require additional staffing, though, to ensure the level of supervision, security et cetera. But yes, it does not necessarily have to be on the facility, but it has to be available.

Mr DEAN - Have you taken that up with the Education department? Have you spoken to the organisation about what you think should happen there to occupy these students in a meaningful way in those areas?

Mr KLEYN - We have not spoken with the Education department; we have with the Health department, though, taken up issues of appropriate programs.

Mr DEAN - Have they listened to you?

Mr KLEYN - No, not to date.

Mr DEAN - Because you are coming from your staff point of you, aren't you, and you should have some idea? You have a lot of staff there.

Mr KLEYN - Well, we get responses, but we don't actually get any action on the ground. We get, 'Yes, we are looking at programs, we are looking at trying to improve them', but it does not actually happen.

Mr MARTIN - In your submission you say that around 70 per cent of resident programs are conducted by youth workers.

Mr KLEYN - Yes.

Mr MARTIN - What sort of programs are they?

Mr KLEYN - They include things like games, cleaning up the yard, rubbish removal, sporting activities. Some of them take guitar lessons or improve on particular skills that they might have, but in our view we need more expert people to come in, people who are skilled in their particular area, and more structured programs rather than just expecting a youth worker to do it as well. Some of the life skills areas the youth workers can do, but clearly, some of the vocational areas would require additional resources from outside, or they would need to go outside.

CHAIR - Tom and Tim, we are starting to run down in time. Would you like to encapsulate your submission and make your final points if you would, please?

Mr KLEYN - Yes. As I said, we focused mainly on those first three criteria on the terms of reference. I guess it has been a period of some frustration for us in that the issues that we have raised time and time again have not been addressed adequately to our members' satisfaction, and we welcome this inquiry in the hope that the outcomes of this will see the Government allocating some more funds for the actual running of the facility rather than just the physical building. I guess I would have a concern if the focus after all this is just simply on security, because there is a lot more that is required, like installing video surveillance and closed-circuit television, but if there are no meaningful ongoing activities that attempt to rehabilitate these kids then it is going to turn into a jail, and that would be of great concern to us and our members.

I wrote a letter to the deputy secretary of the Human Services group - which is part of the department that runs Ashley, and this was on 19 December - and the issues that I raised were staffing levels and again, the recruitment of additional staff that is required as there is a reliance on Platinum Security to back-fill the roster. I raised again the issue of residential programs and that we believe more vocational programs are required and also the issues of safety and security. I wrote that on 19 December and have yet to receive a response.

Mr MARTIN - Are you tabling that?

Mr KLEYN - I can.

Mr JACOBSON - Which tells a bit of a story.

Mr KLEYN - It does tell a bit of a story in that I haven't got an answer to it yet. This is fairly typical of the number of letters that we have written over the years. You will see at the

top that I have just sent an e-mail saying, 'Can you advise when a response to this letter will be received?', but I can table that.

CHAIR - Thank you.

THE WITNESSES WITHDREW.