

PUBLIC

THE LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION
COMMITTEE B MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE,
HOBART, ON WEDNESDAY 21 JUNE 2023

INQUIRY INTO TASMANIAN ADULT IMPRISONMENT AND YOUTH DETENTION MATTERS

The Committee met at 9:02 am.

CHAIR (Ms Rattray) - We welcome you, Dr Val Kitchener, to this inquiry. We thank you for taking the time to prepare your submission and for being here today.

I would like to introduce you to members of the Committee. Josh Willie, Rosemary Armitage, myself Tanya Rattray, Rob Valentine and Meg Webb. We have an apology from Jane Howlett. Committee secretary support is Simon Scott and Alison Scott is at the back.

You have been provided with some information regarding the processes. This is being recorded and *Hansard* will be available at a later time. You have Parliamentary privilege when speaking in here but outside that may not necessarily apply. If there is anything you feel the Committee would benefit from hearing in camera, please ask and the Committee will consider that. We invite you to take the statutory declaration and then proceed with your opening statement, and then we will ask some questions. Thank you, Dr Kitchener.

Dr VAL KITCHENER, CONVENOR, TasOPCAT NETWORK, WAS CALLED, MADE THE STATUTORY DECLARATION, AND WAS EXAMINED

Dr KITCHENER - Usually I would make comments on our submission in company with Rob White and Nicole Asquith because there are criminological aspects as well as human rights aspects here. I tend to take the human rights focus. All three of us are very glad that this inquiry is happening and that we have an opportunity to speak.

Our primary position is that reform to the justice system should address the causes of crime and not rely on incarceration. We look at the causes of crime as integral to the social determinants of health. There are links with poverty, with education and health, which are all matters of human rights. I have an academic background and a professional background as a long-time public administrator. My personal approach on these matters comes from 30 years as an official visitor under the Mental Health Act.

The professional academic work has been affirmed by the grassroots experience. I really do see that there is a strong correlation between human rights, respect and dignity for human beings and crime rates and recidivism. Being an official visitor also taught me that we look at justice reform through the lived experience of people. We realise that often the Tasmanians who are incarcerated are the same as those who struggled at school, perhaps were in Ashley Detention Centre, and often were in the mental health system. A number of people I spoke to as an official visitor reported their life story as being troubled at school and having included incarceration at Ashley and/or Risdon. Some were at the Wilfred Lopes Centre because they were not guilty by reason of insanity.

PUBLIC

Putting people's experience into the centre of decision-making makes better policy. TasOPCAT emphasises that the approach here is what the Australian Human Rights Commission, which I will now refer to as the AHRC, refers to as 'upstream'. That is to say the aim is to prevent problems occurring and not to run into disputes or litigation or the inquiries and royal commissions of which we have seen far too many of late. That means that human rights are as much a matter of public administration as of law. I will repeat that: human rights are as much a matter of public administration as of law. I think we often lose sight of that point.

TasOPCAT makes a plea for recommendations to be implemented from recent inquiries. We look forward to the inquiry into the abuse of children in institutional settings in August and hope that the recommendations will be taken very seriously. Our submission addressed the 'why' questions. The broader framework we have given is about why we think the system needs reform. We also need to move to a 'how' question: how do we implement the human rights? We draw from Free and Equal, the Australian Human Rights Commission document, and we commend this to the Legislative Council as a foundation document for further consideration.

Through Free and Equal, we promote a value statement in governance together with the human rights lexicon to build a human rights culture and, ultimately, we would hope a human rights act.

The value statement is that statement of principles, and these are: democratic, preventive, protective, and effective. Each of these has particular elements. To be democratic calls for Parliamentary sovereignty, accountability for upholding the rule of law, participation to ensure the voices are all heard in debate, and balance is vital because we know that there will be intersections between human rights and other legislation. To be preventive means to be proactive. To be protective means to ensure that there are safeguards against contraventions. Being effective means ensuring best-practice decision-making and ensuring equality of access to effective interventions. I think you have a copy of the diagram?

CHAIR - That has been provided, thank you.

Dr KITCHENER - I have tried to reduce that as a reference point. I have coined the term 'lexicon' wearing my public administrator hat. The lexicon promotes ways of embedding human rights in public administration. AHRC promotes concepts of positive duty, proper consideration and participation. These are practical tools that policy analysts have shown to be effective in rights-based countries and in Victoria, Queensland and the ACT, all places that have their own Human Rights Act.

TasOPCAT also emphasises the concept of proportionality and progressive implementation. The first recognises that most human rights are not absolute and can be restricted in the public interest. The second recognises the reality of constrained resources, while at the same time ensuring there is a long-term strategy for implementing human rights.

If we do not have a human rights act, TasOPCAT argues that we can behave as if we do - and, at the least, ensure prevention of contraventions of rights through strong scrutiny mechanisms. Together, the Ombudsman and the Commissioners for Equal Opportunity and Children are the default Human Rights Commission for Tasmania, though each is confined to the silo of their founding legislation.

PUBLIC

TasOPCAT has argued for reform of the human rights functions - especially within the Office of the Ombudsman. In sum, we promote raising awareness of the need for a human rights act to the Justice inquiry, as well as across other Government inquiries presently in progress. For that, we need a value statement and a lexicon. We also need more transparency and rigorous application of existing legislated oversights and safeguards - for example, the Official Visitor Program.

We need a reformed human rights framework to encourage interaction between the offices of the Commissioner for Children, Equal Opportunity and the Ombudsman. We need transparent, supportive whistleblowing processes. We need a paradigm change in public administration to embed human rights. We need a human rights culture in Parliament and in the public sector for crime and recidivism rates to decrease.

I have provided various references. These are [inaudible] Free and Equal; we also rely on the Justice Reform Initiative document of 2021, entitled State of Incarceration: Tasmania's Broken Criminal Justice System.

CHAIR - Thank you very much for your overview and for providing that diagram for the Committee. I would like to take you to page 3 of your submission, to the heading 'Participation and Less Secrecy'. It says you call on the Government and Parliament to make better efforts to promote participation to reduce secrecy in Tasmania, because incarceration and recidivism rates will not improve within a closed system.

Can you expand on that? There is a role for Parliament there. Obviously, we are not members of the Government, but we are certainly members of the Parliament. I am really interested in how you see a role for Parliament in addressing that particular part of your submission.

Dr KITCHENER - Thank you for asking that question. This takes us right back to the last few years of consultation about the introduction of the OPCAT Implementation Act and what that meant for all people who are or may be deprived of liberty. Not only do we now have ratification of that convention, but Tasmania has led the way in being the first state to have domestic law in this area.

The research with OPCAT has been extensive. We at the university have engaged a lot with the United Nations about this, including doing a webinar with Shujune Muhammad, who was the vice-chair of their SubCommittee on the Prevention of Torture. All of the research, the best practice, the jurisprudence shows that to help address crime and recidivism, you must understand what is going on with your various communities. That means having an overall view of your populations, but also differentiating what those populations are and what the issues are for them.

That means introducing legislation, as Tasmania has done, and we are really glad that has happened. But as well as this participation and this engagement with all of your various populations, it also means you also have safeguards and oversights, like the Official Visitor Program. We are lucky that we now have the Tasmanian National Preventive Mechanism (NPM), which is the next highest level of a safeguard and oversight to the Official Visitor Program.

PUBLIC

My understanding is that the Official Visitor Programs will continue, but there is still a lot of work to be done, as we have found in the research of reports from people who have had a longstanding NPM in Parliament, all of Parliament - understanding and having knowledge of what is going on with that scrutiny and oversight. How does Parliament know what official visitors think, or what they have found, when they actually go into a facility and talk to people? It has been a couple of decades since I have been in the prisons, but I have spent a lot of time in the past years at the Wilfred Lopes Centre, for example.

What official visitors see and hear and learn over an extended period of time provides a lot of important insights into why someone might have committed a crime, and what might cause them to reoffend. Shining a light in those dark places - and that is the common phrase used by the SubCommittee on the Prevention of Torture - is really important for understanding how we can make a difference to incarceration and recidivism. Increasingly, there is research about the direct links between the human rights framework - specifically OPCAT, but other areas of human rights as well, and recidivism rates.

If you go into Google Scholar and google OPCAT, then NPM and recidivism, you will see that emerging response. A lot of it is encapsulated as well in the Justice Reform Initiative work. But while we have made really good progress in Tasmania - I was just so pleased when that OPCAT implementation legislation went through - it is still a question of 'how do you know what is going on in those facilities?'

Ms WEBB - My memory, when that legislation came through, is that it was attempted in our Chamber to insert into the legislation a requirement that there be a report to Parliament from the NPM, and that was rejected - so I don't think there is a formal way in the legislation that the NPM mechanism is required to report back to Parliament.

Dr KITCHENER - Correct.

Ms WEBB - In the absence of a legislative requirement, I take it you are putting it to us that we, as a Parliament, should be interested to find other ways - that maybe are not required but are put in place by us - aside from that to know what is going on, or have an understanding about what the NPM is observing and noting and documenting. Is that what you mean?

Dr KITCHENER - That is exactly it. I do not have a suggestion on exactly how you do that now. I am really happy there is a notice of motion going through OPCAT. The other point about that is that there was an argument for three-yearly or five-yearly independent evaluation of the NPM and that did not succeed. That would have been another way for Parliament to say well, how do we come to grips? What is rally part of the scrutiny and oversight and safeguard process?

Ms WEBB - Presumably Parliament, through a Committee mechanism or other form that was relevant, could invite the NPM - who is the Ombudsman - to come and report or provide a presentation, or those sorts of mechanisms could be considered. Is that what you are imagining?

Dr KITCHENER - Yes, but also engage with the broader experience. New Zealand was one of the first places to take up OPCAT, so it is in a position now where it is writing reports after some 12 years of experience. One thing they are saying is that we should have had better Parliamentary scrutiny of what the information was. If we are talking about shining

PUBLIC

a light in dark places, it is not only the NPM who should be shining the light, it is all of us and that extends not just to people who are incarcerated but the groups who understand them and their family and friends.

Steven Caruana is the OPCAT adviser in the AHRC and a good friend of Tasmanian academics. He always makes the point that it is vitally important for the NPM to be engaged with civil society in all its shapes and forms, but the reason for that is that it is the not-for-profits and, to some degree, academics and professional organisations who are most likely to be either within the facilities where people are being incarcerated or engaged with communities around them and their family and friends. The engagement with civil society is vital.

In our recent consultation, the submission to Consultation 2 of the NPM, which is in progress now, we are emphasising that the Tasmanian NPM has done this really wonderful exposition of what the human rights issues are, but we are saying you have to have running concurrently beside that as of equal importance the engagement with civil society. As far as we know, the Tasmanian NPM has not yet, for example, spoken with TasCOSS.

Mr WILLIE - Isn't it twofold though? You have Parliamentary scrutiny but the political system responds to the community sentiment and I think there are a lot of people in the community who do not understand this issue or care about it. So isn't that part of the issue where there needs to be a public education campaign run by service providers, community leaders on why change is necessary along with Parliamentary scrutiny and changes in human rights frameworks and things like that. In terms of the public, isn't the message 'taxpayer value for money in reducing crime and recidivism'? That is what will resonate.

Dr KITCHENER - Exactly, and I am not a politician.

Mr WILLIE - And I am a party politician, so it is a bit different to the independents.

CHAIR - I think in this forum we all have a direct interest.

Mr WILLIE - Yes, in this forum it doesn't matter, but in terms of the political system responding to this issue, it requires the public to understand and shine a light on it too, and demand that from the political system.

Dr KITCHENER - Exactly.

Mr WILLIE - But that is not happening.

Dr KITCHENER - You are the politicians, not I, but I will make a couple of observations. First of all, you say it is the community response. That community response is made with lack of knowledge and understanding.

Mr WILLIE - Which is why education is so important.

Dr KITCHENER - And I will come to that, but the other point is, I am part of the community if I take off my hat that I am wearing here today, and I am deeply distressed and upset about what is happening in Ashley and a lot of people I speak to are. It is a terrible situation for those young people. It is a stain on what is going on in Tasmania at the moment. It takes away from all the positive feelings that we had about the legislation for OPCAT. It is

PUBLIC

very, very distressing. I can't see that you will make any difference at all by putting those people away in the circumstances that they are in. In addition, I am very distressed that this is a direct contravention of their rights. The restrictions, the shutdowns and so on really need to have a light shone on them.

Coming to that point, when we talk about the value statement, if you go to the depictions that I have done, with its very tiny writing about the positive duty, it is really useful to have that in your lexicon to talk about the positive duty on public authorities. Under the Free and Equal document, you have it as part of the positive duty, you have an implementation duty, which are intensive measures to ensure cultural change and a preventive approach. The positive duty has elements that says from Parliament through to all areas of the community, there has to be a really intense educative program.

Australia is, as you probably know, the only liberal democracy without a human rights charter. We have a lot of catching up to do in order for there to be a better understanding of what people's rights are.

Mr WILLIE - Just on Ashley, that's an example, isn't it, where there is agreement from the political system that it is a broken model. It is not serving Tasmania well, it is not in the best interests of young people. The political system said 'let's close it', but now there are implementation and accountability issues.

Dr KITCHENER - That is why we argue for this model. If you have your principles and your lexicon, you have a pragmatic approach to addressing what the problems really are and systematically educating your politicians and your public administration on how you make progressive implementation, how you deal with the issues of limited resources, how you deal with wrongly conceived views of the public. We must not forget the role of the media here. I mean, a couple of weeks ago the headline -

CHAIR - We do not control the media.

Dr KITCHENER - I know, but it does inform the argument. One would hope to hear you speak out and say the media says things that are not fully representing what the picture is and quite frequently are actively wrong. The *Mercury* last week had a heading about 40 young people creating all sorts of havoc in the community. On the very same day, *The Examiner* had a headline along the lines of 'the terrible state of our education system'. You can't look at Ashley -

Mr VALENTINE - In isolation, yes.

Dr KITCHENER - and separate that from what is going on in the schools. I don't know if you have intimate association with what is happening in schools at the moment, but it is terrifying and those children in Ashley have come out of that school system.

Ms WEBB - It's difficult, isn't it? I was just amazed to see media coverage today of our hearings from yesterday and the one thing that the media focused on with a rather flagrant anecdote that was given briefly in one hearing about behaviour in families rather than covering any of the messages we heard about government failures or government limitations in providing services. It is very difficult. The media will focus on things that are sensational rather than necessarily making a more substantial analysis.

PUBLIC

Ms ARMITAGE - Just a supplementary on Ashley. With regard to Ashley, obviously we have been there and I don't know whether you have read submissions by Ivan Dean and Brett Smith that are on there. With some of these offenders who do commit some really serious crimes, what do you think should happen to them then if they do not go somewhere like Ashley? Bear in mind, when you are in the community, you want to be protected as well because some of them are offences against the person, all sorts of people, for whatever reason. Do you think that they should be out in the community? Or there should be some enforcement? What do you think should actually happen if we do not have something like Ashley?

Dr KITCHENER - If my two criminology colleagues were here, they would respond to that. I don't have the expertise. It would be more of a community and personal opinion, none the less backed by opinion.

Ms ARMITAGE - That is fine because you took your hat off and you are a member, so take your hat off again, if you like -

Ms WEBB - We have got Rob White later, we can ask him.

Dr KITCHENER - The short answer is, I do not know. But what I do say is that quite apart from the academic and professional experience, I think I am best informed from the Official Visitor Program. I really do believe if you can capture the difficulties that people are in before they get out of it, there is usually something that is driving -

Ms ARMITAGE - Before they commit these serious crimes, you mean, but once they have committed them, what do you do then?

Dr KITCHENER - Once they have committed them, again, I come back to my official visitor experience. Some of the mental health patients in facilities at the Royal, Millbrook Rise, we go to Spencer, Northside, Wilfred Lopes, and so on. We and the staff in those facilities all observed and were quite surprised to realise the changes in behaviour when there was reform in the sector - quite remarkable reform that brought seclusions down from quite a large number almost to zero. The people I have in mind are those who have a mental illness but who have been in corrections and will potentially reoffend somewhere in the future. We saw dramatic differences in how they behaved because the culture of seclusion had changed. There was a more respectful environment. Not as respectful as -

Ms ARMITAGE - They are the ones with mental illness, but what about the ones without mental illness? I can tell you from my perspective, I deal with a lot of young offenders and some of them do not care what they do and they actually enjoy what they do. What do you do there? Do you feel they need to be incarcerated or do you believe there should be some - I just want to have an understanding because if you are not -

Dr KITCHENER - I would still say I know it sounds like Polyanna stuff, but put them somewhere where you do provide the education and -

Ms ARMITAGE - That's what I mean, so still put them somewhere, still have them basically incarcerated?

PUBLIC

Dr KITCHENER - Yes, yes. Well, I don't know if I would even use the word 'incarcerated'.

Ms ARMITAGE - If they are put somewhere and they can't get out they are probably incarcerated.

Dr KICHENER - Deprived of their liberty.

Ms ARMITAGE - That's the word, really.

Dr KITCHENER - So long as they are surrounded by the human rights framework.

But yes, when I talk with my daughter who is a school teacher and see the behaviours that she is dealing with in the classrooms, and she deals with the 16-year-olds and so on, I frequently say, 'Well, when they did that, why can't you just call the police? This is unlawful. Why isn't there a narrative in the schools that says, 'Yes, we will teach all of this in a trauma-informed manner but if you are behaving in an unlawful way, we will let you know you are behaving in an unlawful way and that it is not acceptable and that there will be consequences'.

So, yes, somehow have people together but it is what you do when you have them all together that is really important.

Ms ARMITAGE - Whether you can encourage them. I know from reading both Ivan Dean and Brett Smith's [submissions], with them working at Ashley that they say, 'You can't make us'. 'You can't make us go to school, you can't make us clean up the mess we've made, you can't make us do it.' I guess it is a hard situation.

Dr KITCHENER - It is hard but there has to be something better than what we have now. Again, the international experience will point us to that.

Ms ARMITAGE - Have you seen anything in any countries around the world of what they might have for youth? We hear New Zealand has good systems. Do you have an understanding of that?

Dr KITCHENER - The countries who do well at these things are the ones who have started it at point one, who do have early childhood interventions. You have got your preventive approach and you are not trying to deal with a thing when it's all blown out of proportion. Again, I am not the criminologist -

Ms ARMITAGE - I understand. I just appreciate your view.

Dr KITCHENER - There are numerous ways, including in Australia like, I think it is in this [referring to a document she is holding], where they demonstrate in Australia where there are successful programs to help address recidivism -

Ms ARMITAGE - Certainly not in Queensland at the moment. We don't need to reinvent the wheel if someone else has found something successful.

PUBLIC

Dr KITCHENER - Correct. Not only that, I think you have got a lot of people in Tasmania who do have more extensive knowledge than I in this particular area. If you call them together and work with them, they will nut it through. We don't have to call in outside expertise. We have it here in Tasmania.

Ms ARMITAGE - I agree with you on that. I think we call in far too many people from outside.

Ms WEBB - I would like to take you back to something in your submission. You talk about it on page 4 and mentioned it also in your opening remarks: the idea that, in the absence of a human rights act, we do have entities. We have the Ombudsman, the Commissioner for Children and Young People, Equal Opportunities Tasmania and the Anti-Discrimination Commissioner there as sort of our proxy entities looking at human rights in a sense. And you talk here on page 4 about the need to reform how some of those scrutiny mechanisms operate or maybe the way they coordinate. Could you elaborate a bit more on that in terms of what would we see differently if we were to improve that area? What would tangibly be different about those entities?

Dr KITCHENER - A number of things. First of all, this is a point of observation and the expert on this is Richard Connock and I defer to whatever he says on this issue. But as a person in the official visitor system, and acting as an official visitor, I was often concerned that we didn't have more integration of these three defenders of our human rights. When you go into the various facilities, it is not necessarily just an issue of the Mental Health Act. It might be an issue of children or it might be an issue of equal opportunity. Really basic things like why don't the people at Wilfred Lopes have the same access - they don't access the library very well because it takes months and months to get a book. Why is access different at Wilfred Lopes to what it is in the prison? That is a matter for the Anti-Discrimination Commissioner.

I kept wanting to have an overarching interactive process amongst those three, including the interaction of the various hats that Richard wears. Like why wasn't the Mental Health Act interacting more with the Health Complaints Commission? We needed more integration.

I would prefer to see a lot more Parliamentary engagement with the Custodial Inspector reports. It is an issue of resourcing but it is also just how much do you know about how things get done and what difficulties are encountered in doing that oversight in the Official Visitor Program for mental health? I can safely say that official visitors in the prisons have shared this experience. We felt we needed induction and training, and ongoing development in a much more systematic way because the issues we were dealing with were very complex. We needed more engagement with the Ombudsman himself. But because he was wearing so many hats he didn't have the time. We needed more opportunity to brief and debrief, both with the offices and with the facilities. We needed a better understanding of the importance of that kind of scrutiny and what was happening.

What you would find is that the official visitors in the mental health sector and the official visitors in corrections, although they are working with two different pieces of legislation, have generic duties and responsibilities and, therefore, need generic kinds of skills. We needed the support for that to be able to effectively fulfil its role. And we needed to feel safe that when we were concerned that there were dire things happening in the mental health facilities - and believe me, they do - we could speak without consequence. That is not to criticise the Office of the Ombudsman. I have great respect for what the office is doing there.

PUBLIC

CHAIR - A supplementary, Mr Valentine?

Mr VALENTINE - I was going to go a bit further down in the submission.

Ms WEBB - You might be going to the same area I was going to.

Mr VALENTINE - Public interest disclosure?

Ms WEBB - It ties in with what Dr Kitchener was just saying. It is about freedom to speak up.

Mr VALENTINE - Mine was a simple question: how do you see the limitations that are there at the moment affecting what should be in the framework or model that you are talking about?

Dr KITCHENER - It comes back again to culture. If there isn't a feeling that we have a human rights culture where we respect the right to speak out then, rightly or wrongly, people will become afraid to speak out or they believe there will be consequences. Not because we aren't surrounded by lovely public administrators, there are lots of wonderful people in the public service doing a wonderful job, especially in the Ombudsman's office, but if we don't have a culture where we can point to something and say we are committed to the rule of law and we believe in transparency and respect and dignity, then, rightly or wrongly, people are going to feel tentative about speaking up.

Then there are the practical things about how to access information. I have a law degree and a PhD in human rights but when I read the Public Interest Disclosures Act, if I were a whistleblower, I'd be thinking, 'Gosh, quite what does this entail? Point one. Point two, where is the support for when there is kickback for when I speak up?'

Mr VALENTINE - So you are saying the act is simply not clear enough? It is not black and white enough to be of use?

Dr KITCHENER - It doesn't communicate to the average Joe Blow. If you look at the Victorian system, and I know that takes more money and resources, but they are much more clearly communicated. The use of short video. The big issue in Tasmania is that we are disadvantaged relative to other states. We are less healthy, we are less educated, we have less human rights literacy. We do have to try harder to communicate a lot more clearly. The NPM for the UK uses wonderful sets of videos to communicate in the clearest possible terms about how you go about accessing the system.

Mr VALENTINE - Are you saying the act really needs work on it?

Dr KITCHENER - Yeah -

Ms WEBB - Time for a review of the act and the guidelines that sit under it?

Dr KITCHENER - Yes, please, and its intersection with the workers comp act. The whistleblower we had at Ashley, whose name temporarily escapes me, my interpretation was

PUBLIC

that the distress she went through was as much to do with the workers comp process as it was to do with public disclosures.

Ms WEBB - There are connections there, too.

Dr KITCHENER - Yes. You can be fairly confident that if somebody goes in through the public disclosures, it is quite possible they will be up against the workers comp act as well. People need to have some confidence that the system will support them through the whole system.

Mr VALENTINE - Yes. Otherwise it is just feathering.

Dr KITCHENER - Why did she have to go to the workers comp act?

Ms WEBB - Do we have information on how approaches to justice and corrections systems compare between jurisdictions that have human rights instruments and jurisdictions that don't within Australia? Yesterday we spoke with witnesses about the principle of an equivalence of care that people who are incarcerated should be able to expect. We don't appear to have that here, certainly in the mental health space, for people who are in prison. Is that different in areas that have a human rights act or a charter, where there is recourse to that sort of analysis and accountability?

Dr KITCHENER - It's a really mixed bag. It's a little while since I have looked at that. I want to look at it soon because Tasmania is going to have to make up its mind how a Tasmanian NPM interrelates with the existing oversights that we have.

Is this the question you're asking? We've recommended a mapping exercise of existing oversights and safeguards, wherever they may be, either under corrections or mental health and how they're going to work with the NPM. I've looked for models elsewhere and spoken to people like Steve and Kerry and they are various. What you see in the formal legislative or public administration process might be different from what you are actually hearing from the lived experience of the people incarcerated or in the mental health facilities, or the people performing the oversight function.

Ms WEBB - That is interesting. It was not quite what was I was getting at. In Australia we have some jurisdictions - Victoria, Queensland, ACT - that have human rights instruments at their jurisdictional level. How then can we compare Tasmania, that doesn't, in terms of accountability, scrutiny mechanisms, performance in delivering effective outcomes in a corrections and justice space? Does the existence of those human rights instruments, the acts, the charters, make a difference to how those jurisdictions perform?

Dr KITCHENER - With the reporting that we have from those three, it is still a bit early to tell, although all of the signs from Victoria are that it is not just about the legislation. We are making better policy decisions and more transparent. First Nations people have said that they believe that there is a culture change that is beneficial for all.

Ms WEBB - In those jurisdictions with the human rights instruments?

PUBLIC

Dr KITCHENER - Correct. Not to say it's a silver bullet but there is a change in culture and better administration. In Queensland, there was an issue of the rights of children and incarceration.

Ms WEBB - They were recently about to increase their levels there; it was against their act.

Dr KITCHENER - Yes, the conversation there was that you had a human rights charter and it did the children no favours. For those of us in the field, we'd say that we'd have the conversation and that means we can continue the conversation because we have the law.

I keep returning to New Zealand because that is probably the most alike jurisdiction. They've done a lot of scrutiny of their systems and overall they have made improvements, especially with regard to relations with what are their equivalent First Nations. New Zealand websites are remarkable for how you see there is embedded contribution from the Maori people, to the benefit of all. The health websites in New Zealand are embedded with Maori principles and oversight and everyone benefits.

CHAIR - A closing statement or closing words that you might like to leave with the Committee?

Dr KITCHENER - We are in a moment in history. I have worked in this for over 30 years. Human rights have been on the periphery for so long in Australia and I'm really happy to be sitting here now with you elected people talking about human rights. At the same time, our Ombudsman has put out this exposition of our obligations of six treaties that we've ratified and his statement of support to uphold the rights that go with them. It is a really important moment.

Tasmania has a great opportunity because we are small. Even though that can be a difficulty with regard to resources I am convinced that if we can bring people together more, if we bring civil society together more, if we bring together the extensive expertise that we have, then we can make a difference. Ashley Youth Detention Centre is the standout item at the moment. That's the area where we really have to test our mettle on what we are capable of.

Mr VALENTINE - Have you had an opportunity to talk with anyone in authority about the model that is being considered to replace Ashley?

Dr KITCHENER - In authority? No.

CHAIR - Not the Attorney-General or the project working group?

Mr VALENTINE - Or the Commissioner for Children?

Mr WILLIE - The Minister for Children is the minister responsible, not the Attorney-General.

Ms ARMITAGE - Not with the current circumstances, is that what you mean?

Mr VALENTINE - Yes.

PUBLIC

Dr KITCHENER - No.

Mr VALENTINE - I just wanted to clarify that, thank you.

Dr KITCHENER - My colleagues might have, Rob and Nicole.

Mr VALENTINE - Yes, thank you.

CHAIR - Thank you very much, Dr Kitchener. It is certainly always of interest to the Committee. On behalf of the Committee, many thanks for your time not only today, but in putting your submission together. Thank you.

THE WITNESS WITHDREW.

The Committee suspended from 9:50 am until 9:53 am.

PUBLIC

CHAIR - We very much welcome Michael Hill to our Committee hearings in regard to the Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters. Thank you very much for not only your submission, but the generous time you have given to the Committee. I would like to introduce you to the members of the Committee: Josh Willie, Rosemary Armitage, Tania Rattray, Rob Valentine and Meg Webb, with secretariat support from Simon Scott and Alison Scott.

You are aware of the information that has been provided to you, and you probably well understand that Parliamentary privilege is afforded to you inside this chamber, but anything outside may not have that same privilege. If there is anything you believe the Committee may need to take in camera, please request that. I expect you probably have a short overview after the statutory declaration, and then we might launch into some questions. Thank you.

Mr MICHAEL HILL WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Mr HILL - Thank you, Chair. I have had an interest in changing the criminal justice system now for almost 30 years, a feeling that really started when I was first appointed a magistrate back in the days before mobile phones. In those days, my training session, which was a week-long session in Melbourne, consisted of speaking with other magistrates from other states about sentences they were giving out, and how quickly they could deal with people in bulk. That was principally the training I got. Having practised in the Magistrates Court jurisdiction and in the Supreme Court jurisdiction, I simply went to the Bench on the basis of, well, I had to move the list as quickly as I could - the sentencing processes were pretty much what they call 'on the tariff'. They will deny a tariff exists, but of course it does. I knew what the go was in relation to each and every offence generally, so when people came up, that is what I did - and I was about 36 or 37 when I was appointed.

Most of the other magistrates were ex-DPP. I make that just as a comment, really. They had a certain approach to things, which I didn't have. In the early 1990s, I started to see what is commonly called the 'revolving door' becoming pretty obvious. People were coming back, getting their seven days - which was the go - then coming back in a few months, same thing, getting 14 days, which was the go, and I started to think, what is the point of this?

Anyway, I started looking at some literature from people who ultimately became good colleagues of mine - people like Peggy Hora, and Michael King, who is now a magistrate in Victoria; I saw him at a conference recently in Canberra. I started looking at the drug courts in the US that had been formed in the mid-1980s. Peggy Hora is unfortunately deceased now, but at that time Peggy was a drug court magistrate and I started thinking about some of the people who were appearing in the Magistrates Court. Around that time, we were also coming into the deinstitutionalisation policy, so a lot of the people we were getting had originally been detained - if I can use that term - at the Royal Derwent and similar institutions, and they were now out in the community doing strange things - generally speaking because they were unwell, not because they were criminals necessarily.

So, I started to think about different ways of approaching these people who had these different issues. I wasn't the Chief Magistrate then and I was told by senior magistrates 'Michael, they are all the same'. I thought well, with respect, they're not. They're not just right-handed or left-handed or tall or short or male or female. They have different causes behind their offending. Towards the end of the 1990s, I became patron of a youth organisation called

PUBLIC

Chance on Main, out at Moonah. I was asked to be one of its patrons. It took a bit, but I got permission to do that.

CHAIR - A bit of persuading?

Mr HILL - Yes, and it was doing really good groundwork - mainly for girls, and mainly from Cosgrove. That was their target area - and again, no comment on any other work, but for various reasons I am not really sure of, it had its funding terminated. I have no idea whether the funding was State or Federal, but it ceased, and I was about sad about that.

Anyway, I continued my researches and wrote a few papers and gave a few talks at our biannual magistrate conferences - which were not, in those days, greeted with acclamation. I went to a drug court in Brisbane and was really impressed with how they operated. I went to New South Wales, where my old friend Hilary Hannam, who is now a Family Court judge, was the Chief Magistrate -

CHAIR - And again observed?

Mr HILL - And I observed. Hilary ran a youth drug court in New South Wales and I saw that. I don't know when this would be but it was over the years. I went to South Australia and I looked at their Family Violence Court, which I was really impressed with, and I wrote a report on that. That was about 2008. I haven't had a response yet. I'm assuming it's on the 'to look at' pile. But anyway, my experience was building up a bit.

In 2005, I went to the Supreme Court as an acting judge. That is another story. I haven't had enough to drink to tell you about that. But I had time then to look at what was happening in therapeutic jurisprudence. That is what the philosophy was called. I asked the then Chief Magistrate, there was a conference coming up in Perth, I think I refer to it in my submission, in 2006. I said to him, 'Look, can I go to this? It is an area in which I have some interest.' None of the other magistrates had ever seen one of these courts. I was the only one who had. I wrote this paper, with the help of many other generous people, 'Therapeutic Jurisprudence: Does it have a place in Tasmania?' I think that's what I called it. It's on the web somewhere. Much to my surprise, it is used at the university. I am really quite flattered about that.

CHAIR - Our university?

Mr HILL - Yes. Anyway, I sent it around for comment because I said, 'This is what I am going to say over in Perth'. The only person who responded was my late brother. No-one else did. That was okay. So, off I went and I received some favourable comments from Bruce Wexler, of Wexler and Winick, who were the two founders of therapeutic jurisprudence. He was an American [inaudible] I think he is American, might be Puerto Rican. He is still alive. Winick passed away. Anyway, when I came back I decided that, with the help of others, we would start up a mental health court. We had a mental health liaison nurse at the court then who was wonderful. Still is. Marietta O'Connell, she is wonderful. Anyway, the then Chief Magistrate didn't support it. So, we got it through a very difficult process. And at the same time, or almost -

CHAIR - Came in the side door?

PUBLIC

Mr HILL - Yes. At the same time, or almost the same time, the drug court started. But if you look at the second reading speech by the then attorney-general, who I think might have been Steve Kons, there is a statement that says, 'this is not a drug court' because the then Chief Magistrate didn't like drug courts. I thought to myself, that's a bit odd because it is based on the Victorian legislation and they call it a drug court. I mean, you could call it a pumpkin if you want to but it depends on what -

Mr VALENTINE - It's the function that matters.

Mr HILL - Precisely. It depends on what you want to achieve.

The start of these problem-solving courts was really difficult, not just personally for me but for others who were supportive. When I became -

CHAIR - You mean the legal teams that were supporting?

Mr HILL - No. Well, we had some administrative people who were supporters. We had a couple of lawyers. Craig Mackie was one who is prominent from memory, was a great supporter. None of the magistrates were. Even my late brother was a supporter but not a prominent one. He was at the non-striker's end, as I used to say.

CHAIR - That'd be an interesting lunch conversation.

Mr HILL - Yes. He passed on, unfortunately, one of the reasons I retired. He was a supporter.

I think the reason for that is that to change the system is really difficult. The mental health list, one lady called Hannah Graham who is a marvellous scholar from here, who did her doctorate or masters or whatever you do, with Rob White, who I am speaking with this afternoon, actually, at a conference. Hannah evaluated, in general terms, the mental health court and produced a document called *A Foot in the Revolving Door*. She now lectures, I think, in Scotland. She is very well credentialled. The early results of the mental health court were quite outstanding and I was asked by the Australian Institute of Judicial Administration (AIJA) to speak in New Zealand in 2010 about how this court worked. Our recidivism reduction rates were quite staggering in the target people we had. We are not talking hundreds of people; we might be talking 80 or 90 people, I suppose. But our recidivism reduction rate was really high, 80 per cent or so. These people, in my experience - I am not a psychologist or medical person, but I was interested in this area - offend chaotically, regularly, et cetera because they are generally off their medication, et cetera. Once they are back on their program, they stop.

Anyway, we received an award, I have forgotten what it was called, the community policing award or something, because we had done such good work. I got that award and I received that in Melbourne for the court. Then the AIJA asked me to go over there and I can still remember I was with a judge from Toronto, Canada, who ran their mental health court. His name has escaped me now. But he said to me, 'Michael, how many psychiatrists do you have attached to your court?' I said, 'err, none'. He said, 'I have five'. There are obviously differences in population but we did not have anyone. There was Marietta and there was me. But I was still the magistrate so I was not involved in the day-to-day. I just facilitated the process of these people, referred them on and tried to support them, that sort of thing. As much

PUBLIC

as you could do from the bench and that was also a bit touchy from the point of view of my colleagues.

Anyway, the drug court came along about a month after and I got into trouble for that. In the early days of the drug court, everyone did it. There were, I think, in those days, 14 magistrates. We all did it and we fitted it in where we could. Now, therapeutic jurisprudence or problem-solving courts aren't 'feelgood' courts. They're not just 'go soft', they are not just 'make me a nice person'-type courts. They are based on principle and they are based on evidence. The 10 guiding principles. One of the guiding principles is that you give these lists a separate time, you put them away from the general run-of-the-mill stuff. The Chief Magistrate then would not do that and he had all the magistrates doing it.

Now, I am a Collingwood supporter. The relevance of that is that you do not play people who are 5 feet 5 inches in the ruck, you just do not do that -

CHAIR - They are better on the wing, aren't they?

Mr HILL - They certainly are. At the moment they are, we could do with a couple. Anyway, the point of that is that some of these magistrates just were not interested. And if you're not interested, that is pretty obvious to the participants and all those involved. But if you are interested and you come down off the Bench and you shake hands with people and you give people things, a token of the appreciation of the court and the support of the court, that's the therapeutic powers of the court being used.

CHAIR - Treating people as people?

Mr HILL - Precisely. They are not just stats. Anyway, when the then Chief Magistrate retired, we had a bit of a shake-up. Then we developed a drug court team. They call it the CMD, the Court-Mandated Drug Diversion, which is an awful - perhaps I should say that in camera. Anyway, that was his view. I always thought that was a bit off. That is just my personal view. It's a drug court.

We specialised in the North. We couldn't get the mental health court to the North because he didn't appreciate it. I always used to think it is really fortunate that no-one in the North had defendants with mental health issues. Anyway, we eventually got it up there. I am told now – and I have gone now so I don't criticise people now I have gone, and you are a long time dead in this business – that the mental health list is somewhat more abundant, I'm told. I don't know that, but that's what I am told.

In relation to the Drug Court, I am chair of 'Just Desserts' Drug Court Incentives Group and I'm also an advocate for the justice reform initiative, so I have an interest in this area. As chair of Just Desserts I went to the North West Coast to see how things were going because one of our missions is to support the court. Well, we had a lot of complaints and that is really awkward because I am not the Chief Magistrate anymore. I can't tell the magistrates what to do or even suggest that they should do something, but in my view and in general terms there is obviously a need for some professional development of these magistrates. I do know this because I spoke to the magistrate on the North West Coast, who I think should be a really good magistrate because she was one of the founding members of Just Desserts, had never seen another magistrate do a Drug Court. Now, we are all different, we don't have to be precisely the same, but there is an advantage in a consistency of practice obviously and I am not just

PUBLIC

talking about some magistrate sentence harder than others and all this sort of thing. But if you go into one of these problem-solving courts, you need the authority of the court being exercised in a therapeutic way. It's difficult to explain but it is a much different role than sitting there quietly, saying nothing, and then saying 'guilty' or 'not guilty'.

CHAIR - More conciliatory?

Mr HILL - Very much so. I went to this conference which had been put off, it was in Canberra in about February but had been put off for the pandemic about three times. I was asked to go, 'the grandfather of therapeutic jurisprudence' they call me. Heavens above.

CHAIR - And very travelled.

Mr HILL - Well, yes, but 'grandfather' is a bit much, although I am one.

Mr VALENTINE - Well, you are.

Mr HILL - 'Uncle' might have been a bit more pleasant, Rob, but I was the only one from Tasmania there and I'm not working anymore, so I was disappointed. I don't know why, there might have been a funding thing, I don't know, but I was just disappointed. Arie Freiberg was there, we spoke on a podium, but it was disappointing to see what I perceived - and I am a bit passionate about this -

CHAIR - We have noticed that.

Mr HILL - what I perceived to be a low level of interest. I'm not saying that therapeutic jurisprudence problem-solving courts will save the world - they won't, because the causes of crime -

CHAIR - Small steps at a time.

Mr HILL - Yes, they are numerous. The causes of crime like illiteracy, poverty, all the things we know about, are all happening here, family breakdown, all of that stuff. When they get to the courts it is probably, as I say in my submission, the last step in the line and it depends how you want the courts to be.

In my recent trip to Germany I went to Nuremberg. One of our lecturers 100 years ago at the university back in the day had been on the prosecution team, and I always had this view that I would go and see them. Now there was not much therapeutic jurisprudence in those courts I would think, for obvious reasons, but if you wanted to open the rehabilitative doors you really have to strengthen these problem-solving courts, I think. Resource them, train the magistrates or at least get magistrates who are prepared to be involved in it.

CHAIR - Interested?

Mr HILL - Interested. I have a dear friend of mine who I was on the Magistrates Court for 100 years with, and he is not well but he went back to work part-time just for a while and he said 'Hilly, I'm still not going to have a conference without the defendant being there.' And I said to him, 'You know that the statute says you can', and all the people who talk about these things say it is one of the best therapeutic parts of the process. So even now -

PUBLIC

CHAIR - Hard to get the shift.

Mr HILL - Yes, even now. It is interesting though, because I am also a member of the Justice Speakers Institute of the States, founded by Peggy Hora. Three of those members are coming out to Tasmania in October and a number of us at the moment are arranging a schedule for them to talk to people. Whether we can get politicians on board, I hope so. Whether we can magistrates and judges, I hope so, but I'm not going to hold my breath. They are going to tell us how they do it and that is basically how we probably should do it. They are out here in Show Week, which is in October. They are well-credentialed people.

CHAIR - Michael, I have members busting to get some questions.

Mr HILL - So you want to stop me talking?

CHAIR - I thought maybe we could launch into questions and then if you have anything else to add, otherwise we will still be here until this evening.

Mr HILL - I can talk for hours on this, but seriously, my submission speaks for itself.

CHAIR - It is quite extensive and I have a few notes made as well but I will open it up to Ms Webb.

Ms WEBB - We can touch into these spaces relatively briefly because there is a lot of material in your submission and no doubt lots of questions. You do mention two potential areas of legislative reform that might be foundational to providing opportunity for change. One of them is a statutory basis for the problem-solving courts and the other one is a reform of the Sentencing Act to provide a more responsive option in that space. Are there any active discussions around progressing either of those reforms?

Mr HILL - I'm not involved now so I can't really answer that but our Just Desserts meetings are once a month and Greg Barns is on the Justice Reform Initiative, so he keeps his ear to the ground for obvious reasons, but I haven't heard of any discussions. I can't say there aren't any but I haven't heard of any.

Ms WEBB - The other one I am interested to pick up on from page 8 of your submission is around the idea of a re-entry court. We have heard already from some of our witnesses yesterday about potentially a lack of connection between case management planning for exiting prison, not necessarily connecting well with services that might do similar case management planning once people are out and back in the community. We have a parole board that is currently in place that manages the consideration of parole. How does a re-entry court fit into that mix of things we already have around people finishing their sentence?

Mr HILL - A problem-solving court, which would include a re-entry court, uses the authority of the court to manage the situation involving the defendant, whether it is an addiction situation, whether it a sentencing exercise, whether it is a mental health exercise, and it is also a re-entry exercise. If someone is coming up for release in six months or three months or whatever - and I haven't seen a re-entry court because we don't have them here in Australia - that person would come before the court and the court would supervise that plan and that plan would come back to the court.

PUBLIC

One of the things about these problem-solving courts is they're repetitious. You bring a person back next week and the week after so you don't just disappear into the ether. It would seem to me if we are having issues - and I talk to people like Pat Burton and other people who we share memberships and they tell me this is a real problem - so if a re-entry court could assist in relation to using the authority of the court perhaps to not compel people but to make it a bit easier, that's where I think a role for that type of court could be. I'm not saying it would work. I'm saying you could trial it.

Ms WEBB - Is that particularly in relation to ensuring there is planning and then active connection of people into services and supports as they are re-entering the community?

Mr HILL - That's right. It would be a coordinating court. In other words, you are answering to the court: you haven't got this person, this house, you said you were going to get him, what's going on here?

Ms WEBB - Interesting.

Mr HILL - My American friends will know, and I see that as a very useful thing, particularly when you look at our horrendous recidivism.

Ms WEBB - Yes. In some ways it closes the loop for the courts?

Mr HILL - Precisely.

Ms WEBB - To come back at that point and have a role to play in ensuring that supports are there and in place.

CHAIR - Are there any issues around time and resourcing for the courts? Every year through Estimates we talk about the backlog and you're well aware of that.

Mr HILL - Do not get me started on the Supreme Court backlog.

CHAIR - Giving another role to the court, they say, is all right, but how do we resource it?

Mr HILL - Because you're dealing with all sorts of dynamics, the courts will always be slow. Most of the people who are involved are not cooperative, so there is always a resourcing issue. In these problem-solving courts, if you had an administrative person there with a couple of other people statewide coordinating this, that would be enough.

You only need the magistrate and his or her clerk to set up the court. It is what goes on outside, the support outside.

Mr VALENTINE - It's the support that is needed to be around it.

Mr HILL - Yes, that is right.

CHAIR - I needed a response when they asked 'How are we going to resource it?', so thank you.

PUBLIC

Mr VALENTINE - That was going to be my question. You have one, two, three, four, five different divisions, drug court division, the criminal [inaudible] court division. You might not have any input now in the system, but how difficult is it to make these things happen? It's the peripheral supports that seem to be the most complex part of it, as opposed to how it's managed administratively within the Magistrates Court. Is that a fair comment?

Mr HILL - That is a fair comment. The people within the Magistrates Court are experienced operators. They will make the court work, provided all of this stuff outside is happening.

Mr VALENTINE - It's not terribly complex to change that administrative structure?

Mr HILL - No, but it would be a philosophical change to get it in place in the first place. Other than that, you are right.

Mr VALENTINE - I wanted to know what resourcing internally would need to happen. The organisation of the external supports is another thing.

Mr HILL - That is right. I also have a figure of \$350 a day at Risdon. If you are trying to establish something that might reduce the numbers there, you are saving x , whatever that x is, you might be spending \$250 a day on your supports, but you're saving \$100.

CHAIR - For having that person not in the centre at all.

Mr VALENTINE - Who knows what's being saved in the future because that person is not coming back through the system.

Mr HILL - Precisely. Gets a job, becomes a contributor, all this stuff.

Mr WILLIE - In your submission, Michael, you talk about the crossover kids. It's one of the most unjust parts of our system. There are so many examples of people progressing through child protection into Ashley and then into a lifetime in and out of Risdon.

Mr HILL - Yes, it's inevitable, isn't it?

Mr WILLIE - The Government has talked a lot about its reforms in child safety, in trying to keep families together. Have the courts changed at all alongside that in terms of problem-solving? You mentioned the family drug court in Victoria, where they supervise parents' rehabilitation.

Mr HILL - I think the structure of the court is poor in relation to dealing with these child protection things; I don't know if you've ever seen them in action, but they are cumbersome.

CHAIR - I think we should go.

Mr WILLIE - I have dealt with plenty of constituents who were bouncing in and out of that system.

Mr HILL - I'm talking about when I was there. We don't specialise. I would get an affidavit of 50 pages. It would tell me all about this child and what would happen. I would

PUBLIC

make certain orders. It's very structured, it's responsive, but it is slowly responsive. It's cumbersome in its response. We are not experts. I had a view that we shouldn't be dealing with these things. I thought to myself a few times, why don't we have a panel of psychologists who can make decisions quickly? They don't need 50-page affidavits. If you want magistrates to issue warrants to get children then that's a different thing.

To make decisions about the long-term benefits for children, I really struggled with it. I used to think to myself, 'Why the hell are we doing these things. Why are we doing this?' Anyway, that's another argument. If the Magistrates Court is going to keep it, you need specially trained magistrates. That becomes part of the youth division. So you have a youth division which includes a child protection division, because ultimately -

CHAIR - That's the care and protection system that you talked about?

Mr HILL - Yes, that is the care and protection system. Andrew Becroft, rugby fan, my good friend from New Zealand, was a marvellous man. I don't know if he is still with us but he was former chief judge of the Youth Court of New Zealand.

CHAIR - The 2008 connection?

Mr HILL - Yes. That's where we got our Youth Justice Act from, New Zealand. Why don't we have a look? Seems to me that if you mould the care and protection division into the youth division and have a magistrate specially trained dealing with all the young people's matters, that would be a way to do it. It's a change in structure more than anything else. Try to streamline your processes about care and protection. When I say streamline, in a way, the legislation promotes a non-adversarial approach but it becomes an adversarial approach.

Mr WILLIE - The trauma that is inflicted on families -

Mr HILL - Precisely, and it continues on. I have seen names recently that I have known back in the day. Your point's well made. It would be advantageous to look at how things are done elsewhere. I'm a great believer in having a look around and seeing. Victorians and South Australians deal with problem kids, so do we. There's no difference, really. How do they do it? Is it better? Peggy Hora, my good friend, wrote a report called Smart Justice. She was a resident thinker at Flinders University. She used to work for the South Australian Government. She worked down here for a while at our university. I think she has some comments in Smart Justice about child protection matters. I don't know how you fix it. I know how you smarten it up, but the issues behind it, the drug issues, the unemployment issues -

Mr WILLIE - The court is the end of the line.

Mr HILL - But you don't want to add the trauma upon making the court process a traumatic one. I think at the moment it's got the potential to be a traumatic process.

Mr WILLIE - If you sharpen up the court, even though it's at the end of the line, potentially that is going to be a cost saving to government. The trajectory to people's lives -

Mr HILL - You are potentially diverting. Potentially saving you 350 bucks a day if you can stop one or two of these kids. When I became Chief Magistrate, we specialised the Youth Justice Court. You might have 100 kids but only half a dozen are really causing grief. The

PUBLIC

others, they pinch a Mars bar or something and then they just don't come back for all sorts of reasons. The ones who are continuing on often come from the families, and we all know who they are, well I know who they are, the culture around them is a criminal culture. How you fix that, I just don't know.

Mr WILLIE - There was a late upper House member who wrote a paper on the families.

Mr HILL - Yes, I saw that work. When Vanessa was working at police, she came and spoke to me about it.

CHAIR - Still missed. Although been very well replaced.

Mr HILL - Yes, I am sure.

CHAIR - No aspersions about the members that we have for Pembroke. Questions, members? I am interested to explore the New Zealand model a little more. What should we be looking for, if we were fortunate to have the opportunity to look at the New Zealand model, whether through a WebEx or whatever that might look like? Do we say, right, these are the models and these are the areas? Where do we put our focus as a small Committee of a Tasmanian Parliament?

Mr HILL - I think it is the caring magistrates that we look at. There was an article recently called 'A Caring Court', which I know Greg Barns referred to. It was an article by a judge - or maybe the Chief Justice - in Western Australia and it talks about how courts are not generally regarded as caring institutions.

CHAIR - They have a role.

Mr HILL - They are there to give you a whack over the knuckles because you have done something wrong.

Ms WEBB - They are black and white.

Mr HILL - Yes, very black and white. Very judgmental, obviously - pardon the pun. You need this attitude of magisterial appointments who are prepared to go off the square and experiment. The Koori Court would be another example. It is a bit different to the New Zealand one, but New Zealand obviously has a history of assimilation issues, and they seem to have a broader view of what can be offered to children in a youth court, rather than community service or probation or something. There seems to be a broader view.

I have made some comments about the appointment process, so I will not bore you with those, but if you get the right people in place - I am not necessarily saying the ones who are there now are not. Although, if pressed, I might.

CHAIR - We can turn the camera off.

Mr HILL - No, it is all right. You do need to have people who are at least aware of what we are talking about here. At least aware of it. They do not have to agree, but at least they are aware of what is happening, and they are aware of the debates that are going on.

PUBLIC

Mine was not a 'St Paul on the Road to Damascus' experience. For me it was just a gradual realisation that perhaps we could do things a bit differently. I would be looking at their administration structure in New Zealand, how they structure their listings, how they appoint their magistrates and how they structure their court hearings. You would be looking at the whole system.

I don't think it would be onerous. That is my impression from meeting South Pacific Council of Youth and Children's Court members. That is where I gained my friendship with Andrew Becroft, who is a friend of mine and not just a colleague. I haven't heard from him for years, but he was such a magnificent speaker on youth matters. He just seemed to be so tuned in on youth matters. Even a discussion with him - tell him Hilly sent you, if you like.

CHAIR - My next area of interest is the new model for youth detention or detainees that is to be established in the state. I am really interested in whether you could give us some of your insight into what you believe would be an appropriate model - because as has been mentioned previously, regrettably there are some young people who do cause some safety concerns in our community.

Mr HILL - Sure. Generally, the problem-solving approach doesn't ever say that there ought not to be prisons. There are some people, adult people, who for various reasons simply cannot be in the community. It is the same with the kids. I saw Ashley many years ago - we were given the tourist guide, I suppose.

CHAIR - I think a lot of us have had the tourist guide.

Mr HILL - Yes, and you would come away thinking gosh, that doesn't seem that onerous or that bad. Obviously, people more qualified than I could probably speak to this, but it would seem to me that if you are going to set up educational facilities, the kids aren't there long enough. The argument that was always put to me was Rob is coming in today, he might be gone in a month, so we set him up to do some education. He is gone.

CHAIR - Three weeks later, he is back over there.

Mr HILL - He is gone.

Ms ARMITAGE - We need to keep Rob a bit longer, I think.

Mr HILL - So, there are logistical and practical problems for which I don't have an answer. I don't have an answer for how big cells ought to be or anything like that either. Ashley was a prison. No matter how you dress it up, it's a prison, or it was. How you then house young people in secure, safe and non-threatening surroundings, I really don't know.

I can still remember when the old remand centre - I haven't seen the new one - just next to the Magistrates Court There was set up and everyone was saying what a great, modern thing this was. No sooner than they said that, there were all these complaints about this, that and the other. We hadn't seen them because we didn't look at it with a trained eye like that. We didn't see the crowding issues and all that sort of thing. So, I suppose with youths, because they're at a very vulnerable stage, most of these kids, it would seem to me that it's very individual. How you actually standardise 10 kids into rooms of all the same size and all doing the same thing, I really don't know.

PUBLIC

CHAIR - Fast-forward to, regrettably, those same people or others having moved into the adult prison system. There's also the new proposal for a Northern correctional facility, medium security and some potentially therapeutic options for that. Do you see that opportunity to have something different than the Risdon Prison model that we have?

Mr HILL - Yes, I do. Basically, I'd be saying that if you adopt some of the things that we've talked about, maybe you don't need another prison. That would be the argument, wouldn't it, that if you could save money by diverting, ramping up your problem-solving stuff, resourcing your programs, you may be able to keep more. It was 480 when I left, I think it's 600 and something now.

CHAIR - And about 50 per cent of the families are Northern-based.

Mr HILL - I've always thought, even when I was defending, I practised in Launceston so I do know the logistical problems of families and defendants -

CHAIR - Accessing their loved ones.

Mr HILL - I do appreciate that. It's a deeply emotional problem. But if you're going to have another prison, it needs to be heavily based on therapeutic options, I would have thought. How you build that and how you set it up, I don't know. I've never seen one. But, it would seem to me that you need a strong emphasis on education, rehabilitation, counselling, that sort of thing. Physical health, too, drug counselling, all that stuff. I think you need to have an emphasis on that so that this really is not seen as a prison. It's seen as perhaps -

Mr VALENTINE - Just an extension of Risdon?

Mr HILL - That's right. You'd call it a rehab centre or something.

CHAIR - Take out the correctional?

Mr HILL - Yes.

CHAIR - There's been some suggestion through the submissions that a three-month sentence is an absolute waste of time for anyone. There's not enough time to get some education, particularly like we talked about with youth. A six-week confinement doesn't give them an opportunity, really, to benefit. I'd appreciate your view on a three-month sentence. It was also suggested yesterday that unless you've got enough services to wrap around home detention, then how does that work either? I am interested in your view there.

Mr HILL - I've never experienced home detention. Well, I shouldn't say that. I've had a few divorces. Anyway, I've never seen that in operation. But I do know that it's incredibly resource-intensive and there was a debate about it over 20 years ago, in the late 1990s. The big problem then was the suitability of accommodation. I don't know whether it's still the problem. But I would have thought, looking at it, that it is a non-custodial option, so, it's got a plus for that. But it is resource-intensive and I wouldn't have thought that a lot of people that appeared before me over 30-plus years would have had accommodation that would be suitable. So, I do not know how effective it can be. I have doubts about it. I have not seen any numbers but I have seen this rostering thing, checking on people, where they are and all this stuff, so it

PUBLIC

is terribly resource-intensive. But I can't really give much of an answer because I was not working when that came in. It was not even on the drawing board, I don't think, when I retired.

CHAIR - The three-month sentences?

Mr HILL - Pretty useless, three months. Going back to those days when I was first appointed, you know, seven days for this - how ridiculous is that, quite frankly? I think three months, from the point of view of marking the disapproval of the conduct, is fine. You know what will happen, of course: you will get lots of four-month sentences. Some judicial people may not see it as a move that solves any problem other than lifting the tariff. That would be a risk. Other than that, I can certainly see an argument for getting rid of short sentences. Whether it's three months, whether it's six months like Western Australia did it, it is up to the legislators. But I do think the short sharp sentences don't work. They don't work, they don't serve much purpose, except you get someone off the streets for three months. That is about all you do achieve.

Mr WILLIE - The penalty can be higher, too. A few years ago I had a constituent who had a drink-driving sentence. He lost his job, he lost his house, as well as the short sentence, which is -

Mr HILL - Yes, the repercussions are horrendous, aren't they? I hope it wasn't me. But three months is not uncommon, or wasn't uncommon, for drink-driving offences because magistrates thought - well, I should not speak for the others, but the general feeling was that if you are going to give someone anything, you give them three months. That was the feeling, I think, not based on any real principle, unfortunately.

Mr VALENTINE - You are involved with the Just Desserts program and I was wondering whether you could give us a little more of an insight into how successful or otherwise you have seen that.

Mr HILL - I think it has a limited role. We effectively - and I must give my daughter a plug, she thought of the name, Just Desserts, one of my daughters - we are contacted by the supervising officers in the drug court that people are progressing through their program and they have reached a stage where, perhaps a recognition would be 100 drug-free days or whatever it might be. We are then told that person likes fishing or bike riding or something, or that they have kids. So, we will go and buy a small gift for the child - a teddy bear or something, or we will get the person a fishing line or something, and that marks the achievements so they get their just desert for getting to where they've got to. Just Desserts's role is simply to be, I call it the eBay of the drug court. They tell us what you are interested in; we might give you a photographic frame, we might give you a key ring, something very small, \$20 or something. So, we give them their reward. The behavioural scientists tell us that that's a really positive feeling for the person because very rarely have these people had a lot of acknowledgement in their lives and that gives them -

CHAIR - They achieved something.

Mr HILL - They achieved something, confirming their efforts and perhaps giving them an incentive to keep going, to get right through to the end. And if they get to the end, which is a really high bar, our drug court graduation, two years, so a long time. A lot of people opt out - want to do the time because it's easier. If they graduate we might buy their partner something

PUBLIC

- again, a picture frame or something we are told would be appropriate. We have a limit, as I say, about \$20 and we just present that. I used to buy cakes, Cath Geason cooked a magnificent cake, much better than the ones I bought.

CHAIR - We talked about chocolate cake yesterday.

Mr HILL - Well, Cath was a great drug court magistrate. I don't think she sits there now, but she was great. Daley is good and on the graduation day we are invited to be there, we can Zoom in and they will often give us a mention, you know, Mr Hill is here or Professor White is here, or someone is here from Just Desserts and they have given you the fishing line or whatever it is.

CHAIR - Jim Wilkinson's there with a football.

Mr HILL - Yes, that's right. So it is an acknowledgement that part of our brief is to support the court. We do that by giving those rewards because the magistrates under the statute can give rewards. They used to be an easing-off of reporting, but now we've got this positive thing. Also, we preach the gospel about the therapeutic stuff as part of the mission, we just go around and talk about it.

Ms ARMITAGE - Going back to your three months, don't you think three months is too short?

Mr HILL - Well, it is not too short, it's just that it doesn't achieve much.

Ms ARMITAGE - Well, you don't think it's a taster? It's like, okay, you know it is going to be six weeks, they go in and they see how terrible it is and they never want to go back?

Mr HILL - Short, sharp delivery. Well -

Ms ARMITAGE - I deal a lot with youth justice, I do Independent Person, I have been doing so for 30 years, and I have seen a lot of young offenders. My youngest was 10. I haven't seen his name in the paper, so maybe he didn't go back after one stint at Ashley. You just wonder some of these kids, or even your adults, which I don't deal with, I just deal with the under-18s. Imagine going in. You don't think that's like, you know, 'How terrible is this, I never want to come back in here again'?

Mr HILL - The other side of that is that you have taken away the fear.

Ms ARMITAGE - They don't have fear, already. Most of them.

Mr HILL - I can see an argument for, 'I have done it once, I don't want to go back'. I have seen that in a close personal way, I have seen that happen. But in my experience, it is rare.

Ms ARMITAGE - You think it's more that they go and think 'This isn't as bad as I thought it was going to be'?

Mr HILL - Maybe. Or, they learn things, they learn how to cope. If they can't pick a lock when they go in, they can pick them when they come out. That sort of thing.

PUBLIC

Mr WILLIE - Meet up with their friends.

Mr HILL - Meet up with their friends, and it becomes a bit of a badge of courage: 'I did three months'. So, there are all sorts of issues but you are right, there are times where it is: 'I am never going back there'. I have seen it.

Ms ARMITAGE - Even in remand. Do you think that sometimes, with the youth, obviously you understand the Independent Person, you get called in. They are rarely ever locked in a cell. Do you think something like locking them in a cell would give them a little bit of fear that maybe - ?

Mr HILL - Maybe, I don't know.

Ms ARMITAGE - I find the police -

Mr VALENTINE - It goes on their record, doesn't it?

Ms WEBB - Or it could traumatise them.

Ms ARMITAGE - I find the police are very soft on them, quite often, when they do come in. I am just wondering, do you find now, or in your time on the Bench, that the fear wasn't there?

Mr HILL - I would have thought that the fear was rare, in my feeling. You mentioned the police -

Ms WEBB - Traumatized beyond fear, maybe.

Ms ARMITAGE - I find they seem to be quite soft on some of these. I would like to give some of them a good slap but -

Mr HILL - In my day, talking with some of the then police officers, probably retired now, their change towards the problem-solving approach was slow, some were quicker than others but were slow, but I found them toward the end of my time to be really quite supportive. You see, you need supportive drug court prosecutors who are prepared to say, 'We want to support this person getting through'. They -

Ms ARMITAGE - I mean, it is not a criticism, but they are not hard on them. The kids don't seem to be afraid when they are actually sitting there waiting, it's just like another day really.

CHAIR - A much longer conversation, I think. Michael, thank you so much for your very valuable time. We know you have other places to be. We have got your submission, we've got a lot of information.

THE WITNESS WITHDREW.

The Committee suspended from 10:49 am to 11:28 am.

PUBLIC

CHAIR - On behalf of the Committee I'd like to welcome Mr Dean Maddock. Thank you for your time. You have read the information that's been provided? I remind you that these hearings are being broadcast and recorded and you do have Parliamentary privilege while you are here but that is not necessarily afforded outside if you decide to make some comment or share some information. If there is anything that you feel the Committee might benefit from by taking in camera evidence, then please just request that and the Committee will make a decision.

Mr DEAN MADDOCK WAS CALLED, MADE THE STATUTORY DECLARATION, AND WAS EXAMINED.

CHAIR - Thank you very much. Do you have an opening statement?

Mr MADDOCK - No, I will just give a brief rundown of my history with the Tasmania Prison Service. I worked for the Tasmania Prison Service for 20 years. In that time, I was a team leader in the tactical response group for 14 years. I reached the rank of First-Class Officer and I finished with the Tasmania Prison Service due to PTSD in August 2020.

CHAIR - We note from your information that you were awarded a Churchill Fellowship to study prison reform.

Mr MADDOCK - In 2017, yes.

CHAIR - Do you want to talk a little bit about that?

Mr MADDOCK - I was transferred to medium security in 2012. I became frustrated with the lack of work and the state of the grounds in medium security. I was then put in charge of the garden crew. I started researching reform practices and I implemented a whole heap of different strategies whilst I was there. The employment grew from six inmates to approximately 16. We had half a dozen different programs going, which went from worm farms all the way through to composting. From the top of my head, we composted something like 100 cubic metres of prison waste in five years.

I applied for the Churchill Fellowship to study sustainability in prison projects in the United States. I travelled to California, Oregon and Washington State. I went to 16 different prisons and four outside providers, and I pulled all of their programs apart and looked at why they were so successful. The basic part of it was that prisons and cities are all man-made and they are very noisy whereas nature is very rejuvenative and very quiet and soothing. That's why they have gone to all of these nature-based programs, to try to compensate for that unnatural man-made environment. The stats on it were quite good actually. There was a 40 per cent reduction of inmate prison violence, from inmates that were in this program, and there was a huge reduction in recidivism as well. After 10 years they had the runs on the board, they had over 100 different programs and at last count they were in about half of the American prisons and they employed about 3500 inmates in total.

CHAIR - Can you walk us through how when you came back you presented this really encouraging report that you have provided for the Committee, about how the discussions unfolded around implementing or enhancing the programs that you had in place?

PUBLIC

Mr MADDOCK - I came back and all of my programs had been bulldozed. They had all been levelled except for one of the gardening beds, which was inside the compound, due to it being too hard for other people to maintain while I wasn't there for three months, because everything I did was on top of my custodial duties, not instead of.

From that, they started the Sustainability in Prison Project Tasmania, which was a series of Committee meetings and really, they gave me enough to shut me up but not enough to actually make any difference into the project. I ended up getting extremely frustrated with management. They had spent huge amounts of money on office space but they wouldn't spend \$100,000 on recycling. In a nutshell, through savings I had worked up a \$20,000 budget but when I went to spend the money they had given it someone else. They just pulled the rug out from underneath me continually. I was banging my head against a brick wall. It was part and parcel leading to my breakdown and I walked away from the Prison Service.

Mr VALENTINE - Oh.

CHAIR - When you came back and you did try to reimplement some of the programs that you had, did you reach anywhere near that 16 inmates that were part of the program that you had built up prior to heading off?

Mr MADDOCK - The jobs were still there but we just never got toward where we were. The inmates were shattered after the amount of work that we had put into it because the soil at Risdon Prison is all clay-based. I don't know if anyone here remembers the hassle where they scraped off all of the top soil and sold it when they built the Risdon Prison Complex. That was a big thing back in 2006. It's all a clay sub base. We had to dig all the trenches. We had to put all the green waste in it. We composted to get good enough soil to grow vegetables in. From last count when I was there we gave about 5,000 kilograms in three years to charity.

CHAIR - They were not able to be used in the prison system?

Mr MADDOCK - No, they just bulldozed it. It's just stopped.

Mr VALENTINE - We visited and saw a garden but it was not huge.

Mr MADDOCK - At Medium?

Mr WILLIE - At Medium.

Mr MADDOCK - I used to be in charge of both. At Medium in its heyday when I was there we'd put out about 600 kilograms out of that little square patch per year. We had garden beds all the way around Medium. At one stage we gave 1.5 tonnes of pumpkins to one of the soup kitchens. We did 2,000 plants for the Understorey Network, plus we did some grasses and things for Coastcare.

We were doing a lot of plant propagation. They were also doing the Certificate II in Horticulture out of Medium. In my time we might have graduated 20 inmates through that program in two or three years.

CHAIR - That is significant.

PUBLIC

Mr MADDOCK - It is very significant. We'd planned to go into recycling because recycling is a hot topic. A good part about the prison environment is that labour is cheap. It gives us the avenue to recycle products that are not commercially viable in mainstream. We don't have to worry about competing in the outside world. There was a range of different issues from plastics to composting to a massive amount of stuff that we could have done. They weren't interested.

Mr VALENTINE - The reason for them not being that interested, was that a matter of space, storage or any of those sorts of things?

Mr MADDOCK - Originally it was finances. I showed them through savings how we could afford it. Then they couldn't afford the staff. At the time I was on return-to-work programs and they had me doing other projects but wouldn't have me getting sustainability projects off the ground. They didn't want the hassle of it.

Mr VALENTINE - What changes did you see in the prisoners that were involved with those programs?

Mr MADDOCK - There are always inmates who do the wrong thing. You're going to get that in any situation. The majority would get out of bed and they'd attend labour. They'd work. Some inmates are capable of working six hours a day, others are capable of working two hours a day. You really have to gauge on their effort how they have performed as an individual. I had one guy who was a particularly hard case in the jails. When he found out that we were supplying one of the soup kitchens he said, 'Oh, I eat there when I'm on the streets'. He went overnight from being a thug to working his absolute butt off in the vegetable patches.

CHAIR - Because he felt like his effort was going to benefit somewhere that had assisted him.

Mr MADDOCK - If what we were growing and doing was going to the prison we would not have had as good a response as we did when we were saying it was going to charity. We openly named them. We named the charities where it was going to so the inmates could see. We would inform them of the weights we were using, different things that were happening. It was quite encouraging for them.

Giving a bit of self-worth to them is huge.

Ms WEBB - Dean, congratulations on your Churchill Fellowship and then what you have produced with your report. Describing what you learnt and the sites you visited. I was going to ask a similar question to the member for Hobart on the impact and what you saw among prisoners involved in the program.

What you just described about the engagement because they knew it would be assisting the community is a really crucial point. In a sense it begins a sense of connection to the community while they're still in prison and incarcerated. Ultimately, they would be released to the community.

Mr MADDOCK - That is correct. The model of sustainability in prisons is gauged off that. One particular prison I went to was in Walla Walla. It was a massive bluestone place, turn of the century. I asked the governor there, why are these programs successful? He said

PUBLIC

every inmate that comes in to his prison is given a choice. He said, 'You can start by working for the prison community, which is going into prison industries, and then once you've proven yourself to be trustworthy, you then work for the broader community'. The broader community can be anything from growing pumpkins for Halloween, to furnishing hostels and things like that.

I asked if it was that easy. He said, 'I also tell them, "or you go over there".' I asked, 'What happens over there?' He said, 'Nothing. That's the carrot.' So maximum security is four to a cell, one hour a day, they get nothing. They don't get visits, they get nothing. That's the carrot because no-one wants to go there.

They start working for the prison community, we put a sense of community into them and then we put them into the outreach programs, which then breaks the barriers down with the community and puts them out into the community. They are out, depending on what prison, in white and black striped suits. But they are out in the community, they are painting churches, they are gardening, they are picking up rubbish, they are attending wildlife sanctuaries. It is a workforce they put to work for the broader community.

Ms WEBB - The other side is the impact it has on staff who are involved in making or facilitating those programs. Can you speak about what it meant for you as a corrections staff officer prior to it being dismantled?

Mr MADDOCK - I'm someone who likes to keep busy, so sitting around just watching people all day dragged me. I would do the opposite, I would go searching all day. I probably caused a bit too much trouble inside the prison, just from being busy.

I had the programs up and running and a couple other team members came down; it was an intervention because they thought I'd lost my marbles. They said, 'We're a bit concerned, what's all this do-gooding stuff you're doing?' I said, 'Just be quiet for a minute'. He sat there and said, 'You cheeky bugger, it's silent. How good is this?' I do my work as custodial officer half the day and come out to the gardens the other half and it's just peaceful. For me it was the peace and quiet. I'd just retired from the group. I was sick of the mayhem of the place.

CHAIR - From the tactical response group?

Mr MADDOCK - Yes.

CHAIR - Where you have to run when the alarm goes?

Mr MADDOCK - No, that is first response. Tactical response group is called for riot suppression. The nasty end of the job.

Ms WEBB - Did you have a sense that among the staff group there was some interest if they saw you doing this sort of thing?

Mr MADDOCK - Yes, there is definitely an interest from staff. The interest goes in different ways. No officer likes having a yard full of roommates. We much prefer to move them on to labour every day. When I started at Risdon Prison that's what happened. You'd be in a yard for the day and you'd have one inmate in there, and that was the wardsman. Everyone else used to go to labour, used to go to education.

Ms WEBB - When was that?

Mr MADDOCK - November 1999 is when I started. We used to march them, we'd parade them up and we'd march them to industries every day. There were about 280 inmates at that time. There are also the staff who don't want to work. They're always the very critical ones. I was lucky that I was very well respected in the prison community and officers wouldn't speak up against me. I didn't cop a lot of the flak that other people had copped. Certainly, the majority of staff want the inmates doing something but there is always going to be your knockers.

Ms WEBB - When you went to do your Churchill Fellowship and spoke to the people running these other facilities elsewhere who have these programs well established, did you speak to them about the need for culture change amongst staff as well to help implement?

Mr MADDOCK - Yes. How they had done their culture change was extremely interesting. For example, they would put in wellness programs.

Ms WEBB - For the staff?

Mr MADDOCK - For the staff. But the inmates were growing the vegetables. Every staff member could get free vegetables, whatever they wanted to eat was all free. Other prisoners might have done plants. There was always something they were giving to the staff to engage the staff. There were incentives like, 'If you can save us this much in electricity, we will upgrade your gym equipment'. In theory, they bought the staff's attention. They gave the staff something so they could commit the staff to making sure these programs ran, so that they could commit that these prisoners were being unlocked to run these programs. Another place I went to, they said, 'All of our savings, we will sponsor every one of your sports teams'. Another place, every staff member got two pumpkins for Halloween. Only small things but it helps get the staff engaged in the inmates' rehabilitation.

The other part of what they do extremely well in the States and they don't do here is the more you work your way through the system, the closer you are to minimum security and doing outreach programs. They actually look after their long-term staff. The long-term staff are still invested because one program they might have got free plants for their house. They have gone through now and they can see: 'Hang on, 20 years ago I was watching this bloke take three crims outside to go to a forest and do rejuvenation work, and these guys were doing it. It gave them an out from the yards as well.'

I have been to forests, the inmates all just plant forests, all rehabilitation-based. I went to one prison camp in Oregon and I was standing there. It was fully self-sufficient. Its whole purpose was firefighting for the community and forest work. As I was talking to the inmate, a deer goes walking through the compound. I said, 'Aw, this is very nice'. He said, 'Yes. On the quiet, the staff shoot one for us every now and again too and it's very tasty.' 'Very good,' I said. He said, 'Yes, it is great when they are just walking through'. I said, 'What happens when they are running through?' He said, 'There's a bear or a cougar chasing them.' 'Oh, okay.'

This place was built from scratch from inmates and when you drive up to it, you would pay to stay there at a log cabin. The whole place was log cabins. It was magnificent.

PUBLIC

Mr VALENTINE - We used to have Hayes Prison Farm. Have you got any comment on that? You weren't around?

Mr MADDOCK - I was around.

Mr VALENTINE - Was it operating?

Mr MADDOCK - I actually did a couple of overtime shifts there. I never worked there full-time. The problem was when we shut Hayes Prison Farm, we lost the initiative.

Mr VALENTINE - It aligns with your philosophy, doesn't it?

Mr MADDOCK - Yes, but it was more about, we would have inmates come to us and say, 'Boss, how do I get to Hayes Prison Farm?' And you would say, 'Right, you need to stay out of trouble, you need to do this course, you need to be employed, you need to x, y, z'. And they would go and do it. Then they went to Hayes. The reason being was because the visits up there were all-day or half-day. The only thing missing from that visits area was a creek to fish in and a beer. It was absolutely magnificent, it was fantastic. It gave them that contact with their family. And they could work in the dairy, they could walk outside, it gave them everything they needed.

Mr VALENTINE - You are saying they could have visits from their family all day?

Mr MADDOCK - Yes, on the weekend, that is. They would work during the week, visits on the weekend.

Mr VALENTINE - Wife or husband. Was it for females as well? I'm not sure.

Mr MADDOCK - No, females never went to Hayes Prison Farm. Up until recent years, you only really ever had a dozen to 20 female prisoners, so the numbers were always very low.

Mr VALENTINE - But their kids could go there and they could take them around the farm and show them how the farm operates?

Mr MADDOCK - No, they had to stay in the visits area but if they wanted KFC, their family was there to bring KFC. I have sat there and I have seen them eat crayfish, cakes and all sorts of things. That is the win for them of their sentence.

Also when Hayes was around, the inmate had to do 25 per cent maximum security before he could work his way through the system. Now, that's not here. They can go straight to a minimum environment during their classification process.

If I had it my way, I would not build that Northern prison because it's another warehouse. I would build two minimum-security prisons - one in the North, one in the south. And I would spend the excess money on a trade centre for Risdon Prison.

CHAIR - To get them actually doing something meaningful again.

Mr MADDOCK - I did a lot of work on the original Northern prison and our idea was to produce an agricultural school that also looked at stone fruits and different other -

PUBLIC

CHAIR - Market garden.

Mr MADDOCK - Yes. We aimed it through Skills Tasmania as well, shortfalls in the industries and how we could get people working again, basically. If we gave them qualifications in agriculture, hopefully they would move to other towns, they would break their criminal connections and, to use the cliché, hopefully break the cycle of offending.

But, unfortunately, when you have a system that has been a warehouse for so long, all that managers know is a warehouse. So they have only designed what they know. I can't really blame them in a way. But Risdon Prison needs the management team replaced and it needs to be replaced by people who have seen these styles of program work, like John Moroney (Correctional Centre) in New South Wales. I don't know if you know about that prison. They have one of the best wildlife sanctuaries you can find, pretty much. They deal with injured animals and put them back into the wild after they have been rehabilitated, basically. That is a really good one, John Moroney.

I try not to get too much in the negative on prison management, but -

Ms WEBB - When you went and spoke to the facilities in the US and elsewhere under your fellowship, they must have had a point in time that they went from a more traditional sort of model to these new innovative approaches. Did they describe what it took to have that change occur? Was it a moment in time where they, say, changed leadership and they had a new leader? Or was it a very long incremental process?

Mr MADDOCK - It took over 10 years to get any momentum and it started with a guy named Dan Pacholke. He was a commander in a SWAT team and he ended up running a minimum-security prison. His life story is excellent to read. And he just thought, 'there has to be a better way'. It came down from him, as a prison manager, being told, 'you need to save money'. All of a sudden, he had these ideas but the government wouldn't give him the money, so he did outreach programs to the local colleges and got their interest. He said, 'You can use our facility for training of your students'. He started all these collaborations then it sort of grew.

Ms WEBB - So, a pivotal leader in that sense to drive change?

Mr MADDOCK - Yes, one person pushing change in a position of power. That is pretty much what happened. His story is very good to read. It is on the Sustainability in Prisons Network page.

Mr VALENTINE - So you said John Moroney?

Mr MADDOCK - Dan Pacholke.

Mr WILLIE - It sounds like you have regressed from when you started your employment within the prison service to now, which is a shame. But in terms of the work component, we heard yesterday from a former inmate who said when he started there as a prisoner there was a lot more work. That corroborates what you are saying. But he said that it was enterprise rules that came in that basically stopped a lot of that.

Mr MADDOCK - Yes, the fair trade laws. We had an industry manager at the time who took everything very literally. I believe he was lazy, that's my opinion of the man, and he just

PUBLIC

shut down our industries to save him work. I've been trying to get Risdon Prison to put back in through an EBA-style agreement that staff can buy off Risdon Prison industries at a reduced cost.

When I started at the prison there was an 18-month wait to get anything made at wood work. I'm a cabinet maker by trade and I used to hate going up against the apprentices at the prison because their quality of work was better. They had all day to do it where we had a limited time frame.

To get the industries up and running I believe we need a TAFE centre. We need someone who wants to drive it forward. You can put in an EBA. It can be as simple as 'This month at Risdon Prison industries we're making box trailers, garden arches, coffee tables and get orders for it'. I build trailers on the side and they could have three or four industries just to keep the staff happy.

Mr WILLIE - A more internal focus with the prison purchasing goods and skills for the broader prison, not outside?

CHAIR - You're not competing in the marketplace.

Mr MADDOCK - That's right, that gets you around the fair trade laws. You're not competing in the marketplace it becomes a part of the job, a bit of a privilege. Where we should be aiming if we're going to aim in the broader sector is the recycling industry. There are huge opportunities there for the prison. We should also be going to native rehabilitation work, whether it is animals or plants because we're not competing with anyone.

We can employ inmates and go through grants. Four or five years ago the federal government had the proposal to plant 200 million trees. Instead of giving that money to the broader community, if you had given that money to the prison system Australia-wide we could have produced hundreds of millions of trees. That's where I see the future of our prison industries going into the broader community. It's helping the community.

Mr WILLIE - Do fair trade rules apply across government? Could you have a prisoner working for a government department on rehabilitating the natural landscape?

Mr MADDOCK - I can't see why not. I haven't got into the fair trade laws. Every time I tried to take them on at the prison I'd just get a road block.

Mr WILLIE - You'd say the fair trade rules need looking at and there's scope to do a whole lot more than what's happening?

Mr MADDOCK - There is a lot of scope. You just need a manager who's willing to do it. It needs to be funded. Again, funding is the problem.

Mr WILLIE - Outreach to the community is currently not happening at the scale you're talking about. How would you take the community on that journey?

Mr MADDOCK - It has to start at the simplest thing. You start with the food banks producing food. You start producing plants for things like Coastcare. You need to advertise the fact that these are coming from Risdon Prison. We can put prisoners out to clean up

PUBLIC

beaches, do rehabilitation work and plant whatever needs to be done. We just need to do it and then we need to advertise the fact.

Once we get the basic bits and pieces happening, why can't we do some of the programs the states do? They refurbish wheelchairs and give them to the needy, push bikes, glasses. I have been to prisons where they have call centres that deal with all the government DVA stuff, or motor vehicle transport, they book camping sites over the phone. It's all done by prisoners.

A lot of it has to come from slight changes in legislation. I reckon, for argument's sake, no government agency is allowed to buy external from the prison unless they have gone to the prison first. These guys build colleges. I asked the industries manager in Oregon how they got away with this. He said:

I am the biggest supplier of furniture in this state. A university rings me up and says, 'I want 200 beds and I need them next week'. I say, 'No problem, it's going to cost you'. They say, 'I don't care, we want them'. I have 14 prisons that all have woodwork shops. I put 14 prisons onto it and I make 250 beds in a week. No-one in the marketplace can do what I do. I'm the most expensive but I can deliver.

Mr WILLIE - All the revenue generated would offset the operations of the prison, so it's helping government with the costs of the system.

Mr MADDOCK - Yes. Disposal of government furniture in Oregon all goes through the prison. They have a tailor shop that will repair the chairs then they get put back in circulation. All the office furniture gets recycled. If it can't be recycled as a desk, they break it down and use it for something else.

Mr VALENTINE - Presumably there are some issues with how you manage that. There is opportunity for graft to happen. How was that managed in those circumstances?

Mr MADDOCK - You employ professionals, you train professionals and professionals give you a professional job. There would be systems over there that are taken advantage of but you have to look at the greater good and you have to look at what goes in and what comes out and make sure people are doing the right thing.

In one of the prisons I went to, I was in the sewing room and it was full of bikies, all from different motorcycle clubs, and there was a little gay guy running it and they were all making teddy bears. This little gay bloke was screaming at them. It was the funniest thing I have ever seen but they were producing 100 teddy bears per week. They went out to the hospitals and were all made out of recycled material. All prison waste. People say it can't be done, well, I have seen a lot of things that can be done.

CHAIR - The sky's the limit.

Mr VALENTINE - Can I ask a question on one of your recommendations: bring inmate privileges in line with program and industry participation. Can you just expand on that?

PUBLIC

Mr MADDOCK - Risdon Prison is run by keeping people quiet. If you're an inmate in maximum security and you are given everything, why do you then move through the system? I would like to see that if you're in maximum security, your privileges are very limited because it needs to give the inmates some incentive to work through.

You have to remember how the prison is constructed. At maximum, they have their own cell. They have their own toilet, their own shower in that cell. They then have to go to medium, which is communal showers and communal toilets and is known for bad assaults. If you're giving them everything you can give them in maximum security, why would you move? You can't get anything more. You get an odd visit, that is it. You need to make the carrot bigger.

If I was in charge, what I would do is anyone in behavioural management wouldn't get visits. It's their behaviour that says you can't have visits. You want to turn them in and out in a few days and get them out of behavioural management. Maximum security, I would deliver the soaps and the shampoos and if they want to get canteen items, they can work, they can move on through the system. We can start getting people to move through the system.

If we had a prison farm, we could get the guys at medium to move to Ron Barwick. Who wants to go from a nice warm building to a cold drafty prison that we mothballed because it was not suitable for maximum security prison? Then, we want them to go to Ron Barwick because we want them to go to a prison farm, which we don't have. There is absolutely no incentive for inmates to move through this system for a few extra photos. People are not interested. Their safety overrides photos or an extra visit or extra canteen items.

Mr VALENTINE - The rehabilitation carrot is not there?

Mr MADDOCK - Absolutely, it's not.

Mr WILLIE - The prison farm would be potentially at Ashley, in Deloraine?

Mr MADDOCK - You'd need one at either end of the state. A big problem we have with our Northern prisoners is that about 60 per cent of inmates came from Launceston and probably 90 per cent of our troublemakers came from Launceston because they didn't have visits, their family didn't travel down every week to see them. They might get a visit once a month. I know prisoners from up North who went through a 12-month sentence without seeing their family.

Mr WILLIE - There's a North-South gang mentality, too, isn't there?

Mr MADDOCK - Prison gangs, they're everywhere. North, South, you name it, there's more than what you can count.

CHAIR - South versus South.

Mr MADDOCK - South versus South, yes. It's an issue.

Mr WILLIE - So having more facilities would help to manage those relationships at times?

PUBLIC

Mr MADDOCK - Yes. If we had a prison farm anywhere up North and we had one in the South, and if the Ron Barwick site was also a smaller scale prison farm, so we'd get them out into the paddocks, we can gauge whether they're going to be suitable for a minimum environment. It gives us that extra carrot, extra little bits and pieces. What it does is when inmates at medium and maximum look out the window and they see other inmates walking around the bigger prison complex, it gives them hope that they can actually do the same thing.

There is a prison in the States, I can't remember the name of it, you can Google it, it's on YouTube, they made a golf course for their minimum-security inmates and it is a renowned golf course. People come from all around the world to play it.

Mr VALENTINE - They constructed the golf course?

Mr MADDOCK - They constructed it, the whole lot, people are employed to work it and manage it.

Mr WILLIE - Maybe they could rehabilitate the Rosny Golf Course.

Mr VALENTINE - Regarding the wellness programs, so there are no staff wellness programs at all?

Mr MADDOCK - No. I actually wrote a rescue package for Risdon Prison. Part of that was getting the container deposit scheme in place, because, I can't remember, it was something like 500 to 600 Coke bottles a week that place goes through. It worked out at 10 cents a container. I was going to give that money to the prison officers club. It was about \$20,000 a year. They were going to get rid of all our bottles for us, so they'd make sure they would come out of the prison, they got a truck to take them all away, they cashed in the money. But part of it was that they had to reinvest the money in the staff: suicide awareness programs. simple things like T-shirts to lift morale. Part of it was they had to put back into the sustainability programs as well. We were waiting for the container deposit scheme to come in, and start from that. Money would have gone to the prison gym, which the prison actually charged staff to attend. It's only about \$5 a pay but it should be free.

Mr VALENTINE - On the audits that you mention in the first part of your recommendations, you have three or four recommendations for auditing. Who are you suggesting would be best to carry out that sort of audit?

Mr MADDOCK - I think you have to be critical of your own system. I'm a big believer that all the programs that they offer at the moment need to be looked at because some of them have run for 10 years. When you've got people coming back three or four times, they've already done it. If you've got ladies sitting there who you are paying \$80,000 a year to run a program for 20 inmates a year, it's not really worthwhile. Whereas, if they could change their programs around and have different programs every few years, and then recycle one and come back to it, and hopefully keep prisoners engaged.

The other audit, things like their rubbish. When I left Risdon Prison their rubbish removal was about \$150,000 per year. For \$80,000 a year I would have got rid of that bill. So, there's a lot of different audits that need to happen in that system.

PUBLIC

Unlock hours: under the current management, unlocks now are normal, workers comp has gone up 400 per cent. That tells you that the prison practices that they're governing by at the moment are just wrong.

Ms WEBB - I am interested to hear a little bit about the internal processes that are there for innovative ideas to be shared and taken up, potentially. You are someone who was in that environment, took some initiative and researched, and was keen to do things like the Churchill Fellowship. You mentioned you wrote a rescue package. Obviously, you were someone interested in providing feedback and ideas into the system that you worked in. Were there ways that you could do that in a formal way or readily? Was that invited or were those processes not really there?

Mr MADDOCK - No. I pulled apart the *Breaking the Cycle* paper and I targeted the sustainability in prison project at that paper. I had managers turn around and say 'oh, this is the *Breaking the Cycle* paper'. I said 'yep' and they said, 'Right, you need to go to speak to someone else', and then you go to speak to someone else, and then you speak to someone else. 'I am now going to form a Committee'. Then they form a Committee and then the first few months they do terms of reference and all this other great stuff. Then, all of a sudden, they start getting cancelled because people are too busy and they literally kill the ideas off because you just get sick of trying to bang your head against a brick wall.

So, there is no avenue. And for people who try to do it; it literally does your head in. It is banging your head against a brick wall.

Ms WEBB - Sorry to hear that.

Mr WILLIE - You need decision-makers with more entrepreneurial thinking.

Mr MADDOCK - Absolutely. Look, the easiest model to do is a warehouse because you literally lock them in a hole and you leave them. Is it right for the community? No.

I am probably unlucky in my prison career in that I have seen what a working prison is like. The guys starting today, they know no different to inmates going to work, they are used to inmates staying in their cells all day. So when you see how good a prison system could be to what we have now is extremely frustrating.

CHAIR - Are there any prison facilities in Australia or New Zealand that you are aware of that have a more hands-on model approach for inmates? I don't think heading to Oregon is an option.

Ms WEBB - You mentioned one in New South Wales, I think.

Mr MADDOCK - Yes, the John Moroney Centre in New South Wales is very good.

CHAIR - Have you been there?

Mr MADDOCK - No, I haven't, because I would have to fund it myself. A lot of prisons do a lot of good things.

CHAIR - Pick the eyes out of them all?

PUBLIC

Mr MADDOCK - Yes, and that is really what has to happen. Victoria, when they were struggling for cash, they were making minimum-security beds out of shipping containers and they were really good. I think it is New South Wales that do the drop-in cells. You can actually order drop-in cells that are made by the prisoners.

CHAIR - Think outside the square?

Mr MADDOCK - You have to think outside the square. The problem is prisons are traditionally, 'we do our woodwork, we do our metalwork' -

CHAIR - And a bit of gardening.

Mr MADDOCK - and a bit of gardening because we like to look nice when the politicians come. Sorry, but that is pretty much what we get told.

CHAIR - We did go to the garden.

Mr MADDOCK - Every time a politician visits, we get told to make sure it is spot-on. So, yes, I am not aware of any one outstanding place in Australia, which is why I went overseas.

CHAIR - Thank you. We started with you saying that you banged your head against a brick wall and we pretty much finished with you still banging your head against a brick wall. We would like to think that we are going to help you stop banging your head. We can't make any promises but we have very much appreciated, on behalf of the Committee, your time and your input into this inquiry.

It is important that if there is a new facility built in the North of the state and whatever may happen in the South, then the model is right this time, although Risdon was going to be right as well, wasn't it, all those years ago.

Mr MADDOCK - Yes, and unfortunately, I've seen that built. I never saw the Southern Remand Centre but apparently that is already destroyed. So, yes, it is time we draw a line in the sand and say we can't just build warehouses any more and we need to throw money at rehabilitation. If we build another warehouse, we will just fill it.

But you guys have the hardest job because you have to convince Labor, Liberal, the Greens, Independents that we need to commit to a 10-year plan to reform Risdon Prison.

I can leave you with this one. I remember the Palmer inquiry. I said to Mr Edwards at the time, who I had a lot of respect for -

CHAIR - Brian Edwards?

Mr MADDOCK - Yes. 'Boss', I said, 'We are at 80-something per cent, we are getting to the good stuff. When are we doing that?'. He said, 'Dean, we've done what we are going to do, the government has changed, no one cares'. He said, 'This is the game'. All we had to do was prolong it to the change of government. So that is their attitude. That's why a lot of inquiries don't follow through because by the time you have the inquiry and it is published, it leaves you two or two and a half years of that government to follow through with all the

PUBLIC

recommendations and they will just stretch it out and as soon as the government is changed it's boom, next inquiry. So that is your hard job, and that is a hell of a lot harder than me getting an inmate to go to work. So I wish you luck on that.

Mr VALENTINE - Your input is important.

CHAIR - Thanks for reminding us what a hard job we have. We were aware of it and we lost that over the brief journey so far but I am sure now we've got it back, front and centre.

Ms ARMITAGE - We have a lot longer in the Upper House. We have six years.

CHAIR - Thank you very much again for your time and your input. We will give it our best shot I can assure you.

The Committee suspended at 12:16 pm.

The Committee resumed at 1:12 pm.

CHAIR - I invite Professor Rob White to this hearing for the Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters and sincerely thank you for your time. I know we've introduced you to the information that's been provided for witnesses. This hearing is protected by Parliamentary privilege but the comments that you make outside of here may not afford you the same privilege. If there is anything that you feel the Committee might benefit from hearing in camera you can always request that and the Committee will make a decision.

Professor ROBERT DOUGLAS WHITE WAS CALLED, MADE THE STATUTORY DECLARATION, AND WAS EXAMINED

Prof WHITE - I probably swamped the Committee with a lot of literature and I consciously did the PowerPoints because I thought it was just easier to read and follow and you have the explanations built into that. I do want to emphasise two things as introductory remarks. One is the notion of eight measures to improve justice and these all inter-relate in one way or another:

1. Justice reinvestment: invest in people and communities rather than the bricks and mortar of new prisons;
2. Restorative justice, where the harm is at the centre;
3. Therapeutic jurisprudence, which addresses underlying problems;
4. Trauma-informed approaches: across the board, to be used by police, teachers, child protection workers, judges, magistrates and so on;
5. Mentoring. I will pause there because that is a word we do not hear enough. If you want to deal with a lot of these young people especially, but also older people, we all need some mentoring and that is something that I would like to emphasise;
6. Raising the age of criminal responsibility, I think is a vital must, that doesn't mean that you don't deal with people who are in trouble or who are troublesome, but it does mean that you do not criminalise them;
7. Systems of accountability. My colleague, Val Kitchener, was here earlier today talking about OPCAT. We need transparency but also robust systems of accountability;
8. Victim engagement: one of the forgotten players in criminal justice of course are victims but the payoff for offenders comes through victim engagement as well, because often offenders don't really know or realise the harms they are doing until there has been some kind of victim engagement program - not necessarily restorative justice in the sense of juvenile conferencing by the way. There are other forms of victim engagement which are less confronting but can be quite effective.

So, that is the eight measures to improve justice. They are inter-related and they are based on key principles such as repairing the harm. The Human Rights Commission is also

PUBLIC

doing some work on juvenile justice reform and child protection and I rediscovered some old talking notes there. I might leave this with the Committee. Basically, and I won't explain this in depth, it is five key ideas in relation to young people specifically -

CHAIR - But could that transfer to older -

Prof WHITE - In many cases, yes.

So, there are five key ideas. They are all R words: Respect, Responsibility, Rapport, Responsiveness and Restorative ethos.

Respect refers to both self-respect and social respect; Responsibility is both individual responsibility but also societal responsibility to the individual; Rapport means let's talk to the kids and let's talk to the adult prisoners -

CHAIR - Build a rapport.

Prof WHITE - build a rapport but there has been a lot more panic around juvenile crime especially in Queensland but also in Tasmania. Very few stories have featured young people and talking with young people so that notion of rapport. Responsiveness, and perhaps there is some questioning you can ask me about some of that, but have stuff that kids and young people and adults will respond to. I am thinking of community spaces and I can give some examples where -

CHAIR - Like a skatepark or -

Prof WHITE - Even more than that. It is inclusive but it is not the word inclusive it is being responsive to where kids are at and working with that; and the final thing was the Restorative ethos which means it is not simply just conflict resolution. Restorative justice really talks about conflict resolution but I think what we can do is create a restorative ethos. In work that Rosie Martin and myself did a few years ago, we looked at Gagebrook Primary School and we were gobsmacked. At that time maybe five or six years ago, they had created a restorative ethos so that the whole school was built around the notion of respect: respect the place, respect yourself, respect the other. So, it was an ethos. It wasn't about conflict resolution. It was how do you carry yourself in your daily life.

So those are some of the general ideas, values and principles that I would see underpin in my mind an ideal system. We in Tassie have a small system relative to the rest of the country and it seems to me that we should be doing a lot more. We could be world leaders in a range of different areas. I will leave it at that.

Ms WEBB - Would you like to table that document that you brought in to share with us?

CHAIR - Unless you need it for reference while you are here and it can be at the end.

Prof WHITE - I have got electronic stuff and I do not need it for reference. I have got one of my diagrams in there that you have already got but -

CHAIR - Thank you and that is always much appreciated. We will open up the areas of questioning.

PUBLIC

I might start with the very last point that you made around victim engagement. I would really like to explore that a little more because we are Tasmanians we often know a victim or a perpetrator. How do you do that in small communities where people might be angry or upset or feel like they've been harmed?

Prof WHITE - You don't necessarily have to do a standard sort of justice conference with the specific offender and a specific victim coming together with community around them. That's appropriate and applicable in some circumstances; in others, it's not. What you can have is feuding communities.

You want to defuse that kind of thing. One of the better programs I'm aware of was a prison-based program, but you can do this in the community as well. You took typical victims, for example, somebody who'd been burgled, could be an assault victim, could be somebody who got one-punched on a Saturday night. You take a typical victim but you don't match them with the offender -

CHAIR - With the person who actually offended, yes okay.

Prof WHITE - You have a victim panel, and the offender or offenders sit in that panel and the victims described what it meant to them. That can have quite a powerful effect on offenders because they are hearing somebody's pain. Often people don't realise the pain that they have caused.

A really good example is somebody who robs a bank. A female employee of a bank was robbed twice. This person had a gun pointed at her on two occasions, was absolutely distraught by the whole process but the guy who did it didn't realise because it was just a toy gun. He didn't realise until he was in one of these victim panels, then he goes, 'Oh okay'.

We had a similar kind of thing years ago in public space in Bendigo. Young kids were talking about skateboarding and they were really excited. The elderly people who had been invited to be part of this community forum said, 'I'm walking down a footpath, it's really difficult for me and I find it really scary and intimidating when you guys whizz by on your skateboard'. The young people hadn't realised it because they're not thinking.

There are different kinds of victim engagement. Part of the point of victim engagement is for victims to express their hurt and their harm and suffering, and part of it is to try to encourage offenders to realise the magnitude of the harm, and in some cases to develop empathy.

CHAIR - And hopefully put the victims on a path of healing and being able to be more accepting.

Prof WHITE - As far as we can go. The other thing about victim impact statements is that we have different kinds of victims. Some victims will always want punishment and they will be vindictive and they want that person dealt with forever -

Mr VALENTINE - Want them to pay.

PUBLIC

Prof WHITE - Want them to pay, right. But, another victim says, 'I was brought up as a Christian. In my particular faith, forgiveness is the be all end all, therefore I forgive my enemy'. A third victim says, 'Don't get me involved, I've had enough of this stuff. I don't want to condemn, I don't want to forgive, I just don't want to deal with this again'.

Mr VALENTINE - Trauma, I just want to move on.

Prof WHITE - Different victims have different approaches. We have to be sensitive to victims and not treat them as one size fits all.

Ms WEBB - One thing I'm interested to hear more about is the responsiveness you talked about around community spaces. Could you describe more, to give us some key ideas?

Prof WHITE - Years ago I did a lot of stuff on shopping centres and shopping malls. Two very quick stories. When I lived in Perth, the manager of one of the local shopping centres was tearing his hair out because the local traders complained about shoplifting. He was about to hire two full-time security guards. He went home to his teenage kids, and they said, 'Don't do that, you're just going to antagonise the young people. Why don't you think of another way?' In partnership with the local council he hired a part-time youth worker who worked in the shopping centre. It transformed it because the kids had a voice. They could go to the youth worker if they were crapped off, the retailers got to know the kids a bit better because of it, and so on. The shoplifting dropped after six months. Things were going so well, he started to put on Friday afternoon rock concerts once a month for the kids.

Related to that story is work we did in Cairns years ago. The shopping centre management did two things of note. They located the alternative school in the shopping centre. An alternative school is designed for the so-called troublesome ones who get kicked out of normal school. Over time, the kids started to see it as their shopping centre and they got really protective. Importantly, the head of security in that shopping centre talked to these kids and got to know their names, so when they walked through the door they were addressed by name. Most of the kids were indigenous young people and they were addressed by name. The pay-off was similar to the other pay-off: the young people start to see this as something they want to protect.

Another bunch of young kids trashed the back of the Cairns shopping centre, and the police were brought in. The shopping centre and the young kids told the cops to back off and they would handle it. The kids talked to the elders and found out who did it. They worked through the elders and it was cleaned up, but the message went out not to touch. The vandalism disappeared.

The other important thing was it was the so-called troublesome kids who became the centre of the protection of the place. If you get people with an affinity to place, responsiveness is really people seeing it as 'my space' and not feeling excluded. There is more to it than that.

Ms WEBB - Thank you, that is good bare bones.

Prof WHITE - A lot of our spaces are commercial spaces and they cost money. If you do not have money, then where do you go? We were talking earlier, when we were kids, we had lots of places to go because we didn't have to pay for anything.

PUBLIC

Mr VALENTINE - That changes the individual, doesn't? I remember years ago when the Hobart City Council wanted to keep troublesome kids away from an area. They put in certain lighting which made their pimples show up and no one wanted to go there and the music they played was not the music they wanted. All that did was push it away to somewhere else. It didn't engage with the kids. What you're describing there seems to me to be a very positive way forward.

Prof WHITE - Yes, but you need an enlightened management.

Mr VALENTINE - Before we move off the victim impact statement, in your slides you talk about the arguments in favour. You have system consequences, recognition of victim's party status and individual dignity. Can you describe what that means?

Prof WHITE - Most of our criminal justice is based upon offenders and ostensibly because of the law, the victim is the state. Having a real victim being recognised in court is actually a step forward. It says, you do count.

Mr VALENTINE - You talk about victim's needs and victim satisfaction with justice, psychological healing and restoration, reduced feelings of helplessness and lack of control. Symbolising the importance of the victim in the process. Clearly, it is centring on the victim. Is there anything else you want to add to these different statements that you are making in your slides? I am interested in exploring the victim's side of it more.

Prof WHITE - The key thing is that you have to deal with the victims' needs. You have to deal with the victims' participation. Years ago, and I can make this available, I did a paper for the Department of Justice on victims and offenders. What it dealt with was offenders who came out on day release bumping into a victim. The question was how do you deal with that? It was a paper that really talks, in the end, about both offender and victim rights, and how you need to design your release programs in such a way that you are not going to create further problems down the track but at the same time ensure that the offender has rights as well.

Mr VALENTINE - Then you talk about arguments against victim impact statements. Is there anything extra you want to highlight there? Talk about system consequences, undermine courts' insulation from unacceptable public pressure and those sorts of things.

Prof WHITE - I suppose one of the lessons I learnt when I was - this is based on lecture stuff over the years, victimology. What we learnt from when I was living in Victoria was that victim impact statements can be so personal and idiosyncratic that, as I have said before, you can have punitive, you can have forgiving, and you can have 'don't contact me'. One solution proposed by, I think it was the sexual assault or the rape crisis centre in Victoria at the time - this is going back 30-some years - was to have a typical victim. So if you are going to talk about a rape victim, instead of having necessarily somebody present in the court and talk about their experience, that you design a text or a narrative around what it is like to be a victim of rape and then present that as a victim impact statement. As with everything, there are different levels of complexity around all these.

Mr WILLIE - One of your recommendations is raising the age of criminal responsibility: you don't just raise the age; kids are still responsible for their behaviour and you talk about alternatives. What are the alternatives in your view?

PUBLIC

Prof WHITE - I think one of the things we need to do is look at other jurisdictions and how, when jurisdictions have higher ages of criminal responsibility, they respond. In most of the cases, it is the social welfare-type of response, so they intervene. Just to give you a sense, in some jurisdictions, the age of criminal responsibility is 18. That reflects the United Nations Convention on the Rights of the Child. Many other jurisdictions have it at around 14, 15. When we look at the science behind adolescent development, the more we are finding that, really, there is quite a significant difference between adolescents and, say, adults in their mid-20s. It is not saying don't have state intervention. Raising the age of criminal responsibility is not saying don't hold kids accountable, but hold them accountable in a different way that is less stigmatising and less criminalising. What we also know is that the earlier you go into detention or juvenile prison, the more likely you are going to end up in Risdon or in adult custody. What you want to do is stave that off as much as we can.

Obviously, there are exceptions to what I am saying, and the exception would be a grievous, serious crime - but even that has to be contextualised. A 10-year-old who kills somebody is going to be very different from a six-foot, 15-year-old kid. So there is contextual stuff around all that as well.

Mr WILLIE - Some of this restorative justice that you are talking about would be involved. Anything else?

Prof WHITE - In a sense we have embedded that nationally in juvenile justice. The question I have with the way it has been embedded or institutionalised is that it tends to be used for the less serious cases and people who are not repeat offenders.

I have always thought that the best value for money is to have restorative justice for the people at the mid-range and more serious crimes so you can drill down and go into depth and work with the kid. I think it is partly a waste of money to have too much family or group or juvenile conferencing at the front end of the system. Those who don't match the criteria for that end up going into the harsher parts of the system. If you look at that nationally, that tends to discriminate against indigenous kids because they build up a track record and they get charged with more serious offences and so on. So, restorative justice is part of that.

I think also, going to back what I said before, things like mentoring. One of the things, when we have kids who are acting out, let's think of that acting out for the moment, what that means. If we think of trauma-informed care and trauma-informed approaches, it means that you're going to have kids doing real shit stuff and they're going to get up your nose and they're going to be angry. If you look at the impacts of trauma, I don't know if I put my notes on trauma amongst that stuff, what you end up with is kids who are really messed up and mixed up.

Mr WILLIE - And can't regulate.

Prof WHITE - And can't regulate, absolutely. One solution, so-called, is to put them away from the rest of society and put them in isolation. The worst thing you can do is do that because what you want to do is surround the kids. We should be upping the youth and community workers, social workers and so on who are working with these children, because they might be 15 and tall but they're still children. It's embedding them in a different series of relations.

PUBLIC

I'll come back to that notion of mentoring as well. That hooks back into that notion of respect, one of the Rs. You need kids to develop their own self-respect but also social respect. One of the things often with kids, or actually with adults, is that when we punish them, it's a passive form of response because we're saying, 'We're going to chuck you into detention, we're going to chuck you into Risdon'. But basically, you can do nothing. You don't have to do anything. Unless there's facilities and avenues to do something worthwhile, often you can just sit there and come out and there's no change. We want people to be rehabilitated. Whereas, I'm a firm believer, in terms of under-18s, in an active program, get young people to do stuff. In the case of adults, the same thing. Give them the opportunity to engage and to do stuff rather than have a passive punishment process.

One of the best things that we've seen, and this goes with kids as well, is, two quick examples. Dunalley fires, we had volunteers from the prison. They felt on top of the moon, on top of the mountain.

CHAIR - They were helping.

Prof WHITE - They were helping, so they got out, helped to rebuild the fences and did stuff, because they're contributing and giving back. Many of our people who are in these systems don't have a chance to give back. When they can volunteer, they can do it. The physicality of that process also mattered.

In the case of juveniles, we've had different kinds of animal therapy programs. The most interesting one, and this is what got me up to Gagebrook all those years ago, it was a Pat a Pony program. It's literally pat a pony and it was for primary-aged schoolkids, many of whom had learning difficulties and so on, and this was a calming thing. The program was actually run by Justice at the time and the kids who were involved were in the juvenile justice system. So it was 15-year-olds working with 10-year-olds and 11-year-olds, and it changed the 15-year-olds because all of a sudden they're working with younger kids, they're working with animals.

CHAIR - They're the example.

Prof WHITE - They become the example. A lot of these kids hadn't had an opportunity to do something involving giving back. But it can't be coercive.

Mr VALENTINE - Where they're in control.

Mr WILLIE - How important is public education with these sorts of changes? You have to take the community on a journey and sell the benefits.

Prof WHITE - I think we need to develop a language and rhetoric that celebrates what we can do here in Tassie. People often say, 'Oh, that's just soft on crime', and I say, no, it's not - soft on crime is just chucking people into detention or prisons. Hard on crime is when you actually demand something from the offender, regardless of age, young offender, older offenders -

Mr WILLIE - To change their behaviours?

Prof WHITE - To change their behaviours. Also, again, the rhetoric. I say, look, chucking somebody into, say, Risdon, for me is just a waste of time. We all know that

intrinsically. At the end of the day, there are exceptions to that. I don't want a certain person ever out of incarceration. We don't mention his name but basically I am quite fine with that because that person is a danger to the community now and forever, in whichever way, shape or form it comes. But that is the exception.

The general rule, if you go into Risdon or if you go into Ashley, is you have vulnerable people with really difficult, chaotic family lives and backgrounds, many of who are involved with drugs, many who have suffered brain injury, many who have suffered trauma. That notion of unregulated behaviours becomes part of that. They need to be wrapped by the rest of the community.

Mr WILLIE - Where some of these changes have been successful in other jurisdictions overseas, they have talked about value for money for taxpayers as a way in. Reducing crime, recidivism.

Prof WHITE - That is partly what the justice reinvestment argument is, that you will save a lot more money. Instead of spending \$400 million up North on a new prison, if you spent that in the community on housing, employment and so on, then it is a better-spent dollar because it is preventative. But it is not as visible in the same way. One of the things about a prison is that, oh, it's visible. But it does not deter. We know from all the studies forever that prisons do not work. It is a 19th century invention that has failed because almost everybody who goes to prison comes back. Two-thirds come back. So, obviously it is not deterring in that sense. I think we can have more value for money.

I will not say too much about this but that whole decriminalisation of drugs goes into this as well. If you look at Portugal as a case study, if you look at Norway, Finland and Sweden in terms of imprisonment and use of imprisonment, it is not only that they incarcerate fewer people but when they do, they do so under different kinds of conditions so that rehabilitation becomes a possibility.

Mr VALENTINE - In that system for a lot shorter period of time at the end of the day, is that what you would hope?

Prof WHITE - Yes and no. For example, in Norway, at Bastoy Island you have people in for homicide but they live in self-contained cabins, they have access to knives because they are cutting their own food, they cook their own food and all that kind of stuff. But the whole orientation is to prepare that person properly for coming back into society at some stage because if you do not, you are just going to end up with thugs.

Ms ARMITAGE - Are there any areas or any jurisdictions that you think do it particularly well? We often hear about New Zealand or others in Australia. Have you any contact with what they do in New Zealand with their youth?

Prof WHITE - You win some, lose some at different levels. It was the Kiwis who initially got the family group conferencing idea going. It was a response to the overrepresentation of Maori in the system. But then the adult system just filled up, so they are not doing so well in terms of the adult system.

I think our best example is Scandinavia. I have mentioned Norway. It is based upon how they think about the process. It really is about repairing the harm but preventing future

PUBLIC

harm, so it is always future-oriented. Whereas a lot of our approach is retrospective; it is Just Desserts approach that says, well, you've done this, do the crime, do the time. That kind of thing. But it is retrospective. They are not looking to the future. I think what we really need in Tassie is a future-oriented system. Let's look at the consequences of the system on people and design the system.

In my submission, I mention that it is the philosophy that has to be the driver. My philosophy, in one phrase, would be repairing the harm. But repairing the harm also extends to repairing the harm of many of our offenders. Those who get criminalised by the state are really vulnerable themselves. Regardless of how they present, they are really vulnerable. Let's think about repairing their harms and getting them to help repair the harms back to the community. That is the principle stuff.

Ms WEBB - I am interested to pick up on what you just mentioned there. In the first page of your submission you talk about the philosophy and the concepts that have to underpin. Then you put the policies, programs and design on top of that. What we know, though, is that the philosophy might not be there in whatever government of the day might be in place at any given time. Or it might chop and change because governments of the day change over time as well. In many instances, it might be that we are trying to bolt on particular programs, probably not in a comprehensive way but more of an ad hoc way, without necessarily having the continuity of philosophy underpinning. Is that a hopeless trajectory for us to be on, or is there still some value to be had in that?

Prof WHITE - We draw eclectically on everything we do. That's just life, that's the reality. I think that from the point of view of positives, philosophy can drive a more positive future than otherwise. What is really interesting about the decarceration movement in other jurisdictions, thinking here of Texas, is it is driven by fiscal considerations. It is still philosophy but it is driven by money. Basically, it is saying, hey, we spent too much.

I remember back in the days when Margaret Thatcher was really going hammer and tongs against young people and kept saying - her mantra was: 'a short, sharp shock'. Then, the Conservative Party, under Thatcher, realised, oh, we are spending a lot of money. So the Conservative Party under Thatcher, after about four or five years, had to withdraw from that mantra because they realised it was too damn expensive.

There are different drivers of government policy. It is values-driven in its own way. Certainly, the fiscal one is a really important one and that is where justice reinvestment and therapeutic jurisprudence become really important. Therapeutic jurisprudence says when you deal with someone who has a drug problem, they are going to keep reappearing. Michael Hill used to talk, when he was Chief Magistrate, of how he would keep seeing the same people all of the time. And the resources, our police and social workers and the courts, seeing that same person. Then they set up the drug diversion program. All of a sudden they had a chance for some people to stop doing the repeat offending.

Mr VALENTINE - We heard from Michael Hill this morning.

Ms WEBB - In terms of children, we have a youth justice system that, in some ways, we like to think of as being separate to an adult justice system, other than we acknowledge that there is quite a pipeline from one to the other. Apart from that, there is also crossover because although we do detain children in Ashley rather than adult prison, children who are coming

PUBLIC

into the system are coming through a lot of environments that are adult justice-related environments. There is going to be an impact there from exposure to those environments.

Can you talk a bit about that and how we might better think about the trajectory of children through the system from whoa to go. Not just in terms of where we might place them if they are going to be detained but every step of their way through that journey, from being picked up, committing a crime as we now frame it?

Prof WHITE - Do we have another half an hour?

Ms WEBB - Sorry about that.

Prof WHITE - I will answer that in two ways. One is that we know there is a massive crossover between kids in child protection and juvenile justice. A lot of the kids are already in the system but it is a different system. It is a state system and it is a form of intervention and it is, in essence, a form of coercive control, whichever way you cut it. That crossover is well-documented and well-known. So, the kids are already confronted by an adult system and by a state system, and so on, if they are vulnerable children in those systems.

But over here, we tend to treat children as if they are on their own. But they're not because children are embedded in their own family relationships. Often, with the kids that we see at Ashley, we know this. Often they are associated with families that are chaotic, that are involved in criminal affairs, drugs and so on. The kids grow up in a milieu in which they are confronted with this all the time. Also, the resistance to authority is partly a result of being brought up in that kind of milieu as well, whereas say archetypal middle-class kids, if they are confronted say, with a juvenile conference, they would never reoffend anyway.

The old police caution used to work with middle-class kids because the parents are being dragged down to the cop shop and the police are saying don't do this again and that was enough. So now they go through a conference and, of course, they do not reoffend because they never would anyway, because that is their first exposure to the state authority. But a lot of the persistent young offenders are used to this stuff, either through prior institutionalisation or because they are embedded in milieus that is routine.

Ms WEBB - I'm also interested in the sense that kids who are coming into that system, you know, they are picked up by the police, they are brought into an adult space in terms of a reception area or whatever with the police force, and they are in a lot of these adult environments, even a court environment is quite an adult environment. Do we have to reconsider each element of that as we bring them through, as well as reconsider a place of detention if that is something we are considering retaining for children?

Prof WHITE - I think so for a whole range of reasons and, again, I go back to that notion of trauma-informed care on the part of police, social workers and others who are involved in intervening in those children's lives. It is very intimidating to go into some of these environments. We also know that different magistrates have a different approach to the young people as well, which is now why we have a separate Children's Division and specialist magistrates in Tasmania. Prior to that, virtually any magistrate could deal with children's issues without necessarily being trained in how to deal with children. So, yes, I think environments matter.

PUBLIC

CHAIR - We heard from the previous witness this morning about training, if you like, for the judiciary. Is that something you have ever addressed your mind to, or is it just a matter of experience that gets you to where you need to be to deal with that whole range of scenarios that come forward?

Prof WHITE - We need to do several things in terms of the judiciary. If I think of magistrates just for the moment, because the bulk of the criminal cases come before the magistrates, we need selection. If we are going to have therapeutic courts and therapeutic justice, then we need to select judges and build that into the criteria of selection so that they need to be familiar with restorative justice, with family therapeutic approaches, neighbourhood courts, and this kind of thing. So that is a selection process.

CHAIR - Open-minded to that type of -

Prof WHITE - Yes, au fait with it, so they need to have knowledge of it and that could be part of the selection process. That is something that we could legislate. Over here, in terms of training, the way in which we deal with judges and magistrates at the moment is that you are your own person, you can't tell them what to do, and you can't force the magistrate or judge to go into training. So, we entice.

Now, the interesting thing is that we can offer, and we do, in Tasmania have a range of exposures and programs and so on for judges and magistrates, but it tends to be those who are already on side who might go and get the extra training. So, if you understand therapeutic jurisprudence and you want to get the finer detail, you might go to a session at a magistrates' conference or whatever or go to Victoria for the judicial administration and so on. How we convince old-school magistrates in particular that training and being up-to-date is important, is a different kind of matter, but certainly in terms of the selection process we can and have taken a proposal - Michael Hill and myself, in fact, took a proposal - to the attorney-general and said 'look, why don't we have another proviso in the selection process?'

Mr VALENTINE - Is this recently?

Prof WHITE - A year ago.

CHAIR - That's recent.

Mr WILLIE - Is that something you can provide to the Committee?

Prof WHITE - Yes, I would have to go back and look at our stuff, but it is reflected in the Just Desserts PowerPoints, which I'm not sure if I forwarded, but if not I can make that available.

Mr VALENTINE - You talked about it in your submission at some stage, I think.

We've heard quite a few different approaches to dealing with people before they get into the system. We heard from one that talks about how to deal with those who are actually in Risdon and how better to motivate individuals to restore them, more particularly. I'm wondering what you see as the way forward. Obviously starting with children is important because then you are attempting to break that cycle and reduce the number that end up

PUBLIC

incarcerated, but given the fact that we have 600 who are incarcerated, something like that, we can start here and that takes a long time to improve things.

Do you see a way forward for those who are currently incarcerated and a better way to deal with them? I see all your different measures but what do you see as the first thing that ought to happen to tackle the situation that we have with so many incarcerated at the moment? Is it to provide different facilities that we can move them out to - we talked about Hayes Prison Farm having closed - about those sorts of facilities being made available now rather than concentrating on building new prisons? Can you address that a little?

Prof WHITE - Prison is not the place for rehabilitation, basically, unless we radically reduce the prison population. I think the first thing we should do is release as many as we can into the community and put more resources into community corrections and community-based programs. When you have 600-plus people in a relatively small facility that is already over-stretched without even going into the difficulties of staffing - and when we say staffing it is not simply the prison officers, it's also the medical staff, the support staff, the integrated offender management staff and so on -we already can't cope. There is nothing we can do under the present conditions that would make things better except to diminish the number of people in our prison system.

Mr VALENTINE - But if you diminish the number of people in the prison system the first thing the administration is going to have is a lot of people like all of those correctional officers who are there to do a job, all of a sudden there is a reduction in prisoners, do you just redeploy them to different facilities? Is that what -

Prof WHITE - We are so far understaffed that is not an issue. If you look at the statistics on staffing, we are heavily understaffed. In addition, we have a whole bunch of people who are on leave, sick leave and all that kind of stuff. Then you look at the overtime rates and the extra payments we are making. We are just compounding with the system that we have at the moment.

Mr VALENTINE - There has to be a strategy somewhere, doesn't it? If we are going to make an impact on this, on all these different measures that you are talking about -

Prof WHITE - Well, the strategy, really, is to take it out of bricks and mortar prisons and put it into the community and get people to do stuff that is of value to the community. Some creative thinking needs to go on in terms of what kind of projects and so on. In addition to that, I have mentioned before the importance of mentoring. If you look at the people in the adult system, they are young people. They are between 20 and 35. So there is a lot of mentoring that can go on there. But we need to basically, radically, reduce the number of people in our prisons because we can't adequately handle those people at the moment. We just don't have the resources. To expect somebody who served, say, three years or five years in Risdon to come out a new person, it ain't gonna happen.

Ms WEBB - They may be a new person but not in the direction we might wish them to have moved in.

Mr VALENTINE - I was just interested to know whether someone had sat down and looked at the whole picture as we have it now. Yes, we've got all the different things that we want to achieve but actually making a project out of that and saying 'Here's the way forward',

PUBLIC

and it is not necessarily just applying one measure here and one measure there but this is the project and this is where we want to be in five- or 10-years' time.

Prof WHITE - The short answer to that is community, repair the home. You have offenders, you have a societal responsibility and we have a whole bunch of stuff that is needed to be done in the community. Embed people back into community, but in a different type of activity, in a positive activity. Putting people behind bars really sets up a future problem, because they'll be back.

Mr VALENTINE - Thank you.

CHAIR - Plenty of food for thought. Professor White, thank you for your time and your extensive submission to the Committee's inquiry. We look forward to providing something to the Government and the community that will make a significant change.

THE WITNESS WITHDREW

The Committee suspended from 2:01 pm to 2:03 pm.

PUBLIC

Mr BEN BARTL, POLICY OFFICER, COMMUNITY LEGAL CENTRES TAS, AND **Mr DON McCRAE**, CHIEF EXECUTIVE OFFICER, JUSTAS, WERE CALLED, MADE THE STATUTORY DECLARATION, AND WERE EXAMINED

CHAIR - Who would like to make an opening statement?

Mr BARTL - Thank you Committee for meeting with us today. I'll bring the Committee's attention to the most recent submission we provided, which is a supplementary submission. It was provided late yesterday afternoon. The submission is about the number of out-of-cell hours people in prison currently have access to.

On page 2 you can see that a recent right to information request provided by the Department of Justice demonstrates that over the last six years out-of-cell hours has declined in all prison facilities except Ron Barwick. The number of out-of-cell hours has halved over the last six years. That's important because the Risdon Prison complex comprises about half of the Tasmanian prison system and all medium and maximum security prisoners. The very people who need access to education, rehabilitation and treatment are the ones most missing out on out-of-cell hours.

The final graph I would like to take you to is at the bottom of page 2. It demonstrates that compared to other Australian jurisdictions, Tasmania has the worst out-of-cell hours. It is a real concern. As I said earlier the most important thing about out-of-cell hours is the ability of persons in prison to access the treatment, the rehabilitation and the education programs that we need them to be undertaking in order that they can better reintegrate upon their release.

Mr McCRAE - Our joint submission points out a lot of issues that you will by now be quite well aware of. For us that lays the ground work. It's a basis for us to work to. Someone made comment about our submission, that it was a little pessimistic and a bit critical of the work that is going on across the criminal justice system. I think it enables us to have a narrative about some of the solutions. That's some of the things I'd like to flesh out here today.

I know they are varied and complex. Our previous speaker talked about some of those issues. It really does have to start with education. It has to break that intergenerational cycle of crime which is so entrenched in some areas with some families. How we do that is very difficult. We need to apply a lens that gets tough on the causes of crime.

For so long we have had a narrative to get tough on crime. It really doesn't work. We've seen from many jurisdictions around the western world where if they apply some interventions, some therapeutic jurisprudence, some opportunities for grief counselling, for trauma counselling, for working in a trauma-informed care practice we can start addressing some of the issues. Looking at education is certainly a big factor in why people are missing out.

The responses are significant and they are complex and they are all intertwined. If we can apply any sort of lens today it is about opportunities for improvement, and there are many. There's a number JusTas has been involved with in breaking the cycle, since Lisa Singh did it back in 2009-2010, and have been involved in every iteration. Every year, every iteration of that strategic plan suggests the same things. The inspectorate reports suggest the same things. We might be chipping away at some things but we are not addressing the root cause, we are not applying the opportunities for significant rehabilitation.

PUBLIC

We are not addressing the issues for reintegration, which again are compounded by the lack of affordable housing for people to exit into. Part of our report responds to that and suggests that the opportunities for getting out of prison are very few. That's why over 50 per cent of the population in Risdon Prison will exit prison today or this year into homelessness of one form or another, and 56 per cent of those people will go back to prison.

CHAIR - We have heard from some of the providers around the fact that they just don't have the spaces available to take those who are exiting prison. Therefore, they can't meet parole requirements, therefore, they don't have the support services and it continues to go on. That is exactly what you're seeing?

Mr McCRAE - That is exactly what we are seeing. I think there are providers who find it difficult to work with a cohort of remarkably challenging and complex individuals as well. The narrative across the community is that there is a significant risk in working with people who are exiting prison. You only have to walk around the expo they have every year at Ron Barwick Prison and talk to 200-plus individuals there and find out that they are just like everybody else in the street, but their issues haven't been addressed.

There are issues of trying to self-medicate to numb themselves from the pain of significant childhood trauma. It is prevalent throughout the prison system. Certainly, we are seeing that with kids going through Ashley Detention Centre. While these things remain unaddressed, those inherent root causes will still remain and people will still come out to get back into prison, to self-medicate, to apply other forms of treatment that are less palatable to our community.

We do have a shortage of specialist treatment services and specialist accommodation services that support people coming out of prison. That is where it is most beneficial. I see the parole board as doing an amazingly good, targeted job of applying supports when people come out of prison. If you have done two years, let alone 20, let alone 30 to 40 years, as with some of the people we have worked with over the years - and I have been doing this for 17 years now, if you see the people coming out with that transitional approach, to be able to not just walk out clean, doing their full time, walk out the gate.

One of the inmates put it to me once: he said all those nights you lie awake in your cell and making all those promises to yourself, the elation of walking out that front gate, you forget about the plans, you forget about the hopes and goals and dreams, of the promises you made to yourself and you just get blown where the wind takes you.

With parole, it is a capacity for people to be directed back into the community and supported back into the community, that reintegration to be supported by the supervision and compliance support from the parole board and parole officers. But also with therapeutic and integration services that support those people's recovery and support those people back into accessing services.

CHAIR - We also know that three days of medication is provided. I don't know if you have tried to get into a GP of late but I am doubtful that you would get one in three days.

Mr McCRAE - I went to the Hobart airport and they gave us \$15,000 funding to apply to a GP service I worked with. I had three GPs who would utilise that money to work with the people who are getting out of prison for that exact reason. People need their medication.

PUBLIC

Obviously some of the medications they are on, they have to be on them. They cannot just come off them cold turkey. For other reasons, if it is mandated in your parole orders that you have to get a mental health care plan, that is fine. I've worked with somebody who had 30 days to have a mental health care plan implemented. But that's difficult when you haven't got the money to pay \$70 to \$80 for a consult and you can't get in to see somebody and get onto their books in the first place. So we have to use creative means to do that and, strangely enough, the Hobart airport stumped up \$15,000 to do that. What happens when that money runs out? I don't know.

Mr VALENTINE - I asked the question of our previous witness with respect to strategic planning going forward. It has been pointed out to me that *Breaking the Cycle: a strategic plan for Tasmanian corrections*, in your original submission, 2011-2020. Overdue? Is it happening? Do you know whether there is much strategic planning happening going forward for the next 10?

Mr McCRAE - It came out last week. There were a lot of interesting statements, ideas, very strategic. Again, with any strategic plan, you are not going to have the nuts and bolts, but there didn't seem to be any imperative to actually drive any actions.

Mr VALENTINE - Does it address any of these matters that, in fact, Professor Rob White was talking about: justice reinvestment, restorative justice, therapeutic jurisprudence, and all of those sorts of things? Does it go into that level?

Mr McCRAE - I would definitely say there are opportunities for improvement. I think it is great to have those initiatives. As I said, jusTas worked through these different iterations of the strategic planning and one of the things we made mistakes on many years ago was having 52 recommendations came out in the strategic plan, which is totally unreal and unreasonable. No government, no minister, is going to be able to achieve anywhere near a quarter of those things. Maybe we needed to have some key focus areas that drill down to some achievable opportunities.

Rob's group talks about a target of minimising the prison population across the country down by 25 per cent or, I can't think off the top of my head exactly what they are looking at. Those are things that we can actually start addressing if we have a goal to do that. We can get a lot more people out on parole if we have facilities like -

CHAIR - Like a home to go to, safe accommodation.

Mr McCRAE - Yes. Again, the Bethlehem House model is an exceptionally good model because you apply the support of the workers in the house, you apply the support of the case managers in the house.

Mr VALENTINE - Not on their own, are they?

Mr McCRAE - It is an opportunity for those people to get help to address the issues they need to so they do not end up back in prison, because what we are doing at the moment is less than successful. If we applied those same sort of statistics to the hospital, people in the community would be up in arms. But because prison does not sell sexy, it does not buy a lot of votes, and for good reason. There are people who are more in need, as far as the community is concerned, the people escaping domestic violence, the people who need to have operations

PUBLIC

who are on the waiting list. There is no question about it, there are always more competing interests where the dollars have to go.

Mr WILLIE - I have been asking a lot of witnesses this, but the political system responds to community sentiment. How important is public education with some of these changes that are being proposed by quite a number of the witnesses over the last few days, to get the public to understand the reasons why you would go about those changes?

Mr McCRAE - I have a response but I feel like I am taking up too much space.

Mr BARTL - Just very quickly, I would say that the public education needs to be around making our community safer. It is easier to say we are going to lock more people up but 99 per cent of people entering prison will exit prison. So what are we doing to ensure that our communities are safer upon their exit?

In our submission, we showed that one in five people who got parole last year did not receive the treatment they needed in prison. That is shocking. They do not have homes to go to. When they have to fend for themselves on the streets, they are going to commit crimes. So, yes, the narrative needs to be nuanced around, well, how do we make our communities safer, given that most people will exit prison?

Mr WILLIE - What about value for money for the taxpayer, as seen in Texas and places like that? That has been a driver of change. Is that something that should be talked about more?

Mr McCRAE - It is really interesting to look at the stuff that Jerry Madden has had to do in Texas. He looked at ideas right across the spectrum, whether they were crazy right-wing or crazy left-wing, it did not really matter. But he brought that more centrist idea about some approaches that were more palatable to whichever side of politics. You take out the politics and you look at good research and a good rationale behind the decision-making process. He has managed to shut a number of prisons in Texas where they were just running out of money to do that.

If we build another prison, we will fill that. We have seen that with the remand centre. I heard the discussion about the numbers before. We heard from somebody from in the prison, a month ago it said 730, so -

Mr WILLIE - Yes, if you include the Remand Centre, I think it gets up over 700.

Mr McCRAE - If we talk Risdon Prison, Tasmanian Prison Service, 730 is the number. And if we look at those people who are coming out of prison, it's a high expenditure. With the economies of scale, the more people you have in prison, the less it costs per person. But we know we can get much better bang for our buck. Rather than spent \$140,000 a year to incarcerate somebody, in the community it costs you less than \$25,000, and that is with Community Corrections support.

CHAIR - Do you have some sympathy, Don, for those who have family based in the North of the state to be able to visit those people?

PUBLIC

Mr McCRAE - I was sitting on the side of the fence that suggested, well, it is Tasmania, it's not too far to go. But in more recent times I have become more enlightened about the benefits of having close family engagement, which provides very much a carrot for those people to want to behave, to want to maintain good relationships with their family. I know that doesn't happen with every family but I've since seen the opportunities for those people to actually get a more beneficial time through prison, because they don't feel like they've been totally isolated from their family. I've looked at the information and changed my idea about it.

CHAIR - It doesn't necessarily have to be a Risdon Prison model. It could be something very different and those perhaps who are Northern-based could aspire to being there so they have more access.

Mr McCRAE - The Risdon Prison model doesn't work. You've probably heard the 'jailing is failing' narrative before, and we're not getting it quite right. Sure, we've got to have a capacity to make our community immediately safer by placing people in prison because of the nature of the crimes they've committed. But, in the long term we haven't made our community any safer by applying the restrictive processes we have.

I think if we were to build something in the North, then it shouldn't have bars on the windows. It shouldn't have fences around it. We have people in the O'Hara units outside of the prison gates, so to speak, at Risdon, and those people could walk out whenever they want. We have a number of those people and we have a lot more who are sitting inside the wire who would benefit from that normalisation of their living environment, access to education, access to work. We had the time the Dunally fires happened, and that should have been an opportunity for the community to understand that so many people volunteered from the prison to go out and work in the gangs.

CHAIR - Do you know I didn't know that until today?

Mr VALENTINE - Neither did I and I was down there.

Mr McCRAE - It would have been such a good news story, but we had to keep that under wraps because of the security issues surrounding it. That's the capacity we've got for that reintegration and rehabilitation before people actually complete their sentences. It used to be commonplace. We used to see people at Government House and the Botanical Gardens on day-release doing the garden work over there. There's no reason why we can't provide opportunities for people to work in the community more than they're getting now, which is not a lot.

Regarding restrictions and lockdowns, I heard recently about there being 140 people on sick leave and workers comp. How can any organisation, you look at Parliament House, how can you possibly have that huge percentage of your workforce on leave and still be able to run? You wouldn't be able to function, so there are difficulties behind that. That is a red flag to all of us to say that there is something wrong with the culture, and there has been something wrong with the culture for a long, long time. We've had many change-managers come in to try to apply different approaches.

CHAIR - I've been here for quite a few of them actually, Don.

PUBLIC

Mr McCRAE - It's a challenge. Nobody's actually pointing the finger at anybody and certainly not at the Attorney-General, because it is a tough gig. There's no question about it, and there's no magic fix. It's highly complex.

CHAIR - No silver bullet. My last question is around the suggestions through the submissions that those short sentences have no value. I'd appreciate some feedback or an opinion. It was suggested today that if you get rid of three months they'll make it four months. Can you walk me through what your thoughts are there?

Mr McCRAE - It is not so much the magistrates. Many of the magistrates are much more progressive than we give them credit for. In fact, one of the magistrates visited the prison about a year ago when the construction was happening with the southern remand centre and came away with tears in his eyes.

CHAIR - That's confronting.

Mr McCRAE - It is confronting, but ask yourself how many magistrates and judges have actually been over to the prison to know where they're sentencing people to. The Scottish judicial system has eliminated sentences for under 12 months.

CHAIR - So has Western Australia.

Mr McCRAE - It's progressive because there are better ways to engage people in some measure to focus on their offences. I see a lot of people in Risdon Prison who are there for family violence issues. They incarcerate with a lot of angry other men who get misogynistic narratives around the yard and they just end up hating people a lot more than they did before, feeling wronged and feeling that somebody else is to blame. That doesn't apply any correctional approach to those individuals.

I spent a couple of years developing a program called Start Today Again, which applies supports to those people to understand what their family violence is and how to provide a toolkit to respond to it and get better relationships, because they come out and find another relationship and they get back into that and it just does not work. It makes people bitter not better.

Mr BARTL - Tania, if I may, one of the most common short sentences is for drink driving. It is people who have come before the courts time and again, clearly with an alcohol problem and the magistrate just thinks, 'Well, I need to do something so I will send them to a short sentence. Three months'. One of the solutions is court-mandated diversion but excludes alcohol. At the moment, court-mandated diversion can only be given to someone who is taking illicit drugs, not alcohol. It is definitely a reform that we think should be introduced, so that anyone with a drug addiction is able to access court-mandated diversion.

Ms WEBB - That's just a legislative change, right? As simple as that: take one word out.

Mr BARTL - Probably, just get rid of the word 'illicit'

Mc McCRAE - It is really important to appreciate that if somebody goes in for a short sentence, yes, the courts and the community might be happy that has occurred, but if you look

PUBLIC

at the activity that has caused in that person's life, they end up losing their job, lose their house, lose all their connections -

CHAIR - With their family.

Mr VALENTINE - Get a record.

Mr McCRAE - And get a record which applies a whole suite of different barriers for that person. Getting back out again, especially in this housing environment, it is kind of a bigger cost to the taxpayer than it would be by applying some sort of community order.

CHAIR - We heard also that there can be some challenges around home detention because that has to have that significant overarching scrutiny. That is something that I had not thought about. I thought home detention, fantastic, still go to work, still keep your job but you are somewhat restricted, but then it's the actual supervision around that that can be a bit challenging. Do you have a view?

Mr McCRAE - Home detention relies on you having a home. That is the biggest hurdle for anybody who wishes to do that and a lot of the people who would, if they walked out full-time, they could go back to their families or go back to the places where they lived before. Yes, that is problematic and with some applicants: they are not allowed to go back there because of people they are mixing with. We are not allowed to mix with people who are pro-criminal associates but what do we do with them in prison? They mix every day with pro-criminal associates. I have seen people who have gone in as chefs and come out as meth chefs. Prison applies a different level of expertise and training to people. It applies an opportunity to understand how to get away with things better, how not to get caught.

CHAIR - How to survive.

Mr McCRAE - How to survive. Yes.

Ms WEBB - That is a really interesting observation: you are going to learn something in prison, one way or the other. I wanted to pick up on the housing side of this. I really appreciated in your submission that you provided some great data and then focused on two foundational things: housing, and alcohol and drugs service and support.

I wanted to pick up on housing, because your recommendation is pretty straightforward: that the Tasmanian Government commit to a policy of no exits from prison into homelessness. I think that is very nice and targeted. Have you mapped out what that would mean? I was quite interested to see, in some of the data, looking at page 9 of your submission, it appears that there are very few people exiting prison into public or social housing, for example. We know some people exit prison into transitional housing like Beth House and maybe others but what is happening now and what would it mean to meet that recommendation that you have made? What would be required?

Mr BARTL - I suppose one thing that needs to be said is, when Kevin Rudd was Prime Minister he put together a white paper on housing and homelessness. One of the recommendations in that paper, which is more than a decade old, was that there would be no persons exiting prison into homelessness. So the Government, and governments in every state and territory, have had more than a decade to work out a means of ensuring that happens. Yet,

PUBLIC

the data shows that over the last three years, fewer than 10 people have been exited into public or community housing and none last year. This is truly shocking given that about 4,500 people over those three years have exited prison.

In how we go about it, to begin with, we need to work out how many people are exiting prison into homelessness. I don't believe the Government has that data. Perhaps that's the first step, the Government needs to be collecting data on how many houses we need.

Mr WILLIE - That wouldn't be just for exiting prison at the end of a sentence, it would be for parole too.

Mr McCRAE - One of the things we can focus on and however many houses we build over the next 10 years is also going to be blue-sky dreaming. It's never going to be enough. The type of housing we've traditionally seen people look at is the one-bedroom units in a big cluster. That's kind of a prison environment without supports. That's highly problematic.

Mr VALENTINE - You'll have your mates next to you.

Mr McCRAE - It's highly problematic because people get into strife when they're left to their own devices. A lot of the people we are seeing coming out of prison haven't got things sorted enough to be able to live independently in the community and make a tenancy a success and get on with their neighbours. There are opportunities, through the parole system, through cluster accommodation that has supports around it. I am working at Bethlehem House at the moment. I'd like to declare that conflict of interest, but that sort of environment enables people to grow and meet the challenges that have seen them go back into prison rather than just hit those same complex issues and hit the revolving door back inside.

CHAIR - Give them some life skills.

Mr McCRAE - Absolutely.

Ms WEBB - Bethlehem House currently has nine beds for that function. That's fine, it has to have a mixed tenure of people coming in from other avenues as well. There are other programs that provide support on exiting prison but not necessarily with housing attached to it. Beyond the Wire we heard from yesterday. You were saying we don't know how many people are exiting prison into homelessness, but we know how many people are exiting prison. We have that data. We know how many are not connected to services, given we have limited services available and we know who we are connecting to with that. We can then find out at least the number being exited without some form of support around?

Mr BARTL - You would have to ask the Attorney-General.

Ms WEBB - I probably will.

Mr McCRAE - An RMIT research that happened a few years ago suggests over 50 per cent of the population around Australia were exiting into homelessness. We have no reason to believe that has changed.

CHAIR - Given the housing crisis that we are experiencing.

PUBLIC

Mr VALENTINE - Weren't 60 per cent of the exits only three- or six-month sentences?

Mr WILLIE - It would be interesting to track how many reoffend because of homelessness out of that 50 per cent.

Mr McCRAE - The other thing we're not discussing here, I conducted a ceremony for a guy who was about to go into prison who took his own life last week. That is the other hidden issue. Eight people a day take their own lives in Australia. If we were getting those sorts of COVID-19 deaths we'd be making COVID-19 news again. That falls right under the radar.

I've applied suicide prevention training to the prison. All that sense of loss you lose when you're in that suicidal ideation period are the same things you lose when you go into prison. Your sense of liberty, your sense of family, your sense of community, all of those things are exactly the same when you fall into homelessness. So if we look at the statistics of the coming out in our community, it's no wonder. We apply really good opportunities for people to get into prison but we don't apply that same sort of focus to address the issues of why people are going into prison and why people are going back.

Mr VALENTINE - Knowing how many are going back into prison because they see it as a safer environment for themselves.

Mr McCRAE - Rob, 17 years ago it was an urban myth that people would commit offences to go back. They used to call it the drunk's lag. People would be able to pay off debts. If you were living on the street you would throw a brick through a window and you'd get a three-month sentence. For a period of time it would never happen. People were not actively doing it at the numbers that we are seeing these days. We see people who are actively commit an offence while on the inside to extend their stay in prison so they can't be released-

Mr VALENTINE - The hard data on that -

Mr McCRAE - It's anecdotal because of the people I speak with and who I work with. That's a sad indictment on the service provision on the outside of the prison, when that is a better alternative for people.

Mr WILLIE - Even when we visited in the remand there were people telling us they were extending their court dates so they didn't have to leave. That sort of thing was going on quite openly, I think they were saying.

Mr BARTL - There was also a recent story about a community of homeless people on the Hobart Rivulet. One of the people was quoted in that story as saying they had committed an offence so that they could go back to prison rather than be homeless,

Mr WILLIE - Can we talk about education?

CHAIR - Of course you can.

Mr WILLIE - There's a TAFE facility there, there's some literacy support. You have talked about lockdowns. How much impact have the lockdowns had on those sorts of programs in the last few years?

PUBLIC

Mr BARTL - I'm sorry Josh, I can't speak on that. I just focus on housing and drug and alcohol.

Mr McCRAE - I know it's been highly problematic. The people in the prison are so time-rich that they will get involved with anything. I have interviewed two or three people a week for access to the house. One of the criteria we look at was, 'Do you work when you are inside? How many programs have you done?' More often we speak to people who are signed up with programs but have not been able to start them. We see a number of our appointments that have been blocked because of lockdowns. We don't know what the lockdowns are for -

CHAIR - Could be staff shortage.

Mr McCRAE - Could be a number of different things. They have a whole heap of things to deal with inside the prison system, but we know from speaking to people that their access to some of those programs is not what it could be.

The services supplying those supports to people in the prison are struggling for money as well. The only ones who do not struggle for money to apply their service are the ones that voluntarily apply them. Everybody else is going through those two- to three-year funding cycles where there is never any certainty of being here next year, so your capacity to retain good staff is almost impossible. That is really problematic.

I have a colleague who provides us with service on numeracy and literacy, but it is much higher than just 26TEN. It is more about understanding why these people have had these learning issues. It's not just about teaching people to read and write. It's talking about the barriers that have been historically presented to people to leave them functionally illiterate or completely illiterate.

Mr WILLIE - Anecdotally, a lot of your clients are illiterate?

Mr McCRAE - I sit down with a lot of people at the computer. How do you apply for 20 jobs when you don't know how to use a computer? You don't know how to read or write?

CHAIR - You don't have a MyGov account and you don't have any of those things.

Mr McCRAE - Our peer support officers at Bethlehem House, people with backgrounds in IT expertise, set them up with a MyGov account, set them up with their access to Centrelink, to Medicare, to be able to apply for jobs via seek.com.au, yet we don't have services with the capacity to do that. Especially in the prison there is a great need for it.

Lots of really influential people will say that education is the way out of the prison system is the way out of poverty, is the way out of ignorance.

CHAIR - It's really heavy on your resources, on your time, doing all those things. We do it at our offices to support people.

Mr McCRAE - We have an opportunity in prison where we have a captive audience. I know that is sort of a throwaway comment, but -

CHAIR - We have heard it before.

Mr McCRAE - Yes, I am sure. But one of my focuses is that there are other places around the world who look at the staff credentials and expertise and put a very high bar to it. I think we have dropped the bar in recent years because we are really short of staff and we want people to come in and do a really complex job. We have the opportunity, if we provide a workforce that is - I heard Rob say it before, and I have been batting on about it for years, trauma-informed about the people they are working with, if we have an opportunity for people not to become turnkeys but to become rehabilitation experts. We see forward-thinking jurisdictions around the world who are very focused on just that; rehabilitation. That takes expertise but it also takes empathy and compassion. It takes an approach -

CHAIR - It takes a change of mindset.

Mr McCRAE - It takes a whole change of culture. That is where I believe we have a great opportunity to actually start turning people around.

Don't get me wrong, some good stuff happens in prison. I'm not here to bag out the really good people in prison that apply a really genuine, caring, empathetic and compassionate service. But there are barriers within the culture that stifle that.

Ms WEBB - I wanted to go to the other area of focus in your submission, which was around the alcohol and other drugs situation as another foundational area in which we could make a real difference in terms of a different rehabilitative focus and making sure that people are leaving prison and are less likely to come back. Clearly, from the data you have included and also other evidence we have received, there is a dire lack of services provided in that area, both within prison and then on exit when people are still needing that support. Are there particular aspects of those services within the prison and on exit that you think are urgently needing to be rejigged to be provided at a much higher level?

Mr BARTL - The data shows that the Apsley model is the best model. International research shows that people who are engaging the Apsley model are the least likely to return to prison. Obviously, it is quite time-intensive and it costs a lot. And, to be fair to the Government, the Apsley model in Tasmania is one of the few models in Australia. The Apsley model is not found in every jurisdiction in Australia. So, hats off to the state Government for having introduced that.

Ms WEBB - Can I clarify on that, who delivers that within the prison? Is it internally?

Mr BARTL - Yes, by the Department of Justice. It is a gold standard and it should be rolled out more if it can be. The data we provided showed that about a third of people who are being referred are not receiving that model. So, ideally, it should be rolled out so that everyone who needs access to it does.

Ms WEBB - Has it resumed? From the data you provided, that little table that showed referrals, commencements and completions, it is not applicable for 2020-21 and 2021-22. Have they re-established the Apsley model since COVID-19? I presume it is COVID-19 that ceased it in 2020.

Mr McCRAE - I think it ceased slightly before COVID-19. I'm not aware that it has been up and running. I agree with Ben. It's a fabulous idea.

PUBLIC

What we have to consider when we look at drugs and alcohol as a problematic issue in and around incarceration is that the prison itself is not immune from illicit drugs and alcohol. You would only have to read Jeremy Prichard's report about the wastewater testing that came out of Risdon Prison and the prevalence of non-prescription and prescription drugs that were not being prescribed in that prison.

If we look at it through that lens, we realise there is an inherent problem in there and people are still self-medicating. It is still a form of currency, there is contraband entering that prison because they are not all making it on-site. The difficulty is if we don't recognise that and we do not apply the right sort of therapeutic supports, we're going to get people and we do get people who come out of Risdon Prison Complex with a habit.

Mr VALENTINE - You've got that on page 12 of your submission.

Mr McCRAE - The problem with that is that those people recognise they have a habit and very often buprenorphine is a very prevalent trafficked drug in there. So people come out on a drug that could be applied through the pharmacotherapy replacement program. It isn't because most people aren't on it in prison, and yet they are.

I've had examples of somebody coming out of prison who waited 285 days to get on the pharmacotherapy program because he was on the waiting list. And he didn't make it because he was self-medicating with ice on the outside. That obviously leads to problematic use and problematic engagement with criminogenic entities, and he eventually went back to prison. He has done that two or three times and it hasn't worked for him. We've tried to say, look, if you're going to do that, get yourself onto the program prior to leaving prison and -

CHAIR - So it doesn't take so long when you're out.

Mr McCRAE - So your addiction is being managed, not being self-managed which is highly problematic.

Ms WEBB - It does look like this Apsley program was winding down prior to COVID-19 because the numbers in 2019-20 were quite low too. You've mentioned in your submission that there was an announcement from the Minister for Corrections in 2021 that it was being transferred to Ron Barwick Prison and was going to have expanded places. To your knowledge, hasn't that occurred? We'll follow this up with the Government, of course, when we speak with them.

Mr McCRAE - Not to my knowledge, but there's other more enlightened people who could probably answer those questions for you. I know that the individual drug and alcohol counselling is still there but it's not in the individual unit that Apsley was set up to be. The unit was very good. I had been in and visited a couple of times and the people who went through it. It was absolutely fantastic. A lot of people got a lot of benefit out of it.

The difficulty was, when you come out of general population into the Apsley unit, you can apply that therapeutic approach. Then once you've finished the course, you're back into prison. A much better way to do that would be to have that as part of a step-down, so you go through the Apsley unit, you go to the O'Hara units. This depends on a whole number of different issues. But you're making steps towards your rehabilitation and reintegration that way, rather than, I used to say, excuse me, but I used to say it was like taking a pig out of the

PUBLIC

pig sty, cleaning all the crap off it and setting it back into the pig sty. It doesn't always work. There are better ways to do it. But again, it's about resourcing, it's about capacity to do what needs to be done.

Ms WEBB - You mentioned the one-on-one counselling that can occur, but it sounds like that's probably got quite a waitlist too. Is that your understanding that a lot of people might go through?

Mr McCRAE - Especially for people who are doing the shorter sentence. It is really difficult for them to get any meaningful case management or supports to enter into any programs, to have any therapeutic lens to look at their issues. These are the ones that are circulating and, certainly, we've seen the increase in the recidivism rate for younger guys especially. They are probably the people who need more supports. The older, wiser heads, the 40s onwards, seem to get it, they seem to realise that prison is not a great place to be. You've got to be young and strong and 10 foot tall and bulletproof to be able to survive. Whereas the older heads go, 'No, I don't want any part of this any more'. The younger guys are probably the ones who are more difficult to turn around and probably the ones who would need the greater level of supports applied to them to make success of it.

CHAIR - I'm always mindful in this role that we're going to run out of time, and that's exactly what has happened. Anything that you don't think you've covered or we haven't asked you about that you want to leave with the Committee today for our consideration and, certainly, for the work ahead?

Mr McCRAE - It takes a courageous approach and sometimes we have a narrative in the community, and we sort of talked about the narratives that come through our broadsheets and our entertainment news that this is a stupid idea, that we are apply a Club Med version of imprisonment for people. I've never tried prison but I've been in there plenty of times and I love leaving. It's a great place to leave. I think it takes a courageous approach to be progressive on what we actually need to do. There is plenty of evidence around to suggest that we can do things better. It just really takes a political imperative to be able to address some of those focuses.

CHAIR - Thank you both so much, I know that you're both very busy. On behalf of the Committee, again, the work that you do. Ben, I don't think you have time to sleep really. Always bringing things to the Parliament for our information. Thank you both so much. We'll keep working on and do whatever we can.

THE WITNESSES WITHDREW.

The Committee suspended at 2:50 pm.