

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

Mr BEN MARRIS WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Mr MARRIS - First I should say that I have been retired for 10 years and I have not been to Ashley for a bit longer than that, so you might well decide to put your pencils down and decide that anything I have to say is irrelevant and out of date. I also have to admit to a little bit of hesitation because I did prepare a written submission and just before I sent it, apart from the fact that my computer died, I thought, 'You know, I'm not really any more a bureaucrat who does written submissions', so I did not send it to you. Then today I thought I would bring it along anyway.

CHAIR - So you are happy to table that?

Mr MARRIS - I am happy to table it and I will speak to it. My first concern, if I may, is that the committee is considering security, which is fine but it seems to me that Ashley's function is not only to detain but also to rehabilitate. In managing an institution such as Ashley - indeed any correctional institution - there is a balance because rehabilitation and detention are, to a significant degree, antipathetic to one another. Striking that balance is really the art of the business. Ashley has been, since about 1926 until somewhere in the 1990s, essentially an open institution. In all that time it was willing, and governments were willing, to wear the risks of a degree of absconding in order to get the benefit of the upsides - and I think there are upsides. People have said to me, 'Why can't you just put a fence around the outside and then run the rehabilitation programs inside?'. I might well be teaching my grandparents to suck eggs but it does seem to me that there is a real difference between an open institution and a closed institution. The reason a young person doesn't abscond from an open institution is the relationships they build with the staff, because of trust, because they manage themselves. If you take that away and make it a closed institution then you start off alienating them. It is very difficult to build positive, constructive relationships in that environment. You are saying, 'I am going to keep you here. I am going to take responsibility'. So instead of promoting self-management and responsibility you tend to minimise those things. Open institutions encourage trust, responsibility, individuality and personal growth. Closed institutions really tend to go the other way.

CHAIR - When you were superintendent there, obviously the fence wasn't there. Are you saying that in that era it was more of an open institution, but I put it to you that you would still have people absconding?

Mr MARRIS - Indeed, and to say it was an open institution is an incomplete statement because it had a secure unit within it. There were quite significant periods when we had no young people in that secure unit but you could never have run the place without it. A number of kids needed to know it was there, even if they didn't go in. You have to have

the ability to be absolutely rock-hard and solid: 'You can do what you like, boyo, but I've got you. In the end I have the brick wall and you haven't.' If you don't offer that service, you are failing.

Mr DEAN - Can I just put the same position I put to Rob White a while ago? With a closed institution for kids - we are talking about youth - there is always this challenge there to escape if you have a fence. Without that, you don't have that challenge. Get rid of that challenge and there is likely to be more of a concentration on rehabilitation and interesting programs.

Mr MARRIS - Absolutely, and positive relationships. I don't think I need to illustrate the point because you have made it. Before I came to Tasmania I worked at Stamford House Remand Home in London which was, again, largely open. When London County Council decided to rebuild on the playing fields behind, the builders put a corrugated iron fence around the back of the buildings. The absconding rate went through the roof. Instead of walking out onto the road the boys climbed the fence - because it was there. It happens if you say to a kid when he first arrives, 'I'm going to stop you absconding'. It isn't rocket science. If a kid says, 'Where's the barbed wire? What's going on here? I thought I was going to prison', and you say, 'Mate, there's no barbed wire. If you're going to shoot through, let me know and I'll cut your lunch and make sure you have some clean jeans. Don't get into trouble and we'll pick you up from home', you have taken the steam out. You pay a price because just occasionally you lose one.

CHAIR - So in your view it would be better if the current fence was not there?

Mr MARRIS - My view is that building a fence around the institution was a mistake. Although I have not been there since it was built, I wouldn't like to run it like that. I don't know how you would really develop trust, growth and responsibility programs if you do it all within a fence - especially a fence like that.

Mrs JAMIESON - It is all part of that trust and respect-building.

Mr MARRIS - It also tells the community that what we have here is a bunch of animals who are so wild we have to treat them as though they are in a zoo.

Mr WILKINSON - You were in charge of Ashley for how many years?

Mr MARRIS - I was superintendent from 1975 to 1979. I then was responsible for it at another level until the mid-1980s and then again from 1989 to 1992 when corrections came together.

Mr WILKINSON - How many people, on average, were in Ashley at any one time? There are 21 there now, I think.

Mr MARRIS - I recall clearly that on the day I took over there were 33. Much of the time that I was superintendent we had the number down under 20 and I think the number varied then. When Wybra was closed the numbers increased for a while.

Mr WILKINSON - How many escapes did you have each year on average, or if it is easier every two or three years?

Mr MARRIS - I can only give you a prose rather than numerical answer. I can tell you that there was a period of a few months in my first year when there were probably 30 abscondings or escapes. Then we went for something like nine months without one but that is the sort of pattern that you get. Occasionally it is like a virus; it catches.

Mrs JAMIESON - Were they single escapes or were they two and three ganged together?

Mr MARRIS - There were two things. The most common thing is that a kid gets worried, as happens in the prison, when they get a letter that you don't know they've got and they become worried about what is going on at home. They're gone for a fairly good reason. I have known these boys and will pick them up from home. Just occasionally you get a group of kids who get a bit excited and geed up and it's a bit of a challenge. That is something different.

Mr WILKINSON - Are the escape rates any greater now than what they were per head of population, so to speak, when you were there?

Mr MARRIS - I don't have the statistics in front of me so my knowledge has only been from the newspapers, but I have a passion in the area so I read the newspapers. I would say the pattern has been very similar; there have been periods when it has happened and periods when it hasn't.

Mr WILKINSON - It would seem to me from what you are saying that the fence is not worthwhile, and that proves it. Would that be fair argument?

Mr MARRIS - From this distance I would say you pay a fairly high price for the fence in terms of what it is you are really trying to do. There is not much benefit; that would be my guess.

Mr WILKINSON - What about now, because drugs are a greater blight on society than they were in the 1970s and 1980s and are getting worse? There is evidence to say there are a number of drug drops into the centre. Did you have that problem, or any contraband problem, whilst you were in charge?

Mr MARRIS - It was minimal. It happened occasionally and indeed I experienced more of it working in London than here because I guess London got there before we did. I am not going to pretend expertise; that is an element of this business which has really become much more common since I left, so I really shouldn't comment.

Mr WILKINSON - So do you believe some might say it cuts down the ability to smuggle things into the prison which previously weren't as available?

Mr MARRIS - It may do, but really I am outside my area of expertise on that. You may well be right you may equally be producing a challenge to get them in. Having said that this is not my area of expertise, in the end you want to achieve kids who do not want to use drugs and who do want to take control of their lives, not kids who are behind the fence and can't get drugs, because the day they get out drugs are going to be there. What matters is what happens the day they get out and the day after that.

I have said in my submission, 'Has Ashley succeeded if a person carries out their sentence without absconding?' Nothing has been done to deflect them from a life of crime. I guess that is a very obvious question. I also want to say that by the time a young person gets to Ashley their problems are not trivial. My experience of sitting down and really listening to the young people when they arrive - and this is a long time ago, but I did it over a long period of time - not being a bleeding heart but being serious and discarding the rubbish, is that time after time you would say, 'Well, if life had treated me like it has treated you, I would probably be as angry and as mixed up as you are. That doesn't excuse what you're doing, and it doesn't make what you're doing less painful for the other person'. By and large it means that just giving them another kick doesn't do them much good. It makes them more confirmed that that is the sort of person they are and that is the sort of life they have.

If we are really going to do something useful with the young person it is not just about what you are doing in the institution. It is also in the context of having a service outside that is working with a kid or family, locating the uncle on King Island or the farmer in Deloraine. It is working to give the kid some time out in another situation, helping them to find a new identity, sometimes failing, coming back and going again. It is this business of crossing the wall. You can use social workers, welfare officers. You need people who are mature, committed and sensible and who are going to get alongside kids and work with them to help them to find a socially responsible way of life. The institution is only a bit of that.

Mrs JAMIESON - What were the staffing levels when you were there compared with what we have now? For example, did you ever use, say, a group like Platinum, to fill up the staff or did you have a fairly stable staff who built up more trust with the kids?

Mr MARRIS - My recollection is that we had a total of 24 staff and they weren't all full-time.

Mrs JAMIESON - Was it a stable staff?

Mr MARRIS - Essentially it was a very stable staff; rather more stable than I wanted it to be.

Mrs JAMIESON - Did you use outside security firms such as Platinum?

Mr MARRIS - No, we had no staff whose formal task was security.

Mrs JAMIESON - Were staff specifically trained or were they common-sense type people?

Mr MARRIS - I make no negative comment about training. I think training is really good. Very few of my staff had any relevant formal qualifications at all, though having good formal training doesn't necessarily produce somebody who is able to spend time with a young person and do it constructively.

Mrs JAMIESON - You wouldn't have had half the education programs and the other programs they have running there now?

Mr MARRIS - We had one school teacher.

I wanted to touch on the age range at Ashley. I have to say that I was always concerned about the closure of Wybra Hall and moving the younger boys and girls. I think that to manage a wide age range is seriously difficult. However, I was among many who campaigned for the upper age limit to be raised. Indeed for many years there were no 16 year olds imprisoned because, although the courts could sentence them to prison, we used the Minister for community welfare's power to transfer them to Ashley and in some cases kept people who were on sentence for a number of years, so occasionally we had 18 and 19 year olds. That seemed to work quite well but I don't know how you can run an institution for 17 year olds and for 10 years olds.

Mr MARTIN - I think some are 21.

Mr MARRIS - My feeling is that that is difficult and not only do you have an age range but you must have within that a severe range of degrees of disturbance and aggression. I would be very sorry if the solution to that was to bring the age back down; 16 is awfully young to give up on somebody and put them in prison, and that is what you are doing. In prison it doesn't matter if you tack on a rehabilitative program where you might put a silver button on somebody, the truth is that you are putting them in a place of detention.

CHAIR - But you would acknowledge, anecdotally, that some of those older detainees have caused significant problems at Ashley?

Mr MARRIS - Absolutely.

CHAIR - So what is the solution?

Mr MARRIS - I think the notion of an open institution with a secure core is a really good one. That is what we had. This is one part of my answer and I will come to another, if I may. I used to visit my colleague institutions in other States, and very few of them had that; they had closed institutions and they had open institutions. If you have an open institution with a secure core you can work very flexibly. You can put people in when they are going through a bad phase, you can say to somebody who is in, 'I'm prepared to give you an afternoon out. I'm going to put a staff member with you who will be with you all afternoon', and you can gradually work somebody through to a period of trust to hopefully get to a point when you can say, 'You can go home this weekend but I need to see you back here on Sunday night'.

I have had somebody who has gone from having to be locked up to managing themselves - we have made progress. So I think an institution with a secure core is good, but I also wonder whether, and perhaps even within the massive resources that seem to be at Ashley at the moment, you could not establish another institution that was for younger people and less serious matters.

CHAIR - Yes, you mentioned that in your submission. Could you qualify that age group? What do you think, from your experience?

Mr MARRIS - I am not sure that I know the numbers well enough and I am not sure I am close enough. You know, the distinction previously was that they used to come to Ashley at 14, so maybe somewhere around that age. You would need to look at the numbers.

CHAIR - Yes.

Mr MARRIS - And I would hope that the decision would not be hard and fast on age but also looking at people's maturity.

CHAIR - Are you talking about a separate institution within the current Ashley itself?

Mr MARRIS - I would like to see, I think, a separate institution, so they have not yet gone to Ashley.

CHAIR - Away from Ashley.

Mr WILKINSON - Like Wybra.

Mr MARRIS - Like Wybra. You may find that for economic reasons it pays for it to be down the road somewhere so that you have some share with the administrative support, but I do not want to get into that level of detail. But I would like to know that somebody could go to institution *x*, which would mean they have not yet graduated to Ashley.

Mr WILKINSON - Who should impose that penalty? Should a court impose that penalty or should they just impose the penalty and then leave it up to the people in charge of Ashley or the other institution, if we can call it that, to make the decision?

Mr MARRIS - I certainly come from a background that says it is very difficult for the courts at the front end to make sensitive decisions about how somebody is going to behave over the next few months or years, and I would have thought they should impose a sentence and, just as the director of corrections determines whether the person goes to Risdon or to Hayes, so whoever is managing the Youth Justice Service would manage the person through those terms. There are others, I understand, who would take a view that that is -

Mr WILKINSON - The best way.

Mr MARRIS - Yes, and there are others who would have another view, but I would be inclined to do that.

CHAIR - Thank you. I will ask members if they have any further questions.

Mrs JAMIESON - I was interested in your comment here to the third matter which related to the age at which a young person is regarded as an adult and may be placed in prison. Do you actually have any definition or any other way that we can define 'adult' or 'youth'?

Mr MARRIS - When I was 15 I thought 16 was awfully old and now I think 16-year-olds are very young people and I hate to see them in prison and I hate seeing 17-year-olds in prison, because they can be awfully ugly at Ashley, but if we are parents, we know that 17-year-old and 18-year-old youngsters, however mature they think they are, are vulnerable and at risk, and we need to get alongside them and work with them constructively - and sometimes toughly - but in something different than just chucking them into prison.

Mrs JAMIESON - Further to that then, everybody varies with their rate of maturity of course and their experiences et cetera, but are you feeling that people are being more aggressive, that younger people are much more aggressive than they used to be?

Mr MARRIS - I have to say that I am out of touch. I was in touch -

Mrs JAMIESON - When you hear or read of any of the offences you think, 'Gosh, in my day!'.

Mr MARRIS - Well, in my day we had murder, we had rape, we had assault, we had a fairly full range.

Mrs JAMIESON - But we didn't have the drug-related crime as such.

Mr MARRIS - No, we didn't have the drug-related crime.

Mr WILKINSON - Ben, can I ask you about alternative sentences? Some might say sentencing is not working, people are still committing offences and they always will. Do you think there is a better way and, if so, what?

Mr MARRIS - I spent quite a lot of time working on this a long time ago and it is difficult. I do think that what we used to call community corrections or supervision, if it is well resourced with good staff working with kids in their own homes in their own environments, which is where in the end they have to learn to live, and if you have good staff who are committed and energetic, it is really worth doing. My fear is that like hospitals tend to suck the Health budget dry, the Ashleys of this world suck the Justice budget dry when it could be working out there.

We did start to establish some day programs because we didn't see why people couldn't go to day programs in their own regions, and these were called intermediate treatment. They were quite fashionable around the nation and they seemed like a really good idea, but I am not sure that the stats really ever supported them, so I am struggling. I think you have to do everything you can to keep kids out of the justice system, because the further they penetrate it the further they will descend, so we have to keep trying to work with them out there because if you fail they will come back and you will get another chance, but if you were looking for the magic bullet - I am still looking, I am sorry.

Mr MARTIN - I just need to clarify this. A lot of people today and also in the written submissions made slight variations on exactly the same point you made about the mixture of the ages being far too difficult. What we are basically being told, the strong theme coming through, is that there is a problem with having 10-year-olds in with up to 21-year-olds but that there are really two groups of young people at Ashley now today: there are those who are quite capable of being rehabilitated but there is also a hard-core unit that a lot of people are saying are beyond rehabilitation. It has been suggested that if you took that hard-core bunch of three, four, five or six - whatever number it is - and put them in a different institution, you could maybe take the fence down and make Ashley what it used to be for the younger kids. What do you think about that? Other people have suggested that maybe this new unit for the hard-core ringleaders and troublemakers should be over at Risdon in a separate, stand-alone division like the women's prison.

Mr MARRIS - I have already indicated that I think spreading them into two groups is a good idea, but what really worries me about what you are saying is that I am hearing people giving up on the older youngsters, because we shouldn't do that. Go to Risdon and look at the age of the prisoners, look at the numbers of young people who are around 21, 22, 23, 24 give up crime. They disappear. If they didn't, Risdon would be full of oldies. It is a matter of growing up. Don't let us give up on them. Absolutely don't let us throw them into Risdon and tell them that they are adult criminal prisoners, but we may need to place them somewhere else and work with them in an age-appropriate way, but not because they're bad.

Mr DEAN - What sort of night activity are these youth involved in at Ashley?

Mr MARRIS - Now?

Mr DEAN - No, when you were there, unless you know what they are involved in now.

Mr MARRIS - I have no idea what's there now.

Mr DEAN - What were they involved in at night when you were there?

Mr MARRIS - We had eight-ball, table-tennis, a gymnasium, badminton, things like that.

Mr DEAN - The reason I ask is that it has been put to me that a lot of their time now is taken up watching violent videos that do nothing for their rehabilitation. Would videos have been there back when you were there?

Mr MARRIS - No, we didn't have videos but we had television. There was a bit of TV watching but we tried to encourage more active pursuits.

Mr DEAN - Another issue put to me was about the training of staff. You already mentioned that there may not have been the qualifications there but a lot of the frustration of these kids comes around - and some of the kids will tell you this themselves - through the inconsistency of staff. For example, some staff will provide for certain things and allow indecent language et cetera, whereas other staff won't allow it. There is a whole range of differences in the staff and that causes difficulties for them to manage and handle. Would you acknowledge that that was a problem when you were there?

Mr MARRIS - Yes, and sometimes the kids would have a very valid complaint about that, that it was difficult for them to know what was on and what wasn't on. But we are trying to teach them to live in the real world and there needs to be a lot of standards that are consistent but they also have to rub up against it.

Mrs JAMIESON - Further to that, was there much in the way of client to staff abuse - physical or verbal and vice versa - when you were there?

Mr MARRIS - There weren't many incidents of physical interaction; they happened just occasionally, but rarely. Most often it would be a staff member intervening between a couple of youngsters who were getting physical. We did have one violent break-out from the secure unit, which was unpleasant. I don't recall any staff ever being injured,

but there were occasions when staff were told things they didn't necessarily want to hear and some got more indignant about that than others.

Mrs JAMIESON - Workers compensation or anything?

Mr MARRIS - I don't recall a workers compensation claim, but maybe there was one out of that break-out in the security unit on one occasion.

I did forget to mention that I have two documents that I would like to table. One of them is a comment on imprisonment and the other is a document we wrote with staff in 1977 called 'What's it all about: Ashley'. It remained current while Jim Austin was superintendent, so that takes us into the 1990s.

CHAIR - On behalf of the committee, Ben, I would like to thank you very much, especially as your evidence obviously carries a lot of weight because of your previous experience.

THE WITNESS WITHDREW.