



Parliament of Tasmania

LEGISLATIVE COUNCIL SELECT COMMITTEE

ASHLEY, YOUTH JUSTICE AND DETENTION

REPORT

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GLOSSARY OF TERMS

AYDC	Ashley Youth Detention Centre
BDP	Behaviour Development Program
CBT	Cognitive-Based Therapy (or Treatment)
CPSU	Community and Public Sector Union
CST	Centre Support Team
CYJ	Community Youth Justice
DHHS	Department of Health and Human Services
DoE	Department of Education
Fanning Report	Used to describe the document 'Review of Resident Safety at Ashley Youth Detention Centre', September 2005
HACSU	Health and Community Services Union
IST	Interagency Support Teams
MST	Multi-Systemic Therapy
NGO	Non-Government Organisation
SOPs	Standard Operating Procedures of AYDC
TAC	Tasmanian Aboriginal Centre
UNCRC	United Nations Convention on the Rights of the Child
UTAS	University of Tasmania
YJA	Tasmanian <i>Youth Justice Act</i> (1997), as amended
YNOT	Youth Network of Tasmania

CHAIRMAN'S FOREWORD

The *Youth Justice Act 1997* and the related *Children, Young Persons and Their Families Act* were passed through the Tasmanian Parliament in 1999.

Budgetary constraints within the Department of Health and Human Services prevented both Acts being proclaimed at the same time.

The Parliament of the day supported the introduction of the *Youth Justice Act* as a priority with an aim to divert first-time and trivial offences involving young people from the traditional court system. Such diversion had the added benefit of reducing the demand on the overloaded court system so that serious and repeat offenders could be judged more expeditiously.

The proclamation of the *Youth Justice Act* on 1 February 2000 radically changed the way in which young Tasmanians having committed an offence/crime, or having been charged with committing an offence/crime, were dealt with.

The concept of diversionary programs and restorative justice for young offenders was well established in other jurisdictions. The Tasmanian model is based to a significant degree on the South Australian model that was in turn based on the youth justice framework of New Zealand.

The expectation that a new beginning would produce significant and measurable improvements for both the community and the young offenders was high.

There has been and still remains a relatively small number of hard-core recidivists among the resident mix at Ashley Youth Detention Centre. Concern for problems within the Centre increasingly emerged during mid-2006.

Allegations of violence, drug smuggling, and substance abuse within the institution were made.

Breakouts occurred and were sensationally reported upon by the media. The Committee is aware that in recent years several inquiries have been held into aspects of Ashley Youth Detention Centre operations. However, as much as possible, the Committee has tried not to intervene with, or give assessment of, issues that are of an operational nature.

Despite the reviews and government promises of remedial action, the Committee believes it is time to question whether the shift from the 'guilt and punishment' welfare-focused management of young offenders, common even ten years ago to the contemporary restorative justice model, is best practice.

Does the historical record of the last six years prove the claims made by those who framed the legislation ten years ago?

Do present-day young Tasmanians who have broken the law and been involved in anti-social practice have any greater chance of being rehabilitated than the young people of twenty years ago bound by similar circumstances?

Have the remedial actions taken by Government as a result of previous inquiries made a difference?

These are questions that have guided the work of the Committee.

We have asked is the new way a better way?

Greg Hall MLC
Chairman
July 2007

EXECUTIVE SUMMARY

The *Youth Justice Act 1997* (YJA) received royal assent on 14 January 1998 and was proclaimed on 1 February 2000. The focus of those framing the youth justice system was towards fully re-integrating young offenders as respected and valued members of the community. The YJA clearly states that the detention of young people is an action of last resort.

Unquestionably some young people coming to the youth justice system are repeat offenders who are charged with, and subsequently found guilty of, very serious crimes. Community expectations demand their incarceration.

The Committee recognises that the majority (>80%) of the young Tasmanians, involved in the youth justice system, are managed in the community.

There remains, however, a group of disaffected young people, who in the view of the Committee are unnecessarily detained at Ashley Youth Detention Centre (AYDC). These young people in all likelihood have inadequate family and community support. The inflexibility of the system works against these young people.

All young people between the ages of ten years and eighteen years who are held on remand, and others who have been sentenced to an actual custodial penalty, after pleading guilty or having been found guilty, serve time at Ashley Youth Detention Centre.

AYDC is the public face of youth justice in Tasmania. The perimeter fence is a constant reminder to passers by of the power of the State over the individuals detained therein. To the residents however it appears to be no more than a barrier to breach whenever they choose.

The Committee is sensitive to the problems associated with the functioning of the Ashley Youth Detention Centre. The system is under stress. Security is lax, contraband enters the site illegally and management struggles to maintain a well-trained, professional, and committed staff. From time to time there are violent aggressive episodes involving both residents and staff. There is a need to maintain a secure unit.

The participation rate of staff at AYDC in relation to a voluntary Department of Health and Human Services (DHHS) organisational health and safety survey was low. This failure to cooperate is indicative of a workforce lacking confidence in those who would seek to improve their situation.

Statistics available from other jurisdictions, particularly New Zealand, continue to prove both the economic and social benefit of diverting young people from detention within institutions.

The Committee notes the significant mismatch between funds used to detain a relatively small number at AYDC and the funds supporting a much greater number of young offenders being managed in the community. The \$250,000 cost per person per annum for young people detained at AYDC is a good reason why, if alternate programs are available, diversion is desirable.

Some problems within AYDC are a manifestation of inherent inflexibility created by the YJA.

Provisions within the Act require a young offender to attend court and to plead guilty before having access to a diversionary program. As a result of these and other procedural limitations, many young people are remanded to AYDC and become lost in a resident mix that is dysfunctional. Grouping the most vulnerable with an element of hard-core recidivists creates serious and costly pressures for management. As a result management regimes have trended towards detention and suppression rather than towards education, rehabilitation and the acquisition of life skills.

Evidence from other jurisdictions indicates that if the YJA was amended to facilitate community conferencing before a court appearance, the number of young persons institutionalised on remand will be dramatically reduced.

The New Zealand experience indicates that a very high percentage of young people diverted from the court centric system to a more informal diversionary program are saved from detention, offered hope and encouragement, and more importantly, seldom if ever re-offend.

If similar program successes were experienced in Tasmania, it would be a relatively short period of time before there were only a few young people detained on remand at AYDC. The problems created by the dysfunctional resident mix may well be eliminated.

There is of course a price to pay. Until recently, an abysmal lack of coordination between agencies of Government in the matter of youth justice has severely limited the capacity to share skills and resources that might minimise that price.

Despite actions flowing from this and other inquiries the Committee is appalled at the deficiency of cross agency co-operation in the matter of supporting at-risk young Tasmanians both on entry to, and departure from, supervision in the youth justice system.

A young person, released from AYDC, is abandoned by the over stressed youth support system to pressures similar to those that caused the initial problems. Recidivism in such circumstances is very high.

The lack of cooperation between agencies has allowed too many young people to slip through the gaps in the processes.

The success of diversion programs depends on the capacity of the State to provide 'half-way' house accommodation and supervision for the young people who are involved in diversionary processes. Further it requires that the community service order system at the core of the diversionary processes be adequately resourced. Absence of adequate supervision causes the offender to have little respect for the system and to gain little benefit from the program.

There are non-government organisations with both the vision and the commitment to provide supported accommodation and supervision for young persons completing a sentence of detention under the system.

The *Youth Justice Act 1997* envisages parents meaningfully contributing to the rehabilitation of their at-risk children. The Committee has seen no evidence that the Government is encouraging this fundamentally important strategy.

The Committee is encouraged that some signs of strategic reform have emerged during the period of inquiry.

A change in the culture at AYDC is needed, starting with a change of name. Management needs to re-energise its commitment to new strategies, with a more focused and effective management of financial resources, and a greater commitment across Government agencies in an effort to keep young people out of the youth justice system

The Government is urged to accept the recommendations of this and other reports as a matter of great urgency.

We look forward to further monitoring of progress post the tabling of this report.

RECOMMENDATIONS

The Committee recommends:

1. The *Youth Justice Act 1997* should be amended to provide access to diversionary programs prior to any plea of guilty.
2. The inter-agency working party be further encouraged to facilitate bail and remand options for young offenders.
3. Supported accommodation for young people who are held on remand following an appearance in an after hours court should be established in Hobart.
4. The Government should actively encourage and resource non-government organisations to provide supported accommodation for young people on remand and for young people exiting any period of custodial detention.
5. That Magistrates with a special interest in youth justice be dedicated to the Youth Justice Court.
6. The *Youth Justice Act 1997* should be amended to provide Magistrates with a wider range of options in sentencing young offenders.
7. The Government urgently reassesses its commitment to the community service order system, and allocates appropriate funding.
8. The number of youth workers involved in youth justice programs should be increased.
9. Early intervention policies and programs should be available for children and young people at-risk of entering the youth justice system, including appropriate assessment for mental health, addiction, brain injury and other impediments that may be the cause of anti social behaviour.
10. That funding and resources for youth custodial services should be maintained.
11. That funding for Community Youth Justice services, and early intervention services should be increased.
12. That the Government further reassesses its commitment to the principle of 'detention as a last resort' and acknowledges the cost effectiveness of diverting young offenders from incarceration at AYDC.
13. The Government expedites the implementation of all the September 2005 Fanning Report recommendations.

14. There should be an assessment of the efficiency and benefits of alternate strategies such as the diversion of young Aboriginal youth to Clarke Island-based programs.
15. Attendance at school and scheduled training courses should be mandatory for AYDC residents, and contact hours should be comparable with educational institutions in the wider community. Funding and resources should be adequate for the educational needs of residents.
16. Education based learning opportunities should be available at the AYDC during those times when mainstream education officers are on holiday.
17. TAFE and other NGOs should have access to AYDC in order to provide services and opportunities for the residents.
18. Management should be encouraged to introduce programs that re-engage the young offenders commensurate with community expectations.
19. All AYDC employees providing educational and vocational content in courses should be appropriately trained to achieve better outcomes.
20. A secure unit on site at AYDC, similar to that which previously existed, should be re-established.
21. Subject to eliminating the problems associated with the residency mix at AYDC and an enhanced security regime the educational and training opportunities existing on the school farm should be better utilised for the benefit of residents.
22. Communication and coordination between staff and management needs to be improved.
23. The matter of continuing low morale among AYDC employees should be addressed through the further enhancement of recruitment and induction processes and also enhancing ongoing practices by providing advanced training and personal development programs for existing staff.
24. The use of external security staff in a youth worker role within AYDC should be avoided.
25. The perimeter fence should remain largely in its present form for the foreseeable future, with the exception of the addition of enhanced strategic surveillance technology.

26. The SOPs should be uniformly and consistently applied, and if any deviation is required, it needs to be justified.
27. The SOPs associated with notification of neighbours following an escape from AYDC should be reviewed and consistently applied.
28. Only female youth workers should supervise and care for female residents.
29. The Law Reform Commission should assess the value of protecting, by providing anonymity, to certain older-age young offenders who have been convicted of a very serious crime.
30. Ashley Youth Detention Centre should be re-named Ashley Secure Care Centre.
31. That the Government ensures AYDC staff can access the services of an independent advocate in the event of workplace stress and injury.
32. Follow-up and support programs should be put in place to assist staff who are recovering from the effects of a workplace incident at AYDC.

INTRODUCTION

APPOINTMENT AND TERMS OF REFERENCE

On Monday 27 November 2006 the Legislative Council resolved that a select committee be appointed to “inquire into and report upon that Ashley Youth Detention Centre” with particular reference to:

1. Current security arrangements;
2. Staff issues, including operational health and safety arrangements;
3. Education and training for residents;
4. Alternative methods of sentencing for young offenders;
5. Adequacy of the *Youth Justice Act 1997*; and
6. Other matters incidental thereto

The Committee comprised of five Members of the Legislative Council: Mr Hall (Chair), Mr Dean, Mrs Jamieson, Mr Martin, and Mr Wilkinson.

RATIONALE FOR ESTABLISHING THE COMMITTEE

In moving to establish the Committee, the Hon Greg Hall MLC said that previous reviews had not solved the problems at Ashley Youth Detention Centre; the rehabilitation of offenders had not improved; and that concerns of the public had not been allayed.

Ashley has been subjected to a number of reports in the past but problems still exist and I am confident that a select committee of this Council can, in addition to carrying out its own investigations, pull together the best of the recommendations of the previous reports. ... a select committee of the Tasmanian Parliament will have the capability and, I am sure, the will to see these long-running problems resolved.¹

The Hon. Mr Doug Parkinson MLC, Leader of the Government in the Council, said that although he was not against the establishment of the Committee in principle:

Another select committee at this stage is a waste of time. ... The work of a select committee is likely to divert the efforts of available staff away

¹ Hon Greg Hall MLC, *Hansard*, 27/11/06, p. 39

from the implementation of recommendations that have already been made to improve various aspects of the Ashley Youth Detention Centre.²

The Hon Norma Jamieson MLC, the Hon Ivan Dean MLC, and the Hon Kerry Finch MLC, also spoke in support of the establishment of the Committee.³

The motion was passed in the affirmative.

PROCEEDINGS

The Committee called for evidence in advertisements placed in various newspapers around the State on January 6 and 7, and January 13 and 14, 2007

The Committee was impressed with the quality of the information provided both in written submissions and in verbal evidence by a large cross section of the community.

The Committee took evidence in both Hobart and Launceston from 44 witnesses and received 42 submissions. It also visited the Ashley Youth Detention Centre as well as two centres in South Australia, two in Victoria and also visited two centres in New Zealand.

The Committee met with Government officials on the mainland and in New Zealand as well as stakeholders and non-Government organisations.

Witnesses and submissions are listed in Attachment 1, documents and materials received by the Committee are listed in Attachment 2, and Minutes of Committee meetings are contained in Attachment 3.

ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the assistance of Mr A.W. Fletcher in compiling the Draft Report and the assistance provided by Mr Nathan Fewkes with his computer and research skills. Also Wendy Peddle and Jill Mann for their organisation and administration contributions.

² Hon Doug Parkinson MLC, *Hansard*, 27/11/06, p. 46

³ *Hansard*, 27/11/07, pp. 47-59

TERM OF REFERENCE 1

CURRENT SECURITY ARRANGEMENTS

The security issues can be more appropriately managed by [us] having more control and being clear collectively as a community about exactly who is included in Ashley's client group. AYDC Manager Bill Smith⁴

AYDC is the only secure youth detention centre in the State. Some residents are alleged to have offended and are being held on remand pending a court appearance while others have offended, been found guilty by the court and are serving a period of detention. The facility provides for both male and female residents. The age range of the residents is between 10 and 18 years.⁵

The Centre is a fifty-one-bed facility, consisting of five accommodation units. Bronte North is a nine-bed unit, which generally accommodates lower security male residents. Bronte West is a six-bed unit used exclusively for female residents. Liffey is a six-bed unit that is used for male residents, generally those of a younger age or those who might be vulnerable if housed in one of the other units. Huon is a fifteen-bed unit used for sentenced males and new admissions. Franklin is also a fifteen-bed unit. It has a separate secure yard attached to it and is used for the higher risk male residents. No separation is made between residents on remand and those on detention.⁶

The security of residents and staff of a detention centre, and the general public, is a fundamental tenet of management.

The DHHS, in their submission to the Committee, provided the following overview of current security arrangements at AYDC:

The safety and security of children and young people on site is a primary objective at Ashley. There are obviously many things that contribute to security in a custodial environment. Some are dynamic and relate to clear operating procedures governing all day-to-day activities, staffing levels, staff training, supervision of detainees, etc. Others are static and relate more to the physical environment. Included here is the robustness of windows, doors and locks, etc, as well as security enhancements that can be achieved by means of surveillance equipment and other technical devices.⁷

The Committee acknowledges the above summary as an overview of the management regime used within AYDC, but equally the statement is relevant in any secure environment. The generalised nature of the overview does not address the particular circumstances of AYDC.

⁴ Smith, transcript of evidence, 27/3/07, p. 8

⁵ DHHS submission, p. 9

⁶ Ibid, p. 9

⁷ Ibid, p. 20

The overwhelming body of opinion from witnesses appearing before the Committee was far more focussed. Witnesses from 'both sides of the fence' were site and management regime specific.

The weight and quality of opinion suggests that the security at AYDC is unsatisfactory.

THE RESIDENT MIX

The Committee recognises that a complex mix of troubled young Tasmanians reside at AYDC.

It has been submitted by a broad cross section of witnesses that no effective beneficial change to security at the site can be implemented until the fundamental question relating to the mix of residents living on site from time to time is addressed.

Given the current resident mix of child remandees and hardened convicted criminals - all housed together in the one multipurpose facility – it is impossible to get a security structure that meets the needs of all the young people residing at AYDC from time to time.

The DHHS referred to their *Review of Resident Safety at Ashley Youth Detention Centre*⁸ undertaken in September 2005:

This Review concluded the diverse range of ages and behaviour of detainees at Ashley created significant problems not able to be satisfactorily managed on the minimum security site. This included resident on resident assault, often involving older youths intimidating and standing over younger ones.⁹

The written submission received from the Health and Community Services Union (HACSU) was one of many concerned with this issue when they commented that:

Another issue of concern is the very nature of the facility itself. Ashley houses residents from as young as ten years old and can have residents as old as twenty-one. Younger residents are, because of the nature of the facility, housed with older residents. This often leads to younger residents being subjected to bullying, intimidation and violence.¹⁰

Security will only become more focused to the needs and best interests of the residents when the Government recognises the need for a greater sensitivity in the resident mix. Evidences suggests and the Committee is swayed by the notion that ten to fourteen year olds should not be detained at AYDC. The

⁸ DHHS, 'Review of Resident Safety at Ashley Youth Detention Centre', September 2005, available at <http://www.dhhs.tas.gov.au/agency/pro/youthjustice/documents/Ashley_Review_Report_Nov.pdf>

⁹ DHHS submission, p. 20

¹⁰ HACSU submission, p. 3

potential for such young people to regress to the worst anti-social behaviour of the older age group is significant.

There is a need for an even greater commitment to those young people who need maximum exposure to rehabilitation opportunities so they develop hope for the future.

DETENTION AND THE FENCE

The single, most obvious indicator that Ashley is a detention centre is the perimeter fence. The fence was erected as part of a redevelopment that occurred in 2001/02. The redevelopment followed a fire that destroyed much of the secure accommodation existing on site at the time.

DHHS submitted that:

Ashley was not designed as or meant to be a maximum-security prison and erection of the perimeter fence did not transform it into one. It was erected as a barrier to impede escape but does not constitute the kind of secure perimeter that would be found in a maximum-security facility.¹¹

Others submitted that the fence was neither one thing nor the other: it did not meet the minimum standards for a detention centre; it did not keep residents in; it did not keep others out, and significantly it was a reminder of the power of the state over the best interests and rehabilitation of the individuals.

DHHS's Children and Families Division carried out a risk assessment analysis on the fence in 2005.¹² The report stated:

The existing perimeter system comprises one fence with no detection, very little deterrence and a delay factor of around 20 to 25 seconds for a fit determined youth with no equipment and no outside assistance.¹³

And also:

...in comparison to other facilities with similar roles, the fence rated poorly.¹⁴

Despite the fence's poor security status, DHHS continues to stand by its decision to erect this particular style of fence:

...The fence has contributed to a significant reduction in escapes from the site in the time since it was constructed. For the four-year period preceding its construction the average number of escapes from the site per year was 25, whereas, for the four-year period following its

¹¹ DHHS submission, p. 20

¹² DHHS Children and Families Division, 'Ashley Youth Detention Centre Security Risk Assessment', 23 December 2005

¹³ Ibid, p. 3

¹⁴ Ibid, p. 2

construction the average number of escapes from the site per year was 6 (excluding the 9 escapes in November 2006).¹⁵

The Committee received evidence that challenged the need for the fence in its present configuration and some well-qualified witnesses questioned whether a perimeter fence was needed at all.

Mr Nick Triffitt was not alone in his analysis of the added incentive a high fence adds to impulsive youths when he stated:

The more secure the fence is, the bigger the challenge for the kids. They will get out if they want to – you will never stop them. They will never be stopped for a fence.¹⁶

Mr Ben Marris not only reiterated this view but went further when he said:

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.

My view is that building a fence around the institution was a mistake... 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.¹⁷

Mr Bill Smith, when questioned by the Committee as to whether Ashley would be a better place without the fence and the addition of a secure unit stated:

The short answer is no. I don't think it is that simple and I don't think the clock can be turned back now.¹⁸

However, Ms Sue Polton, an employee at AYDC for 25 years, was very clear when comparing the benefits of a secure unit as existed prior to the fire of 2001 to the current system.

The Committee asked her whether she considered the hard core group of today more difficult to manage than the kids of twenty years ago:

Ms. Polton replied:

Yes I do, but years ago we had really hard criminals and because of the structure and how it was run it was a lot better. We had a secure unit that they had to go into. If they misbehaved, they always knew that there was something there and they didn't want to go into that secure unit. When they did get in there they had to work their way out, whereas now it is just the same. A kid goes out, they come back in after a couple of months,

¹⁵ DHHS submission, p. 20

¹⁶ Triffitt, transcript of evidence, 13/3/07, p. 3

¹⁷ Marris, transcript of evidence, 13/2/07, pp. 1-2

¹⁸ Smith, transcript of evidence, 27/3/07, p. 8

what happens? They are straight out, they go swimming on the first day back, whereas once they used to have to be assessed – and I think that should still happen – for about a week, at least, before they got out with their other mates. They just plan their next venture. We had the harder criminals back then but it was structured better.¹⁹

Mr Smith continued providing evidence regarding the perimeter security system, and in doing so, voiced the concerns of several witnesses when he said:

One of the factors that we faced is that as soon as the fence was erected it changed the perception of Ashley – including that of the outside world – about Ashley and its role. Whereas before the fence was built, if a young person ran off – and again I am not suggesting that that is unimportant or not a serious matter – it wasn't seen as being as serious an issue as it is now.²⁰

And again, Trudy Maluga from the Tasmanian Aboriginal Centre Inc., voiced her concern regarding the mismatch between the rehabilitation philosophy of AYDC and a detention style fence when she stated:

Critics often complain that Ashley is not escape proof. How high must the fences be, and how much barbed wire placed on the perimeter to satisfy critics that the public is safe from a few dozen kids? Critics complain that the public must be protected against petty theft of escapees, but at what cost to the youth in detention?²¹

ILLEGAL CONTRABAND

Several witnesses made serious allegations in relation to illegal contraband entering the facility.

The Committee seriously considered the merits of the submissions lodged and the evidence given in regard these matters. The Committee notes that evidence was given under oath and further notes that the witnesses gave every indication both in their demeanour and in the spoken word that they were acting in good faith and with the best interests of the institution and the residents in mind.

The very real and serious issue of individuals from the outside accessing the AYDC grounds and facilities by penetrating the perimeter fence, was put forward by David Reid:

You could also make it [the fence] harder to get in, because we have had people get in of a night and drop drugs.²²

And again by Mr Brian McClifty who said:

¹⁹ Polton and Burgess (12), transcript of evidence, 15/2/07, pp. 10-11

²⁰ Smith, transcript of evidence, 27/3/07 p. 8

²¹ TAC submission, p. 3

²² Reid, transcript of evidence, 14/2/07, p. 4

Contraband is thrown over the security fence or placed just in or outside the fence so as a young offender can pick it up. The perimeter fence is known to be scaled at night between 11.00pm and 7.00am to leave contraband within the grounds. The fact that only two incidents of people caught and charged on trying to enter AYDC does not negate the amount of times AYDC has been entered.²³

It was submitted by Mr McClifty and many others that penetration of the perimeter fence was not the only means by which contraband made its way through security.

In his written evidence to the Committee Mr McClifty outlined other methods of contraband entering AYDC:

As a Youth Worker we are limited in searching young offenders for contraband. A young offender can refuse a search and in approximately 90% of cases I have witnessed the young person returned to his/her unit without handing over the contraband.

Some visitors coming to the centre to see a young offender being parents, girlfriends, friends are known to or have been caught, handing over contraband and still later gain visiting rights to the young person.

Unfortunately some staff within AYDC provide contraband to young offenders. There are no staff security screenings undertaken and in most cases that worker/s is still working with AYDC.

Phone calls are made by young offenders to outside people to arrange contraband or escape.²⁴

Even more disturbingly, the Committee received evidence that illegal contraband has been used as currency between residents and staff. Favours provided by residents were being rewarded with tobacco, alcohol or drugs supplied by staff. Further evidence suggests that on the rare occasions, when an offence is detected, the penalty for providing contraband is light.

AYDC management rejected these allegations. In response to questioning from the Committee Mr Bill Smith replied:

If we left tobacco out of the equation for a moment, in terms of the drugs that actually come onto the site, again, no custodial environment is going to be without incidents and it would be silly of me or anyone else to pretend otherwise.

In terms of marijuana and other forms of drugs coming on site, I would doubt if there would be any more than two or three incidents in any 12-month period. How that might come on site is through a variety of ways. One of the ways that it can happen is that someone who is coming to visit brings it in – a young person, a parent, a sibling or a friend. It would be

²³ McClifty submission, p. 1

²⁴ Ibid

silly to ever rule out the possibility of staff bringing it. ...If a staff member was doing that and we were aware of it, everything is in place to address that. For all of the allegations that are ever made, no-one has ever been able to tell me on what day a staff member brought anything of that nature into the site.²⁵

On a visit to Victoria, the Committee was informed of the management regimes in place in similar mainland centres.

According to senior officials of Victorian Youth Justice:

We search all young people as they return to the site. We do regular, what I call 'random', searches of the unit – a minimum of two bedrooms a day plus a general live-in area. It is done every day. We do a minimum of two external checks of each building on a daily basis. We do two checks of the perimeter fence on a daily basis. With reasonable cause we search each of our young people after they have had a visit. So it is quite strong.²⁶

While the Committee received a range of opinions regarding security as it pertains to the physical environment, there was significant consensus regarding the overarching importance of staff in providing a secure environment for the young people at AYDC.

The major issues involving staff will be considered under the following term of reference, but an overview of several issues relating to security will follow herein.

HIRING CONTRACT SECURITY STAFF

In their written submission to the Committee, HACSU highlighted the potential security problems associated with employing external security personnel to meet short term staffing issues, and also summarised for the Committee the view held by many:

The use of external (Platinum) security staff is an issue of concern. In 2001 HACSU and the Department of Health and Human Services were in dispute over a number of matters of concern to members...one of the issues of concern was the continued use of external security personnel. It was agreed at the time that external security staff would not be required in the medium to long term as staffing numbers were finalised, Standard Operation Procedures (SOPs) were finalised and training of staff was completed.²⁷

External security personnel are still being used to a significant degree. The level of training for Ashley Youth Workers and that of external security personnel is markedly different, i.e. Ashley Youth Workers undergo a rigorous selection process including psychological testing and

²⁵ Smith, transcript of evidence, 27/3/07, p. 10

²⁶ Private witness, transcript of evidence, 23/2/07, p. 17

²⁷ HACSU submission, pp. 1-2

eleven to fourteen days of induction where as external security personnel receive one to two days of induction. The external security contractor has been used to backfill approximately one hundred and fifty five shifts in the period 22 December 2006 until 22 January 2007. This is despite the Department's position back in 2001 that external security contractors would not be required in the medium to long term. A review of security undertaken for the Department in October 2002 recommended that the use of Chubb (contractor in use at the time) security staff cease as soon as practicable. A further report conducted in September 2005 also recommends that appropriately trained youth workers be employed in preference to external security staff.²⁸

External security staff are not trained to the same degree in that they are not Youth Workers and are not required to provide the more intensive training, support and life skills training required of Youth Workers. This has the potential to create problems in the handling of residents in crisis situations. External security personnel do not have an ongoing relationship with residents and this has the potential to lead to a more 'custodial' role.²⁹

The issues regarding the use of external security staff, to fill short term staffing needs, acted as a springboard for the broader issue of whether the two roles currently performed by the youth worker at AYDC – that of mentor and rehabilitator and that of security personnel in a custodial role – should be separated.

The Committee has little doubt that the view put forward by Ms Rosalind de Virieux has significant support:

If staff were more appropriately qualified, many of these issues would be addressed as a matter of course, appropriately worked into the young person's daily rehabilitation schedule and fully supported by other staff who understand that a higher degree of sophistication in the intervention process is required.

If the above was implemented, this would mean that the current custodial officers then take on the vital role of security and concentrate their efforts into providing for security and safety for all residents, staff, visitors and general community. Separating the custodial officers from the main stream professional staff will allow the residents to determine each staff member's defined roles.³⁰

The Committee also received, however, an equal amount of evidence to suggest that the current arrangement should be maintained:

The size and location of the site requires maximum workforce flexibility and this is enhanced by the dual role. Youth justice research from around the world supports the combined role, as a youth worker with

²⁸ Ibid

²⁹ Ibid

³⁰ De Virieux (25) submission, p. 2

competent behavioural management and decent communication skills is rarely required to revert to a pure custodial role.³¹

SUPERVISION OF FEMALE RESIDENTS

Some evidence was given that, from time to time, male staff members were required to supervise female residents.

Evidence received indicated that management was aware of the potential dangers inherent in such an arrangement and every effort is made to always have a female present.

Nevertheless the occasional significant difficulty in recruiting staff at a late hour presented almost insurmountable problems for management.

The committee pursued the issue with a witness.

Are you saying a male youth worker was left alone in charge of the girls' unit?

The witness replied:

At times, yes, on lots of occasions. ...I refuse to do it, and I have been told you do it or you don't work. ...I refuse to work alone with females. So now they will say two male workers, but I still don't think it is right with two male workers. If you have cameras it is fine.³²

And again, another witness when asked;

There has been evidence given about supervision of the girls' units. Sometimes two men are left in charge of them, and on one occasion one man was left in charge. Was that a regular thing?

Gave the following response:

It is not supposed to happen but it happens... Men have been left in the girls' unit and I have spoken to people about it, but I haven't written anything. I have spoken to one of the higher-up ones at work that it's not on. To be quite honest, there should always be a woman there but it doesn't always happen. Also, the girls should never be with the boys. It is the worst thing they ever did, putting the girls with the boys.³³

NOTIFYING THE PUBLIC

The Committee heard evidence that notification to the public in the event of an escape was lacking in substance and not provided in a timely manner.

³¹ Corvan submission, p. 2

³² Private witness, transcript of evidence, 14/2/07, p. 2

³³ Polton and Burgess, transcript of evidence, 15/2/07, p. 13

Mr Richardson of Westbury put it this way:

As examples, may I cite two recent escapes that occurred in late 2006. In both instances, the people of Westbury did not discover the escapes until next day's newspaper. Furthermore, those newspapers described the individuals as 'not dangerous'. That is quite frankly untrue. At least one of the offenders had a history of very disturbing violence.

I and many residents of Westbury and Exton area believe that notifications of escapes should be swifter and should contain descriptions, including names and photographs, of those escapees, particularly where there is a dangerous background.³⁴

When questioned on this matter AYDC management replied;

Where there is an incident we immediately, within a short period of time contact people in Exton area and let them know there has been an incident. That is something we take very seriously.³⁵

The Committee notes that contacting people in the Exton area may not satisfy the needs of those living just beyond the Exton area.

STAFFING LEVELS AND SECURITY

The quality of security services on any site is to a significant degree dependent upon the number and quality of the staff and the programs they deliver.

Mr Dave Willans, Executive Officer of Youth Network of Tasmania (YNOT), summarised it very succinctly when he stated that:

It has been really disappointing to us that politically and in the media the primary issue about Ashley is the effectiveness of the fence and there is very little discussion about the effectiveness of the rehabilitation programs within Ashley.³⁶

This theme was supported by many, including Mr Bill Smith:

One of the main forms of security can come from interest and engagement, and having good relationships with the young people. That is a key foundation on which our security systems are built in that the staff that we employ are encouraged and are trained in how to develop rapport and good relationships with people.³⁷

DHHS states in their submission:

Staffing levels on site are central to the safe and secure operation of the facility. Ashley functions twenty-four hours per day all year round. Its

³⁴ Richardson, transcript of evidence, 13/3/07, p. 2

³⁵ Smith, transcript of evidence, 27/3/07, p. 10

³⁶ Willans and McKay, transcript of evidence, 23/3/07 p. 8

³⁷ Smith, transcript of evidence, 27/3/07, p. 9

operational staffing structure is a rotational one and consists of one night shift and three day shifts. Reflecting a staffing ratio of one operational staff member to every three residents (3:1), each of the three day shifts comprise four Team Leaders and eight youth workers (twelve operation staff in total to supervise the residents on site). In addition to these staff, each of the three day shifts has one Operation Coordinator who is in charge of the shift, and one Admissions Officer.³⁸

While on paper, the current staffing ratio is “the best in Australia”³⁹, HACSU, which represents most of the operational staff at AYDC, outlined the negotiations that resulted in the current staffing ratio of 3 residents to 1 staff member. But the Union in their submission now maintains that:

This ratio is now considered to be inadequate as Team Leaders are counted as one of the three staff as per the ratio. There are times when Team Leaders have to cover more than one unit thus leaving one unit to attend another unit, thus leaving staff short in a unit. It is considered that Team Leaders should not be included in the staffing ratio and that there should be a Team Leader for each unit.

As a result of recent incidents staffing levels on night shift have been increased from six staff to eight. This needs to be a permanent arrangement to ensure staff safety. This staffing configuration allows for two staff to supervise each unit, a considerably safer arrangement. The additional staff would allow for two staff to manage each unit, which can house up to fourteen residents, thus providing a more secure environment.

Staff have also requested a private room away from residents in which they can debrief after a critical incident. There is nowhere at present where staff can have some timeout when incidents occur. Staff should also have access to appropriately trained professionals for the purposes of debriefing after serious incidents.⁴⁰

Apart from the evidence received advising that the mandated ratio of 3:1 was not maintained or adequate, the Committee has also received a significant number of submissions refuting outright the positive staffing theme contained in both Mr Smith’s and DHHS’s comments put forward earlier.

In general, the main issues highlighted in evidence given to the Committee include lack of adherence to standard operating procedures; inadequate training; divisions between staff and management and a general absence of cooperation or collective purpose at all staffing levels.

These and other staff issues, including occupation health and safety, will be addressed in detail in the next chapter.

³⁸ DHHS submission, pp. 21-22

³⁹ Smith, transcript of evidence, 27/3/07, p. 15

⁴⁰ HASCUS submission, pp. 3-4

The Committee concludes:

1. Security at AYDC is inadequate. It fails to protect the wellbeing of staff and residents and neither does it create the environment for restorative justice.
2. The perimeter fence at Ashley Youth Detention Centre does not constrain determined absconders nor does it prevent illegal contraband from entering the site. These breaches pose a serious and immediate threat to the safety of residents and staff at AYDC.
3. Security arrangements in Victorian, South Australian and New Zealand institutions are more regimented in application.
4. Use of surveillance technology is inadequate.
5. Security arrangements do not prevent aggression between residents nor between residents and staff.
6. The current resident mix at AYDC contributes significantly to the difficulties associated with the security arrangements.
7. The separation of the younger, more vulnerable and less serious offenders and remandees from the older, more serious offenders and remandees is highly desirable.
8. Only when a separation of these distinct groupings is made and a determination as to which group of young people will continue to be housed at AYDC, can a decision be made regarding the most appropriate security system for the Centre.
9. Female residents should be cared for at a separate establishment, and in the interim, cared for by female staff, whenever practical.
10. A lack of confidence in security arrangements limits the opportunities for residents to access supervised activities on the farm and community-based mentoring opportunities.
11. The use of external security staff to cover short term staffing issues poses a threat to the efficient running of the detention centre.
12. There is a mismatch between the evidence taken from concerned neighbours and management as to the effective flow of information following any escape from AYDC.

The Committee recommends:

1. The perimeter fence should remain largely in its present form for the foreseeable future, with the exception of the addition of enhanced strategic surveillance technology.
2. The Government should reassess its commitment to the principle of 'detention as a last resort' and acknowledge the cost effectiveness of diverting young offenders from incarceration at AYDC.
3. The Government expedites the implementation of the all the September 2005 Fanning Report recommendations.
4. The SOPs associated with notification of the public following an escape from AYDC should be reviewed and consistently applied.
5. Only female youth workers should supervise and care for female residents.
6. The use of external security staff in a youth worker role within AYDC should be avoided.
7. A secure unit on site at AYDC, similar to that which previously existed, should be re-established.

TERM OF REFERENCE 2

STAFF ISSUES

INCLUDING OCCUPATIONAL HEALTH AND SAFETY ARRANGEMENTS

If we were a hospital, we would have the porters operating on the patients because we have the least qualified, least experienced, youngest staff working with the most complex, most disturbed, most needy children and young people.⁴¹

The DHHS summarises its responsibilities to staff employed at AYDC as follows:

In accordance with the *Workplace Health and Safety Act 1995* the Department of Health and Human Services has a responsibility to provide, as far as reasonably practicable, a safe working environment with safe systems of work, and plant and substances maintained in a safe condition. Consistent with this Ashley Youth Detention Centre is committed to ensure that working environments, equipment, systems of work and training programs are designed to prevent incidents in the workplace.⁴²

The Committee acknowledges the special circumstances associated with working in a custodial environment. The trials and frustrations of work in a standard environment are often magnified many times in the sometimes hostile environment of custodial care. At AYDC the standard frustrations of shift work are often exacerbated by stressful and dangerous situations where young people, some who have given up hope of a better future, continually test the limits of acceptable behaviour. The relatively small work force has little hope of promotion and the propensity towards stress related health problems is relatively high.

It obviously takes a person with special attributes to maintain equilibrium while working in this environment. It takes an even more special person to remain positive and productive and committed to the best interests and rehabilitation of the young people in their care when too often their best efforts are rejected.

MANAGEMENT-STAFF RELATIONS

Evidence was received that suggested a breakdown between staff and middle management. The tension was reported when a staff member made a formal complaint and/or reported a grievance on operational matters.

It was submitted that at least some complaints were not investigated and acted upon and more disturbingly it was suggested that complaints against 'the order' led to threats and abuse from other staff.

⁴¹ Private witness, transcript of evidence, 21/2/07, p. 5

⁴² DHHS submission, p. 23

The Committee has not investigated the nature of the complaints. The Committee is aware that complaints in an institutional environment can range from the vexatious to the very serious but always in the mind of the complainant the matter is serious.

The Committee understands that from time to time confidentiality issues make it appear that nothing is being done. The Committee notes that beyond the limits of AYDC, the DHHS has staff grievance procedures in place.

The State Service code of conduct and the commissioner's instructions are quite clear about the processes that need to be followed in the event of a complaint.

AYDC management claimed:

We would follow those processes in all instances. If complaints are made the processes are in place, complaints are always treated seriously and the issues are addressed.⁴³

AYDC Operations Manager Ralph Beck told the Committee that every complaint from a youth worker would “absolutely” get to the centre manager.

It often comes up that people involved in complaints, if they have taken a complaint for a young person and it is to do with another staff member, often feel that they have not been given adequate feedback. The problem with that is if the complaint is about another staff member and it is being investigated, it is a private matter between whoever is investigating and that individual, so the person involved initially who raised the complaint is, more often than not, not going to be aware of the outcome.⁴⁴

The Committee supports the proposition that in a closed environment team work and cooperation between staff members and between staff and management is of great importance.

When grievances are investigated and discipline is potentially required, it is important that justice is done (and seen to be done). Ultimately, staff members who will not, or choose not, to fulfil their responsibilities within the team are a liability.

RECRUITMENT AND INDUCTION

A South Australian youth justice official stated in response to questions from the Committee regarding recruitment and induction training programs:

⁴³ Smith, transcript of evidence, 27/3/07, p. 13

⁴⁴ Beck, transcript of evidence, 26/3/07, p. 12

...I am realistic enough in that we are not going to get the most highly-qualified social workers, psychologists, teachers and ex-coppers into detention centres.⁴⁵

Mr Bill Smith, manager of AYDC, provided the following insight into the recruitment process:

This is something we have really strived to improve in recent years. The recruitment process that we go through in terms of suitability testing, psychological profiling and so on for people who apply for work at Ashley is really quite sophisticated. That is one of the mechanisms we use to attract the right people with the right kind of characteristics. It is a very difficult job and we put a lot of effort into recruiting.⁴⁶

These comments are neither more nor less than can be expected from the manager of the Centre. The Committee accepts that management is making an effort; and there is a realisation that the better the staff, the better the operations; therefore the role of management will be less stressful.

Criticism came from some who felt that the process of recruitment was flawed.

They submitted that the process involving a psychological test and interviews, not “arm’s length”,⁴⁷ but conducted solely by AYDC staff, had delivered a work place that resembled a “club” that had a reputation of providing “jobs for the boys”⁴⁸.

The Committee took seriously a claim that “young confrontational men”⁴⁹ were being employed as youth workers and that a rise in the availability of pornographic material on site⁵⁰ was leading to anti social behaviour infiltrating the workforce at AYDC.

It was suggested to the Committee that psychometric testing as part of the recruitment process had both supporters and detractors and that such testing was inconsistent and costly.

The Committee was impressed by the integrity of the recruitment and induction process adopted by management at the youth justice centre in Christchurch New Zealand.

When visiting South Australian facilities and discussing the training of staff, an official from South Australian youth justice succinctly made the point:

The evidence that is really clear... if you train your staff and get decent leaders. ...you can make a difference and you can make a difference to the outcomes.⁵¹

⁴⁵ Private witness, transcript of evidence, 21/2/07, p. 5

⁴⁶ Smith, transcript of evidence, 27/3/07, p. 12

⁴⁷ Private witness, transcript of evidence, 13/3/07, p. 12

⁴⁸ Private witness, transcript of evidence, 14/2/07, p. 1

⁴⁹ Private witness, transcript of evidence, 13/3/07, pp. 10-11

⁵⁰ Ibid, p. 12

⁵¹ Private witness, transcript of evidence, 21/2/07, p. 5

The Committee recognises and commends AYDC management's recent recognition of the value and importance of initial training for new staff in extending their induction program from fourteen to nineteen days.

The format of AYDC's induction program was outlined in DHHS's written submission as follows:

...At Ashley all new operational staff are provided with a formalised induction program. This induction program is of nineteen days duration (152hrs) and comprises fourteen days (112hrs) classroom and workplace competency based training and five days (40hrs) competency based on the job work experience. The induction program links to the Certificate IV in Youth Work (Juvenile Justice) units of competency and reflects the National Juvenile Justice induction standard. There are also a range of Standard Operating Procedures in place to guide staff in their day to day responsibilities. These Standard Operating Procedures, which have only recently been reviewed and updated, are quite detailed in nature and cover topics as diverse as Critical Incident Reporting, Searches and Infection Control.⁵²

It is not easy recruiting suitable staff for such a difficult job but the testing of the suitability of the recruit through the induction program adds to the integrity of the process.

According to John Corvan,

You need to challenge people in their thinking through the induction so that the unsuitable people, who may have got through the interview process, don't get through the induction.⁵³

The Committee sees merit in this proactive action to add value to the recruitment process.

STAFF-RESIDENT RELATIONS

The complex interactions between staff and the young people at AYDC are governed by two main management programs.

The first is the **Standard Operating Procedures** (SOPs), which have been established to facilitate best practice among staff members and to provide consistency of interpretation in matters involving the daily routines of the residents. SOPs cover topics as diverse as the use of kitchen utensils to routine admission processes. Many of the SOPs are drafted to minimize the potential for abuse towards residents. Included amongst these are the SOPs relating to Critical Incident Reporting, Response and Duress, Searches, Supervision and Movement of Detainees, Use of Force and Observation.

⁵² DHHS submission, p. 23

⁵³ Corvan, transcript of evidence, 9/5/07, p. 15

The second is the **Behaviour Development Program** (BDP), which promotes understanding and uniformity in the building of relationships between staff, and the young people that they care for at AYDC.

This document sets out the parameters of accepted behaviour and activity and ensures that residents have a measure of responsibility for their own actions.

The Behaviour Development Program, which has been in place in its current form since 2002, is drafted in a way that encourages appropriate behaviour.

Children and young people learn that they can make choices about their behaviour, which may lead to consequences for them. These are either rewarding or produce sanctions.

Within the Behaviour Development Program is the Incentive Scheme designed to support positive behaviour and an Incident Management Scheme to recognise and manage negative behaviour.

While the Committee notes both the volatility of life within AYDC and the need for flexibility in managing emergency situations, it believes that there must be a balance between the rigour and routine of the SOPs and flexibility to meet unusual situations. Good management practice seeks a balance between the two.

Mr David Reid, ex employee of AYDC states:

The problem with that place is that there is too much inconsistency of practice, and that is the biggest problem there.

Diversity is a great thing; it should be everywhere but unfortunately we have a set of SOP's – Standard Operating Procedures – and they get changed quite regularly. I have read them, though I haven't read them for quite some time. They brought out a heap of new ones and made a heap of changes to them. They don't take staff aside; they just send out a new SOP by email or whatever. You sign that you have read it and understood it and quite a lot of training was like that; it was just a backside-covering exercise. If you are going to have training, then have the full thing.⁵⁴

After hearing allegations that some of the youth workers are antagonistic and abusive towards the residents, the Committee sort verification.

Mr Reid explained:

Yes, I have seen it and it's terrible. I heard a case... where a kid was threatened through the office window that he was going to kill him or smash him. This kid was on the phone and he looked through the window – he can't read or write – at a bit of paper and this new team

⁵⁴ Reid, transcript of evidence, 14/2/07, p. 5

leader went really crook at him, so much so that it made a female staff member cry to see this appalling behaviour.⁵⁵

Several witnesses gave specific examples of a breakdown in the commitment to, and application of, the SOPs.

The following are a selection of the comments.

I can remember hearing a young boy wanting to see a case manager yelling out, 'Can you come and see me? Can you come and see me?' The case manager virtually called him a dickhead and said, 'Why would I want to come and see you?' ...Put-downs are really quite common there, especially with the workers. They are telling these kids constantly, 'You're just a peasant; you're a criminal.' They do that constantly.⁵⁶

Another;

When there is a siege incident and an incident report is written up, it is well known that often those incidents reports do not get to the media.

Member inquired as to where these reports go. The witness replied:

Shredded, put in the bin. I might be, according to the rules, doing my job in writing up an incident report because someone called me an f-head or whatever. However, others believe if the incident is not that bad, we should take it.⁵⁷

And another

Because the leader of the shifts do their own thing, half the time they are not worrying what the rules are. The last fortnight has been definitely that – they just do this or do that, whether or not it complies with the rules and all the SOPs that are put into place that we have to do every so often.⁵⁸

And another, who outlined the breakdown in the SOPs in relation to compulsory attendance at school:

It used to be, 'You go, or you go back in your unit.' But now, 'If you don't want to go, you can come back and play with the PlayStation.' So who is going to go? By rights they are not supposed to have the play station if they come back in, but it depends who is on the shift. 'Oh, it doesn't matter, it will keep him quiet.' If everyone was consistent and stuck to the rules, it would be a different place.⁵⁹

Committee questioned the AYDC manager Mr Bill Smith, regarding the deficient application and or the inconsistent of application of the SOPs:

⁵⁵ Ibid, p. 5

⁵⁶ Private witness, 13/3/07, p. 10

⁵⁷ Private witness, 13/3/07, p. 6

⁵⁸ Polton and Burgess, transcript of evidence, 15/2/07, p. 9

⁵⁹ Ibid, p. 11

Mr. Smith responded:

You need a clear policy and procedure environment that reflects the way you want people to work and you need a supervision model and mechanism in place that ensure, in a supportive way, that staff are operating in that manner in accordance with the procedures that you have put the effort of doing. We have all three of those elements, I think. It is an ongoing thing but those are the three key elements.⁶⁰

And also:

We put a lot of effort into creating the kind of environment in which those people can work properly and work in a way that reflects the YJA. We induct them and we train them to work in accordance with those standard operating procedures, and there is no one, I would say, at Ashley... who is not aware of what the standard operating procedures are.⁶¹

And finally:

The issues of whether or not in all instances they are working in a way that is absolutely consistent with a SOP goes more to the issue of supervision, there is no easy answer to that.⁶²

Mr Smith identified one area that he admitted caused inconsistency in the application of procedures and decisions:

You have difficulties across shifts... Communication between shifts is an issue. The young person says 'so and so promised this or that' and they get it. Then the day shift worker comes back and the next day he/she thinks 'I went all day yesterday trying to get this to happen and I come in and little Johnny has that poster up on the wall' or whatever. Our responsibility is to create the environment and give staff the tools where they can, notwithstanding those problems, to do what is expected of them and I believe we do that.⁶³

The Committee notes the Victorian commitment to consistent management practice:

You have to have systems in place that allow you to monitor that people are following the rules. I am not saying that no one ever doesn't follow the procedures [sic] but we hopefully have the checks and balances in place so that we are able to check compliance.⁶⁴

Victorian standard operating procedures are currently being backed by an intensive staff development program:

Over the last couple of years we have spent a lot of time and energy in working with our staff around managing behaviour. We started by doing

⁶⁰ Smith, transcript of evidence, 10/5/07, p. 16

⁶¹ Smith, transcript of evidence, 27/3/07, p. 15

⁶² Smith, transcript of evidence, 10/5/07, p. 15

⁶³ Ibid, p. 17-18

⁶⁴ Private witness, transcript of evidence, 23/2/07, p. 20

saturation training, all our staff it was more classroom-based training a specially designed program around behaviour management. Then as a follow-up we did 'unit-based interventions' where the specialist, who was a psychologist who designed the training in conjunction with us, actually went in to every unit across our system and worked with staff to reinforce the sorts of skills, behaviour and what they had learnt when they were in the classroom.⁶⁵

The Committee did not receive any evidence to indicate that the Behaviour Management System, currently in place at AYDC, was fundamentally flawed. There were several witnesses however, who did report that the current system of rewards and removal of privileges put staff at risk with the more volatile young people at AYDC:

Well, it causes a lot of resentment amongst the staff because obviously if you get kids in there that basically are on a green colour and have enjoyed watching TV and all that and who have a slip-up or whatever, and they may be some of the worst kids who are most physically demanding or physically assaulting or potentially so, many of the staff won't write them up because as soon as they do it comes back. They know who has actually reported them and they make your days absolute hell. They don't care really whether they are in green or red or whatever. So there is a lot of mental strain as to how well you can or cannot cope with that type of thing.⁶⁶

In relation to the incentive component of the Behaviour Management System, Mr Smith said:

What happens on a weekly basis is that there is a meeting of the Centre Support Team, and at the weekly meeting there is all of the information in relation to a young person... in order to make a decision about a young person's movement up and down the colour scheme.

In between, Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday, operational staff, from the operational coordinator down to the team leaders and down to the youth workers, all have the capacity, are trained in and are required to apply the Behaviour Development Scheme. So it's quite erroneous for anyone to say that the Behaviour Development Scheme is applied once a week. It is a living, active, dynamic thing that dictates how staff should be working with a young person, and a young person can be dropped in colour on any day of the week.⁶⁷

The Committee did receive some insight into the change in a young person's mood and behaviour on learning of a change in their 'status' following the meeting of the Centre Support Team (CST):

For the young people in detention, on Monday morning they find out their privilege colour for the week. Monday afternoon is a terrible time to deliver a program at Ashley because in the morning they have found out

⁶⁵ Private witness, transcript of evidence, 23/2/07, p. 11

⁶⁶ Private witness, transcript of evidence, 13/3/07, p. 8

⁶⁷ Smith, 10/5/07, pp. 9-10

that they have stayed on the same colour, dropped a colour, or gone up a colour, so they are either really happy or really unhappy. After delivering several programs on Monday afternoons last year I went back to the centre and said, 'This isn't working and we all know why. For these young people to get the most they possibly can out of these programs we need to change to a different day.' That was accommodated immediately and we now deliver our programs on a Tuesday.⁶⁸

ASSAULTS ON STAFF

The Committee heard evidence in relation to certain incidents of staff injuries resulting from assaults committed by residents. The Committee was also informed that individuals, who have been injured as a result of being assaulted at work, received minimal support at the time and after the event.

The Committee heard evidence from the widow of a former employee, injured following an assault:

[He] had been working back at Ashley for three months when we had a phone call from... the administration officer, telling me [he] was not to go back to work. ... He felt that he had been manipulated by management and used as a scapegoat to cover up management mistakes. ... He felt he was isolated, he lost interest in his children, he no longer wanted to do the usual things and hobbies like sport. He was easily upset – he was a different person. I felt I was slowly losing not only my husband but my best friend.⁶⁹

In early 2000, he passed away.

I received a card from Ashley Detention Centre staff after [his] death.... the administration officer came to my house on 23 February 2000, three weeks after [his] death, to hand me a receipt... for \$11,945.90 from Ashley. ... There was no indication on the receipt what it was for. I don't remember much about the visit but it was the last contact I had with Ashley, the administration officer and management.⁷⁰

The Committee received a written submission from Mr Les Wall, claiming that on two separate occasions residents had attacked him, he further received death threats, and he suffered serious adverse effects as a result.⁷¹

A former contracted security guard, who was assaulted by a resident, told the Committee:

Because I was on a contract, I was very easy to push out of the scene, and it was all just swept under the carpet. ... I doubt whether they have even kept any records of this assault or anything ... I was told not to

⁶⁸ Kruger, transcript of evidence, 14/2/07, p. 5

⁶⁹ Varga, transcript of evidence, 15/2/07, p. 3

⁷⁰ Varga, transcript of evidence, 15/2/07, p. 4

⁷¹ Wall, submission

come back on the Ashley site and then my boss said I no longer had a job.⁷²

Former employee Nick Triffett stated:

It has not been a physically safe place for staff to work in because of the assaults on the staff. I saw many staff going on workers' compensation in the late 1990s, the year 2000 and into 2001. They tell me it is not as bad as it used to be and that is great if it is. I hope it is better than it was but there were always at least a dozen people on workers comp.⁷³

Management told the Committee that the wellbeing of staff, and the managing of any complaints made, is taken seriously.

Over the last two or three weeks I have had dealings with something like eight individual staff in relation to a variety of matters, concerns they might have had, and one or two of them relate to complaints. Those matters have been addressed and are being dealt with. ... Some people spring to assumptions that nothing has happened when in fact, if complaints are made, the processes are in place, complaints are always treated seriously and the issues are addressed.⁷⁴

During the Committee's visit to New Zealand, Members were informed that assaults on staff had occurred at detention centres, and that measures in place to assist staff included: medical attention, a debriefing, support for a complaint to police, and follow-up during the subsequent health recovery period. In New Zealand, complaints are documented on forms with sequential numbers.

The Committee also observed that in South Australia and Victoria, staff safety is seen as important, and action is taken to improve safety if the need arises. Complaints are treated formally.

In New Zealand, the Committee was advised that frivolous or lesser complaints were dealt with in-house, however, the manager had the capacity to refer complaints of a more serious nature to a local representative committee, which could then arbitrate.

RESIDENT MIX

The Committee cannot overstate the complexity of problems caused to staff members by the mix of residents at AYDC.

Some residents are alleged to have offended and are being held on remand pending a court appearance; others have been found guilty and are serving a period of detention; some are 10 years of age; others, can be 18 years or older. Females and males are at the one facility.

⁷² Stevenson, transcript of evidence, 15/2/07, p. 3

⁷³ Triffett, transcript of evidence, 13/3/07, p. 5

⁷⁴ Smith, transcript of evidence, 27/3/07, pp. 12-13

A percentage of this mix is violent and volatile young people; some have or may have diagnosed or undiagnosed and/or untreated brain injury and mental conditions. Many have no trust in the system and no hope in the future.

It is unreasonable to expect that in a relatively short period of time the staff, having had a short course in behavioural management matters, will be able to develop a relationship of trust and contribute in a significant way to the rehabilitation of the residents.

The Committee is inclined to the view that the resident combination at AYDC is difficult to manage in its present configuration and the pressure on staff to manage the unmanageable produces stresses and tensions that underpin much of the poor practice that has been indicated in submissions and evidence.

The Committee will repeatedly highlight the problems created by the complexities of the resident mix and support the need for strategic change.

The Committee concludes:

1. A relatively small number of staff currently employed at AYDC gave evidence to the committee.
2. AYDC staff failed to cooperate with DHHS in the matter of a voluntary occupational health survey. This lack of support and cooperation may be indicative of low morale, no confidence in the system, and probably more serious problems on site.
3. If youth workers involved in the many facets of educating and rehabilitating young people are also involved in custodial supervision they should be trained in the multiple disciplines necessary to effectively carry out their tasks.
4. A high percentage of permanent staff have achieved TAFE Certificate IV accreditation, however, because of the high turnover of staff, a significant number of youth workers are under-trained or are in the process of training.
5. While there has been an increase in the training effort, the Committee is concerned that an insufficient number of AYDC staff have adequate training to meet the demands of multiple tasks and a volatile environment.
6. The recruitment and induction process should serve as an effective filtering system to ensure people not suited to custodial and rehabilitation programs are excluded prior to employment being confirmed.

7. The New Zealand practice of requiring job applicants to act out, in role-play, various challenging scenarios is a further tool that adds rigour to the induction process and tests the suitability of the inductee.
8. Issues between management and staff – including lack of teamwork, failure to implement policies and procedures, inadequate training, improper use of technology, divisions and distrust – although not substantiated by this Committee and to a large extent dismissed by management, are serious and need to be further investigated.
9. The employee team at AYDC is not functioning as a cohesive unit and lack of communication is contributing to significant problems.
10. Inconsistent practices across shifts are indicative of poor communication.
11. There is discontent with the steep hierarchical structure of current management at AYDC.
12. It is recognised that while the employment of external contractors for transporting residents from site to site is advantageous, the practice of employing external contractors for on-site security purposes is to be avoided whenever possible.
13. The staff/resident ratio of 1:3 is now the best among Australian youth detention centres.
14. The establishment of AYDC in the Deloraine district is a fact of history but in the contemporary environment the relatively isolated location apparently makes the recruitment and retention of well-qualified staff more difficult.
15. The size and location of the site requires maximum workforce flexibility and demands the multi-skilling of employees to carry out both youth work and custodial officer roles.
16. The failure of the 'diversionary processes' to identify and stream young people with psyche, brain injury and addiction problems to focused care, exacerbates the security problems for the inadequately trained staff at AYDC.
17. It is inevitable that some staff members at AYDC will not, for a variety of reasons, some of which may be legitimate, follow the required standard operating procedures.
18. There needs to be clear guidelines supporting a process to identify instances of non-compliance with standard operating procedures so that flagrant and or devious non-compliance can be prevented.

19. The Committee heard some disturbing evidence in relation to assaults upon AYDC staff members. There was further evidence that suggests staff members were not adequately supported after some incidents and had no avenue for complaint to an independent body.

The Committee recommends:

1. The matter of continuing low morale among AYDC employees should be addressed through the further enhancement of recruitment and induction processes for new staff, and enhancing ongoing practices through providing advanced training and personal development programs for existing staff.
2. Communication and coordination between staff and management needs to be improved.
3. The SOPs should be uniformly and consistently applied, and if any deviation is required, it needs to be justified.
4. That the Government ensures AYDC staff can access the services of an independent advocate in the event of workplace stress and injury.
5. Follow-up and support programs should be put in place to assist staff who are recovering from the effects of a workplace incident at AYDC.

TERM OF REFERENCE 3

EDUCATION AND TRAINING OF RESIDENTS

The community has an expectation that the facility will safely retain young people in custody and also engage in therapeutic programs that will enhance their prospects of returning to the community as more responsible citizens.⁷⁵ John Corvan

The Committee has a strong interest in the educational opportunities available to the residents of AYDC.

School age children have an obligation to attend school and the state has an obligation to provide them with opportunity. The Committee is aware that students may now be required to attend further education and/or training opportunities until they reach eighteen years of age.

The older group within AYDC should partake in rehabilitative programs in order to maximise their chances of integration back into society at the earliest possible time.

All young people at AYDC participate in a range of rehabilitative programs. The programs and techniques are applied in a case management context. The programs are tested and understood to be effective for offender rehabilitation. The program framework is designed to provide:

- Cognitive based therapeutic (CBT) programs for persistent and serious offenders, further divided by age, gender and ethnicity;
- A middle range of programs addressing specific criminogenic and social needs; and
- Basic interventions addressing issues that may affect community integration such as employment, education, accommodation and leisure.⁷⁶

Insert 1

COGNITIVE-BASED THERAPY AT AYDC

The rehabilitation of young offenders at AYDC is based on a framework that is divided into three parts, according to a written submission provided by DHHS to the Committee:

Cognitive-based therapeutic (or treatment) (CBT) programs for persistent and serious young offenders, further divided by age, gender, and ethnicity; A middle range of programs addressing specific criminogenic and social needs; and basic interventions addressing issues that may affect community integration, such as employment, education, accommodation and leisure.⁷⁷

CBT aims to redress the “distorted cognition of offenders, such as misinterpretation of social

⁷⁵ Corvan submission, p. 5

⁷⁶ DHHS submission, p. 10

⁷⁷ Ibid

cues, deficient moral reasoning, schemas of dominance and entitlement”, and similar characteristics. CBT employs “systematic training regimens aimed at creating cognitive restructuring and flexible cognitive skills such that offenders develop more adaptive patterns of reasoning and reacting in situations that trigger their criminal behaviour.”⁷⁸

AYDC Manager Bill Smith explained to the Committee how CBT is applied at Ashley in practice:

There is a hierarchy to the delivery of programs; it is shaped like a triangle. At the bottom of the triangle are a range of programs and activities, some of which would include simple recreational activities and so on. They are about integrating a young person into the site and about them the skills and capacity that will lead to successful reintegration back into the community; giving them the skills to live and survive in the community. ... For most offenders, certainly more than 50 per cent, that’s all they need – for want of a better way of putting it. At the peak of the triangle you have more offending-based programs. That’s where you start to get into the more demanding cognitive-based programs, although cognitive-based programs also exist at the base of the triangle. In a simple sense, all a cognitive-based program might be about is challenging why a young person thinks the way they do, why they think it’s okay to be involved in offending. It might cover things such as victim empathy, or doing something without taking any responsibility for it. Often it links to maturity. ... At the higher end you’re starting to focus on the more serious offenders, who are also those more likely to re-offend and so in sense pose a greater risk, so the CBT programs become more sophisticated. ... So the programs exist along a continuum – a hierarchy; ...at the sharper end, for the more serious offenders – sex offenders, repeat offenders, violent offenders – there are programs that need to be delivered by professionals. ...I don’t mean that the programs at the lower end are not.⁷⁹

A review of numerous studies into CBT concluded that it “is indeed an effective intervention”.⁸⁰

The *Youth Justice Act 1997* requires that “so far as the circumstances of the individual allow,” various principles should apply, including that “there should be no unnecessary interruption of a youth’s education and employment.” S.5 (2) and (2) (d)⁸¹

The DoE submission claimed that:

At AYDC this requirement is met through the operation of the Ashley School.

The school on the AYDC site is operated and funded by the Department of Education [DoE]. It has an annual budget of approximately \$82,000 and is part of the Meander Valley Cluster.

All programs for students at Ashley are in accordance with the Act and are specifically linked to the five key principles of ‘Restorative Justice’ which are, in summary to do with Reparation, Responsibility, Rehabilitation, Diversion and Deterrence.⁸²

⁷⁸ Lipsey, Mark W, Chapman, Gabrielle L, Landenberger, Nana A, ‘Cognitive-Behavioural Programs for Offenders’, in *Annals of the American Academy of Political and Social Science*, vol. 578, November 2001, pp. 144-157

⁷⁹ Smith, transcript of evidence, 10/05/07, pp. 1-2

⁸⁰ Lipsey, Mark W, Chapman, Gabrielle L, Landenberger, Nana A, ‘Cognitive-Behavioural Programs for Offenders’, in *Annals of the American Academy of Political and Social Science*, vol. 578, November 2001, pp. 144-157

⁸¹ Youth Justice Act (1997), s5(2)(d)

⁸² DoE, submission, p. 2

The theory is significantly different to the practice.

Witnesses have told the Committee that most aspects of educational, vocational and rehabilitative opportunities available to the young people at AYDC are sadly unsatisfactory.

The ever-present tensions have trended the management regime towards detention and suppression rather than towards education, rehabilitation and the acquisition of life skills.

Comparisons with the educational opportunity available in similar institutions in South Australia, Victoria and New Zealand shame the Tasmanian effort.

The reasons for the unsatisfactory effort are many and varied.

Students may have a track record of failure and rejection; they may have psychological, intellectual or addiction problems; almost certainly they are difficult to manage even in small groups and to some degree staff may feel that the task of effecting meaningful change to entrenched attitudes is just too difficult.

The Committee does not intend to criticise individuals within the system, but clearly the group of teachers, youth workers, policy makers and key management personnel delivering educational opportunity at AYDC lack the resources and thus the commitment to make a difference.

Education and rehabilitation opportunities at AYDC, for some young people, may be their last chance to turn their lives around.

If the programs at AYDC fail to reach these at risk young people in a meaningful and immediate way, the future will bring an extraordinarily high cost both in terms of wasted human lives and the demand on future budgets for increased correctional services.

To do nothing is not an option.

The task is to identify the things that can be changed and change them.

THE RESIDENT MIX

Again the Committee re-emphasises that the resident mix at AYDC is hindering the process of providing sound education to residents – a number of witnesses and submissions attested to this fact.

From time to time remandees make up to 60% of the AYDC population. These young people have not been convicted of a crime but they are troubled and have lost control of their lives. They have little or no idea of the date they will appear in court.

The uncertainty surrounding their period of detention not only causes despair but further the indeterminate remand impinges on the ability of DoE (Department of Education) and DHHS to plan programs and budget for appropriate funds to meet their needs.

Shane Stanton, principal of Ashley school, outlined the difficulties:

Yes, it is hard, particularly when you are trying to work with a young person and their transition back into some sort of training or whatever. You don't know how long they are going to be there so it makes it very difficult. As far as setting up your groups is concerned, maybe if there wasn't such a high number of kids on remand you could put them together with your sentenced kids to work on a long-term project. So that is the hardest part. You have people coming in and out of your groups all the time and I think all teachers find that difficult to work with there at first because they just start working with Jim and then Jim has gone and they do not know that he is has gone and suddenly he has gone, and they are very hard to catch up with and follow up.⁸³

The Committee put the following question to Mr Stanton:

Some people have suggested to us that there should be two separate facilities, not all lumped together, and that there is a hard-core element at Ashley, that if you took them out, the whole system would work together. Any thoughts on that?

To which Mr Stanton replied:

I think there are times when you can no longer work with some people. We hate to say that in education and it doesn't happen a lot, but there are times when a young person reaches that age of 17, getting close to 18, when they are wanting to move on. It makes it very difficult. We have had a couple of those where we have had to keep those people back and educating them and it disrupted the classes [sic].⁸⁴

And again, Tom Lynch,

...I don't think you can operate an Ashley-type centre, which provides safe custody for children with a genuine effort at trying to provide them an opportunity to improve their lot and to come out of there as better people and not ones on a corrections treadmill if you are forced to cater for the worst of that group within that age range.⁸⁵

DHHS deputy secretary Alison Jacob, identified the complexity of the young people some times presenting for school:

When you are dealing with most of these young people, you realise that they have significant family issues, significant school issues, significant

⁸³ Hanlon, Evans, French, and Stanton (13), transcript of evidence, 26/3/07, pp. 16-17

⁸⁴ Ibid, p. 17

⁸⁵ Lynch, transcript of evidence, 13/2/07, p. 1

peer issues and significant community issues and to get all that work happening in a very intensive way does require a much more intensive level of staffing than we have.⁸⁶

Ms Deborah Byrne, from the Brain Injury Association of Tasmania, reinforced the complexity of young people in detention in her verbal evidence when she submitted that “some research has indicated that potentially up to 60 per cent of residents in our youth detention centre could have either an undiagnosed brain injury or a diagnosed brain injury and not have it treated.”⁸⁷

Ms Byrne further suggested that there is not enough training to recognise psychiatric or intellectual disorders, detoxification and drug addiction. She claims that many AYDC residents should not be at Ashley at all but rather at a facility where qualified professionals are able to assess and treat the cause behind the offending behaviour.

The need for facilities to assist with the detoxification of young people who are alcohol and substance addicted, along with the proposition that many of the behavioural problems evident at AYDC were mental health related, was repeated many times.

COMMUNITY STANDARDS

There is a united front from DoE and DHHS regarding the need for AYDC’s education and vocational opportunities to reflect those available in the general community:

AYDC Manager Bill Smith stated:

I think that a child in Ashley should have the same educational opportunities, *prima facie*, as a child in the community.⁸⁸

Ms Jacob told the Committee that to address the education needs of remandees is

Not to treat Ashley as if it were a separate educational provision but to see it as part of a continuum, which really has to be linked to where they have come from and what happened afterwards.

It was put to Ms Jacob that this is not happening enough. She agreed:

No, I don’t think it is. That is the reason we got people [from DoE and DHHS] together towards the end of last year... to look at how we could address that, not just for the young people of Ashley... but more generally for young people in the Youth Justice system.⁸⁹

⁸⁶ Jacob, transcript of evidence, 10/5/07, p. 10

⁸⁷ Byrne, 13/2/07, p. 1

⁸⁸ Smith, transcript of evidence, 10/5/07, p. 3

⁸⁹ Jacob and Bayliss, transcript of evidence, 27/3/07, p. 3

Significant evidence leads the Committee to the view that the young people at AYDC spend an inadequate time in education. The educational opportunity at AYDC does not match the opportunity available in the wider community and the programs often do not engage the students.

The Committee has been told that students can opt out of classes to watch DVDs, which management accepts as a lesser stress than confronting the issue of keeping students in the classroom.

While the DoE funds 3 hours of education per day for five days a week the students seldom avail themselves of that opportunity.

During periods when students and teachers of the wider community are taking holidays AYDC languish and become bored and vulnerable.

The failure to program learning experience during the time school teachers are on holiday is a serious omission.

AYDC manager, Mr Bill Smith, accepts the substance of the 'Review of Resident Safety' prepared in August/September 2005 by the former Commission for Children, David Fanning. A significant item of the review highlighted the variance between time spent in education in States like Victoria and South Australia and that in Tasmania.

The *Review of Resident Safety* stated that:

There is a genuine desire, from a large number of residents, for the AYDC facility to offer more educational and vocational opportunities or programs. The provision of a broader range of formal programs and more school hours, would not only provide residents with a greater range of skills and opportunities for their re-integration into community life, but would also serve to de-escalate tension on the site and, subsequently, would reduce the potential for intimidation.⁹⁰

Dr Sue Jenkins, former interim Commissioner for Children, stated:

I had a really good conversation with a group of [AYDC young people] and they were very open about what they liked and what they did not like. They had lots of complaints about the food inevitably but they said that one of the big problems there is boredom. They enjoy school and what is very striking I think when you go there is that the school environment is extremely well looked after. There is no graffiti, there were some lovely collages there which you probably saw which have been up there for quite some time and have never been torn apart. There is obviously a respect and enjoyment there.⁹¹

⁹⁰ DHHS, 'Review of Resident Safety at Ashley Youth Detention Centre', September 2005, p. 35

⁹¹ Jenkins, transcript of evidence, 13/3/07, p. 5

YOUTH WORKER TRAINING

The Committee received evidence that a significant proportion of the program delivery is currently the responsibility of youth workers who often don't have the skills to provide educational, vocational or rehabilitative programs for this really challenging and challenged group of young people.

According to Brian McClifty

At AYDC a young person is required to attend set programs designed to address their social interaction, educational and vocational, and criminogenic needs. Some parts of the program are delivered by qualified service providers that over a one-week period equate to less than 30%, with the approximate remaining 70% of time for youth workers to deliver activities within the program. Those activities include Frisbee and vortex throwing, pool activity, BBQ area activity, rubbish collection and card games to name a few.⁹²

And also the difficulties of both implementing a program and providing supervision as well:

...So while you are trying to dodge basketballs being kicked in your face, trying to watch out for kids that are going too close to the fence, you are fulfilling a life skill.⁹³

HACSU submitted:

The majority of programs for residents lack a meaningful purpose in providing vocational and personal skills to enable residents to break the cycle of offending. The Centre lacks facilities for vocational programs and a typical day for residents may include rubbish removal, sporting activities and games. There is a lack of programs designed to increase residents' vocational and life skills.

There are not enough service providers contracted to provide programs at the Centre. Approximately seventy per cent of resident programs are conducted by Youth Workers and this is done whilst at the same time providing supervision to residents.⁹⁴

Committee received evidence of young people refusing to attend school and as a result being engaged in inappropriate time-fillers such computer games.

It was submitted that residents had access to videos and DVDs that directly related to their past life of crime, prison riots, and also allowed to leave sexually explicit posters attached to the walls of their living quarters.

AYDC manager Bill Smith said that:

⁹² McClifty, submission, p. 3

⁹³ McClifty, transcript of evidence, 14/2/07, p. 4

⁹⁴ HASCU submission, p. 4

I see schooling, literacy and numeracy, compulsory for the younger children and vocational education opportunities for the older ones as being somewhere where we could do better.⁹⁵

THE FARM

When Ashley operated as a Boy's home there was a strong interaction between residents and the community. Many positive influences flowed from the community to the residents.

The transformation of Ashley – from home to detention centre and the complexity of the resident mix of young people on site – has virtually eliminated this interaction. While in the past young people at Ashley would, under supervision, go camping and fishing, visit the township for mentoring and work on the farm for self-esteem and skill learning, they are now confined and isolated.

Such a situation is a sad reflection on the positive future of hope for rehabilitation that was central to the passage of the YJA through the parliament.

Despite claims by management that approximately 50 percent of the residents use the farm for enhanced learning outcomes for about 2 to 3 days a week the Committee received significant evidence that such was not the case.

AYDC Operations Manager Ralph Beck told the Committee:

Those who are eligible would spend anything from two to three days a week but... a young person needs to meet certain criteria before they are eligible to go outside the fence.

And

Sure, there are some who would like the farm to be used more, but... yes, there are certainly short periods of time where there may not be anyone on site eligible.

He further claimed that:

Although they are not on the farm and fencing or pulling out ragwort as often, I think they are involved in more productive programs.⁹⁶

Comments such as this are a sad reflection on the quality of the farm based learning experience and indicate that detention and management within the perimeter fence is of a greater priority than exploring the opportunities to make a lasting long-term difference to the life of the young person.

⁹⁵ Smith, transcript of evidence, 27/3/07, p. 3

⁹⁶ Beck, transcript of evidence, 26/3/07, pp. 2-4

Ashley School principal Shane Stanton has a better vision:

There is room to move... we would like to get the horticultural [sic] and agriculture up and running. That is something I have a real passion for. ... We have this 100-acre farm around us out there and I think we could utilise that better. ... I have just applied for this grant and got it. It is a \$150,000 grant to build two new classrooms adjacent to the school and from one of those we would certainly like to run horticulture and agricultural [sic] from.⁹⁷

Lindi Kruger, from Whitelion, bemoaned the lack of use of the farm and commented:

From my point of view I would love to see more of this happening. In many ways I believe that can be more important than some of the education because young people are being given an opportunity to develop real-life skills that they can apply to their lives.⁹⁸

NON-GOVERNMENT ORGANISATIONS

There are several NGOs that provide support services for AYDC.

Organisations such as Whitelion, Chance on Main, and Project U Turn are keen to provide programs within AYDC framework but their capacity to contribute significantly is restricted by the limitations of their funding.

The Committee recognises that a strong, formally structured relationship must exist between AYDC and NGOs if the Centre is to meet its requirement of education, training and rehabilitation for the young people both on site and during that time after the young person leaves AYDC.

Whitelion is a charity organisation that works mostly with young people who are involved (or at risk of becoming involved) in the youth justice system.

Ms Kruger explained to the Committee:

We work very closely with the AYDC and we work inside the centre very closely with the young people who are residents at the centre. We have been operating in Tasmania since 2002. ... Our programs that we run here are mentoring ... also employment and role models [sic] and those three programs all operate within the centre.⁹⁹

Whitelion has also provided personnel to support overworked staff during school holiday periods when DoE staff are on leave:

We have also assisted Ashley for this school holidays with their contract staff so that they could continue utilising their contract staff for programs.

⁹⁷ Hanlon, Evans, French, and Stanton, transcript of evidence, 26/3/07, pp. 11-12

⁹⁸ Kruger, transcript of evidence, 14/2/07, p. 11

⁹⁹ Ibid, 14/2/07, p. 1

Whitelion has paid for contract staff and invoiced that to Ashley. I'm not too sure of the politics but something happened that prevented them from hiring their own contract staff and we agreed to help out.¹⁰⁰

Whitelion also provide a post-release program;

Part of our focus on delivering those programs is that once they are due for release that they will want to voluntarily refer to Whitelion and at that point we can then help them to reintegrate into their community.¹⁰¹

Evidence from Whitelion and other NGOs is positive, focussed, and reflects a desirable vision for young people at risk. Further, evidence from other jurisdictions where NGOs are better funded and play a more significant role suggests that good outcomes can be achieved.

At AYDC funding for NGOs such as Whitelion is scarce and limits the contact hours. Regrettably limited contact with the clients produces limited benefits for the client.

A Whitelion representative explained that three months is usually the "minimum" amount of time a youth can spend at AYDC.

During that period of exposure to Whitelion, if they are in the centre for three months, would be one program a week and one visitation, so their exposure might be a total of three hours. If they are referred to the employment program then they might see me once a week. If it is school holiday week then they might have another full day. Given the amount of time we, our volunteers and our corporate supporter spend with the young people I believe that our successes are incredibly high in that the young people show a high amount of respect for Whitelion staff and volunteers.¹⁰²

Insert 2

WHITELION

The Committee heard evidence from Lindi Kruger, a representative of Whitelion Tasmania, on 14 February 2007, and conducted a discussion with two Victorian representatives of Whitelion, on 22 February 2007 in Melbourne.

Whitelion aims to "reconnect disadvantaged young people with the community" by providing services including avenues to employment and mentoring.¹⁰³

Whitelion's Involvement at AYDC

Whitelion Tasmania, with the support of about 25 volunteers, has operated a mentoring scheme at AYDC since 2002. It also runs a series of short courses on life skills and community reintegration (called Pathways). The programs aim to engage with the participants through active learning activities.

¹⁰⁰ Ibid, p. 3

¹⁰¹ Ibid, 14/2/07, p. 2

¹⁰² Ibid, 14/2/07, p. 10

¹⁰³ Whitelion, 'Be the Change: Annual Report 2005-06, p. 1

It is partly funded by AYDC and the Tasmanian Community Fund. Extending existing programs, in the long-term, would be dependent on securing extra funding.

Residents are offered points, based on engagement, leading to privileges for participating in the programs offered. Of the young people who attend the programs, "there is probably a 60% success rate of reducing or eliminating offending behaviour."¹⁰⁴ The older residents participate successfully.

The mentor program also includes post-release mentoring, which is regular for at least 12 months, and attempts are made to find employment for former residents.¹⁰⁵

Whitelion's Involvement at Juvenile Justice Centres in Victoria

Through sessions of activities Whitelion attempts to match young people to a mentor once they have become involved in the juvenile justice system. Mentors are young and old. Recruiting is conducted twice annually, and people are selected on the basis of life experience rather than actual qualifications. Young people are taken on camping trips to help develop the relationship between a young person and their mentor.

Whitelion in Victoria uses its business contacts to place offenders in work experience. They also plan out the vocational or educational plan that is needed to take a person to where they want to go in life. Whitelion has 45 corporate sponsors, garnered over a long period of time. About 80% of the young people come from Victorian Juvenile Justice, the others from out-of-home care. Young people are also allowed access to TAFE.¹⁰⁶

ABORIGINAL YOUTHS AT AYDC

The Committee notes that there is a disproportionately high number of young people of aboriginal descent detained in AYDC from time to time.

Three recommendations submitted by the TAC (Tasmanian Aboriginal Centre) were:

- A more humane approach to incarceration of young people at Ashley be adopted;
- That the YJA be amended to acknowledge the existence of alternate to detention schemes for Aboriginal youth; and
- In the interim and/or in the alternative, that programs be implemented within Ashley specific to the needs of Aboriginal youth and that the TAC be funded and encouraged to design and implement those programs.¹⁰⁷

Evidence received from several witnesses with current or former management experience submitted that while they recognised the worth of such programs

¹⁰⁴ Kruger, transcript of evidence, 14/2/07, p. 10

¹⁰⁵ Ibid, 14/2/07

¹⁰⁶ Wilson and Broome, transcript of evidence, 22/2/07

¹⁰⁷ TAC submission, p. 1

they believed that funding expansion of the Clarke Island experience should be restricted until acceptable processes of financial and operational accountability had been established.

THE SEPARATE EFFORTS OF DoE AND DHHS

The fragmented and separate efforts of DoE and DHHS has contributed to the lack of educational opportunity at the AYDC.

The Committee recognises the recent increased level of co-operation between the two agencies as being in the best interests of both the students and the service delivery but an increase in contact hours is fundamental to the introduction of any programs aimed at improved outcomes.

Ashley School Principal Shane Stanton accepted that lack of suitable programming is a significant issue which is exacerbated during the school holiday period when the DoE does not conduct any programs at all.

The kids really do miss us. There is a big block of time over the Christmas holidays at Ashley where it falls upon the programs coordinator to come up with as many programs as he can because school is not there.¹⁰⁸

Former DoE senior manager and now DHHS senior manager Alison Jacob stated that there is a need for clarity about

...What should be provided during school time, non-school time, holiday time, after school and what the links are there. A lot of improvement has been made but more needs to be done ...and I think there has been a lot of progress made on that in the last few years but clearly that can improve.¹⁰⁹

Ms Jacobs made the point that control over programming should be designed and delivered by the DHHS and the DoE working co-operatively.

Ashley management agrees that there is a need for a summer education program, and manager Bill Smith advised:

The Department of Health and the Department of Education could work more closely to develop the school and the educational and vocational opportunities provided at Ashley. The process is underway and a high level committee established to look at these issues and is still looking.¹¹⁰

¹⁰⁸ Hanlon, Evans, French, and Stanton, transcript of evidence, 26/3/07, p. 10

¹⁰⁹ Jacob and Bayliss, transcript of evidence, 27/3/07, p. 5

¹¹⁰ Smith, transcript of evidence, 27/3/07, p. 3

The Committee concludes:

1. Society has a right to expect that young people entering AYDC will be given every chance of rehabilitation.
2. Students attending the Ashley School are most likely disengaged having failed at previous schooling efforts and this may be their last opportunity to re-engage the benefit of educational opportunities.
3. The rehabilitation of young people is enhanced by the provision of education and vocational opportunities.
4. Education, rehabilitation and vocational guidance programs delivered at AYDC should make a cohesive link to the opportunities available to the young people immediately upon leaving AYDC and thereafter.
5. The AYDC environment disadvantages young compulsory school age people because, both in regard time and quality of programs, they are unable to access the same education opportunities available in the greater community, due to a lack of funding and other issues.
6. Time spent by residents actively engaged in formal programs related to education, including vocational and rehabilitation programs, does not currently meet the expectations of society.
7. Programs provided by DoE have value, but the young person's choice to opt out of the opportunity is accepted too frequently, or the youth workers are inappropriately trained to deliver the service.
8. There appears to be significant gaps in the daily timetable that inadequately trained youth workers are required to fill.
9. Boredom caused by a lack of commitment to the educational effort is a major contributor to security issues and conflicts between staff and residents.
10. Insufficient effort is being made to design and resource specific programs for school time, non-school time and holiday time.
11. There are NGOs willing to be involved with helping the young people at Ashley and only funding limits their capacity to make a difference.
12. Use of NGOs as a support mechanism for young people leaving AYDC appears to be beneficial, but when they are only funded for one or two hours per week, it is difficult to build productive relationships.
13. The potential of the school farm as a place of learning and rehabilitation is recognised, and improvements in security and morale would enable it to be met.

14. The benefits of providing culturally appropriate programs for young people of Aboriginal background are theoretically sound but financial and performance accountability is seriously lacking.
15. Educational and vocational benefits may flow if the residents of AYDC were provided with supervised community mentoring opportunities.
16. There has been some improvement in the education area, but more needs to be done.

The Committee recommends:

1. Attendance at school and scheduled training courses should be mandatory for AYDC residents, and contact hours should be comparable with educational institutions in the wider community. Funding and resources should be adequate for the educational needs of residents.
2. Subject to eliminating the problems associated with the resident mix at AYDC and an enhanced security regime, the opportunities existing on the school farm should be utilised for the benefit of residents.
3. Education-based learning opportunities should be available at AYDC during those times when mainstream education officers are on holiday.
4. All AYDC employees providing educational and vocational content in courses should be appropriately trained to achieve better outcomes.
5. TAFE and other NGOs should have access to AYDC in order to provide services and opportunities for the residents.
6. Management should be encouraged to introduce programs that re-engage the young offenders commensurate with community expectations.

TERM OF REFERENCE 4

ALTERNATIVE SENTENCING

I keep coming back to this central theme that it has to be about nurturing these young people.¹¹¹ Rob White University of Tasmania (UTAS)

ALTERNATIVE SENTENCING UNDER THE ACT

DHHS's written submission outlined the Department's responsibilities under the Act and the important role that alternative sentencing or 'diversionary processes' play in the youth justice system.

The Act was modelled on juvenile justice legislation in other Australian jurisdictions, particularly South Australia and current legislation and the practice in New Zealand. The conferencing provisions in particular, were drawn from the New Zealand model.

Both South Australia and New Zealand support a tiered model of diversion.

The *Youth Justice Act 1997* introduced options to divert young people away from the more formal processes, procedures and sanctions of the criminal justice system.

Two tiers of formal diversion are established under the YJA: formal police cautioning and community conferencing.

Police also have the power to informally caution young offenders. There has not been, until very recent times, any record kept of informal cautions. Informal cautions occur "on the spot" where the police officer advises the young person that they are doing something wrong and should desist before more formal action is taken. Formal diversionary procedures only apply to young people who have admitted the commission of an offence.

Diversion from the court system is considered a more effective way of dealing with young offenders for a number of reasons:

- Most young offenders commit relatively minor offences and they do not re-offend;
- It decreases the risk of the young person moving deeper into the criminal justice system and thereby reduces the possibility of stigmatisation, alienation and exposure to criminal culture;
- There is more impact upon young offenders in that the young person will face the victim of their behaviour and the community;

¹¹¹ White, transcript of evidence, 13/2/07, p. 9

- The less delay between the commission of the offence and sanction in the court the greater the chance that the offender will link the cause and the effect; and
- Sanctions are designed not only to punish but to expeditiously provide the young person with an opportunity to repair the harm they have caused, develop new skills and change behaviour.

In the Tasmanian context if the management of the young offender's case goes beyond the formal police warning stage the Act requires a court appearance and a plea of guilty before community conferencing can commence.

A court appearance may lead to a young person being unnecessarily detained on remand until the completion of their case.

Insert 3

COMMUNITY YOUTH JUSTICE

Community Youth Justice encompasses a range of aspects of the youth justice system short of a supervised detention order. These are community conferences, inter-agency support teams, pre-sentence reports (to develop sentencing options), building the capacity of the community to reduce youth offending, and the supervision of various court orders. There are different types of court orders, which at present are community service (or work) orders, probation orders, suspended detention orders, and supervised release orders.¹¹²

Community Conferencing

According to a section on community conferencing on DHHS' website:

Young people can be diverted from the court process in appropriate circumstances, either by Tasmania Police or a Magistrate referring the matter to a community conference. The conference is referred to Youth Justice Services, who in turn employs about thirty-five independent facilitators to organise and run the community conferences around the State.

Conferencing is a feature of the restorative justice philosophy upon which the *Youth Justice Act 1997* is based. The facilitators come from a wide range of professional backgrounds, such as social workers, psychologists, lawyers, teachers and Family Court counsellors.¹¹³

In a written submission from DHHS, community conferencing was described as a "key provision" of the YJA.

The conference is a legally binding forum, which provides an opportunity for the child or young person to acknowledge and accept responsibility for any harm caused by the offence.

The forums are also supposed to provide an opportunity for the offender to discuss with the victim the harm that has been caused, with the opportunity for an apology, agreeing to

¹¹² DHHS submission pp. 6-8

¹¹³ DHHS 'Community Conferencing', at <http://www.dhhs.tas.gov.au/agency/pro/youthjustice/community.php> accessed June 2007. This site contains links to documents provided further information on the specific practice of community conferencing.

perform community service, and addressing and seeking assistance for personal problems that led to the offending.¹¹⁴

Community Service Orders

Community service orders are among a number of options a court may impose on a young offender under the YJA. The purpose of such orders is “to provide a clear consequence for significant or repeated offending.” The young person is not detained, but is “deprived of some recreation time without disruption to family, education, or employment time.” Tasks for the young offender to complete range from making a reparation to the community; reinstating the property of victims; developing and learning new skills; and establishing relationships with community members.¹¹⁵

Supervision of such orders may be undertaken by Youth Justice or by community members.

According to verbal evidence given by DHHS Deputy Secretary Alison Jacob:

In some parts of the State it is much more prevalent that if you are going to run a community service program there is almost an insistence that a Youth Justice officer is there to supervise, whereas in other parts of the State people who are involved in the community are quite happy to take on that sort of supervisory role.¹¹⁶

COMMUNITY SERVICE ORDERS

The core element of diversionary programming is the community service order system. The system has much to recommend it and deserves greater support from both government and community organisations than it presently gets.

Ms Isla Macgregor, from Whistleblowers Tasmania, was one of many who saw the benefits of community service order projects:

The success of community service order projects is undeniable. The mentoring role of the youth support workers and the commitment of community organisations to play a part in the diversionary and re-integration process of young offenders in the community reflects the outcomes of the TasCOSS conference Beyond Imprisonment held in 2000.¹¹⁷

Regrettably the Committee received evidence that while Tasmania is drawing from ‘best practice’ philosophies, the current diversionary processes are not functioning as intended under the YJA.

Again Ms Macgregor questioned commitment:

The Government’s commitment to the *Youth Justice Act* needs to be seriously questioned in light of recent cutbacks to the community service order placement projects. In the last two weeks, southern regional youth support workers have had their work hours cut by 60 percent for the

¹¹⁴ DHHS written submission p. 6

¹¹⁵ Ibid, p. 7

¹¹⁶ Jacob, transcript of evidence, 10 May 2007, p. 4

¹¹⁷ MacGregor, transcript of evidence, 13/2/07, p. 1

foreseeable future... There is a backlog of over 1000 work-order hours, which will result in major delays for participants and partners with the youth justice programs. These actions by government conflict with the youth justice plan, the departmental FIT program and the Tasmania Together process.¹¹⁸

When questioned by the Committee as to whether Community Youth Justice has the resources to ensure that community obligations were carried out, or indeed, whether the young person even turned up to complete the order, Ms Jacob commented:

Again, the level of supervision that's provided for those community work orders would certainly have a great effect on whether or not they kept to the conditions of them and showed up when they were supposed to and did the work when they were supposed to.¹¹⁹

Ms Jacob was asked if she could assure the Committee whether all community service orders were being supervised and properly undertaken. She replied:

No, we couldn't in all cases because we don't have Youth Justice officers supervising all cases.¹²⁰

Best management practice requires that a young offender's action and the consequences flowing from it are linked and that the young person understands the link. The worst outcome for both the young people and the community is that poor management practice in a stressed system allows the young offender to be lost in the system and that there should be no consequences for the offending action.

Ms Jacobs is the officer within DHHS responsible for the Youth Justice program and her failure to clearly and with out hesitation assure the Committee that the service order program associated with diversionary conferencing is working, and that any young person sentenced to service orders meets the conditions of those orders and pays the price to society and or the victim, is a cause for great concern.

It is generally acknowledged that preventing a young person from being trapped and influenced by the detention system delivers a significant benefit both for the young person and for the State.

The evidence gathered from New Zealand and other states of Australia, where the philosophy is now applied practice and outcomes are assessable, proves that funds invested in any program to keep young people out of detention is a worthy investment.

¹¹⁸ Ibid, 13/2/07, p. 1

¹¹⁹ Jacob, transcript of evidence, 10/5/07, p. 6

¹²⁰ Ibid, 10/5/07, p. 6

Rob White from UTAS, although supportive of any measure designed to prevent youth from ending up in detention, is mindful that community conferencing is an expensive exercise that involves a range of service providers working within very tight monetary constraints. He suggested that:

One of the limitations of conferencing is that often it is used for more trivial offences or first-time offenders. I have argued this for years that in fact conferencing in some way is more appropriate for the harder nuts to crack, and to use it intensively with those people. 80% of young people who commit an offence don't reoffend just like that; they don't need to go to a conference. Personally, I think it is a waste of money, police resources and health and human services resources for first-time offenders to go to conferencing. It is a lot of people that you are organising. The intensive resources should go to those who need the intensive assistance. We have the system the wrong way up; we are putting a lot of resources at that front end for the trivial first-time offender, but we need to put more intense resources in to the more problematic young people.¹²¹

A senior Victorian Juvenile Justice official supported the diversionary system of group conferencing and stressed that there was a place for community conferencing at all level of offending.

The official highlighted the need for outcomes to be appropriate to the crime and the resources available:

In some jurisdictions there is a tendency for young people to have to be supervised in relation to those outcome plans. Our philosophy is that we would hope it is the young person who takes responsibility for that, which means if it is modest, it is achievable.

It might be that the young person washes the victim's car or mows their lawn or pleads the offence, rather than a plan that looks like a case plan that has a series of goals that four people need to support them to do.¹²²

The committee also received evidence highlighting the need to examine the reason for or the cause of the offending behaviour.

Issues relating to mental illness, brain injury, psychiatric or intellectual disorders and substance abuse can be mitigating factors. It seems only appropriate that young persons identifying with the foregoing issues should be diverted to specialist facilities for assessment and treatment.

It is important that the diversion offered is appropriate to the circumstances of the young person.

¹²¹ White, transcript of evidence, 13/2/07, p. 2

¹²² Private witness, transcript of evidence, 22/2/07, p. 13

GOVERNMENT SERVICE PROVIDERS

The Committee is concerned that the quality of collaboration between the various government service providers is less than it should be.

When it asked about early intervention programs Ms Jacob replied:

If you asked me the question, 'What could we do to improve the circumstances of young people at Ashley?' My view would be not having them ever get to Ashley. Clearly the evidence suggests that we can usually identify fairly early on the young people who are likely to end up on that sort of trajectory.

We know there is a huge link between the child protection system and the young people who end up in Ashley. I think David Fanning's report mentioned that if you have the Secretary of the DHHS as your guardian, you are 20 times more likely to end up at Ashley than you would otherwise.¹²³

The Committee received evidence from DHHS and many other interested bodies regarding the need to have a multi-agency, collaborative approach when dealing with young people in the youth justice area.

Looking at Youth Justice in isolation from disability, child protection, housing and so on is not a good thing to do. We have to look at the infrastructure and the resourcing that surrounds that group of young people.¹²⁴

The Committee recognises the importance of having at risk young people in school, in training or in jobs.

A South Australian administrator reinforced this opinion:

We know the evidence says if a young person has a job they don't commit crimes, it is when they have nothing to do and no money when the trouble starts.¹²⁵

Ms Jacob further stated her priorities in the area of Community Youth Justice were 'better supported bail options' and a much more intensive focus on those youths at the high risk end of the youth justice spectrum.

The other thing, of course, is to do a very intensive intervention with the highest-risk, most serious offenders who constantly come back into the system. In Western Australia the multi-system therapy approach is being used and it is also being used in New Zealand... both have done pretty good evaluations which would suggest that it is very cost effective so that the cost of that is obviously more than simply keeping someone in the

¹²³ Jacob and Bayliss, transcript of evidence, 27/3/07, p. 6

¹²⁴ Ibid, 27/3/07, p. 8

¹²⁵ Private witness, transcript of evidence, 21/2/07, p. 6

community with a general youth sort of model, but it is far less than keeping them at Ashley.¹²⁶

Ms. Jacob cited the need for greater effort:

I think that with the right programs, and particularly a pretty intensive program, it is possible to stop young people from that kind of trajectory from first offending right through to being multiple offenders and into the adult justice system. I think we are not merely providing the level of intensity of program which is required to get that kind of outcome.¹²⁷

NON-GOVERNMENT SERVICE PROVIDERS

The importance of non-government community service organisations in the youth justice area is highlighted in the Federal Government *Report on Government Services 2006 - Community Services*.¹²⁸ The preface outlines State, Territory, and Commonwealth Government roles and responsibilities in community services:

- Funding non-government community service organisations, which then provide community services to clients;
- Providing services to clients directly;
- Regulating non-government providers; and
- Undertaking policy development and administration.¹²⁹

The Committee received evidence from several of Tasmanian's non-government service providers including:

- Molenda Lodge
- Chance on Main
- Whitelion
- Anglicare
- Youth Futures

The Committee also received a submission from YNOT, the peak body of the non-government youth sector.

¹²⁶ Jacob, transcript of evidence, 10/5/07, p. 3

¹²⁷ Jacob, transcript of evidence, 10/5/07, p. 5

¹²⁸ SCRGSP (Steering Committee for the Review of Government Service Provision), *Report on Government Services 2006* (Productivity Commission, Canberra, 2006), vol. 2, part F

¹²⁹ *Ibid.*, p. F3

The Committee were extremely heartened by the dedication that each of these organisations demonstrated in dealing with society's most vulnerable. No doubt, the government agencies are struggling under the burden of their unfulfilled tasks. The non-government organisations have proven conclusively that they are now a necessary contributor to effective alternative sentencing options.

The Committee accepts that not only was the dedication of the NGOs beyond question but further the overarching philosophies that are at the core of their being synchronises perfectly with the philosophy of the Act. This view, articulated by Anglicare, was representative of all NGOs:

Anglicare supports diversionary programs, as they offer significant benefits for both the offender and the community. They avoid the stigma associated with prosecution and they also prevent first minor offenders from being 'contaminated' through further contacts with serious or recidivist offenders. They provide a process for young offenders to take responsibility, and respectively save resources to focus on more serious crimes that pose a far greater threat to society.¹³⁰

Mr Willans from YNOT advised that to achieve the outcomes required under the Act, there needs to be greater support and recognition of community programs that support youth justice services, like Chance-on-Main, Project U Turn and Whitelion.

However, he went on to advise that the Government sector was not fostering the links between the Government and the NGOs that are required to ensure good outcomes for our young people.

Many of the NGOs appear to be capable of demonstrating success, particularly in areas where the Government sector is falling well short. Chance on Main has proven results when working with young people who are at a low point of their life.

FUNDING YOUTH JUSTICE AT THE COMMUNITY LEVEL

Alison Jacob, DHHS, verbal submission to the Committee provided the Committee with a general overview of the current mismatch in the allocation of Youth Justice's budget between Community Youth Justice and Custodial Youth Justice:

Ms Jacob made the point that the young persons who are not resident at Ashley are equally worthy, and perhaps even more worthy of a focus for government resources than the relatively small number of persons who are resident at Ashley.

¹³⁰ Anglicare submission, p. 5

If we look at the Youth Justice budget of \$11.5 million, \$8 million of that goes to Ashley. That does not leave a lot for the other 500 young people in the Youth Justice system.¹³¹

The Committee further queried the apparent mismatch in funding between AYDC and Community Youth Justice. The Committee suggested that if more money were spent on keeping young persons out of Ashley, the outcomes would be a lot better.

Ms Jacob replied:

If you consider that it costs about \$250,000 per annum to keep a young person in Ashley, if we could stop a relatively small number of young people from going into Ashley then ultimately you could put some of that money into the community sector.¹³²

According to Mr Willans from YNOT:

"...Our understanding at the moment is that whilst the Community Youth Justice have developed some good collaborative case management models ...our understanding is that the resources of that department are being severely squeezed and will continue to be squeezed and their capacity to provide the sort of case management to clients that might be expected under the Act is being compromised and will be further compromised as we go into the next few years with the problems of the DHHS budget and prospective problems caused by building of the hospital."¹³³

And again:

The tangent is the fact that, in the absence of better funding for CYJ, what seems to be happening is an effort to outsource some of the functions of CYJ to community organisations in the hope that they will become funded from Commonwealth and other sources and that local government... and community organisations would want to engage with the client group, would want to provide services and would be able to engage in community capacity building that would help prevent them going to Ashley. If that is happening, in a way that is really just cost shifting from State Government to local government and community organisations because of lack of capacity, that will not work.¹³⁴

Rob White, when responding to questions regarding NGO's ongoing viability to provide alternative sentencing options replied:

The difficulty is their funding. They are funded on such a contingent basis, it is so short term, that basically they are scrambling all the time. Depending on who the bureaucrat is or the minister is or whatever, you are going to have a lot of variables as to whether they are going to keep getting funded. So I think one of the crucial things is that we have

¹³¹ Jacob and Bayliss, transcript of evidence, 27/3/07, p. 8

¹³² Jacob, transcript of evidence, 10/5/07, p. 2

¹³³ Willans and McKay, transcript of evidence, 23/3/07, p. 6

¹³⁴ Ibid, p. 7

continuity of funding for things that seem to have demonstrated good effect.¹³⁵

Mr White goes on to mention the important issue of the evaluation of all programs involved in this area:

Related to that, we need to evaluate. There is a lot of stuff, as we know, in criminal justice – a lot of project, services and people looking for further funding – but what we need to ask is how many have been properly evaluated and how do we sensitively evaluate programs. We actually want to find out whether it is changing how the young people themselves are thinking about themselves through the service rather than simply an evaluation that says, ‘We’ve had 100 young people come through our services, isn’t that wonderful.’ I think we need to come back to a little bit of evaluation of some of these programs.¹³⁶

REHABILITATION OF YOUNG PEOPLE OF ABORIGINAL DESCENT

The disadvantaged status of many aboriginal youths is well documented and is profiled in a table from DHHS written submission.

Table 1: The number and proportion of Indigenous young people at AYDC¹³⁷

Proportion in numbers, monthly average	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Avg.
2001-02	11.1	12.1	12	11.9	10.6	9.3	9.8	9.3	7	5.9	6	6.2	9.3
2002-03	6.5	5.8	4.3	5	4.5	3.2	5.1	6.6	8.1	5	5.7	3.5	5.3
2003-04	5.9	2.3	1.7	3.1	4.8	9.1	9.4	6.8	6.6	6	4.4	4.4	5.3
2004-05	6.1	6	5.9	5.5	10.5	10.9	10.4	9.3	10	7.7	11.3	10.6	8.7
2005-06	9.8	9.7	8.9	7.9	9.6	4.8	6.5	7.3	5.1	6.9	11.6	11.8	8.3
Proportion as a percentage, monthly average	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Avg.
2001-02	30.3	36.2	36.4	35.5	28.9	28.8	27.8	26.6	23	14.9	15.2	16.9	26.3
2002-03	20.6	19.1	14.3	15.9	14.5	12.3	18.6	21.5	24.4	17.5	19.5	15.8	18
2003-04	21.7	6.7	6	13.5	20.7	28.9	29.6	27.3	18	18.8	14.1	19.3	18.6
2004-05	26	20.6	17.2	16.5	25.8	27	25.9	27.3	32.3	27.9	35	29	25.9
2005-06	28.7	27.8	25.9	25.6	34.2	22.1	24.9	25.4	18.6	23.7	33.8	31.1	27.2

Trudy Maluga of the Tasmanian Aboriginal Centre Inc. submitted:

The key to rehabilitation is self-determination. This is partly recognised through Aboriginal youth having an alternative to imprisonment scheme administered by the Tasmanian Aboriginal Centre at Lungtalannana. More is needed. In the interim, where Aboriginal youth are being

¹³⁵ White, transcript of evidence, 13/2/07, p. 10

¹³⁶ White, transcript of evidence, 13/2/07, p. 10

¹³⁷ DHHS submission, p. 15, table 3

sentenced, they should be sentenced to Lungtalannana (Clarke Island) where Aboriginal people operate and care for Aboriginal youth wholly and solely. In each case, however, the young person must want to enter our program and give informed consent to do so. To access the Lungtalannana (Clarke Island) program the youth would be assessed for suitability.

The present system is inadequate in providing meaningful self-determination for Aboriginal persons because Ashley Youth Detention Centre lacks the necessary cultural and familial knowledge to address issues of rehabilitation for Aboriginal youth.

In short, the TAC has the ability to address housing, cultural, addiction and educational problems confronting a youth.¹³⁸

While the Committee wishes to give credibility to the TAC submission it has concerns that the Clarke Island project is remote and has not undergone evaluation. It is impossible to measure actual outcomes.

The Committee was informed that:

People just think [Clarke Island] is a joke. Everybody knows that they go there and smoke cigarettes, drink alcohol and do whatever they want.¹³⁹

Former AYDC manager Mr John Corvan expressed concern;

My duty of care to young people in custody, I believe, extended to Clarke Island and despite my best efforts I was never able to find out what young people were doing over there.

I believe in the value of Clarke Island, don't get me wrong, but I believed that it needed to have some structure built around it and some accountability.¹⁴⁰

The Committee values this opinion.

The Committee concludes:

1. The Government needs to adequately resource and support the youth justice system.
2. The community service order option, an important part of 'diversionary conferencing', is inadequately funded and is failing to fully meet its purpose.

¹³⁸ TAC, submission, p. 2

¹³⁹ Private witness, transcript of evidence, 14/2/07, p. 10

¹⁴⁰ Corvan, transcript of evidence, 9/5/07, p. 18

3. There is a significant mismatch in funding for AYDC (\$8m for AYDC and \$2.1m for community-based options), which impacts on care and programs in the community.
4. The funding issues need to be addressed.
5. The New Zealand experience indicates that any investment that diverts young people away from the criminal justice system is beneficial.
6. Assessment and intervention that aims to identify any psychiatric, brain damage, addiction or intellectual disorders prior to residency at AYDC is essential.
7. Young Tasmanians, regardless of socio-economic background should receive equal treatment, which should be of a high standard, and no less than that which would be expected across other jurisdictions.
8. Generally, the outcomes being achieved in the Tasmanian jurisdiction are inferior to those being achieved in other jurisdictions.
9. The welfare of young people leaving AYDC is largely ignored. The follow up support is grossly inadequate.
10. If diversionary conferencing was used more often fewer young people would be detained at AYDC and scarce funds could be diverted to more effective care and programs in the community.
11. NGOs have an important and cost effective role to play in the rehabilitation of young people at risk.

The Committee recommends:

1. The Government urgently reassesses its commitment to the community service order system, and allocates appropriate funding.
2. The number of youth workers involved in youth justice programs should be increased.
3. Early intervention policies and programs should be available for children and young people at risk of entering the youth justice system, including appropriate assessment for mental health, addiction, brain injury and other impediments that may be the cause of anti social behaviour.
4. There should be an assessment of the efficiency and benefits of alternate strategies such as the diversion of young Aboriginal youth to Clarke Island-based programs.

TERM OF REFERENCE 5

ADEQUACY OF THE *YOUTH JUSTICE ACT 1997*

The introduction of the *Youth Justice Act 1997* radically changed the operation of youth justice in Tasmania.¹⁴¹

It was always envisaged that the *Youth Justice Act 1997* would prevent young people becoming trapped in a welfare based, crime and punishment life style that inevitably led them to the criminal justice system and incarceration.

The diversionary processes adopted after the proclamation of the *Youth Justice Act* aimed to bring about a balanced and restorative approach to youth justice.

The notion that young offenders can be rehabilitated and fully integrated as respected and valued members of the community is noble.

By encouraging young offenders to:

- Accept responsibility for their actions;
- Understand the human impact of their behaviour;
- Express remorse;
- Take action to repair the damage they have caused; and
- Develop their own capacities by participating in meaningful reparation; the noble outcome can be achieved.

In the years since its introduction and in response to operational issues a number of amendments to the *Youth Justice Act 1997* have been progressed.

The last major amendment to the YJA was carried out in 2002-2003.

Insert 4

YJA AMENDMENTS 2002-2003

Amendments to the *Youth Justice Act 1997* were passed by the House of Assembly in October 2002 and the Legislative Council in March 2003. It received Royal Assent on 16 April 2003 and entered into force on the same day.

Amendments to the Act included matters relating to:

- Global sentencing (consolidating sentences from several charges into one)
- Corrections of orders (correction of errors in the form of orders)
- Non-compliance with procedures (procedural errors do not invalidate orders)

¹⁴¹ DHHS submission, p. 34

- Sentencing by a different Magistrate (if for ill-health or death this is necessary)
- Contravention of orders (if an order is broken, the same Magistrate or Judge who imposed the original sentence will reassess it)
- Publication of confidential information (certain exceptions allowed for mostly administrative purposes)
- Arrangements for youths transferred between AYDC and Risdon (clarify the rules and arrangements for such transfers if they are necessary)¹⁴²

Youth Justice and Police continue to progress amendments as and when the need arises.

The DHHS submission states:

The review of the *Youth Justice Act 1997* remains on the government's agenda, with the government committed to reviewing the operation of the legislation as part of the cyclic review of all legislation. The process of undertaking minor amendments that has occurred in the past few years has allowed for an immediate service response to issues that required amendment, rather than waiting for a major legislative review.¹⁴³

The Committee did not receive any evidence to suggest that the Act was intrinsically flawed.

The integrity of the Act is further supported during significant review processes;

Importantly, neither the Commissioner for Children, in his Review of Juvenile Remandees in Tasmania, nor the group which undertook the Review of Resident's Safety at Ashley Youth Detention Centre, made a finding that the Act was inadequate.¹⁴⁴

The Committee did however receive a body of evidence regarding some specific inadequacies in the Act.

Consideration of these issues follow.

DIVERSION PRIOR TO COURT

Section 37 of the *Youth Justice Act 1997* provides for a young offender to be diverted to a community conference process but limits that option until after the young person has been charged and has entered a plea of guilty in a court.

¹⁴² DHHS submission pp. 34-35; *Youth Justice Amendment Act 2003* (No. 1 of 2003), sessional version

¹⁴³ DHHS submission, p. 35

¹⁴⁴ *Ibid*, p. 35

This limiting provision needs to be amended.

An amendment to the Act enabling the transfer of the young person's case to community conferencing prior to a court appearance is significantly important. The limiting provisions of section 37 of the Act contribute to young people being detained in a negative environment among a dysfunctional group of peers.

Australia is a party to the United Nations Convention on the Rights of the Child. Anglicare's written submission reminds us:

The Convention [on the Rights of the Child] states that every child alleged as, accused of, or recognised as having infringed the law "be treated in a manner consistent with the child's sense of dignity and worth ... and [in a manner] which takes into account the child's age, environmental factors and promotion of the child's reintegration into society" (Article 40). To this end, parties to the Convention are called on to provide "a variety of dispositions, (alternatives to institutional care) ...to ensure that children are dealt with in a manner appropriate to their wellbeing and proportionate to their circumstances and the offence (Article 40.4).¹⁴⁵

YOUNG REMANDEES

While the YJA 1997 clearly states that detention is to be used only as a last resort, and recognizing that the great majority of young people involved in the youth justice system are managed within community resources, it is still reasonable to conclude that too many young people wind up on remand at the AYDC.

The high number of remand admissions and the subsequent low number of alleged offenders actually convicted and sentenced to a detention order highlights the weaknesses of the current system.

The Committee concedes that in each of the preceding Terms of Reference, the issues relating to the management of juvenile remandees has been a central component.

The Committee acknowledges the investigation undertaken by the then Commissioner for Children, Mr. David Fanning,

The resulting report – *Review of Juvenile Remandees in Tasmania* – assessed the reasons and factors contributing to the high number of young people on remand at AYDC.¹⁴⁶

The recommendations of the Review were:

¹⁴⁵ Anglicare, submission, p. 7

¹⁴⁶ Commissioner for Children Tasmania, 'Review of Juvenile Remandees in Tasmania', April 2006, at <<http://www.childcomm.tas.gov.au/docs/reviewofjuvenileremandeesapril2006.pdf>>

- That a review be undertaken of the initiatives progressed in late 2003 involving inter-sectoral workshops on youth justice chaired by the Chief Magistrate and their outcomes.
- The Development of intra-agency protocols between Youth Justice services and Child and Family Services within Children and Families for monitoring and assisting youth placed on remand at Ashley.
- The development of a comprehensive data collection system for Community Youth Justice and Custodial Youth Justice.
- That relevant legislation be reformed to include processes for remand and bail specific to children and youth. In particular, the considerations to be made when determining whether to grant bail and restrictions as to the length of remand.
- The development of bail options as alternatives to remanding youth in custody.¹⁴⁷

Recommendations flowing from the Fanning Report have been the catalyst for a genuine effort at reform.

Anglicare has entered the market as a provider of supported accommodation for young people who are at risk because of their alleged behaviour.

Anglicare's Bail Options Program aims to support young people who are homeless or at risk due to their alleged offending behaviour. This small program in Northern Tasmania works closely with Youth Justice, Tasmania Police and the Magistrates Court. The success of this program is reflected through the high numbers of young people (approximately 75%) who have successfully re-integrated into the community, education or vocational options.¹⁴⁸

DHHS is making a significant effort to drive reform.

Ms Jacob is part of a working party looking at the Fanning recommendations. DHHS has a staff member working full time providing information and evidence to that working party.

The Committee is aware that some of the Fanning Report recommendations have taken longer than expected to implement (whilst young people remain at risk). The Committee also notes, however, that a number of recommendations have been implemented.

The Committee further notes both the potential for negative impacts on young people detained at AYDC and the very high cost of keeping those young

¹⁴⁷ Commissioner for Children Tasmania, 'Review of Juvenile Remandees in Tasmania', April 2006, pp. 10-11

¹⁴⁸ Anglicare submission, p. 6

people in non-supportive environment. The sooner the department finds alternatives the better it will be for all concerned.

SENTENCING OPTIONS

It is of concern to the Committee that the Act limits the court in sentencing options.

Further it is a concern that there is often a significant time lag between the young person being charged and being sentenced. Time in no man's land for the young person creates a potential for further anti social behaviour.

The adage 'justice delayed is justice denied' is particularly relevant in matters effecting young people.

Young people appearing before the court have such a diversity of intellectual, psychological, cultural and life experience backgrounds that justice demands flexibility in sentencing options.

The 'one size fits all' range of fines, jail, community service orders or probation is no longer best practice. Other States have extensive sentencing options including home detention and weekend detention.

The Committee acknowledges that such options are resource intensive but they work and if they work they are in the best interest of both the young offender and the community.

Some witnesses stated that a 'half-way' house option might be appropriate for some young offenders.

According to Mr Marris

If you could create a small institution... one that has good transport access to where they come from, that would be excellent. You could get them to their schools and the social workers or welfare officers who work in their home environment could be in close touch with them because they are also important in bridging the young people back into the community and that is what we are trying to do.¹⁴⁹

He also stated that

The larger an institution becomes the more it starts to serve itself and gobbles up resources. Smaller institutions tend to be much more focused on what they are about, what they should be doing and are more sensitive and responsive.¹⁵⁰

¹⁴⁹ Marris, transcript of evidence, 23/4/07, p. 3

¹⁵⁰ Ibid, p. 2

Former Youth Justice senior practice consultants Dr Steve Rogerson and Dr Helen Jessup stated that there are

...Placement gaps that a half-way house could address... Provided it had appropriate kind of staffing and here I reiterate the notion of forensic support.¹⁵¹

Mr Willans, of YNOT, was supportive and said that such concepts would exist elsewhere:

I am sure that they exist and I am sure that there are lots of wheels that we don't have to reinvent that we can just pick up from other States.¹⁵²

ANONYMITY OF OFFENDERS

The Committee received evidence suggesting that the provisions of the *Youth Justice Act 1997* that protected the anonymity of consistent repeat offenders should be removed.

The Committee is particularly protective of the provision requiring anonymity of young offenders and rejects any suggestion that the general application of the provision should be removed.

The Committee does however accept that the community interest may be served by releasing the name of a 17/18 year old who is either a serious repeat offender or who is guilty of committing a very serious crime.

Insert 5

YOUTH JUSTICE IN TASMANIA, VICTORIA, AND NEW ZEALAND

The following table considers some key elements of youth justice services in Tasmania, Victoria, and New Zealand. It is not intended to cover all aspects of each respective system, merely to provide a general overview.

The Committee visited facilities in Victoria and New Zealand (and South Australia), and held discussions with officers and administrators involved in the provision of youth justice in these jurisdictions. The Committee was also provided with, or directed to, a number of documents containing further relevant information.¹⁵³

	Tasmania	Victoria	New Zealand ¹⁵⁴
LEGISLATION	<i>Youth Justice Act (1997)</i>	<i>Children, Youth and Families Act (2005)</i>	<i>Children, Young Persons, and Their Families Act (1989)</i>
CUSTODIAL SERVICES			
Facilities and capacity	One – AYDC, capacity of 51 young people	Three, with varying levels of security and	Five, with some for young people with

¹⁵¹ Rogerson and Jessup, transcript of evidence, p. 11

¹⁵² Willans and McKay, transcript of evidence, 23/3/07, p. 11

¹⁵³ The Committee is appreciative of the additional information provided by Jennifer Bowles from the Magistrate Children's Court of Victoria.

¹⁵⁴ In New Zealand, youth justice is overseen by the national government and services are for the entire country, whereas in Australia youth justice is under the control of the states and territories.

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		separation of gender and age groups	special needs
Age ranges/gender	Usually from ages 10 to 18 of both genders.	One centre has females aged 10 to 20 and boys aged 10 to 14; one is for male youths aged 15 to 18; and one is for males aged 18-20. The two centres for male youths have a capacity of 60 and 74 respectively.	Capacity ranges from 10 to 46 places, males and females
Staff to resident ratio	Three residents to one staff member.	Determined by the circumstances	Three to 2.5 residents to one staff member
Staff induction and training	19 days training, induction, and orientation	12 days induction followed by 10 to 15 days on-the-job	Various stages for applicants to complete and pass, including on-the-job training
SENTENCING	TAS	VIC	NZ
Specialised youth courts, or equivalent	Yes, except for certain serious offences	Yes, except for certain serious offences. There are three divisions for young people: criminal, family, and Koori.	Yes, for young people under the aged 14, 15, and 16 years old, except for certain serious offences. Unless it is for murder or manslaughter, younger children are dealt with outside of the court process.
Specialised Magistrates, or equivalent	No	There is a specialised Children's Court at which magistrates sit full-time. Magistrates in all courts, however, hear matters involving youths and have generally undertaken specialist training at the Melbourne Children's Court.	Yes, for young people under the age of 17, except for certain serious offences and some traffic offences. Magistrates may not be exclusively involved with the Youth Court.
Conferencing processes	Community conferencing can be used as a cautionary measure if it is deemed appropriate, or if ordered by a court. Further court action not necessarily required.	Group conferencing can take place if the court defers proceedings, but it will follow with a court sentence. In terms of process, it is similar with Tasmania	Family group conferencing (FGC) process can finalise the matter. If the young person does not deny the offence, a conference will take place. Victims of the crime can attend. Court can proceed further if FGC makes recommendation.
Joint charging	Adult and youth may not be charged jointly, if under 15 years old	Adult and youth generally not charged jointly, with rare exceptions	Adult and youth can be charged jointly; Youth Court has particular powers that can apply if an adult comes under its jurisdiction
Court proceedings	Held in closed court	Usually held in open court	Held in closed court, certain outsiders are allowed to attend with permission.
Confidentiality	Particulars not to be published (except for administrative purposes)	Particulars not to be published	There are certain exceptions to a young person's confidentiality, subject to court

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			approval
Youth parole board, or equivalent	No	Yes	No
'Dual track' sentencing, or equivalent	Not specifically provided for, though in practice there may be rare exceptions.	Young people aged 18 to 21 can be dealt with under the youth justice system or the adult system.	17- and 18-year-old offenders dealt with through adult system
Community-based sentencing	Community service orders with conditions and limitations; suspended and supervised orders.	Community service orders under conditions with specific limitations; probation; youth supervision order; youth attendance order	Young offenders can be required to do community work or other orders, the completion of which is monitored within the community.
Child protection issues	Court can order that the matter be referred or youth be remanded	Court can order that the child can be placed in secure welfare, if child is at risk, but not remanded in juvenile facility	Courts may refer suspected cases to Care and Protection Coordinator
Mental health or disability issues	Court can make an order to remand youth for assessment	No power to remand a youth, but assessments can be undertaken by the Children's Court clinic and a report provided to the court.	Judge can seek reports in relation to these issues.
Indictable/serious offences	In cases of a youth aged over 15 years, court must ask if person is willing to be tried by the court or by jury.	Defendant, regardless of age, must consent to jurisdiction of the court.	Serious cases can be moved to a higher court, unless the Judge or young person decides otherwise. This can depend on the charge.
Remand	Youth can be remanded for prolonged periods	Youth can be remanded, when bail has been refused, for no longer than 21 days without a court appearance.	Young person can remain with family, be held at secure care facility, or held in police a cell.
Other various sentencing options	Informal police caution (some recorded, some not recorded); caution by community representative or Aboriginal elder; rehabilitation orders; restitution order; compensation order; good behaviour order; fine (with limitations); probation (with conditions/limitations); restitution order; compensation order; contravention rehabilitation order.	Informal police caution; restitution order; compensation order; good behaviour order; fine (with limitations)	Informal police diversions; restitution/forfeiture order; reparation, fine; community work; supervised detention orders are usually for three months, followed by three months of partial supervision, and six months of community supervision; employment or work experience; specific cultural/traditional options
	TAS	VIC	NZ

The Committee concludes:

1. The options available for accommodating young people on remand are presently inadequate. Supported accommodation in the community is preferable to detention at AYDC, except where a court deems it contrary to the public interest.
2. An inter-agency working party is considering bail options available to young people charged with an offence.
3. A cooperative and structured approach to considering remand and bail options for young people involved in the youth justice system should be a matter of the highest priority.
4. Special court arrangements with wider powers, which are presided over by magistrates experienced in and committed to youth justice would alleviate long delays inherent in the present system.
5. The *Youth Justice Act 1997* requires amendment to extend the sentencing options available to magistrates when dealing with young people.
6. Intervention before remand will significantly reduce the number of young persons resident at AYDC.

The Committee recommends:

1. The *Youth Justice Act 1997* should be amended to provide access to diversionary programs prior to any plea of guilty.
2. The inter-agency working party should be further encouraged to facilitate bail and remand options for young offenders.
3. The Government should actively encourage and resource NGOs to provide supported accommodation for young people on remand and for young people exiting any period of custodial detention.
4. The *Youth Justice Act 1997* should be amended to provide Magistrates with a wider range of options for sentencing young offenders.
5. The Law Reform Commission should assess the value of protecting, by providing anonymity to, certain older age young offenders who have been convicted of a very serious crime.

TERM OF REFERENCE 6

OTHER MATTERS INCIDENTAL THERETO

DEDICATED MAGISTRATES

It was submitted that dedicated magistrates working in the Youth Justice Division of the Magistrates Court and with links to youth justice staff, lawyers and Police and working to a time table that limited delays was a much needed component missing from the Tasmanian youth justice system.

The benefits of a relatively small population living on an Island mean that we Tasmanians lack, in many functions of Government, the critical mass of clients that justify expenditure on a broad range of programs.

The lack of critical mass, in itself a good thing, limits the programs that can be provided to young people in the youth justice system.

The Committee sat in the Children's Court of Judge John Walker, in Wellington, New Zealand, and was particularly impressed by the manner in which the delivery of justice was made relevant to the young offender by providing the opportunity for his or her views to be known to the Court.

Magistrates of the NZ Children's Court have special responsibilities for youth justice and also sit in both the family division of the Children's Court and in the criminal division of the Children's Court. In local areas, however, Magistrate's Courts can adjourn and reconvene as a Children's Court. In such jurisdictions there are many magistrates who have experience in both the Children's Court and the Magistrates Court.

The Committee accepts that a magistrate dedicated to youth justice could well have a significant impact in judging, sentencing and regularly following up the progress of an offender through the restorative justice program.

INVOLVEMENT OF COMMISSIONER FOR CHILDREN

The Committee heard evidence suggesting that the Commissioner for Children should have more authority to monitor, investigate and take the action on instances where young people have been treated inappropriately at AYDC.

AFTER HOURS COURT

An after hours court, presided over by a Justice of the Peace is frequently the first contact a young offender has with the court system.

If the young person appears with neither family, legal representative or youth worker in support, the chances of that young person being remanded in custody is extremely high.

If the Court is convened in Hobart, the young person will almost certainly be remanded to AYDC.

In some cases a young person is remanded late at night, transported to AYDC for a few hours and then returned to Hobart for a Court appearance the next day.

The continuation of this practice is untenable.

DUAL STREAMING

Many witnesses to the committee cited the need to separate and manage the young and vulnerable AYDC residents away from the influence of the relatively few hardened older people who are also resident in the detention centre.

The problems associated with managing, educating and rehabilitating the mix of young people at AYDC has been considered in detail in other sections of the report.

Suffice it to say that delivering acceptable outcomes in, true to the principles of restorative justice, such an environment is in the opinion of the Committee, 'mission impossible'.

AYDC Manager Bill Smith recognises:

There is a point where once you have tried to rehabilitate a young offender and you have failed – there is a point you have to say they have outgrown Ashley. They are standing over and bullying other younger residents, they are threatening them and they are causing something like 80 per cent of the problems that Ashley might experience. They no longer belong there. Those residents don't belong in Risdon either – something in between.¹⁵⁵

And again, Dr Sue Jenkins:

I am concerned, too, about the mix of young people in there. You have a few really tough nuts, the violent offenders, the repeat offenders, and then you have the vulnerable young people who have been, if you like, the naughty boys who have been caught up in drugs, alcohol and thieving – and they have been caught. They are basically remediable.

However, you have a situation that is not ideal for remediation because you have this mix of young people in there. So, I think management is constantly struggling with the two streams and trying to meet the needs of

¹⁵⁵ Smith, transcript of evidence, 27/3/07, pp. 8-9

all of them, which they have difficulty doing. I do think we need to be thinking about the separate facility for the two streams.¹⁵⁶

Throughout this investigation there have been very few issues that have received universal support, but the issue of the current resident mix at AYDC was repeatedly raised.

The *Review of Resident Safety at Ashley Youth Detention Centre* undertaken in September 2005 made twenty-three recommendations it considered would “assess the ability of existing systems and protocols to ensure the ongoing safety and well-being of residents of the Ashley Youth Detention Centre.”¹⁵⁷

Two of these recommended the transfer of some older residents not suited to a low security facility such as AYDC to a higher security Tasmanian Prison Service facility.

DHHS advised that there has been the capacity to transfer young people out of Ashley if it was deemed necessary in that, formal transfer arrangements, between Ashley and the Tasmanian Prison Service, have been in place for more than fifteen years and:

It is not a requirement of the *Youth Justice Act 1997* that all juvenile offenders be accommodated at Ashley. Indeed, following the proclamation of the Act all Tasmanian Prison Service facilities were gazetted as detention centre under s123 of the *Youth Justice Act 1997* and are, therefore, capable of accommodating youths. Similarly, Ashley is gazetted as a Prison and is able to accommodate youths remanded or sentenced on prescribed offences or young adults sentenced to a term of imprisonment but do not fit the prison profile and do not pose a risk to Ashley. It is the risk attaching to any given individual that should determine the type of facility required to accommodate them.¹⁵⁸

The question then is why isn't this facilitated and the committee has received so many witnesses to say that the system is out of control?

This process is a more informal approach than the one currently operating in Victoria, where a 'dual-track' component of sentencing is used:

This dual-track system operates through the court itself. The magistrate has at his disposal the capacity to sentence a young person aged 18 to 21 to a youth training centre. At that point the court would seek a suitability assessment from Juvenile Justice, which would do an assessment of the young person to determine how vulnerable they are in respect of living in either system, and their prospects for rehabilitation. If they are deemed unsuitable, they go to the adult system. It is unusual and unique in Victoria.

¹⁵⁶ Jenkins, transcript of evidence, 13/3/07, p. 1

¹⁵⁷ DHHS, 'Review of Resident Safety at Ashley Youth Detention Centre', September 2005, p. 31

¹⁵⁸ DHHS submission, p. 21

I should add that there is also capacity through the Adult Parole Board and the Youth Parole Board to transfer young people to adult prisons should that be deemed appropriate.¹⁵⁹

A SECURE UNIT AT AYDC

The Committee is of the view that the re-establishment of a secure unit on site at AYDC, similar to that which previously existed, would significantly assist staff in the management and control of difficult young people, who from time to time challenge the integrity of the Centre.

BALANCE OF RESOURCES

Professor White expressed the view that

We have the system the wrong way up; we are putting a lot of resources at that front end for the trivial first-time offenders, but we need to put more intense resources into the more problematic young people.¹⁶⁰

The Committee accepts that a great deal of resources are required for problematic youths, but believes that there is real merit in applying resources into early intervention services in an endeavour to divert young people from entering the youth justice system.

With \$8 million allocated to AYDC and \$2.1 million for the Community Youth Justice system, Ms Jacob conceded that this is not ideal, but noted that compared to the rest of Australia Tasmania has a

Very high proportion of young people involved in the youth justice system but comparatively a very small number involved in the custodial system. Things like community conferencing and work orders, community service orders, alternatives to the courts before even cases come to court so that young people can be diverted from the custodial system, these are certainly of benefit.¹⁶¹

Furthermore, she also told the Committee that there should be an emphasis on early intervention, a view the Committee supports.

...If we really want to do something about stemming the group of people who end up in child protection, and often go on to end up at Ashley or in the youth justice system, the answer is really in Family Support Services, Early Intervention Services and doing a lot more to support families and young people at that very early stage. There is absolutely no question that the evidence supports that view and that is where we ought to be putting most of our effort.¹⁶²

¹⁵⁹ Private witness, transcript of evidence, 22/2/07, pp. 4-5

¹⁶⁰ White, transcript of evidence, 13/2/07, p. 2

¹⁶¹ Jacob, transcript of evidence, 10/5/07, p. 1

¹⁶² Jacob and Bayliss, transcript of evidence, 27/3/07, p. 6

The Committee concludes:

1. The after hours court system can disadvantage young people who are not supported by family, legal representative or case manager.
2. There should be established in Hobart supported accommodation options for young people remanded following an out of hours court appearance.
3. If the Youth Justice Division of the Magistrates Court was presided over by dedicated Magistrates with a special interest in youth justice, the outcomes for the young person, the court, and the community would be improved.
4. There will always be a group of young people at AYDC who have been sentenced following the commission of a serious crime, are serious recidivists, held in custodial remand after being charged with, or found to have committed, a very serious crime.
5. Children in the age range ten years to fourteen years, who are not subject to exceptional circumstances, should not be confined in AYDC.
6. The maintenance of a secure unit on-site at AYDC, which is an important tool for managing extreme and non-cooperative residents.
7. A stigma has become attached to the name Ashley Youth Detention Centre. A change of name would move the emphasis back in line with restorative justice principles, consistent with other jurisdictions.
8. The Committee supports the continuation of appropriate funding and resources for youth custodial services; however believes that funding for Community Youth Justice services, and early intervention services, should be increased.

The Committee recommends:

1. Magistrates with a special interest in youth justice should be dedicated to the Youth Justice Court.
2. Supported accommodation for young people who are held on remand following an appearance in an after hours court should be established in Hobart.
3. Ashley Youth Detention Centre should be re-named Ashley Secure Care Centre.

4. That funding and resources for youth custodial services should be maintained.
5. That funding for Community Youth Justice services, and early intervention services should be increased.

ATTACHMENTS

Attachment 1: Witnesses and Submissions

Attachment 2: Documents Tabled

Attachment 3: Minutes

ATTACHMENT 1

LIST OF WITNESSES

Peter Godfrey
Molenda Lodge (Rossi Storen-Harris)
Leigh McQueeney
Rev Terry Yard
Jennie Wilson
Chance on Main (Mike Duval-Stewart)
Justin Stevenson
Sue Polton and Judy Burgess
Education Department
Interim Commissioner for Children (Dr Sue Jenkins)
David Reid
Tim Kent
Commonwealth Public Service Union
Rosalind DeVireux
Professor Rob White
Wayne Kata
Ben Marris (2)
Bob Richardson
Health and Community Service Union
Brian McClifty
Nick Triffitt
Brain Injury Association of Tasmania
Y-NOT (Youth Network of Tasmania)
Department of Health and Human Services
Wendy Varga
Lexie Bryant
Beverley Bell
Whitelion
Whistleblowers Tasmania
Youth Futures
Denis Collins
John Corvan
Ralph Beck
Bill Smith, Manager Ashley Youth Detention Centre
Dr Jessup and Dr Rogerson

The Committee took evidence *in camera* from 10 witnesses

LIST OF SUBMISSIONS

Peter Godfrey
John Knowles
Richard Salter
Tim McManus
Molenda Lodge (Rossi Storen-Harris)
Kathryn Culver
Leigh McQueeney
Chance on Main
Education Department
Friends of Ashley
Interim Commissioner for Children (Dr Sue Jenkins)
Henry Smith
Kevin Horton
Tim Kent
Les Wall
Rosalind DeVireux
Professor Rob White
Wayne Kata
Department Police and Emergency Management
Ben Marris
Bob Richardson
Health and Community Services Union
Brian McClifty
Meander Valley Council
Nick Triffitt
Brain Injury Assoc of Tas
Department of Health and Human Services
Wendy Varga
Sue Napier
Whitelion
Whistleblowers (Isla McGregor)
Anglicare
Tasmanian Aboriginal Centre
Sue Carlyon
John Corvan
Jenny Bowles
Dr Jessup and Dr Rogerson

The Committee received 5 confidential submissions

ATTACHMENT 2

TABLED DOCUMENTS/PAPERS

- Correctional Services and Sentencing in Tasmania – Legislative Council Select Committee Report
- Review for the Secretary DHHS of Resident Safety Ashley Youth Detention Centre
- Review of Juvenile Remandees in Tasmania
- Australian Institute of Health and Welfare – ‘Juvenile Justice in Australia 2000-01 to 2003-04
- Radio Interview with Minister Kons – ABC Radio – Statewide Mornings – 17th January 2007
- Waldorf Approach Offers Hope in Schools for Juvenile Offenders

McQueeney

- Book titled – River Cats (McQueeney)

HACSU

- Letter to Deputy Secretary, DHHS, raising staff issues

Chance on Main

- Mission Statement Brochure
- Final Evaluation Report
- Business Plan

Whistleblowers

- The Connectedness Corrective (extract from ‘Social Intelligence’)

Brain Injury Association of Tasmania

- Verbal evidence provided to Senate Committee
- Department of Treasury and Finance: 2007-08 Budget – Tasmanian Community Consultation –
- Acquired Brain Injury Issues – solutions
- Office of the Public Advocate – Queensland – Issues for People with a Cognitive Disability in the Corrections System
- ‘Custody for Life’ – Brain Injury Community Education and Prevention Program
- The Relationship between Head Injury and Violent Offending in Juvenile Offenders

Whitelion

- Evaluative Research of Whitelion’s Business and Youth Partnership Program

Molenda Lodge

- Molenda Lodge Charter

Varga

- Verbal submission, summary of submission and appendices

Polton/Burgess

- Standard Operating Procedure
- AYDC Newsletter
- Youth Justice Services Newsletter
- Staff Procedures e-mails
-

YNOT

- Submission to the Committee

DHHS

- Community Work Order Programs Information

Rogerson & Jessup

- Paper

Operation Flinders

- Operation Flinders Program dates

DHHS

- Additional Information from Allison Jacob and Bill Smith.

Correspondence

- Letter from the Chair to the Hon. Steven Kons MHA, Minister for Justice,

Papers Tabled:

- Youth Justice Custodial Services Branch – Operations Division (State Government of Victoria – Department of Human Services)
- Children’s Court of Victoria – About the Court
- Cognitive-Behavioral Programs for Offenders – *Annals of the American Academy of Political and Social Science*

ATTACHMENT 3

MINUTES

LEGISLATIVE COUNCIL SELECT COMMITTEE

ASHLEY, YOUTH JUSTICE AND DETENTION

TUESDAY, 28 NOVEMBER 2006

The Committee met at 6.01 o'clock p.m. in the Ante Chamber, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Order of Parliament:

The Order of the Parliament appointing the Committee dated 28 November 2006 having been circulated, was taken as read.

Election of Chair:

Mr Hall was elected Chair and took the Chair.

Business

- (a) That witnesses be heard under Statutory Declaration.
- (b) That evidence be recorded verbatim unless otherwise ordered by the Committee.
- (c) That advertisements be inserted in the public notice section of the three daily Tasmanian newspapers on Saturday, 2 December 2006 and that receipt of written submissions be conditioned for closure on Friday, 2 February 2007.
- (d) That the Secretary send invitations to make submissions to:

Tasmania Police
Police Association
Meander Valley Council
Neighbours of Ashley
Professor Rob White, University of Tasmania
Greg Barnes, Prison Reform Group
Platinum Security Company

Minister for Justice
Minister for Health
Minister for Education
Probation Department, Youth Justice
White Lion
YNOT
North West Youth Shelter
Aboriginal Association (recommended by Greg Brown)
UTURN
Anglicare
City Mission
Salvation Army
Greg Richardson, Lawyer
Mike Deval-Stuart, Chance on Main
TasCoss
Molinda Lodge
HACSU

Future Program:

The Committee discussed its future program and the need to visit the Ashley Youth Detention Centre and possibly detention centres in Victoria and South Australia.

Other Business:

Resolved, That the Reports mentioned by the leader of the Government during debate on the Motion to establish the Committee be provided to all Members of the Committee.

At 6.26 o'clock p.m. the Committee adjourned until a date to be determined.

TUESDAY, 6th FEBRUARY 2007

The Committee met at 10.17 o'clock a.m. in the Legislative Council Regional Office, Deloraine.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Confirmation of Minutes:

The Minutes of the meeting held on Tuesday, 28th November 2006 were accepted as an accurate record and confirmed.

Business:

(a) The Secretary Tabled the following documents:

- Correctional Services and Sentencing in Tasmania – Legislative Council Select Committee Report
- Review for the Secretary DHHS of Resident Safety Ashley Youth Detention Centre
- Review of Juvenile Remandees in Tasmania
- Australian Institute of Health and Welfare – ‘Juvenile Justice in Australia 2000-01 to 2003-04
- Radio Interview with Minister Kons – ABC Radio – Statewide Mornings – 17th January 2007
- Waldorf Approach Offers Hope in Schools for Juvenile Offenders

Resolved, That the documents received be taken into evidence.

(b) The Secretary Tabled the following submissions:

- Peter Godfrey (Golden Valley)
- John Knowles (Beauty Point)
- Rich Salter (Seven Mile Beach)
- Tim McManus, JP (Falmouth)
- Molenda Lodge (Rossi Harris) (Ulverstone)
- Culver, Kathryn (Westbury)
- McQueeney, Leigh (Rosny)
- Yard, the Rev. Terry (Meander Valley Parish) (Westbury)
- Wilson, Jennie (Deloraine)
- Chance on Main (Mike Duval-Stewart) (Glenorchy)
- Stevenson, Justin (West Launceston)
- Polton, Ms Sue and Burgess, Ms Judy (Westbury)
- Education Department (Ms Sue Kennedy)
- Friends of Ashley (James VanDyk) (Launceston)
- Commissioner for Children Tasmania (Hobart)
- Smith OAM, JP, Henry (Deloraine)
- Horton, Kevin (Deloraine)
- Reid, David (Deloraine)
- Kent, Tim (Launceston)
- Wall, Les (Deloraine)
- Pitcher, Barry (Elizabeth Town)
- Richardson, Bob (Westbury)
- **CONFIDENTIAL**
- De Virieux, Ms Rosalind ADM, (Launceston)
- **CONFIDENTIAL**

- University of Tasmania (Mr Rob White) (Hobart)
- School of Sociology and Social Work
- Kata, Wayne (Launceston)
- **CONFIDENTIAL**
- Tasmania Police (Hobart)
- Marris, Ben (Kettering)
- **CONFIDENTIAL**
- Richardson, Robert
- HACSU (Tom Kleyn)
- McClifty, Brian (HACSU youth worker)
- Meander Valley Council
- Triffitt, Nick
- Byrne, Deborah
- Department of Health and Human Services

Resolved, That the submissions above be taken into evidence.

(c) The Secretary Tabled requests received to present verbal evidence:

- Peter Godfrey
- Molenda Lodge
- Culver, Kathryn
- Yard, the Rev. Terry (Meander Valley Parish)
- Wilson, Jennie
- Chance on Main
- Stevenson, Justin
- Polton, Ms Sue and Burgess, Ms Judy
- Commissioner for Children Tasmania
- Reid, David
- Kent, Tim
- **CONFIDENTIAL - IN CAMERA EVIDENCE**
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- De Virieux, Ms Rosalind ADM
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- Kata, Wayne
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- Marris, Ben
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- Richardson, Robert
- HACSU
- McClifty, Brian
- Triffitt, Nick
- Y-NOT
- Department of Health and Human Services
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- Bryant, Lexie
- Bell, Bev
- **CONFIDENTIAL – IN CAMERA EVIDENCE**
- Morgan, Terry
- Varga, Wendy

- Youd, Rodney

Resolved, That the requests to present verbal evidence be accepted.

Future Program:

Visit to South Australia and Victoria:

Resolved, That the full Committee visit South Australia and Victoria to inspect Detention Centres and their facilities and discuss Youth Justice programs with officers and stakeholders in those States.

Resolved, That the Chair write to the President and Clerk seeking their approval.

The Sitting was suspended at 10.55 a.m.

The Committee toured the Ashley Youth Detention Centre.

The Committee resumed at 1.37 p.m. in the meeting room at the Elizabeth Town Café.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin*, Mr *Wilkinson*

Other Business:

The Secretary Tabled a draft letter from the Chair to the Hon. Steven Kons MHA, Minister for Justice, asking for an appointment for the Chair and Mr Wilkinson to meet informally with him.

Resolved, That the Chair send the letter to Minister Kons.

The Secretary Tabled the timetable for the hearings on Tuesday, 13th in Hobart and Wednesday 14 and Thursday 15th February in Launceston.

Resolved, That the timetable be agreed to.

Resolved, That the *in camera* witnesses be heard at the beginning and end of each day.

Resolved, That the Secretary organise the draft program for the Committee to visit facilities in South Australia and Victoria on 20, 21 and 22 February.

Resolved, That the letter sent from the Chair to Minister Giddings requesting staff at Ashley Detention Centre to be given approval to give evidence to the Committee without fear of retribution be agreed to.

Resolved, That the staff and the unions be informed.

Next Meeting:

9.00 a.m. in Committee Room 2, Parliament House, Hobart.
Tuesday, 13th February 2007.

Adjournment:

The Committee adjourned at 2.42 o'clock p.m.

TUESDAY, 13th FEBRUARY 2007

The Committee met at 9.15 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin*, and Mr *Wilkinson*

Confirmation of Minutes:

The Minutes of the meeting held on Tuesday, 6th February 2007 were accepted as an accurate record and confirmed.

The Committee deliberated.

Witness:

The Committee agreed to take a witness *in camera* due to the sensitivity of the information.

The witness withdrew.

Sitting suspended at 10.32 a.m.

Committee resumed at 10.58 a.m.

Mr Leigh McQueeney (7) was called, made the Statutory Declaration and was examined.

Documents Tabled:

- Written submission
- Book titled – River Cats

The witness withdrew.

Mr Tom Kleyn (34) and Mr Tim Jacobson, HACSU, were called, made the Statutory Declaration and were examined.

Documents Tabled:

- Letter to Deputy Secretary, DHHS, raising staff issues

The witnesses withdrew.

Mr Tom Lynch (39), CPSU was called, made the Statutory Declaration and was examined.

The witness withdrew.

Sitting suspended at 12.34 p.m.

Committee resumed at 2.02 o'clock p.m.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Mr Mike Duval-Stewart, Chance-on-Main (10) was called, made the Statutory Declaration and was examined.

Documents Tabled:

- Mission Statement Brochure
- Final Evaluation Report
- Business Plan

The witness withdrew.

Professor Rob White (27), University of Tasmania, was called, made the Statutory Declaration and was examined.

The witness withdrew.

Ms Isla McGregor, Whistleblowers Tasmania (50) was called, made the Statutory Declaration and was examined.

Documents Tabled:

- Submission
- The Connectedness Corrective (extract from 'Social Intelligence')

The witness withdrew.

Ms Deborah Byrne, Brain Injury Association of Tasmania (38) was called, made the Statutory Declaration and was examined.

Documents Tabled:

- Verbal evidence provided to Senate Committee
- Department of Treasury and Finance: 2007-08 Budget – Tasmanian Community Consultation –
- Acquired Brain Injury Issues – solutions

- Office of the Public Advocate – Queensland – Issues for People with a Cognitive Disability in the Corrections System
- ‘Custody for Life’ – Brain Injury Community Education and Prevention Program
- The Relationship between Head Injury and Violent Offending in Juvenile Offenders

The witness withdrew.

Next Meeting:

Tuesday, 14th February 2007 at the Town Hall, Launceston.

Adjournment:

The Committee adjourned at 5.25 o’clock p.m.

WEDNESDAY, 14TH FEBRUARY 2007

The Committee met at 9.00 o’clock a.m. in the Committee Room at the Town Hall, Launceston.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

The Committee agreed to take four witnesses *in camera* due to the sensitivity of their information.

Sitting suspended at 1.03 o’clock p.m.

The Committee resumed at 2.05 o’clock p.m.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Witnesses:

Mr David Reid (18) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Mr Tim Kent (19) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Mr Wayne Kata (28) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Ms Lindi Kruger, Whitelion (49) was called, made the Statutory Declaration and was examined.

Document Tabled:

- Evaluative Research of Whitelion's Business and Youth Partnership Program

The witness withdrew.

Mr Brian McClifty (35) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Next Meeting:

Thursday 15th February 2007 at the Town Hall, Launceston.

Adjournment:

The Committee adjourned at 5.35 o'clock p.m.

THURSDAY, 15th FEBRUARY 2007

The Committee met at 8.33 o'clock a.m. in the Committee Room at the Town Hall, Launceston.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

The Committee agreed to take the first witness *in camera* due to the sensitivity of their information.

Witnesses:

Ms Rossi Harris, Molenda Lodge (5) was called, made the Statutory Declaration and was examined.

Document Tabled:

- Molenda Lodge Charter

The witness withdrew.

Ms Wendy Varga (41) was called, made the Statutory Declaration and was examined.

Tabled:

- Verbal submission, summary of submission and appendices

The witness withdrew.

Father Terry Yard (8) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Ms Jennie Wilson (9) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Sitting suspended at 12.50 o'clock p.m.

The Committee resumed at 2.05 o'clock p.m.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Mr Justin Stevenson (11) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Mrs Sue Polton and Mrs Judy Burgess (12) were called, made the Statutory Declaration and were examined.

Documents Tabled:

- Standard Operating Procedure
- AYDC Newsletter
- Youth Justice Services Newsletter
- Staff Procedures e-mails

The witnesses withdrew.

Mr Peter Godfrey (1) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Next Meeting:

21st February 2007 at the Parliament of South Australia, North Terrace,
Adelaide.

Adjournment:

The Committee adjourned at 5.07 o'clock p.m.

TUESDAY, 13TH MARCH 2007

The Committee met at 8.35 o'clock a.m. in the Committee Room at the Town Hall, Launceston.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin*, and Mr *Wilkinson*

The Committee deliberated.

The Committee agreed to take the first two witnesses *in camera* due to the sensitivity of their information.

Witnesses:

Mr Denis Collins (59) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Mr Bob Richardson (33) was called, made the Statutory Declaration and was examined.

The witness withdrew.

The Committee deliberated.

Sitting suspended at 12.42 o'clock p.m.

The Committee resumed at 2.03 o'clock p.m.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin*, and Mr *Wilkinson*

Witnesses:

Mr Nick Triffitt (37) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Ms Bev Bell (46) was called, made the Statutory Declaration and was examined.

Ms Lexie Bryant (45) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Ms Rosalind DeVireux (25), Community Conference Facilitator was called, made the Statutory Declaration and was examined.

The witness withdrew.

Dr Sue Jenkins, Commissioner for Children (15) was called, made the Statutory Declaration and was examined.

The witness withdrew.

Next Meeting:

Wednesday, 14th March 2007.

Adjournment:

The Committee adjourned at 5.40 o'clock p.m.

WEDNESDAY, 14TH MARCH 2007

The Committee met at 8.33 o'clock a.m. in the Committee Room at the Town Hall, Launceston.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Witnesses:

The Committee agreed to take a witness *in camera* due to the sensitivity of the information.

Next Meeting:

Friday, 23rd March 2007.

Adjournment:

The Committee adjourned at 9.40 o'clock a.m.

FRIDAY, 23RD MARCH 2007

The Committee met at 8.35 o'clock a.m. in Committee Room 3, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

The Committee agreed to hear the first two witnesses in camera due to the sensitivity of their information.

The sitting was suspended at 9.39 o'clock a.m.

The Committee resumed at 11.00 o'clock a.m.

The Sitting was suspended at 11.50 o'clock a.m.

The Committee resumed at 12.03 o'clock p.m.

Witnesses:

- (39) Mr Dave Willans, Executive Officer and Mr Ben McKay, Project Officer, Tasmanian Youth Consultative Committee, Youth Network of Tasmania were called, made the Statutory Declaration and were examined.

Document Tabled:

- Submission to the Committee

The witnesses withdrew.

The Committee deliberated.

Next Meeting:

Monday, 26th March 2007.

Adjournment:

The Committee adjourned at 12.50 o'clock p.m.

MONDAY, 26TH MARCH 2007

The Committee met at 3.40 o'clock p.m. in the Legislative Council Chamber, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Witnesses:

- (61) Mr Ralph Beck, Operations Manager, Ashley Youth Detention Centre was called, made the Statutory Declaration and was examined.

The witness withdrew.

- (13) Mr David Hanlon, Deputy Secretary, Ms Ann French, Assistant Director, Mr Nick Evans, Manager (Programs) and Learning Services (South), and Mr Shane Stanton, Principal at Ashley School, were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

The Committee deliberated

Next Meeting:

Tuesday, 27th March 2007.

Adjournment:

The Committee adjourned at 6.13 o'clock p.m.

TUESDAY, 27TH MARCH 2007

The Committee met at 9.02 o'clock a.m. in the Legislative Council Chamber, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin, and Mr Wilkinson

Witnesses:

- (62) Mr Bill Smith, Manager, Ashley Youth Detention Centre was called, made the Statutory Declaration and was examined.

The witness withdrew.

- (40) Ms Allison Jacob, Director, Department Health and Human Services, and Mr Steve Bayless, Acting Director, Youth Justice, were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

The Committee deliberated

Next Meeting:

Tuesday, 3 April 2007, Henty House, Launceston.

Adjournment:

The Committee adjourned at 11.40 o'clock a.m.

TUESDAY, 3rd APRIL 2007

The Committee met at 12.10 o'clock p.m. in the Committee Room at Henty House, Launceston.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin*, and Mr *Wilkinson*

Business:

The Committee discussed the format of its Report.

Sitting was suspended at 1.17 o'clock p.m.

The Committee resumed at 2.05 o'clock p.m.

The Committee continued its discussions and drew up conclusions and recommendations.

Visit to New Zealand:

Resolved, That the Secretary provide a draft program and costing for the Committee to visit New Zealand detention centres and meet with officers from the Department administering the Youth Justice Act, as well as stakeholders.

Resolved, That consideration be given to appointing a sub-committee.

Further Hearings:

The Secretary to organise a recall for Mr Bill Smith, Manager, Ashley Youth Detention Centre and Ms Allison Jacob, Director, Department of Health and Human Services.

Next Meeting:

The Committee adjourned *sine die*.

Adjournment:

The Committee adjourned at 4.40 o'clock p.m.

WEDNESDAY, 18TH APRIL 2007

The Committee met at 9.34 o'clock a.m. in Committee Room 3, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin and Mr Wilkinson

Business:

Mr Dean, Mr Hall and Mrs Jamieson to meet with representatives from City Mission in Launceston in the afternoon of Thursday, 10th May 2007.

New Zealand:

The Committee deliberated.

Resolved, That a sub-committee of four Members would travel to New Zealand, no staff, in order to keep costs down.

Next Meeting:

The Committee adjourned until Monday, 23rd April 2007.

Adjournment:

The Committee adjourned at 10.06 o'clock a.m.

MONDAY, 23rd APRIL 2007

The Committee met at 3.41 o'clock p.m. in Committee Room 3, Parliament House, Hobart.

Members Present:

Mr Hall, Mrs Jamieson and Mr Wilkinson

Apologies:

Mr Dean, Mr Martin

Business:

Witness:

Mr Ben Marris was recalled and was examined.

The witness withdrew.

The Committee deliberated.

Resolved, That the submission from the Tasmanian Aboriginal Centre Inc. be sent to Jennifer Bowles, Magistrate, Childrens Court of Victoria.

Next Meeting:

Wednesday 9th May 2007 at Parliament House, Hobart.

Adjournment:

The Committee adjourned at 4.40 o'clock p.m.

WEDNESDAY 9 MAY 2007

The Committee met at 3.05 o'clock pm in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr *Dean* (telephone hook-up), Mr *Hall*, Mrs *Jamieson* and Mr *Martin*

The Committee spoke with Mr John Corvan via telephone hook-up.

The Committee deliberated.

Next Meeting:

Thursday, 10 May 2007 at Parliament House, Hobart.

Adjournment:

The Committee adjourned at 5.30 o'clock pm.

THURSDAY 10 MAY 2007

The Committee met at 9.04 o'clock am in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson* and Mr *Martin*

Mr Bill Smith, Manager, Ashley Detention Centre, was re-called and further examined.

The witness withdrew.

Sitting was suspended at 10.40 o'clock am.

The Committee resumed at 10.50 o'clock am.

Ms Allison Jacob, Deputy Director, Department of Health and Human Services, was re-called and further examined.

Mr Dean withdrew.

The witness withdrew.

The Committee deliberated.

Adjournment:

The Committee adjourned at 12.25 o'clock pm *sine die*.

TUESDAY, 5th June 2007

The Committee met at 10.10 o'clock a.m. in Committee Room 3, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson, Mr Martin and Mr Wilkinson

Mr Wilkinson acted as Chair in the absence of *Mr Hall*.

Confirmation of Minutes:

The Minutes of the following meetings were accepted as an accurate record and confirmed:

Tuesday 13th February 2007
Wednesday, 14th February 2007
Thursday, 15th February 2007
Tuesday, 13th March 2007
Wednesday, 14th March 2007
Monday, 26th March 2007
Tuesday, 27th March 2007
Tuesday, 3rd April 2007
Wednesday, 18th April 2007
Monday, 23rd April 2007
Wednesday, 9th May 2007
Thursday, 10th May 2007

Notes on visits to South Australia and Victoria on 19th – 23rd February 2007.

The Notes were Tabled and accepted.

Business:

- (1) A paper received from Dr Rogerson and Dr Jessup was Tabled.

Moved, That the Paper be received.

Resolved, That Dr Rogerson and Dr Jessup be called to give evidence.

- (2) The Secretary reported that the documents asked for from the Department of Health and Human Services and Mr Bill Smith would not be available until Friday, 8th June 2007,

Resolved, That the Secretary confirm in writing the verbal undertaking.

- (3) Operation Flinders Program dates were Tabled. Thank you letter to be sent to Mr Shepherd with advice that Members will contact him individually as the Committee will have reported by the dates suggested.

Draft Report:

The first Draft Report of the Committee to be considered at the next meeting.

Mr *Hall* took his place.

Other Business:

Wilfred Lopes Forensic Mental Health Centre – the Secretary to obtain information.

Next Meeting:

The Committee to meet at 4.30 p.m. (or after the Council rises) on Thursday, 7th June 2007.

Adjournment:

The Committee adjourned at 10.40 o'clock a.m.

THURSDAY, 7th June 2007

The Committee met at 4.36 o'clock p.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin* and Mr *Wilkinson*

Confirmation of Minutes:

The Minutes of the meeting held on Tuesday, 5th June 2007 were accepted as an accurate record and confirmed.

Witness:

Dr Steve Rogerson and Dr Helen Jessup were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

The Committee deliberated.

Next Meeting:

Thursday, 14th June 2007, time and venue to be advised.

Adjournment:

The Committee adjourned at 5.42 o'clock p.m.

THURSDAY, 14th June 2007

The Committee met at 9.04 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin* and Mr *Wilkinson*

Confirmation of Minutes:

The Minutes of the meeting held on Tuesday, 7th June 2007 were accepted as an accurate record and confirmed.

Business:

The Secretary Tabled requested information from Allison Jacob and Bill Smith.

Resolved, That the documents be received.

Draft Report:

The Committee discussed Draft Report No. 1.

Next Meeting:

At the conclusion of the Legislative Council sitting on Thursday 14th June 2007.

Adjournment:

The Committee adjourned at 10.45 o'clock a.m.

TUESDAY, 26TH JUNE 2007

The Committee met at 8.03 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr Dean

Mr Hall

Mrs Jamieson

Mr Martin

Mr Wilkinson (telephone hook-up)

Confirmation of Minutes:

The Minutes of the meeting held on Thursday, 14th June 2007 were accepted as an accurate record and confirmed.

Business: Draft Report:

The Committee examined the Draft Report.

Next Meeting:

8.00 a.m. on Wednesday, 27th June 2007 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 11.42 o'clock a.m.

WEDNESDAY, 27TH JUNE 2007

The Committee met at 8.12 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr Dean
Mr Hall
Mrs Jamieson
Mr Martin
Mr Wilkinson (telephone hook-up)

Business: Draft Report:

The Committee continued its examination of the Draft Report.

Next Meeting:

9.00 a.m. on Tuesday, 3rd July 2007 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 12.23 o'clock p.m.

TUESDAY, 3RD JULY 2007

The Committee met at 9.00 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson and Mr Martin

Apologies:

Mr Wilkinson

Document Tabled:

- Community Work Order Programs Information from DHHS

Draft Report:

The Committee considered the Executive Summary, Conclusions and Recommendations of the Draft Report.

Next Meeting:

Wednesday, 4th July 2007 at 9.00 a.m. in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 10.45 o'clock a.m.

WEDNESDAY, 4th JULY 2007

The Committee met at 9.07 o'clock a.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson and Mr Martin and Mr Wilkinson

Confirmation of Minutes:

The Minutes of the Meeting held on Tuesday, 3rd July 2007 were accepted as an accurate record and confirmed.

Draft Report:

The Committee continued its examination of the Executive Summary, Conclusions and Recommendations of the Draft Report.

Next Meeting:

The time and date of the next meeting to be advised.

Adjournment:

The Committee adjourned at 10.37 o'clock a.m.

THURSDAY, 5th JULY 2007

The Committee met at 1.14 o'clock p.m. in Committee Room 2, Parliament House, Hobart.

Members Present:

Mr Dean, Mr Hall, Mrs Jamieson and Mr Martin.

Apologies:

Mr *Wilkinson*

Confirmation of Minutes:

The Minutes of the Meeting held on Wednesday, 4th July 2007 were accepted as an accurate record and confirmed.

Papers Tabled:

- Youth Justice Custodial Services Branch – Operations Division (State Government of Victoria – Department of Human Services)
- Children’s Court of Victoria – About the Court
- Cognitive-Behavioral Programs for Offenders – *Annals of the American Academy of Political and Social Science* – vol. 578, November 2001, pp. 144-157

Draft Report:

The Committee continued its examination of the Executive Summary, Conclusions and Recommendations of the Draft Report.

Next Meeting:

The Committee adjourned *sine die*.

Adjournment:

The Committee adjourned at 1.58 o’clock p.m.

TUESDAY 10TH JULY 2007

The Committee met at 4.04 o’clock p.m. in the Legislative Council Ante Chamber, Parliament House, Hobart.

Members Present:

Mr *Dean*, Mr *Hall*, Mrs *Jamieson*, Mr *Martin* and Mr *Wilkinson*.

Confirmation of Minutes:

The Minutes of the Meeting held on Thursday, 5th July 2007 were accepted as an accurate record and confirmed.

Draft Report:

The Committee continued its examination of the Draft Report and agreed to the draft amendments.

The Report was agreed to.

Next Meeting:

The Committee adjourned *sine die*.

Adjournment:

The Committee adjourned at 4.37 o'clock p.m.

DATE

CONFIRMED

CHAIR

MAINLAND VISIT – SOUTH AUSTRALIA AND VICTORIA
19TH – 23RD FEBRUARY 2007

Tuesday 20th February 2007

Met at 8.30 a.m. by Janet McAvaney, Project Officer, Youth Justice Directorate Families

9.30 a.m. – 12.00 noon The Committee toured Cavan Secure Care Centre with Julia Lamont, Manager and met with staff on duty at the Centre. The Committee also met with Gerri Walker Principal of the School at Cavan and also Magill.

1.30 p.m. – 3.45 p.m. The Committee toured Magill Secure Care Centre with Alana Cole-Munro and met with staff on duty.

Wednesday 21st February 2007

The Terrace Room
2nd Floor, Parliament House
Adelaide
South Australia

The Committee met the following people:
Christopher Kleinig, TAFE South Australia
Julie Gunn, Youth Justice Manager, South Australia
John Shepherd, Operation Flinders
Mary Lindeman, former University lecturer Social Work and a worker at a detention centre for young women

Thursday, 22nd February 2007

Meeting Room 4
Parliament House
Melbourne
Victoria

The Committee met with the following stakeholders:
Ms Jan Loblett, Director Juvenile Justice and Youth Services
Murray Wilson, Team Leader Employment Program and *Glenn Broome*, Juvenile Justice Mentoring Co-Ordinator, Whitelion
James Wynd, YMCA

Friday, 23rd February 2007

10.00 a.m. – 12.30 p.m. The Committee toured Parkville and Melbourne Juvenile Detention Centres with Karyn

Myers, Director and Alex Kamenev, Service Department Manager, Juvenile Justice Department and met Andrew Reaper, CEO, Melbourne Detention Centre and other staff on duty at the Centre. The Committee also met officers from TAFE Victoria at the Centre.

NOTES ON VISIT TO NEW ZEALAND - 20th – 25th MAY 2007

WELLINGTON

Sunday 20th May 2007

Meeting with Mr Bob Handyside, Chair of Youth Justice Leadership Group

Monday 21st May 2007

Meeting with Youth Justice Policy Team

Visit Youth Court and met with Ms Cassandra Anderson, Senior Adviser Courts Operations

Meeting with Mr Leo Trompetter, Senior Adviser to the Minister of Education

Meeting with Mr Ken Rand, Manager Intensive Services

Tuesday, 22nd May 2007

Visit Lower North Youth Justice Residential Centre and meet with the Acting Manager Rebecca Brew-Hartley

Visit Wellington District Court and meet with Youth Court Judge Mr Tony Walsh.

Meetings with various stakeholders and voluntary agencies including Judge John Walker

Wednesday 23rd May 2007

Meeting with Superintendent Bill Harrison, New Zealand Police

Meeting with the Ministry of Justice to discuss the particular needs of Maori and Pacific Island youth

Meeting with Mr Rob Handyside in connection with 'the Te Hurihanga Pilot Program for Boys 14-17 years'

Meeting with Human Rights Commission

Court presided over by Judge Walker

CHRISTCHURCH

Thursday 24th May 2007

Meeting with Mr Archie Docherty, Acting Manager, Youth Justice South (Te Puna Wai o Tuhinapo)

Meeting with Young New Zealanders Foundation (Safer Streets Trust)

