

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON COMMUNITY SERVICES AND
SOCIAL EQUITY**

**(Reference: Inquiry into the rights, interests and wellbeing of children and young
people)**

Members:

**MR J HARGREAVES (The Chair)
MS R DUNDAS (The Deputy Chair)
MR G CORNWELL
MRS H CROSS**

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 27 MARCH 2003

**Secretary to the committee:
Ms J Carmody (Ph: 6205 0129)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents relevant to this inquiry which have been authorised for publication by the committee may be obtained from the committee office of the Legislative Assembly (Ph: 6205 0127).

The committee met at 2.04 pm.

JOHN MURRAY was called.

THE CHAIR: Thank you very much, Mr Murray, for sparing the time to talk to us about our inquiry into the rights, interests and wellbeing of children and young people. As you know, we have been all around the country and we have looked at a number of things. We felt it was very important that, with respect to the interests of young kids, we talk from two and maybe three perspectives. One of them is to find out from you what new things you are doing. As I understand, there are a number and we would like to get those on the public record; and also, from your perspective, the rights of kids and things like that.

We have just been to Quamby this morning. This is the first time that some members had been to Quamby or to any sort of detention centre. We would like to ask your opinion on where we are going with things like youth liaison officers within the AFP; and also how you see the problem of young people being picked up on the streets, either perpetrating minor crime or just being abandoned, I suppose, or left to their own devices, and the fact that some of those people are actually spending overnight or a couple of days in Quamby, apparently because we don't have anywhere else in Canberra. The question comes to mind: do we need a facility that can ease the burden on the police, ease the burden on Quamby and, more importantly, provide these people with a more positive environment to solve the problems?

I am obliged to read this card, even though you have seen it a thousand times before. I will do that just for the record. You should understand these hearings are legal proceedings of the Legislative Assembly protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certainly legal action, such as being sued for defamation for what you say at this public hearing. It also means that you have a responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

I also wish to advise you that these proceedings are being recorded for the purpose of *Hansard* and are being broadcast throughout the building and other public service offices. I have given approval—and I hope that is okay with you—for WIN television to take file footage of the issues that we are looking at. If you have a problem with that, I am quite happy to ask the media to go.

Mr Murray: That is fine, Chair.

THE CHAIR: The other thing I would also like to do is open up with a statement from you and then we will see where questions lead us. I am also conscious of your valuable time. We have set aside a specific period of time and win, lose or draw I propose to conclude the hearing at 3 o'clock. Could you identify yourself and state your position within the AFP for the *Hansard*.

Mr Murray: John Murray, Chief Police Officer for the Australian Capital Territory. First of all, I will make best use of the time and say—

THE CHAIR: It was more a message to the members, I have to say, Mr Murray.

Mr Murray: I will do my best as well. I am pleased to be able to present a point of view. I say it is a point of view—it is essentially one from a police perspective of this problem, which has to be looked at from many dimensions it seems to me.

You asked me to talk about new things. Can I lead in by saying that police traditionally have been very good at detecting offenders and prosecuting offenders. We proved that through Operation Anchorage, which concluded sometime around the middle of last year. One of the features of that operation was that a disproportionately high number of young people were arrested. There was also, we found from the people arrested, a very high level of drug usage. Eighty-three per cent of the people we arrested were addicted to some drug or another.

What we also found—a third dimension of that, which is really quite important to understanding how we treat this—was that there was a very high rate of recidivism. Some young people had committed and were arrested for offences in excess of six separate times.

When I drew the operation together and made some analysis of it, I concluded that it was almost futile to keep doing just that. There needed to be something alongside that to complement the detection, which was important; it has to be done. But unless police and other people put equal emphasis on crime prevention and crime reduction, we are going to be in this continuing cycle, or even a spiral, if you like, of continuing offending, especially by young people.

We know as a matter of fact that in the ACT for the last financial year 51 per cent of the people we arrested or detected for offences were between the ages of 12 and 25.

THE CHAIR: Right in the definition.

Mr Murray: Yes. So that causes some alarm. So what we set out to do following Operation Anchorage was to see how can we as a police organisation go about dissuading young people from committing crime, or in any other way put in a program that will prevent or reduce crime. There are two broad aspects to this: one, the succeeding operation which we call Halite. Operation Halite, was set up again to concentrate on recidivism—that is, repeat offenders—but at the same time it gave equal attention to crime prevention.

Crime prevention in that sense has been divided into two parts. The first part is in target reduction: educating people who are potentially victims of crime about how they might go about reducing their vulnerability. The second part was to go amongst young people to say that we have programs or initiatives in place which are going to invite you or allow you to take part in some sort of program or other to divert you away from crime. That, by any test, is the hardest thing to do, but it should not dissuade us.

What I also realised at the same time was that this is not just a police problem. Can I use an anecdote to demonstrate what prompted me to take this different approach. If you get

a young child, say of primary school age, who is the son or a daughter of a drug addict, that child needs welfare treatment, it needs nutrients and general wellbeing, to get on with life. Its mother or its father might be addicted and they might be destitute or they might be criminals, or a combination of all of those things. So that child needs welfare, or indeed the family needs welfare. That same child goes to school and faces learning problems, probably because of the context from which it comes.

In the first instance, a welfare person or a health person looks at the child and says it has got a welfare or a health problem, or a drug addiction periphery problem. The school teacher or the school organisation looks at the child and says, “Ah, it’s got a learning problem.” The same child on its way home from school smashes a car and the police come along and say, “Ah, this kid is a delinquent.” The inadequacy of that in terms of putting all that into some sort of cohesive context is that each one of these persons looks at it from a single perspective. That is what worried me, because we don’t always see it as it is. It is not just a crime problem, it is not just a health problem, it is a whole contextual problem—

MRS CROSS: Holistic.

THE CHAIR: Yes.

Mr Murray: People say, and I agree, that the earliest the better and look at it in the context of the family. I put up a proposal to government which defined the problem in those terms and said: if we are going to do something about that, how do we best intervene at the earliest time? I put up a model as a hypothetical solution to this problem by suggesting, in effect, what might be called a youth bureau. It is not a question of throwing a lot of money into this. It is a question of, say, police putting two people in, and health, education, welfare, indigenous people, et cetera.

THE CHAIR: A multidisciplinary team approach.

Mr Murray: With two dimensions again. The first one should be the policy setting and policy direction, in terms of how that organisation should operate and where. But a very important part of that bureau, should there be one, is to have a group of people dealing with actual cases—case workers—because I would almost guarantee that right this minute there is a duplicity of service about for young people, all well meaning but crossing over.

To that extent we, through the Chief Minister’s office, had a researcher look at the services that are available across the ACT, and she has now just mapped that process, so it gives us a starting point to move on from there. From that mapping we allow ourselves to look at not just cost, which is obviously very important, but emphasis and duplicity. And I think that is the starting point. So a lot of good work has already been done.

The next thing I believe that should happen is for someone, probably through the sponsorship of the Chief Minister’s office, to test my hypothesis and to ask, “Is that the right model?” I am not assuming for one minute that it is going to be the right format. It might not work at all, but it should be tested, and how you test that could be in the form

of an official criminology analysis which might look at what has been done around the world and how that might be applicable to the ACT. Or, in conjunction with that, it might be a pilot study of some sort. But I think it is a practical resolve to some of the issues that I raised.

THE CHAIR: So if I understand this correctly, you propose a model, a bureau, a multidisciplinary team, an interagency-type model. You have identified a problem, the fact that we have some inefficiencies, if you like. They are not inefficiencies in terms of the people, but inefficiencies in a systemic way addressing the issue and you propose a model that is worthy of thought. Now we are at the position of saying how can we test that model. I am curious about where we are at in the continuum of getting the model up and running, because my experience with multidisciplinary teams is it is the way to go.

Mr Murray: Yes.

THE CHAIR: I am just wondering whether or not it is a goer or is it—

Mr Murray: It has to be harnessed. My memory of this is that the last time I spoke to someone—and it wasn't that long ago; it was someone from the Chief Minister's office—I suggested a workshop, not your talkfest, to actually work through the issues that might be involved in that, and to have all these people involved as I suggest, and that includes the whole breadth of it from the youth workers, the volunteers, the health, welfare, police et cetera.

THE CHAIR: Housing, yes.

Mr Murray: And if they say it is not going to work, let's hear about it. But if they say it's a possibility, well let's hear about that also. And from that, for someone in conceptual terms to say let's develop a model and test it.

THE CHAIR: The model to me certainly has merit and it certainly warrants testing. Who would you see as being the lead agency in that one? Somebody has to take the lead for that. One of the issues is police perception, and I know that something you have been working on since you have been appointed is how the community can more affectionately regard police, and I think that has been very successful. Nonetheless, there is a residual out there of the young people in trouble concerned about the police.

For example, when we were at Quamby today one of your officers was doing recreation with them and I can give you feedback that it is very, very successful. But we were told that originally when the officer first went in there and started, there was this "us and them" perception, which he has broken down over that period of time. But you are dealing with that perception.

But if we have a chief ministerial lead agency then we are going to have a bureaucratic perspective on it and no-one is going to want to know. In your view, is there a natural lead agency in this?

Mr Murray: There is probably a natural lead person.

THE CHAIR: Do you have anybody in particular in mind?

Mr Murray: No. I said there probably is. I haven't anyone in mind and I would say almost categorically it should not be a police person.

MRS CROSS: Feel free to announce it; the money is here.

Mr Murray: I don't see it as a police person. Despite all the good work that has been done and the mutual respect and trust that has been developed, I think police should be a part of but not leading this sort of program.

THE CHAIR: We might leave it at that. Mrs Cross, have you got any questions about the perspective of the model that Mr Murray has spoken about?

MRS CROSS: Yes. I would like to know how you think that model would work. As the Chair said, we have been to Quamby today and some of us had not been before. One of the things that were highlighted to at least a couple of us is that there is no place for people leaving Quamby to go to. In other words, some of them, from what I understand from what I heard today, re-offend to go back because it is a safe, nurturing environment where they have got structure and discipline and routine. The people who leave it don't have a transitional place to go to before they go out into the community. How do you think your program would work with that?

Mr Murray: In the first instance, I agree with your summary. That is my experience, too. I have seen people from Quamby who have not categorically said they have committed offences to go back but the inference from what they are saying suggests that they have got nowhere else to go.

I suppose my model would address it in that it looks at it in the full context of the individual and it would save that individual—it's got a housing problem, it's got a welfare problem, and it lacks social structure. The key players, the practitioners in that model, would set about reconstructing the environment which would be more suitable. Easier said than done, but that is the concept.

Each child, I think, will be different. I saw, for example, a young indigenous boy in Quamby who was 13 or 14, I think with something like 15 or 16 break and enter offences. He had formed a real attachment to one of the workers down there and I think that while that attachment was there he felt comfortable and secure. I was told that same boy when he went home had no real parents and his grandparent, who was ostensibly his guiding light, was getting ill, so therefore that was going as well. So this group, I would suggest, would set about building that superstructure to have the child come back to a normal life.

MR HARGREAVES: I think we may in fact have encountered that particular person today and this was impressed on us very indelibly.

MRS CROSS: It is like putting the cart before the horse, I suppose, but it appears that there is a need for a transitional place. Would you do that in that transitional place? Where would you physically do it? You see, the intention is good and the talent and the people are there. Where would you do it?

Mr Murray: I don't know. I'm not skilled enough to answer that question.

MRS CROSS: Yes, okay.

THE CHAIR: Can I give you one that you probably are skilled in answering. One of the things that the committee has discovered over its deliberations is that there is a lot of attention being paid to kids, particularly kids in care, from age say zero to five, a lot of attention is paid to young people in the juvenile justice system, but there seems to be a gap in the middle—those kids who are, say, for the sake of the argument, 6 to 12, 6 to 13, that sort of thing, most of whom we would probably think would be in the mainstream. They have not actually gone into dysfunction yet. Is the model that you have here actually attacking those people at the margins who are having difficulties, or do you think that model is a model that can cover all, the whole range of the kids?

Mr Murray: I suggest it would cover all range of kids. But you have raised, I think, a very good point about kids who might not be in the system and how you might influence them to stay out of the system—the criminal justice system I am talking about. And I think we do that to a large extent through the programs of crime prevention that our police people do with the schools programs. They actually influence, without us knowing the results, people from 6 to 12 by introducing them in the first instance to Kenny Koala, and other development programs that occupy their mind, and in effect in a subtle way suggest what tends to be right and what tends to be wrong.

Without that sort of influence, I think they are left unguided, save the parental and school sort of tutelage, to think things for themselves. Reinforcing what seems to be right, whether it be by police or someone else, seems to be a key part. What makes a 6 to 12-year-old deviate from the path varies so extensively, it seems to me, but peer pressure is huge. I think the extent to which police and other youth workers put themselves in schools is absolutely critical to that.

THE CHAIR: Can I just put in a commercial break. Can I argue alongside you that the AFP's initiative with police scouts is just that sort of thing, as opposed to PCYC.

Mr Murray: Yes.

THE CHAIR: What we are talking about is the reinforcement of positive concepts of right, as opposed to concepts of wrong.

Mr Murray: Yes, I agree with you—and it is very easy to agree with the compliment, by the way. I add to that my own personal observation, because I am the patron of the police scouts. And I went to a meeting one night—and anecdotes are sometimes helpful to draw out principles—and this large fellow, a young boy of 11, beat up someone in my presence, and I was wondering how the police people who were the scout leaders would deal with that. The skill they had was exceptional. I said, “That kid will never come back” and he swore at me as he left, by the way. I was an “effing copper” and I was a bit shocked.

Anyway, I came out the following week, not expecting to see him but there he was again. They had gradually eased that lad back into the system, they encouraged him to show some inner strength—all the things they talk about there. He wanted to be a team leader and they said, “No, you won’t be a leader unless you demonstrate the qualities.” I came back months later and the kid was a leader. That kid had the propensity for violence and when they analysed it—without going into people’s private affairs essentially—the mother had split up with her husband, a new partner had moved in and the kid was aggressive about that.

So these hidden sort of triggers bring about this behaviour. If this had not been handled well—in other words, if the police had been a heavy handed and authoritarian with that kid—I think it might have well shoved him the other way. So I am joining with you in that compliment and saying that I think it is an excellent program.

THE CHAIR: Can I now move on to the second point that I raised. I am interested in your view because it actually follows along with your model, your attitude towards having youth liaison officers. I am not aware—I have sort of lost the thread; being in government you often lose these threads—of the AFP’s attitude to youth liaison officers. Are there enough of them about? Do we need more of them? How do you see that getting together?

Mr Murray: We are working on the model that likes to encourage all police to become good liaison officers. It might sound highly idealistic but there is always a danger in having a crime prevention branch or a youth affairs branch within policing for other police to say, “Well, that’s their job. They’re the PR people, they’re the youth affairs people” or “That individual is the youth affairs liaison officer.” I am not answering your question, I don’t think, but this—

THE CHAIR: I think you are.

Mr Murray: I am starting off from a broad precept that suggests that I would ideally like all people in policing to have a keen sense of responsibility in terms of dealing properly with young people—let’s face it, it is not always done well with young people—and for there to be, in essence, everyone concerned about young people because they are the most vulnerable in society and are potentially the people we are going to deal with in the future. And if it is not handled well, especially by police, it could well promote criminality rather than prevent it.

THE CHAIR: What sort of training do we give new constables in how to deal with that; and also some of the older hands who, quite rightly, are steeped in a culture that they have developed over their careers? What you are saying in fact is a little bit of a departure from general culture, which is, in my view, quite positive. What sort of training or other avenues do you make available to these people to adopt that attitude?

Mr Murray: During the 20-week recruit training program the people are introduced to issues of youth affairs and social interaction, and how to deal with the community generally. But the real lessons are on the streets, and a propensity for someone older and more cynical to dissuade them from that being a good point of view is real.

What we have been doing in the last year or so, especially through Chris Lines, the superintendent with the crime prevention, is actually going back into the field and talking to shifts—the shift finishing, the shift starting, the change of shifts—about these issues. And he brings back real live anecdotes to have them face issues which he thinks are critical. What he does is bring back case studies where we have not handled things too well and he asks them to look at how they have done things. It is a way of having themselves look at how they do their work.

So to answer your first question, it is trained in the college, but it is highly conceptual with no terms of reference from which they can compare; and when they get into the field they sometimes can adopt a very cynical point of view, saying, “People tell lies and get drunk and drugged, et cetera,” and that can be reinforced by older more cynical police people themselves. But I am pleased to say that the culture here—and I can compare it to others—is relatively good and it is helped by people like Chris Lines who goes deliberately with his people back into the police—

THE CHAIR: Bob Sobey as well.

Mr Murray: Yes. And he tries to help take that positive approach.

But there is another key feature here in the ACT, and that is the level of experience. We have people in the ACT policing who are probably, compared with the rest of the country, less experienced, younger people. That’s not so good. The good part is that they are less inclined to be influenced by older cynical people because they have actually being influenced by less experienced and less cynical people. That is the good part of that.

THE CHAIR: So the good news is that we have got people not exposed to existing cultures which are not necessarily conducive to the right outcome, and the bad news is you keep losing them to the national AFP.

Mr Murray: I didn’t say that part.

THE CHAIR: That’s all right. On the issue of having people attuned to the way the young person thinks, which is critical to how much you can do—and without asking you to be critical of the judiciary or the legal profession at all; obviously I am just interested in your observations—it has been put to us that when people are advocating for young people in the legal system, in the judiciary system, they actually bring an adult perspective to it. Their training is in family law matters and not Children’s Court matters.

Perhaps what we could do with is some sort of training when people become students of law, specifically in young people’s matters. The UN definition starts at 25 and goes downwards, but, of course, at law we are really talking about 18 and downwards. Nonetheless, the opportunity for young people to express themselves is often suppressed by these cultural attitudes within the legal profession and within the judiciary. Do you have any sort of experience or any frustrations about that sort of thing which might be helpful for us?

Mr Murray: This is purely a police perspective—

THE CHAIR: Absolutely.

Mr Murray: which is not always as broad as it should be. But I have a legal background, as I think you know, and getting the sentencing right in a young person's court is, it seems to me, a very difficult issue. We have two polar points of view. You have a very experienced young criminal person, who is a recidivist through and through, believing that the systems can be used to his or her advantage. That is a fact. At the other end of it there is a view that the court doesn't always take into account the full aspects of a young person's life to give a fair and reasonable sentence. They are the two polar views of sentencing. I think they are both equally important.

There is a view amongst policing, and I will express it, that the system is too soft. People who write on this topic say that police coming to this conclusion is quite natural because they see victims close up. They see people who are beaten, they see people whose houses are broken into and destroyed and damaged. Psychologists suggest it is quite a natural concomitant to that that they feel that some just desert should follow. So the police point of view tends to be that punishment should follow this. In saying that—this is a general police point of view from the field—a deeper thought on that would be that punishment shouldn't always be harsh or in the strictest form of a punitive sort of sanction.

The research also shows—and I believe this to be true—that most young people, once introduced to the system, will never come back. The research shows that that happens to 80 per cent of the people. If that is the case, that 80 per cent of young people who are introduced to the system don't come back, I think they have to be treated with due sensitivity. What I am suggesting is the system doesn't always distinguish between a person deserving that sort of treatment and the person who is abusing the system by saying it is weak.

THE CHAIR: And the model that you are proposing actually goes some way to addressing that sort of thing, no doubt.

Mr Murray: It possibly does.

THE CHAIR: I was also interested in some of the stats and some of the anecdotes that we had about the propensity for people having been through the welfare system to end up in the justice system, and presumably your officers will see an awful lot of that.

Mr Murray: Yes.

THE CHAIR: I am just wondering about the holistic approach that you are proposing in your model, which I think possibly will address a lot of that. I wonder whether the model, once introduced in whatever form, might be stymied once it actually hits the judicial system because there is a lack of experience on the part of the practitioners in the legal system. Perhaps now is the time to be saying, "We need to have you people educated on that thing at law school." We recognise the difficulties of culture within the legal profession and the judiciary now. We don't condemn them for it, we just understand it. But we really need to focus a little bit more on that in terms of young people—preventing young people from going into the criminal system, which would lessen the load later. Do you have a comment to make on that?

Mr Murray: Insofar as you suggest that the model might be helpful there, I think it would be. Once you had a bureau, if it is called that—a body of these sorts of people—what they do develop is a high level of vocational skills in that area. They are the closest to this action. If this model is put in place and working, it also has a conceptual understanding of what the issues are. I would imagine, therefore, that if the court was interested in how best to deal with this particular child, it would call in people like this to say, “What do you think?” It is not necessarily a child advocate; it is perhaps a person with an objective point of view as to what seems best for the community and best for the child.

THE CHAIR: Do you see a role in fact for officers of the court or legal profession to take part in that multidisciplinary team approach, given that they are at one end of the spectrum and the welfare system, in a sense, is at the other end of the system and you have to address the continuum?

Mr Murray: There will be a separation issue constitutionally where the courts will deal with matters once they are introduced to them. If you are looking at the pre-court and investigatory distinction, certainly the judiciary would not be interested in getting involved in that, and perhaps they shouldn’t be involved. Insofar as legal practitioners are concerned, there is no reason why they shouldn’t be.

THE CHAIR: Colleagues, do you have any questions?

MS DUNDAS: I am wanting to move onto the police checks.

THE CHAIR: You can do that if you like.

MS DUNDAS: We have had a lot of discussions about police checks—checks on people who were working with children. Do you see in terms of the prevention and the apprehension of child abusers whether or not they work, whether or not they have a place?

Mr Murray: I have been in this area of work long enough to remember times when no checks were done, and therefore I can compare. Yes, I think it is critical. The dilemma for anyone in this process is that, while there will be people who are clearly convicted of an offence involving indecency or something to do with young people, there will always be inferences that someone might be doing something. That is the dilemma for anyone and how you report that. I not sure whether we have ever come to the conclusion of how you might deal with that. In other words, some individual, be it a police person or a social worker, could hold a view, based on professional intuition, that something is untoward. How you report that, I am not sure.

THE CHAIR: There seems to be some consistency in the comments made to me—on our trips interstate, anyway—that we err on the side of caution and if somebody’s, as it were, rights were violated by inference but the probability of protection of some young person is going to be the result, well tough luck. That seems to be the prevailing opinion. I guess that is a difficulty.

Mr Murray: It is a difficulty. At the same time, we should understand that the ends to which child molesters go to deceive and cheat their way into people's trust can't be underestimated.

MS DUNDAS: So do you think that the checks need to be mandatory or broadened or enforced in a different way?

Mr Murray: I am really not sure of the answer to that. Certainly, as a member of the community generally, I would expect that if a child of mine was going to an area of trust, a vulnerable child, there should be some form of checking the character of the individual looking after it.

MRS CROSS: What about the children who are molested by people they know. I understand that there is a high proportion of children molested by people that are known to them.

Mr Murray: Yes.

MRS CROSS: Family members—whether the immediate family or the distant family. You don't do police checks on family members—

Mr Murray: No.

MRS CROSS: because if you don't know that they are doing it, or you do know, it is just not done. So what do you do with those people?

Mr Murray: That is a continuing problem. The answer tends to be that if there is a process which is duly sensitive to the victim's interests, they will be more inclined to come forward and tell someone, and that is why in policing over the last decade and into the previous decade we have spent a lot of time making the sexual assault areas or the victim's areas more conducive to people feeling comfortable about telling their story.

That doesn't get back to the seat of the problem, as you put it, because the whole nature of a family is that it would tend to be kept within the family. I am not sure that I, from my policing position, can do anything about that except by inference in the way we deal with young people in schools and in other situations talking about issues; by inference suggesting what is normal and what is not normal in society without actually spelling out child abuse. Young people might therefore feel inclined to say, "Well, I am not happy with my situation. I want to tell someone."

MRS CROSS: John, what about people that may be the perpetrators, that may have high profile positions in the community? One of the concerns that I have had living in a small place like Canberra—particularly since this was the centre of the public service and the capital of the country—is the potential of protecting people who are well known; that the authorities may go to some lengths to protect their identity at the expense of the child's welfare. Is that something that you have encountered?

Mr Murray: No, never. Again, I have been in policing for quite some time and I would say if that was ever the case, I never knew about it. But I would certainly say now that the processes are so strict and so accountable that I find it hard to contemplate that happening, and certainly within ACT.

MR CORNWELL: But are they? One of the problems about mandatory reporting is that it doesn't always seem to happen, and I am thinking of the death of two children recently, not child abuse in terms of paedophiles or such like.

MRS CROSS: Molestation, yes.

MR CORNWELL: I am talking about the fact that problems did exist, it would appear, and nothing was done. My concern is that the mandatory reporting is not necessarily being followed through. I don't know what the next step is. How do you enforce mandatory reporting? Do you have any ideas?

Mr Murray: Perhaps I misunderstood Helen's point.

MR CORNWELL: No you didn't—more restricted, more limited.

MRS CROSS: Mine was a different question.

Mr Murray: It was a different one because what I envisaged from your question was: once it is in the system would anyone actively take steps to have it taken out of the system? I would say no to that; I would find it hard to contemplate that.

Greg, your question was about the extent to which people are prepared to, even if they are required to, report child abuse. I think you are right. I think people will rationalise it away often with "the signs I am seeing might not be child abuse", that there might be a good reason for it. The extent to which that is attached to whether that person's parents or relatives are prominent or not, I am not sure; I have got no experience in that.

MR CORNWELL: No. Okay, so you rationalise it away and nothing is done and the child dies. Is there any attempt to go back to these people and say, "Look, you knew about it. Why didn't you do something about it?" There are penalties, and the question is: are the penalties being levied?

Mr Murray: Let's talk of the process before penalties. If a child dies, under the act a coronial investigation follows and they are really intense and thorough. We have instances along the lines you have suggested. What we have found in particular cases is that it is an allegation which is easy to deny. Let us by analogy draw a parallel with the conventional sexual abuse case, where the child has not died. You still get denials and you have to look for corroboration. The same principles apply if the child has died. You look for corroboration before you can even attempt to get a prima facie case before the court. What we are both agreeing on is that it is an extremely difficult area, I think.

MR CORNWELL: Yes, indeed.

MRS CROSS: So that must be one of your greatest challenges, John, because you probably often have circumstantial evidence, but because you don't have either DNA or witness proof, it is very difficult to charge somebody. It's very frustrating.

Mr Murray: I can tell you—and this has been constant through my career—that the investigators, right or wrong, have the strong feelings along the lines you are talking about but can do nothing about it.

MR CORNWELL: But the problem is still there, isn't it; that whether you have got your evidence or not, the fact is that somebody who has a legal responsibility to report something has not done so?

Mr Murray: Yes.

MR CORNWELL: That is the problem that I have got. I mean, what is the point of having mandatory reporting on the statute books if, firstly, it is not going to be reported; and, secondly, if it isn't reported, there is going to be no penalty for failing to report.

MRS CROSS: The problem is, though, that sometimes when people report these things they are the ones that get victimised and punished.

MR CORNWELL: No, I am sorry. It is on the statute books, it is required, you are required to report.

Mr Murray: I hope this is not going too far away from the topic, but my experience with domestic violence—to reinforce what you are saying as being correct—is with general practitioners, who were very often disinclined to report it as a domestic violence and were able to rationalise away that it wasn't because the woman had said, "Well, I ran into the door," for example. It is easy to walk away from that and say, "Look at what she said. She walked into the door," but there is a strong belief by the practitioner that she didn't walk into the door at all.

MRS CROSS: That she was hit.

THE CHAIR: Can I put the question in a slightly different way, John. As you said on another topic, you were around before it happened. We are talking about police checks, and it is the same with mandatory reporting. Do you find that we are seeing more people protecting kids now because the mandatory reporting is there, that people are actually in a sense willingly complying with that societal imperative, that we are actually seeing more kids protected because of its being there or as a part of its being there?

Mr Murray: In other words, is it working?

THE CHAIR: Is it working? I don't mean that it is working in quite the same way that Greg is saying in that we are saying we are going to belt people if it's not working. But because it is there, is it actually having a positive impact on the kids?

Mr Murray: I am not skilled enough to answer that question. But on a broad basis I can tell you that the education level generally in the community in the last 20 years has been massive. Twenty years ago, if anyone came forward and complained about something as sensitive as child abuse, it was a pretty precarious sort of thing to do.

THE CHAIR: Can I go back just a little bit to your model, because I am rather intrigued with the model, being an unabashed fan of multidisciplinary team approaches and integration approaches. One of the things we found when we were looking into a range of things with the community was that it would have been somewhat hypocritical for us to have put recommendations to the Assembly with regard to the interests and wellbeing of kids if we didn't talk to them, if we didn't actually say to them "What's the go?" as it were. When you developed the model, was there any involvement with young people in the formation of the model.

Mr Murray: No, there wasn't. Now you have embarrassed me, you see, because I agree 100 per cent with what you said. Absolutely 100 per cent.

THE CHAIR: We will just leave it with you then.

MRS CROSS: We should have more witnesses like you.

Mr Murray: So can I tell you why—it is only recently that I had this experience. I am also part of Crimestoppers and I concluded after this particular series of anecdotes the very thing you just said, that there can be an arrogance about adults deciding what is best for kids. We had some primary school and adolescent kids come along and talk about crimes in their school and what they do about it—would they tell the police, would they tell their mothers and fathers.

Their view of life and how they thought are totally foreign to me. For example, the primary school kids said, "Yes, we would tell mum and dad if someone was stealing or setting fire to things." But the adolescent kids in high school said, "What? We'd never tell our parents anything about that. Tell the police? Absolutely no way at all."

That reminded me—and there are two parts in reinforcing what you have just said, John—that to identify the problem in the first instance you have got to have young people tell you what the problem is. But the next part we don't always do. What is the solution to the problem? Why not go back and ask the same kids?

THE CHAIR: Is it going work?

Mr Murray: Yes, and I agree with you.

THE CHAIR: One of the things that we discovered was that we can come up with any number of solutions you like, but if the young people are not prepared to pick them up then it is a complete waste of everybody's time.

Mr Murray: Yes.

THE CHAIR: Can I just—and I am conscious of the time—also now talk to you about an issue that we discovered, amongst many. Before I go on, though, I should say I think that the report that we are going to put down in May is likely to have some recommendations for the government to look at. But probably more importantly, it is going to have avenues for the government to pay attention to, as opposed to coming back to the Assembly and saying, “This is what our approach to it is.” So there is going to be a long list of things that we think have been missed in people’s thinking about young people.

One of the things we stumbled on when we were talking about Marlow Cottage and Quamby was the number of kids who were actually picked up by the police for some reason or another, and it may be that they just needed looking after for the night. There is nowhere for the police to take them—a bit like the old drunks stuff. Because the refuges are full, or Marlow Cottage is full, what is happening is that police are finding themselves in the position of having to come up with some smallish charge so they have a legal basis for protecting the child or young person—putting them in Quamby overnight or for three days or something like that and then after that the magistrate dropping the charge and discharging them into the care of their family or whatever.

It seems to me, anyway—maybe my colleagues will agree—that there is a facility missing in town; a safe facility to which the police can take a young person who they have identified as being at risk. It can be actually obligatory that the young person go to that place, but it doesn’t need to be in the context of a correctional centre, which is Quamby. I am feeling for the police officers that actually find some kid like that, charge them with stealing \$1.50 worth of lollies or something, just to have the authority to protect them.

Are you getting any feedback which indicates that we really need to look at those times when kids are actually taken to Quamby when they shouldn’t go anywhere near the place?

MRS CROSS: Today we heard about children who have mental illnesses—maybe suffering from depression or some psychosis—and they commit a crime because of that. They take them to Quamby when in fact what they need is a facility for young people with mental illness.

THE CHAIR: And, of course, there are some other issues. It might be a homeless kid. The police officer identifies the kid as homeless. If there is no refuge available, what do you do? You can’t just leave the kid on the street. So the police come up with a charge which is probably quite antiquated, but it is useful for the purpose. They then take them to Quamby, they are there overnight, or three days, or something like that, and then they are off and running again.

I am getting the sense that there needs to be another place, that when the police officers see these kids at risk they can actually, using the authority of a charge if necessary, take them to that place. They are not going to run away. It is not as though they are actually criminals breaking into places and this sort of thing. And it appears as though there is something like 90 of them in a year going through that process.

Mr Murray: In answering yes, I would just say that I think it is a great idea. I understand from my limited knowledge of centres, there is one nearby in Civic that is continually full, so the city doesn't allow for the full service you are talking about.

One of the things I also found about these homeless or potentially homeless kids is, yes, you need to provide that physical support. But having spoken to a couple of street workers, that has to be complemented, it seems to me, with some sort of stimulus in the intellectual department because they very often have a resentment against authority and people in authority to the extent they don't trust them. But they are also, more importantly, disinclined to call for any service.

When I did a little bit of door knocking about drink spiking, for example, I spoke to two street workers and said, "Is there any drink spiking amongst these homeless kids that get about the place?" They said, "Oh, yes, it has happened quite frequently. People have drugged their drinks." And I asked naively the question, "Have they reported it to the police?" They just laughed and said, "They wouldn't go near the police." They don't expect any service because they don't trust authority, they have no respect for authority—very often on good grounds. But they feel powerless, so they struggle through life looking for whatever they can get.

So linking this physical structure you talked about, I think there is room for some sort of support in that area—did I call it intellectual?; I am not sure—which helps develop their self-esteem and confidence and restores them as a citizen in their own right.

THE CHAIR: One of the issues that struck me is that when we actually get the courts to sentence somebody to a period of time at Quamby, what we are talking about is behaviour modification; you are trying to change the big ocean liner a bit. So we are trying to stop aberrant behaviour. The kids that we are talking about are not crims yet—not even close to being crims yet—and putting them into that system, albeit for two or three days, is actually exposing them to that correctional mindset.

However good it is—I think the Quamby experience is a great one, quite frankly—nonetheless I think it is possibly inappropriate that these particular type of kids; and 90 of them a year go through that. Basically what happens when you go to Quamby is that you go through the prison gates.

It just seems to me that what we are seeing is that the police have absolutely no choice but to detain them there, and we are seeing a hole there. What sort of facility should we provide which allows the police the opportunity to take these kids to somewhere and save them?

Mr Murray: John, I am agreeing with you. I agree with the need. I am not sure how that is done.

MS DUNDAS: Would you see it as a place that was similar to Marlow Cottage in that it could contain people who have been ordered there, or do we just need a facility that doesn't have that "you must be there" attached to it?

MRS CROSS: Like a young people's refuge.

MS DUNDAS: Well, yes, but something different to that.

Mr Murray: Like a halfway house sort of thing, yes.

MS DUNDAS: Yes. Do you think it is more of it being an open one or one that deals with those on orders as well, or—

Mr Murray: I think the whole concept that you are talking about implies non-custodial, and it also implies respect for people working—if people are asked to go there, you are sort of saying we trust you and respect you to do whatever we expect you to do in that building. But there will also be other people, I imagine, who have done nothing wrong at all and there is a roof over your head.

THE CHAIR: That is an argument for boosting up the resources for youth refuges where people who find themselves in a lot of trouble can go, and it is only transitory. There are some other people. Police officers who are skilled know that if this kid stays in that particular situation it is absolute that they are going to be confronting the magistrate in a given amount of time.

So is there a case for a place where, either at the magistrate's discretion or something that the police can use with existing powers, they can compel somebody to go to for an evening or two because their issue is only 24 hours, or 64 hours, old and it will get resolved?

Mr Murray: Can I tell you why I agree with that suggestion. One of the ironies about the judicial system is that people are arrested and kept in custody for offences, the penalty for which is actually less than the custodial period for the remand—a person summoned and picked up for a minor offence would spend three days in custody and eventually be discharged when they appeared before the magistrate. And the whole irony of that is self-evident. So that tends to answer your question: yes, there is lots of room for having something which is non-custodial but you are required to go to this place.

MR CORNWELL: But that brings in all sorts of legal ramifications, surely. I mean, homelessness is not a crime, is it?

Mr Murray: I understood from the question that someone had been charged with an offence but you didn't want to put them inside.

MR CORNWELL: Yes, because they wanted to put a roof over their head.

Mr Murray: Yes.

MR CORNWELL: I think this is a really deep and difficult situation.

Mr Murray: I understood we were talking about two different things there, to be quite honest. By analogy, I thought you were talking in effect about something like a bail hostel, which has been tried in other countries.

THE CHAIR: Exactly, yes.

Mr Murray: Which is different to a refuge for a kid that has done nothing wrong at all.

THE CHAIR: No, I am talking about a young person's bail hostel, basically.

Mr Murray: Well, I see them as two different things. You are right—you can't order someone because they are homeless.

MR CORNWELL: But then you have got gradations of what constitutes—I don't know, John, if you—

THE CHAIR: The example was given to us this morning of a young person who is picked up and charged with some really antiquated law like vagrancy or nicking a Mars Bar but, because they have actually broken the law, the police officer has the authority to take them off the streets for their own good.

MR CORNWELL: Well, hang on—now we are talking about something else.

THE CHAIR: They are given the time—it will take, say, 24 hours for their issue to be resolved; getting back to their family or whatever it is. We are finding that quite strangely the police officer would dearly love to be able to just take the kid home and say, "Here you go," and they do that on innumerable occasions but sometimes it is not possible for a 24 or 48-hour period.

And what is happening is in fact the kids, because they might have a mild mental dysfunction, or any number of things, are actually spending up to three days in Quamby and then the magistrate discharges them into the custody of their family. Sometimes it is because a family won't have them back. In one instance we were given the example of a person who had a mental dysfunction. They were picked up and put into Quamby. They went to court and the magistrate was prepared to put them back into the family. The family said, "No, we're not capable of taking this person back yet. Give us another day off." So the magistrate remanded this young person into the custody of Quamby for a further 24 hours and then they went home.

Now it seems to me that unless we are talking about a fairly serious crime, Quamby is the wrong place for these people—and by "serious crime" I mean break and enter or an assault or something like that; but just nicking a loaf of bread from Woolies to have a meal that night doesn't seem to me to constitute a—

MR CORNWELL: I don't know how you—

THE CHAIR: And that is rare.

MR CORNWELL: I just don't know how you can—

THE CHAIR: And what happens then is, of course, the support services on the multidisciplinary team model that John was talking about earlier on come into play with their bail hostel. Ros has got one or two questions.

MS DUNDAS: Just quickly to change the topic. Do the kids that you are picking up have an understanding of their rights and the law or is it more of an inflated view of their rights?

Mr Murray: I think you had best ask the practitioner in the field that question. I really mean that. I could guess; I might be wrong. I remember—by anecdote, again; sometimes you learn things from anecdotes—a kid yelling out from the back of a police van, “I know my rights.” Well, he didn’t understand them properly. He was required to answer certain questions but said he didn’t have to.

MR CORNWELL: I saw one on television the other night of a person being arrested in Sydney saying, “Call my mum.”

Mr Murray: There is the danger, you know, that if you are giving information to kids by pamphlet or otherwise about what their rights are, they sometimes don’t fully understand them and they can misunderstand them.

MS DUNDAS: I was going to ask about that. Do you see the *When can I?* booklet and other information like that as a useful tool?

Mr Murray: Yes, I do. I think the opposite to that is to mystify or confuse.

MS DUNDAS: Yes.

Mr Murray: So the answer is yes. But at the same time, they are under the pressure of others who misconstrue what the powers are and they pass amongst themselves what is right and what is wrong, what you can and can’t do. And all of a sudden they find themselves in a situation that this urban myth now has developed. I don’t think they carry the pamphlet in their pockets, in other words, and say, “I know my rights.”

MS DUNDAS: Or there is that little card that is meant to go in your wallet that—

Mr Murray: Yes, they might now, but my experience is they don’t. You might ask the question why they are, and if they are they might think, “Well, I’m going to be in front of the cops very shortly. I had better carry my card.”

MS DUNDAS: Do you think there are better ways that we can use to communicate the law and rights?

Mr Murray: Yes. We are trying this. I don’t know the extent to which we are doing rights with the police contacts, but it is not always right for the police to do it. You asked before about lawyers’ participation in things. I think people might be more inclined to say, “Well, a lawyer said it, it must be right” sort of thing. I am not sure. I think there is room for—

MS DUNDAS: That’s like a politician saying it must be right.

THE CHAIR: Being conscious of the time, I also wanted to just share with you something that the young people told us when they came up to see us. Some kids were just kids and some kids were young carers who have their own set of difficulties. But one of the kids said—and I have forgotten which one it was—they would like to have part of their school curriculum addressing their rights and their privileges at law as young people from sort of senior primary school and junior high school and through. What do you think of that one?

Mr Murray: Yes, I agree with it.

MRS CROSS: I think it should be rights and responsibilities together.

MR CORNWELL: So do I.

THE CHAIR: Yes, certainly. Point taken.

MS DUNDAS: But you think there is definitely a need for that?

Mr Murray: Yes, I agree.

THE CHAIR: We might record that Mr Murray agrees with that.

MRS CROSS: He hasn't disagreed with anything.

THE CHAIR: No, I know. He is doing too good a job. Can I just say thank you for your submission. As we have only just received it, obviously we haven't had a chance to chew it over and have a look at it. But I am sure it will be useful. If it is okay with you, if we have got the odd question or two as we have a look at it, would you be happy if we contacted you and got the response, and then we just feed it into system?

Mr Murray: Certainly.

THE CHAIR: Thank you. I will draw the public hearing to a close. Thank you very much for your time, Mr Murray.

The committee adjourned at 3.02 pm.