

## COMMITTEE REPORTS - CONSIDERATION

### *Committee*

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

#### *Standing Committee on Estimates and Financial Operations - Financial Management of Prisons - Twenty-ninth Report*

Resumed from 14 September on the following motion moved by Hon Mark Nevill -

That the report be noted.

Hon PETER FOSS: I spoke on the last occasion in general terms on some of the matters raised by Hon Mark Nevill. I would now like to deal with the recommendations of the committee. I will be tabling a formal response to this report, but I will now deal with some of the issues that it raised. Recommendation No 1 reads -

The Committee recommends that the *Road Traffic Act 1974* be amended to provide the courts with a wider range of sanctions alternative to imprisonment in the community as sentencing options for driving offences.

This recommendation has already been adopted by Cabinet, and I understand the legislation is now before one of the Houses. Recommendation No 2 reads -

The Committee recommends that the *Bail Act 1982* be amended along the lines of s11(9) of the *Bail Act 1985 (SA)*, so as to require defendants who remain in custody because they are unable to meet bail conditions to be automatically brought before the courts within five days for the bail conditions to be reviewed.

The difficulty with this recommendation is in "brought before the courts". Currently, 92 per cent of bail matters are handled by video link, so that I think the words should include being brought before the courts via the video link. Certainly the High Court is of that opinion.

We have also been trying to help people find their sureties. Large numbers of people have bail conditions set, and it then takes them 24 to 48 hours to meet those conditions. This seems to be a bigger issue than the review of the bail conditions. There is concern as to whether bail conditions should be made lighter if people cannot meet them. I am not absolutely convinced that, having made an estimate of the kind of bail security required, the court should be required to lighten it simply because the defendant is having trouble meeting the bail conditions.

We have an obligation to help people meet bail conditions, and we stationed an officer at the Central Law Courts to help people find bail before being taken back to prison. It has been done in the Children's Court for some time and, according to the statistics on the ability to meet bail, has a much greater success rate there than in the Central Law Courts. As a result of having an officer at the Children's Court to help people find bail, fewer people are being taken to Rangeview Remand Centre. The policy of lightening a person's bail conditions if he is unable to meet them is not necessarily the correct one. The bail conditions could be varied slightly or phrased slightly differently, but the most important issue is that bail should be appropriately set. Recommendation No 3 reads -

The Committee recommends that measures be put in place to ensure that persons are not held on remand unless they are deemed by a judicial officer to be a danger to the community, are likely to abscond, or are likely to pervert the course of justice. The Committee supports the presumption in the *Bail Act 1982* that bail will only be granted for those charged with offences of violence in exceptional circumstances.

This has been dealt with by the court recently. The *Bail Act 1982* was amended recently to allow the seriousness of the offence in itself to be sufficient grounds for refusing bail. Prior to that, the Act was amended to require that a person who is on bail, parole, or any other conditional release order for a second schedule offence and commits another second schedule offence, be denied bail. At the same time the range of second schedule offences was broadened.

These changes dealt with a problem that we had noticed with drug dealers. Once they had been charged with a serious drug dealing offence, defendants would go to considerable lengths to delay their trials so they could take advantage of the totality principle. Having been charged with the drug offence and granted bail, the defendant then treated the situation like a parking infringement notice left on a car. If a ticket is placed on a car for over-parking against a meter, that car can be left in the same space all day without getting another ticket. Some drug offenders were pushing out their time for trial by up to three years. When they finally came up for trial, they would plead guilty to all the other offences with which they had been charged in the intervening period - they

would often have blatantly continued their drug dealing activities and faced further charges. The sentence they then received would often be little more than that they would have received for the initial offence. Often the sentences would be made concurrent.

It was a matter of concern to the Government that the system was being abused in that way, but once defendants facing a second serious drug offence were required to justify being released on bail once more, they became keener to have their cases dealt with sooner. Not many offences fall into this category, and perhaps the second schedule could be revised. Some of the offences included in the second schedule were perhaps on the light side, while other more serious offences were not included.

Another issue dealt with was that of the breach of violence restraining orders. Amazing situations have occurred, such as that in which a man sent to jail for breaching a restraining order by contacting his former wife has continued to write letters to his wife from prison, further breaching the restraining order. Steps have been taken to prevent that mail being sent, but have been circumvented by using another prisoner's name, or using prisoners leaving jail to carry out letters to post to the wife.

Some people with excessive stalking behaviour continue that behaviour from in jail. One of the reasons we have added this to the second schedule is that it is obsessive behaviour and, unless people are not admitted to bail while on charges relating to repeat obsessive behaviour, the effect on the victims is that they totally lose faith in the legal system to protect them from that behaviour. Quite a lot of literature is available on stalking, and this House has implemented some very good measures with regard to stalking. The changes we have made to the Criminal Code Amendment Bill regarding stalking now give us the best legislation, and some good amendments to improve that Bill were suggested by members of this place during the course of debate on that measure.

Stalking is a behaviour that has a significant psychiatric underlay. A lot of people do not fully understand how serious the behaviour is. A lot of work has been done on it by some psychiatrists in Melbourne, and I understand it is a problem that plagues some people. It is interesting that most people who engage in stalking do all the same things. When one reads the literature, one begins to think that every stalker one has ever heard about must have had the same book and been following the list, because their behaviour is almost totally predictable. We included that recommendation because it is very important. Generally speaking, we agreed with the basic thrust of the Bail Act in recommendation 3, but there are exceptions. Recommendation 4 states -

The Committee recommends that remand prisoners be held in establishments at the lowest level of security for which they qualify according to the normal internal policy classification procedures for sentenced prisoners so as to avoid wherever possible the mixing of remand prisoners with maximum security prisoners.

That is a fascinating recommendation, because if one agreed with the previous recommendation, there should not be anybody in remand who is not a maximum security prisoner; in other words, those prisoners should not be remanded unless they deserve to be a maximum security prisoner. Generally speaking, remand prisoners are being treated as maximum security prisoners; otherwise, why are they in there?

Hon Mark Nevill: They may have been found innocent.

Hon PETER FOSS: No. The prison itself may assess that person as not being likely to escape or to cause serious harm in the community, but the court, in finding the reason for refusing that person bail, may be of the view that the person is likely to abscond or to cause damage. The member's own recommendation No 3 states-

The Committee recommends that measures be put in place to ensure that persons are not held on remand unless they are deemed by a judicial officer to be a danger to the community, are likely to abscond, or are likely to pervert the course of justice.

If we follow that rule, that is the description of a maximum security prisoner.

Hon Mark Nevill: I do not like this idea of maximum, medium and minimum security.

Hon PETER FOSS: We do not particularly like having remand prisoners classified as maximum, but the difficulty is that a judicial officer has described them as maximum.

Hon Mark Nevill: You are addressing that problem because you are no longer putting them in Casuarina Prison.

Hon PETER FOSS: We are; they will not be mixed with convicted prisoners, because Hakea Prison is coming on line. It is still a maximum security prison.

Hon Mark Nevill: A major reason those prisoners were going to Casuarina Prison was that those prisons had a better staffing rate for remand prisoners. That sort was going on for a decade.

Hon PETER FOSS: The mixing of prisoners will cease when Hakea Prison goes into full operation, but it is still a problem that we have remand prisoners who are always treated as maximum security prisoners, and it is

particularly a problem when they are not in the metropolitan area. For instance, if they are at Kalgoorlie, they must go into the maximum security "bin", if I can describe it that way. Similarly, at Broome Regional Prison the maximum security is quite inadequate. It is not so much of a problem at Roebourne Regional Prison and Greenough Regional Prison. Albany Regional Prison is a maximum security prison. It is mainly at Broome and the eastern goldfields where the requirement for them to be maximum security prisoners is a problem. I am certainly sympathetic to the idea of considering whether a person should be described as a maximum security prisoner or whether he has just been refused bail by the court and we would not ourselves have described him as meeting the requirements of being a maximum security prisoner.

However, Hakea Prison will overcome the problem of mixing prisoners. We will have all our remand prisoners in one prison. There will be some long-term prisoners at Hakea Prison, but mainly, because of a levelling of the process and for some continuity, generally speaking they will all be remand prisoners.

Hon Mark Nevill: The police would regard them all as maximum security.

Hon PETER FOSS: Anybody who escapes is maximum security. A prisoner who had done a period of time and had become a fairly respected prisoner could become a minimum security prisoner, but if he walked out of the prison he would suddenly become dangerous and would be regarded as "not to be approached". That was a bit of a problem because the state of play after the person had spent some time in jail was not being considered.

I do not have any problem with recommendation 4, other than the logical problem that the prisoners should not have been in there if the court did not think they were maximum security prisoners; otherwise, they should have been admitted to bail. Obviously, there may be people who fit within recommendation 2 situations; that is, people the courts think should be admitted to bail but who have not satisfied the requirements for bail. They are obviously not in the same category as people about whom the courts say, "No matter what you do, we will not give you bail because we think you are either a danger to the community or are likely to abscond." If they are both a danger to the community and likely to abscond, they are definitely maximum security prisoners. If they are likely to abscond but are not considered a danger to the community, they are probably medium security prisoners. If they are a danger to the community and not likely to abscond, they are probably medium security prisoners too.

Recommendation No 5 states -

The Committee recommends that the Ministry of Justice provide a sufficient number of places in offender management programs to cater for all eligible prisoners. Prisoners should be given the best possible opportunity to complete such programs in order to allow each prisoner to leave prison at their earliest possible release date. Furthermore, therapeutic programs, such as anger management and sex offender treatment, should be undertaken by prisoners at the commencement of their sentences rather than immediately prior to the prisoner's release.

I agree with that recommendation, but I should mention one thing in relation to sex offenders. We have enough places for all sex offenders to attend sex offender treatment programs. The problem is that a lot of those people are in denial and refuse to take the program until the very end of their sentence, when suddenly they say, "I will not get out unless I take this program." Therefore, they put up their hand at that stage to do the program. In the meantime, a lot of other people have agreed to go on the program and are finishing it in time - because they can do it quite early as part of the program. At that stage, because the others have put their hands up late, we say, "Your problem is that you should have done that program when we offered it to you; you cannot now come along and get in front of prisoners who have taken it at an early stage of their sentence and who now want to get out and who will be getting out because they have satisfied the requirements of the Parole Board."

Hon Derrick Tomlinson: One of the problems with that sex offender program is that it requires that the prisoner admit guilt. Some of them are in denial.

Hon PETER FOSS: We have another program for sex offenders in denial.

Hon Derrick Tomlinson: But there is denial of two kinds: That involving a conscious or a subconscious denial, and that involving an adamant statement of innocence as opposed to not guilty.

Hon PETER FOSS: Most sex offenders who are blatantly guilty are also adamantly innocent.

Hon Derrick Tomlinson: Most of them comply and get on to the program because they want to get out quickly.

Hon PETER FOSS: Yes, but we do have a program now for offenders in denial. I insisted on that program being created. It seems to have been given the same sort of treatment by the Parole Board as the one for people who are prepared to admit their problem. Whereas we need a program for prisoners to deal with their denial, I do not think they should be let out simply because they did another program.

Hon Derrick Tomlinson: They do not get out until they admit their guilt.

Hon PETER FOSS: No, that is not quite correct. I believe they should be given an opportunity to go through why they are in denial, and I wanted this program to deal with the question of people in denial. I must read many sex offender cases which come to me for review. Some sex offenders excuse their actions by saying that the act was entirely consensual and that the victim loved it; these people are really sick. I do not see any reason why people who are so blatantly in denial should ever be let out before their release date. If they cannot address their offending behaviour, why should they be let out?

Hon Derrick Tomlinson: What about the one in one thousand?

Hon PETER FOSS: The one who says, "I was not there; it was not me; it was somebody else"?

Hon Derrick Tomlinson: Or that it did not happen. They say, "I was there but it did not happen."

Hon PETER FOSS: That is true. I tend to review the worst cases. I do not get the ones that go to the Parole Board; I get the ones for those who are held at the Governor's pleasure. I am yet to find one case that causes me to have the slightest hesitation in dealing with it. Generally speaking, offenders are not sentenced to serve at the Governor's pleasure unless they have been convicted on a large number of occasions. That accidental happening becomes beyond possibility. Generally speaking, the evidence is pretty good.

Hon Derrick Tomlinson: I will give you one case when Hon Cheryl Edwardes was Attorney General, and I will ask you to review that.

Hon PETER FOSS: Was he a GP?

Hon Derrick Tomlinson: A which?

Hon PETER FOSS: Governor's pleasure.

Hon Derrick Tomlinson: No, eventually he was allowed out.

Hon PETER FOSS: I recognise the problem of offenders in denial. Offenders can take a course to deal with this question of denial. There is no point in trying to deal with that person's problem through the sex offenders treatment program if he does not admit he has one. The first thing I did was to ensure that adequate places were available in that course, and there are.

If an offender says for two years that he will not do the course and suddenly realises that he will not get out unless he does it, he does not skip the queue. He must wait for a place to become available. Priority should not be given to people who at the last moment decide to do the course because they know they will then get out earlier. Offenders who have agreed to take the course at the appropriate time will not be pushed further down the line. Nor do I believe that spare capacity ought to be provided in case people change their minds. Adequate capacity has been provided, but some people miss out on undertaking the program at the time they want to do it because they did not take the program when we wanted them to do it. That is their problem, not ours.

We have sufficient capacity for sex offenders to undergo treatment programs. The Government is pushing for those programs to be taken earlier in an offender's sentence. Some people must do the programs more than once. The offenders seldom improve after the first violence and aggression courses. It seems to be a course that offenders must do a couple of times before the aim of it sinks in. The Government has been considering some good programs to assist with that process. Interestingly enough, one of the basic courses that underlies every course is the cognitive skills program. Most of these problems arrive from the inability to put two and two together. The classic violent offender does not admit that the violence is his fault.

Hon Muriel Patterson: Is the aggression course started as soon as they are incarcerated?

Hon PETER FOSS: They will take the aggression course as soon as they are ready to do so. Sex offenders and aggressive people are in denial. The biggest problem with aggressive offenders is that they believe it is never their fault. They will say, "They did this and I had to hit them." They will always give a litany of reasons as to what the other people did to cause them to be hit.

Hon Muriel Patterson: They are the victim.

Hon PETER FOSS: Absolutely. The first and most obvious characteristic of these people is that they are narcissistic. They are also totally self-centred and never see themselves as being the cause; they consider themselves to be the victim and believe the whole system is against them.

Hon Derrick Tomlinson: I know how they feel!

Hon PETER FOSS: I had better keep an eye on the member! Sometimes people make complaints about the courses not being available. The courses are available, but people must take them when they are available, not at the time when it suits them.

The committee recommended that we make a determined effort to reduce the use of short-term imprisonment. I entirely agree with that recommendation. It is one of those unfortunate areas. The Government has legislated that it cannot be used for certain periods and it legislated that it can be used only for other periods if an explanation or excuse is given. That does not, however, stop people from getting around it. A classic example in places where they could not jail people is that the judiciary would remand offenders in custody for 14 days. That is a judicial practice I deplore which, nonetheless, some judges use. Some people believe in the short, sharp shock.

The Government has tried to get rid of imprisonment for non-payment of fines as much as possible; however, the Federal Government still sends people to prison for short periods for non-payment of fines. It is one of those matters over which the State Government sometimes has no control; however, I agree with the sentiment of it.

Another recommendation is that judicial officers responsible for sentencing decisions should receive feedback on the rehabilitative effectiveness of their sentencing decisions as well as evaluation of the rehabilitative effectiveness of different sentencing options generally. Comparative data from other Australian States would also be of value. This feedback is to get an evaluation of the effectiveness of their sentencing decisions in terms of preventing offenders from reoffending. I must confess that I too would like that information. We do not have proper statistics on that information. Apart from providing feedback to the judicial officers, it would be useful to the Government. I mentioned a program that has been developed for the likelihood of re-arrest. Members of the committee might like to see that program. It was developed with the Crime Research Institute. It is a likelihood of re-arrest program, not a likelihood of re-offending; it is based purely on re-arrest. Some people have a greater tendency to be arrested by the police, not necessarily for offending. Some people will get arrested for doing nothing and others will not be arrested no matter how far they go.

Hon Mark Nevill: In America, black people who live in a low socioeconomic area in America are likely to be arrested.

Hon PETER FOSS: There is not a great deal of difference here. The Government must take into account when using that program that some people are more likely to be arrested, but not necessarily to offend. The committee recommended strict enforcement or alternative sanctions; where possible, community service should not interfere with an offender's employment commitments, which is stated in the Act. The big problem I have identified in the community-based area is that too much latitude is given to offenders about when they would turn up. The Ministry of Justice was spending almost as much time ringing people asking them when they were available as the offenders would spend doing community service. I have told the department to arrange a week of work rather like the work camps.

Hon Mark Nevill: The responsibility should be on them to turn up.

Hon PETER FOSS: That is right. Offenders would be told that they were due to work on a certain week. The Ministry of Justice must deal with people who have regular employment. A problem arose because of the Commonwealth's requirement that people actively seek work. I was told that the program could not work because the Commonwealth Government insisted that the people had to look for jobs - even though they were not going to get a job. I followed that through and eventually an arrangement was arrived at. The person does not have to look for a job for a week because he will be working for us. The Commonwealth is perfectly happy about that.

The offenders always had poor health and needed to see a doctor, the physio or the chiropractor; they used that as another reason for not turning up. The litany of excuses for why they could not come was unbelievable. The Ministry of Justice was allowing that so I put a stop to it. I said, give them the time, we will try to get them a week's worth of work and they can work the darn lot off at that time. I instructed the Ministry of Justice to make a business case for what the real funding of what community based services should be.

The big problem is that CBS has always been the poor relation of the justice system, and had to do with what was left over from the prisons system. We could save huge amounts of money and achieve better results for the community through properly funding CBS. Frankly, we did not have a proper method for asking for the money, and the same was true of prisons. However, we now have a system to properly fund prisons for the first time in decades. We must prepare the CBS business case and go to Treasury and state what we need.

Another small matter that has affected CBS is that we are diverting most offenders. Those who go to community based services are now more serious offenders. We have managed to keep a steady number of people going to CBS. It might appear that it is not enough people, but we have diverted more people and kept the numbers fairly constant; however, we have shrunk the area of offences. Those undertaking CBS are the more serious offenders, and the average has gone up rather than remaining the same. We are dealing with much more difficult people. I asked Treasury to look at the mix of the offenders now on community based services. Many of the things the committee recommends have been done, but they present their own problems. As far as Treasury is concerned,

we were dealing with a slight increase in numbers, but these are more difficult clientele because of the success of the diversion programs.

The recommendations further read -

The Committee recommends a broadening of the range of sentencing options available to the judiciary when dealing with non-violent offenders.

The committee is perhaps suggesting alternatives to imprisonment. The idea of weekend camps could work. A big problem with the idea of weekend imprisonment, for instance, is that another bed would be needed. Prisoners are in the establishment seven days a week and do not go out on the weekend. It may be possible with the work camps to have people visiting at one place, and to move people in on the weekend. We may be able to manage that. The other possibility is to tag people electronically to manage forms of detention for non-violent offenders; that is, they are severely restricted, but do not provide a hazard to the community. The recommendations continue -

The Committee recommends that the Minister for Justice and the Attorney General consider amending the *Sentencing Act 1995* to extend the range of sentencing options available to the judiciary. The Committee recommends that these alternative sanctions be expanded to include:

- a) an increase in the number of supervised community service group programs;
- b) clearer rules and more focussed supervision of those serving a community penalty;
- c) a combination of short term detention with intensive training and community service;
- d) a combination of sentences, for example pre-trial detention followed by community service;
- e) a combination of electronic monitoring with community service . . .
- f) the introduction of electronic monitoring for juvenile offenders . . .
- g) compulsory treatment for drug addicts as an alternative to imprisonment;

I have been trying to get that reform in place for about two years, and I have finally got the compulsory treatment proposal drafted. I can provide my draft of how I think it would work if committee members are interested. The recommendation list continues -

- h) training orders for adults and juveniles including job training, monitoring job placements . . .

That can be done, as is the case - it is happening - for work release from prison. Continuing -

- j) 'day fines' determined according to the means of the offender . . .

That poses a problem. Generally speaking, fines should be reasonably small amounts. A different conversion rate for those fines and an equivalent is needed. How does one start to go into a person's private affairs? If a person is to go before the court, how does one find out the person's means to pay? This requires some certification regarding income. If the fine is up to \$1 000, we would probably spend more than \$1 000 administering the process. One will probably in reality help the people who have the money to pay, but not help those without the money to pay - they will end up serving some form of imprisonment anyway. We need to look carefully at how it works. Although I understand the thoughts behind the recommendation, the practical effects can be difficult. By that stage of the process we should move into non-fine, community service areas. A person who, for instance, does not pay a \$2 000 fine should spend more time in jail or on a community based service than a person who does not pay a \$100 000 fine; that is, a fine supposedly for the same event. That aspect needs more consideration.

We have certainly implemented early diversion programs to considerable effect. The Drug Court allows for that as well. The recommendations continue -

The Committee recommends that the Ministry of Justice implement a range of initiatives designed to exploit the potential of community supervision to prevent crime through rehabilitation and supervision, reduce the number of offenders sentenced to prisons and to assure the public and the judiciary of the effectiveness of community supervision operations.

I agree entirely with that view. It is a matter of ensuring we adequately resource this area. The Chamber is not thrilled when I say that the Government should spend huge amounts of money on community based supervision, as members say that the money should be put into hospitals, schools and police stations; for some reason, prisons and community based services funding seems not to thrill members.

I like the argument in the report. I will show this recommendation to Treasury, but it does not have the political clout of other areas. Nevertheless, it is worth doing. That is why I am pleased to have a better business relationship with Treasury for the Justice portfolio. We present the business case. If money is spent on this aspect, money can be saved on prisons, criminal injuries compensation and reduced crime in the community. Recommendation 12 reads -

The Committee recommends that community supervision services should be adequately funded to provide a variety of specialised services such as: the provision of psychiatric and psychological assessments to Courts; assessment of high risk offenders -

We have done that.

- and the delivery of specialised programs and interventions, particularly to Aboriginal and women offenders. This proposal could result in the diversion of some prisoners from custody to a community-based option . . .

That is being done, but it is a matter of resources being available to enable it to be done at the desired level. We would be happy to implement the recommendations, but we must fight some alternative demands. Recommendation 13 reads -

The Committee recommends that electronic surveillance technology be used by the Ministry of Justice to enhance community supervision sentences.

A system is being used which is rather primitive, but it is the best available. New systems are coming onto the market and we have requests for proposals out at the moment. We expect to see some interesting and useful proposals concerning electronic surveillance. Further -

The Committee recommends that the Ministry of Justice establish a specialist criminal justice statistics unit (with appropriate resources and expertise).

I have gone a long way with that proposal. When I first asked for detail on the effect of the three-strikes legislation, three days passed before I received one set of results. I received a different set of results a couple of days later, and I got another set of results a few days later. Nobody had any idea whatsoever. We could set some upper and lower bounds, but it was hard to predict. We were not getting appropriate statistics, but we are putting in place the means to obtain those statistics. We need to gather the data before it becomes useful. I agree entirely with the recommendation. I have insisted upon cooperation with police in getting their information, but that has not worked as well as I had hoped. I prefer one computer system with a total exchange of information, but we are doing it through a data warehouse. Recommendation 14 continues -

b) the publishing of accurate and informative criminal justice statistics on crime trends.

I have certainly been doing that, as members would appreciate. Recommendation 15 reads -

The committee recommends that a close check be made on the prescription of medication . . .

That aspect has been reviewed by a professor of pharmacology. Prisoners were saying that they would commit suicide if they were not given medication. We could then have had another suicide on our hands. We have taken a strict view of that aspect, as recommended by the professor of pharmacology, and it is paying dividends. It was rough for some time as people threatened to commit suicide. The committee also recommends targeted education of prisoners on medication use. I said when Minister for Health that the Health Department should do more health promotion in this area. It has a captive audience, which is known to have some of the worst health standards around. Health should be involved in that area.

Recommendation 15 continues -

The Ministry of Justice should consider the incorporation of health standards that describe upper level limits for prescription of medication and these standards must be reflected in the accreditation of health services . . .

Those health standards do exist, but we must take into account that we have a particularly medically-needful population, particularly among our women prisoners. Recommendation 16 reads -

The Committee recommends that investigations be undertaken into the feasibility of introducing “drug free wings” . . .

We have those wings. Nyandi and Riverbank Detention Centre are drug-free prisons. They have worked out well, particularly for a subset of a population. Recommendation 17 reads -

The Committee recommends the adoption of mandatory drug testing . . .

We do have that and we are now considering a better system using skin patches. One of the things we all know is that mandatory drug tests by urine samples are easily faked. There is even a web site on the Internet explaining how to do it. Unfortunately, drug testing by urine sampling is all too easy to avoid, but skin patches cannot be avoided.

The report further recommends suitable accommodation for mentally-disordered prisoners; we have that, although it is not as much as we want. Acacia will have a wing for mentally-disordered prisoners. I continue to be unhappy with the effects of the Mental Health Act, and I believe it needs amending, as I cannot keep people in the Franklin unit in Graylands Hospital unless they are treatable, and many mentally-disordered prisoners are not treatable. Recommendation 19 reads -

The Committee recommends that the Health Services Division of the Offender Management Division . . . should be provided with the resources to assess and treat all prisoners with mental disorders.

I believe we do that. Recommendation 20 reads -

The Committee recommends that consideration be given to adopting the approach of the New York City Department of Corrections towards prisoners at risk. This involves the introduction of additional training for correctional staff about mental health issues; an induction program for prisoners . . .

Again, I do not believe we go that far but we have done many of those things. One of the most important measures that I saw in the United Kingdom was the engagement of prisoner observation aides. They are not paid in the UK but are recognised in ordinary emoluments as performing that particular task. Recommendation 21 reads -

The Committee recommends that Service Level Agreements should be adopted as a pilot scheme for prisons in Western Australia and that a working group be established with broad representation to draft appropriate Service Level Agreements.

We have done that. We set up an offender management unit, separate from prison management services, because those service level agreements started at Acacia, and we intend to use them throughout the whole prison system. We had to do it with Acacia as it involves a separate contract with a separate contractor. However, the idea of dividing those two was to enable that to happen. Recommendation 22 reads -

The Committee recommends that a system of Official Visitors (similar to the Board of Visitors in the United Kingdom system) be established.

We have official visitors already; however, they just wander into prisons. Some are very good and some do not know what they are meant to be doing. They are all very well intentioned and they perform a role. I have directed the Ministry of Justice to give them training and to require them to perform the same sort of role as the Inspector of Custodial Services is expected to perform, but on a more regular and minor level. For instance, they will be doing the sorts of things the inspector will do but will be mini-inspectors doing many things. They will go to the prisons with a list of things to look at.

Most official prison visitors currently visit the prisons and notice only the changes. They notice if the prison is worse than it was previously but if the prison has always been bad they will not notice that. Their benchmark will be the condition it was in when they first went there. Generally speaking, I believe we are improving prisons. Often official visitors report that things are getting better. They are getting better, but what benchmark are they measured against? The benchmark is what they were like before. We should have an objective benchmark by which to measure prisons, and methods of checking them in the way they would be done in an inspection of prisons. All the official visitors are very keen to do that and that will help us to be in the right position when the Inspector of Custodial Services visits the prisons. There will be a regular system of trained visitors matching the prisons against an objective benchmark, and we will make much better use of them than we currently do. All the visitors I have spoken to are really keen to get to the stage of having a much more purposeful role than they currently have.

I welcome the committee's report. In large measure the Government has either made the changes in the committee's recommendations, is making them or is working on them. Major changes have occurred in the prison system in the past four to five years. It is a much better place than it was. It can still go a lot further than it has, and in time and within appropriate budgetary constraints we will get there. That will not happen overnight, as the biggest change we need is a change in attitude. Those changes take some time. I hope Acacia will be an important aspect of that change in attitude. However, that will be seen when Acacia opens.

The rate of change has been rapid in relation to the time the prison system has been operating, which is a fairly long time. The rate of change in recent years has probably been the most rapid it has undergone, but I intend it to be even more rapid in the future.



Hon MURIEL PATTERSON: I thank the House for the opportunity committee members had to travel and learn much more about this area, as I believe we gained a great deal of knowledge. Part of the committee's recommendations were based on what we saw overseas. Unfortunately, the report was far too long in its presentation to the Chamber and, as we heard from the Minister for Justice, some of its earlier recommendations have been overtaken.

The report referred partly to the attitudinal changes in the prison system. The committee, while examining the financial management of prisons, saw the benefits of those changes. The committee also recommended an emphasis on consistency of learning programs, and was pleased to see the recent opening of the Drug Court and some of the innovative external work programs. As members know, I am a very strong supporter of work camps, particularly of prisoners working in the communities. Members may not like the statement I shall make, but I believe criminal behaviour is a community responsibility. Prisoners in the main are a reflection of community behaviour that is very well put in a West African proverb: It takes a whole village to raise a child.

Hon Mark Nevill gave the Chamber a very accurate and comprehensive overview of our studies and recommendations. I shall enlarge on several recommendation; one is the special division for criminally and mentally-disturbed prisoners. This is a very difficult area to identify and it covers a wide range of mental incapacity, the causes of which range from birth defects to serious substance abuse and vehicle accidents. It is impossible for some people who have been severely damaged, for example, in motorcycle accidents to survive in our society. Often the public never hear of these people again after initial publicity about them. Tragically, some are totally unable to be responsible for themselves. Without doubt, most parents and families of these accident victims suffer severely and it is unnecessary for society to hurt them any further.

When a person is incapable of taking responsibility and is dangerous to the community, that person should be placed in a separate area. In the Netherlands, these people are placed in a building called TBS, which is basically a mental institution. It is a special hospital administered under the auspices of the Dutch criminal code and it is important to families that special needs people are identified in this way.

Hon Mark Nevill also spoke about family visits as a privilege. I strongly support this move in special cases as a privilege for good behaviour. We as a community gain nothing when a family unit is destroyed. When I worked in welfare with people whose partners were in prison, one of the greatest fears of those in prison was the temptations facing their partners. That had a twofold effect: Great arguments occurred on many visits, and at times a break-up of a relationship. The committee's observations of the prison system both in Australia and overseas indicate a disparity in visitation rights. Male prisoners receive much more support from their families, whereas women prisoners receive precious little.

Hon Peter Foss: Yes, that is why it is pertinent.

Hon MURIEL PATTERSON: Yes. The statistics reveal a tragic situation. Throughout the United Kingdom, the Netherlands, Germany and the United States, our research indicated the greatest problem areas to be broken homes and learning difficulties. In Saxony we met Professor Christian Pfeiffer. I had heard of his successful visit to Australia in 1992.

Hon Bob Thomas: Didn't he make an address in this Chamber in 1992?

Hon MURIEL PATTERSON: I was unaware of that. He certainly impressed me greatly.

He is respected throughout the world for his research, which also takes him into eastern Europe. He mentioned that he was very glad that the Germans did not have a Press like the English tabloid Press, because that would lead to a change in policies.

I kept a diary while I was away, which I usually do. I have noted that Professor Christian Pfeiffer said that the greatest problems are lack of education and broken homes. Like here, the public in Germany are demanding harsher penalties and the judges are cooperating. It tends not to be the victims calling for harsher penalties; it is generally other members of the public.

Hon Bob Thomas: That is correct.

Hon MURIEL PATTERSON: The great fear is that they might be the next victims. Lawyers and the justice system do not encourage victim mediation. Prosecutors tend to be more representative and judges tend to favour the accused.

Another part of this interesting research indicated that generally the elderly do not live in fear but are more cautious and reduce their risk. The incidence of purse snatching is lower than most people believe, but people now talk about it more.

Professor Pfeiffer talked about the illegal nationals who arrive with no documentation, language skills or identification. Some bypass immigration authorities and destroy their travel documents. We all know about that situation because it has occurred on our north coast. It is interesting that civil justice in that country covers unpaid fines, insurance premiums and licence fees. However, drink driving is covered by the criminal system. Many of the people involved do not improve their education or undertake other programs for fear of failure. That is very easily understood when they may have had learning difficulties as children. Education is now being made compulsory.

As I said, Professor Pfeiffer was an extremely interesting man who lived a full life. We were interested to hear how he reached his position. He was brought up in Bulgaria near the Polish border. He was not a Roman Catholic and could not speak German well, and he was given a hard time at school. His father was an officer in the German army and was one of the men who attempted to kill Hitler. Some of those men were shot, but Professor Pfeiffer's father was not; he was identified as one of Hitler's men. He was later highly decorated for his service, even though that mission failed. Christian Pfeiffer joined the army and became an officer, but later decided it was not the life for him and farmed cattle for 10 years. He then decided to study law and found his career. He related an interesting story about how, as a 15-year-old, his father told him to accompany him to church. For the first time, he refused. He pointed out that the influence of the home is great, because today he is a lay preacher and his wife - a Roman Catholic - is one of the few lay preachers in the Roman Catholic church in Germany. I cannot help but believe his father was a remarkable man. Christian Pfeiffer's advice to all parents is that they should never to give up on their children.

He also pointed out that real violence occurs within families. The incidence of rape is three times greater and occurs four times more often in a victim's home.

Hon Peter Foss: That is correct. Violence in homes is a major cause of further violent behaviour.

Hon MURIEL PATTERSON: Legislation is being prepared to deal with violence directed at children. Women do not have the same tendency to commit crime; they are more willing to adapt than men are, and men are softened by marriage. Men have more opportunity to create trouble because of the availability of weapons and chemicals. Professor Pfeiffer said that the male has a problem inasmuch as this behaviour is mixed up with perceived honour, violence and manliness. He said that women are in a position to influence politics. Overall, his comments consolidated some of our beliefs and gave us -

Hon HELEN HODGSON: I also congratulate the committee on the report. I will be very interested to hear Hon Muriel Paterson continue her comments later in the debate. It was obvious that the clock cut her off in mid sentence and I am sure she has more interesting information to give us from her diary.

One of the problems in reading this report now is that, because the inquiry took so long to undertake research and report to the House, significant developments have occurred in the justice system. While I am not yet convinced that those changes have dealt with the underlying problems, some steps have been taken in that direction. I will watch developments in this area.

The Ministry of Justice has clearly paid attention to some aspects of this report; although, again, the timing of the developments does not necessarily tie into the report. Statistics and their availability have been an issue. I was extremely critical of the development of the total offender management system during my first couple of years in this place. Whenever I tried to get information about the system, I was told it was not available because it would require a huge manual research task. That situation arose because the information was not stored in a consistent method across the system or accessible via computer.

Hon Peter Foss: It was also prisoner centric.

Hon HELEN HODGSON: The development of a proper management system, including reporting and recording techniques, is a huge step forward. We have heard about the drug courts and the recent announcement of the new magistrate, and the sentencing legislation was amended last year. When that legislation was introduced, I was extremely disturbed to note the removal of some of the programs the report says we should be encouraging; that is, the home detention and parole schemes and many other community-based management programs. During debate we managed to convince the Government to amend the legislation to retain the home detention scheme.

Hon Peter Foss: We inadvertently mucked up the rest of the legislation.

Hon HELEN HODGSON: This report validates that approach and the need for community-based services in managing offenders. I am willing to admit that it is not always appropriate for all offenders. Interestingly, the statistics indicate that a person who has served some time in prison and who has been given the opportunity to

rehabilitate during that time will do better on home detention than a person released on home detention bail who has not addressed underlying behavioural issues. Most complaints about people on home detention relate to bail prisoners who have had no rehabilitation. I still believe in home detention for those released on bail, but the system must be managed and include assessment and rehabilitation.

The committee report raises the question of the inspectorate and the need for it. We are all aware that the new inspector of prisons has tabled his report outlining some of his intended actions over the next year, and I will watch carefully to see how successful he is.

I am still concerned about grievance procedures within prisons. We are awaiting reports on better ways to deal with the issue, and I am not sure whether it has been fully addressed.

Hon Peter Foss: The problem is the Western Australian Prison Officers Union.

Hon HELEN HODGSON: The Attorney General or Hon Mark Nevill referred to a conference of churches dealing with the prison system a couple of months ago. These issues are considered in the report and debate has been progressing between the committee's commencing its research and the report's tabling in the Chamber.

Debate adjourned, pursuant to standing orders.

*Sitting suspended from 1.00 to 2.00 pm*