T R A N S C R I P T

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into youth justice centres in Victoria

Melbourne — 27 June 2017

Members

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Witness

Judge Amanda Chambers, President, Children's Court of Victoria.

The CHAIR — Welcome to everybody present, including Judge Chambers, who is giving evidence. I also welcome to this public hearing those who have joined us in the public gallery. We are hearing evidence today in relation to the inquiry into youth justice centres in Victoria, and the evidence is being recorded. I believe it is also being filmed. All evidence taken at this hearing is protected by parliamentary privilege. Therefore you are protected against any action for what you may say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. What we have been doing is inviting those who have been giving evidence to make some very brief introductory remarks — we were hoping no more than about 5 minutes — and then open it up to questions, so I think we are in your hands, Judge.

Judge CHAMBERS — Can I begin by thanking the committee for inviting me to address you today. On behalf of the Children's Court of Victoria, it is a pleasure to be here. I want to take this opportunity briefly, if I can, to outline the structure and divisions of the Children's Court before turning to address some of the particular matters relevant to your terms of reference, in particular references 3 and 4, and I hope that in doing so it will assist in informing the questions that you may wish to direct to me.

Before I do, can I indicate that for obvious reasons I am unable to discuss individual cases that have been heard and determined in the Children's Court, but subject to that caveat, I certainly hope to assist the inquiry in any way that I can. Briefly, the Children's Court is established as a specialist court under the Children, Youth and Families Act 2005. Again, broadly it is divided into two separate and discrete divisions. There is a Family Division of the Children's Court, and there is a Criminal Division, which is largely the focus of this inquiry. I was appointed President of the Children's Court two years ago, and there are currently 15 magistrates who work exclusively in the Children's Court.

The Children's Court sits at Melbourne, at Broadmeadows and at Moorabbin Children's Court. The Family Division — I just wish to focus on this, and I will explain the relevance of it in a moment — hears child protection proceedings and also intervention order applications under the Family Violence Protection Act 2008. Historically 85 per cent of the resources of the Children's Court have gone to that important work.

It is notable that the last five years have seen an increase of around 44 per cent in the number of child protection applications and their primary and secondary applications heard in the Children's Court. To give that some context, in 2011 the number of child protection applications issued in the court was around 11 000; in 2015–16, that increased to in excess of 17 000. These matters are dealt with in metropolitan Melbourne at Melbourne, Moorabbin and Broadmeadows. In regional Victoria, child protection applications are heard and determined by magistrates of the Magistrates Court of Victoria sitting as the Children's Court.

I do refer to the increase in the number of child protection applications because what are commonly known as "crossover kids" tend to be children that appear both in the Family Division and in the Criminal Division, and there is a significant number of those. So, consistent with the yearly increase in child protection matters, I think we can only estimate that the numbers entering the juvenile justice system will increase over time.

The Criminal Division, as I said, also sits daily at the Melbourne Children's Court and once a week at the Moorabbin Children's Court, and in all other suburban courts and regional courts magistrates of the Magistrates Court of Victoria hear those matters on certain days of the week.

I am aware that the committee has heard evidence of a well-documented decline in the number of matters coming before the Criminal Division of the Children's Court. In 2008–09 the number of child offenders found guilty of an offence was 6633, yet by 2015–16 that number had reduced to 2429. That is a significant reduction in the number of children overall coming before the court.

I want to turn to what this inquiry has heard in relation to one area of concern, which is the small group — often referred to as a cohort — of young offenders who are committing multiple and often serious violent offences. I know that you have heard from Victoria Police and Assistant Commissioner Stephen Leane to that, and I know you heard from Professor Ogloff earlier today, evidence that indicates that a small number of young offenders are responsible for around 55 per cent of all recorded incidents, and they are the multiple offences that we see.

So if there is a positive story that comes out of that, we know that the numbers are small compared to the youth population overall and that kids in Victoria are generally doing extremely well, and mindful that even cautioning by police has fallen significantly. The number of matters that are coming before the court has

reduced, but we know we have got a defined but small number of young people that are of concern to the community for the violent and multiple offences they are committing.

I know time is pressed. I just wish to focus for a moment on the programs that the court is operating that we are hoping will address some of the issues, but then give an idea as to whether or not you wish further information from me about those. First of all is the youth diversion program. That commenced as a pilot program when the court engaged Jesuit Social Services to operate the pilot at certain venues of the court in May 2015. In the first 12 months of its operation 330 young people were referred to the youth diversion program, and about 92 per cent of young people successfully completed those diversion programs. From January of this year it has become a statewide youth diversion program, with diversion coordinators based at every venue of the Children's Court throughout the state. Between January and April of this year 352 young people have been referred to the program, with 81 per cent successfully completing the diversion program. I am happy to talk about that in more detail if you wish.

The Children's Koori Court was established over 10 years ago now. It has expanded from Melbourne to other venues of the court, including Bairnsdale, Morwell, Warrnambool, Geelong, Shepparton, Swan Hill, Heidelberg and Dandenong. Can I say the court has undertaken that expansion without any additional funding for the Children's Koori Court since 2005.

Group conferencing remains an important program that facilitates conferences involving the child, victim and victim's representatives. It a very positive way of giving victims a voice in the criminal justice process for young offenders. An evaluation in 2011 found group conferencing to be a very effective program and cost effective in terms of dealing with recidivism. I understand Victoria Police gave evidence of the community group conference program that operated for a number of the offenders involved in the Moomba riots. As I understand, none of those young people who participated in that program have gone on to further offend.

The Education Justice Initiative was launched in September 2014 and has received funding through the Education Department. The EJI operates at the Melbourne Children's Court and provides assistance to Koori Court matters and young people appearing in the Children's Court who appear to be disengaged from education, and I could probably talk all day about the importance of education and these young people. But the court is hoping to expand that program.

Just turning now to the significant numbers of children on remand, as you have already heard, since 2013 there has been a significant increase in the number of children and young people held on remand. Between 2013 and 2014–15 there was an increase of 57 per cent in the number of children and young people held on remand. There has also been an increase in the ratio of young people held on remand compared to those under sentence.

The upward trajectory does not seem to have altered following the amendments that were brought into place by the Bail Amendment Act 2016. Those numbers have remained high, and what is clear is that in applying the Bail Act the court is remanding significant numbers of young people where the court is concerned that they pose an unacceptable risk to the community. That then leads to the question of whether or not these matters are being managed promptly enough, where the children are remanded, in having their criminal matters resolved earlier.

This leads to the fast-track remand court initiative, where the court sought and obtained funding of $3.4 million to engage a further magistrate, additional support for legal aid, Victoria Police prosecutors — and I can talk more about the importance of those that assist in the work of the court in getting this work done — and clinical support through the Children's Court clinic. The fast-track remand court then commenced in late May this year. It is governed by a Practice Direction that I have issued, and it operates at the Melbourne Children's Court. Cases are case managed by the one judicial officer in accordance with the strict time frames that are set in the practice direction.

I am pleased to say that in the first four weeks of its operation the fast-track remand court has demonstrated some very positive outcomes. Just briefly, the court is dealing with, on average, eight matters a day. Since its four weeks of operation it has dealt with 96 young people held on remand. Forty-three per cent of all scheduled matters have been adjourned for a plea of guilty or sentence since coming into the fast-track remand court.

Ms SYMES — Sorry, can you just repeat that?

Judge CHAMBERS — Forty-three per cent of all scheduled matters have been adjourned for a plea or for sentencing in the fast-track remand court. Sixteen matters have finalised. Bail has been granted in 25 matters. I had a meeting of the reference group that supports the work of the fast-track remand court this morning, and I am told by Victoria Police that of the 25 remanded only four have further offended.

Ms CROZIER — Twenty-five on bail?

Judge CHAMBERS — Twenty-five have been released on bail.

Ms CROZIER — Sorry, you said 25 on remand.

Judge CHAMBERS — Sorry, 25 bail, yes, and of those my understanding is that — and I may need to confirm this with the committee — four have further offended and are now remanded.

I want to make just a quick observation. I appreciate your time, but I think you have heard some evidence about the increasing rates of apprehension for the small but significant numbers of young people that are offending violently, and that is an issue that is rightly concerning to the community and does require special attention. For that reason I am pleased to be appearing today in this inquiry, because the impact of their crimes on the community can simply be devastating. It is certainly hard to find simple, straightforward answers to what are obviously complex social issues, but we are not alone. I meet regularly with heads of jurisdiction across Australia and in New Zealand, and I just want to quote from something my counterpart in New Zealand had to say not so long ago:

> There are probably about 900–1500 serious youth offenders out of —

in that case —

> 190 000 14, 15, and 16-year-olds in New Zealand. The vast majority of our youth are stable, functioning and have a lot to offer. That small number of serious persistent offenders? We know their names. We know their families.

That echoes very much what I want to be able to say to you here today. I know their names; I know their backgrounds. It is a serious problem, but the numbers are not enormous.

There do appear to be two broad groups of youth offenders, and of concern are those that enter the criminal justice system at a particularly young age — 11 and 12. They have been termed 'chronic offenders' or 'life course persistent offenders', and what we know from the Sentencing Advisory Council is that for those that enter the system very young, even with low-level offending at that age, their trajectory into adult offending is significant and concerning. The rates of reoffending are significant and concerning. Their lives are often marked by significant antisocial behaviour. Their lives are marked by multiple adverse influences, and you have heard much about that, including family dysfunction. So rightly I think everyone recognises that earlier evidence-based intervention for those young people is critical. If I could just observe, often by the time they come into the Children's Court at the age of 12, 13, their problems are incredibly entrenched and often seemingly intractable.

The second set is a larger group, and their offending is primarily caused by situational factors, including antisocial peers. In saying that, I do not want to underestimate those peer influences; they are strong. Those peer influences are particularly strong and difficult to manage. Drugs, alcohol — and if I can give a common trajectory into our system, it is cannabis at 13 moving on to ice use pretty quickly — disengagement from school and family; they are some of the things we see with those teenage, adolescent-onset offenders, but they can escalate quickly into significant and serious violent offending, and may do so even where they present with no prior criminal history.

As others appearing before this inquiry have observed, for both groups the responses need to be multifaceted. They need to include not just the child but family and their communities. We need intensive bail support programs, forensic risk assessments, supervision and effective evidence-based programs, both in the community and in detention, to begin to address what are clearly complex issues for the community.

I apologise. I have taken longer than I appreciate you wanted, but I thought it was important to just set that framework for you. But I am more than happy to answer any questions you have.

The CHAIR — Thank you. I think that your presentation has probably pre-empted a number of questions anyway.

Mr MULINO — Thanks for all of the evidence you just provided — very useful context. I just had a question around, I suppose, some of the detail around the youth diversion program that has been made statewide since the pilot. Could you provide a little bit more detail, please, in terms of how it works in practice — how magistrates are given flexibility?

Judge CHAMBERS — Certainly. The legislative base for that still requires the prosecution to consent to the diversion program. We now have a diversion coordinator. They are engaged by youth justice, but they are statewide, and youth justice work closely with the court to ensure that the youth justice staff that support the diversion look very different and are quite separate from youth justice when they are doing the supervisory work. Because it is a diversion program it needs to look quite different and be quite different.

Generally the diversion program is aimed at young people who are coming into court having acknowledged responsibility for committing largely low-level offences, and generally they should have no priors. It is an opportunity to be diverted from the criminal justice system and all that entails. I think international evidence shows that division is an effective program, as indeed is police cautioning a very effective program for many young people.

What we have found — our experience both through the pilot and more recently with the statewide program — is that the young kids, even when they are presenting with reasonably low-level offending, are presenting with more complex problems than we anticipated. The youth diversion coordinator will spend about an hour with each child, assessing their needs, developing a comprehensive plan for referrals into the community. They are not based at the court; those referrals occur in the community. Then at the end of the adjourned period the court receives a report from the youth justice diversion coordinator that tells us how the child has engaged. In some cases the coordinators are providing outreach to families to provide assistance to families with the child. Then we receive a report as to their engagement in those programs. Very often what we found following the evaluation of the youth diversion pilot program is that families and the child remain linked into those services well beyond the diversion period.

We have a commitment from Melbourne University through the Centre for Market Design to undertake an evaluation of the diversion program and its impact on recidivism at a sensible point in time. It will be interesting to see how effective that is in dealing with recidivism. My suspicion is it is more effective than placing a child on a good behaviour bond or an adjourned undertaking because it is linking them and their families into appropriate community supports, despite low-level offending.

Mr MULINO — Thank you. That is very useful.

Ms SYMES — I suspect that Ms Springle will go down a similar vein. We were asking the department earlier about exactly how the remand court works. I guess you answered a little bit of it in terms of the case being handled by one person, so that makes a lot of sense. In terms of young offenders having to come back anyway, what is the specialised court able to do to make sure that cases are resolved? Is there an accountability of other parties as well?

Judge CHAMBERS — I am happy to answer that. If you analyse some of the cases where we have got lengthy periods on remand, you will often see that they are cases involving multiple offences and different informants. What this funding package did was provide additional support to prosecutors because they need to get the briefs of evidence from each of those separate informants, and that may be various venues around the state. So it enables them to coordinate that bit of work to ensure that the briefs are before the court and provided to the lawyers, and there was additional funding for lawyers to ensure that.

The first thing that happens is the child appears before the magistrate or before me. The matter is adjourned for 21 days where the child is remanded; if they are not bailed. At the next event it is the expectation of the court that the matter is resolved through conversations between the prosecution and the lawyers for the child. So the clear expectation of the court is that all matters are before the court — the parties are responsible, both prosecution and lawyers, for ensuring that we have all the matters and there is not something that is going to come down the track — and that the lawyers have spoken to the child and the prosecution before the matter comes back in that 21 days.

If the matter has not resolved, the magistrate receives the police brief and then will conduct what is called a contest mention, where that magistrate will, say, analyse the strength of the prosecution case and indicate to the parties how this matter may resolve. That is a process that is used through all courts to case manage matters. If the matter goes to a contest, that magistrate does not hear the contested hearing, because they have seen all the matters, including the priors. If the matter then resolves, the plea is heard. If the matter is to be adjourned, it is then adjourned. It is essentially set strict time frames in line with that 21 days for matters to be dealt with, but actively case managed by the court.

Ms SYMES — Yes, so it is kind of the court's responsibility to make sure everyone is doing what they should be doing.

Judge CHAMBERS — Exactly right. What is necessary for that is each element of the system needs to work, so the prosecution needs to be adequately resourced to do that work with the informants. We have said no bail application can be listed unless an application is appropriately filed and the informant has been notified. We are not going to book a date for a bail application unless that has been done properly.

If a Forensicare or a Children's Court clinic assessment is required, we have brought in an additional clinician to the clinic to ensure that that does not cause delays for those on remand. We have worked closely with youth justice to ensure that, if we need pre-sentence reports, they can be facilitated far quicker so that we can sentence these young people who are remanded earlier. What we are trying to do through the fast-track remand court is abridge those matters where the children are remanded so that there are not as many court events, and where they are not bailed they are then brought under sentence earlier or their contest is determined earlier. Fortunately in the Children's Court delays to contests are not significant, but we just need to be managing that process earlier, getting the matter to a point of resolution.

Ms SYMES — On the numbers that you were talking about, you said how many you have had in the last month — 60-something, I think, was it?

Judge CHAMBERS — Just to confirm those statistics, since we commenced the fast-track remand court we have had 96 young people come through that court.

Ms SYMES — Is that everyone on remand?

Judge CHAMBERS — Yes, it is.

Ms SYMES — Yes, okay. So everyone has access to it?

Judge CHAMBERS — Everyone that falls within the Melbourne Children's Court has come through that fast-track remand court, and we are now dealing with new matters in addition to case managing those, but we are wanting to bring all of the young people that fall within the jurisdiction of the Melbourne Children's Court in through this process. If they are bailed, they go into the non-custody court, but we are case managing those matters as well. We have only got two magistrates doing this work, because I want to ensure that the case management does not fall down, which it can when you have different magistrates coming in and out and no-one is accountable for that child's matter.

We have done the same thing in the Family Division, where every application that comes into the Children's Court in a child protection sense is docketed — so one family, one judge managing the matter — and it leads to much-improved outcomes.

Ms SPRINGLE — We have heard from several witnesses so far in this inquiry that have talked about the underresourcing of the Children's Court. You have mentioned a number of it appears to be additional streams of funding that have come into the Children's Court recently. Would you suggest that that is enough?

Judge CHAMBERS — Far be it from me to say that I have got enough money. I think what everyone appreciates that works in the criminal justice system more broadly, is courts are just one part of the equation. So if police and police prosecutors are not funded to do their work, if legal aid and practitioners are not funded to do their work, we need to ensure, for example, that the video link facilities and the lawyers going out to see children at Malmsbury or at Parkville can get through to them and meet with them in a timely fashion so that their appearance at court is a meaningful one. I hate wasted court events.

Probably where we have some delays that would be assisted by further investment through the Children's Court clinic, the clinic provides expertise to the court for some of these particularly complex families, both in the Family Division and children appearing in the Criminal Division. That has been a complex issue.

Just briefly, funding for psychologists, for example, and the availability of psychologists to do this work has been impacted on by the commonwealth's mental health care program. Now a GP referral to a psychologist will see a psychologist receiving funding through the commonwealth program. It means that psychologists are accessing reasonably remunerative work through that program. For the Children's Court clinicians, for those who are sessional clinicians, if they were to choose between doing the work for the court or doing this other more remunerative work, it becomes difficult to source that expertise in this current environment. They are all factors that are external that impact on the work of the court.

The CHAIR — I think you have pre-empted one of my lines of questioning, which was about delays in the Children's Court, which has been reported to us by a number of people in the sector. And I imagine you may have read some of those transcripts.

Judge CHAMBERS — Yes, I certainly have.

The CHAIR — I am thinking in particular of the evidence given by the Youth Parole Board. They deal with children who come from different courts in addition to the Children's Court, although that is where the bulk of them come from. They said that they noticed it became worse in the Children's Court compared to the adult courts about a year or so ago. They pointed to a number of the things that you have spoken about as well, which is one of the issues with someone coming up to parole expectancy date, as they have put it, and all of a sudden you find out he has been charged with offences that occurred before and he has been sentenced for that. How is it that the backlog occurred? How did this delay start to happen?

Judge CHAMBERS — Again, there are multiple causes I suspect, but one has been that clearly more young people are being remanded — the remand figures self-evidently show that — so bail is being refused by the Children's Court more often than has traditionally been the case in reference to the serious nature of the offending that we are seeing before us.

Where the police need to bring matters before the court, the matters that get lost are the matters on summons. Police have 12 months to charge a child on summons. They may be remanded on one set of charges, but the summons has not been issued for other matters. Bear in mind, for example, that for many of the charges arising from the Parkville rights the children were charged on summons, so they are not remanded on those matters. They are charged on summons. But police have a fair period of time within which to charge those matters and bring them before the court.

That is why I was saying with the fast-and track remand court, the court insists on the prosecution doing the work it needs to do to ensure that all matters are before the court, including the matters where there are outstanding or pending summonses, so that we can deal with all matters — because there is nothing more frustrating than having sentenced a child only to find there are matters that date back for some time but have only just been issued before the court.

The CHAIR — Absolutely. That is consistent with what we have been told by other witnesses. I guess my further question on that is: does that need to change? In your view, should the 12-month period be changed? Should that be shorter? I am conscious that some of the other evidence we have had is that when there are delays for the young people who are the subject of the charges, there is sometimes a lack of perception of consequences, because you do something that society might consider bad but effectively your life does not change in any way, so it seems that it creates possibly an issue with individuals but it also creates an issue for the courts. Do we need to look at changing how long the police have to bring things on, or is there another mechanism?

Judge CHAMBERS — From my point of view there are many reasons why the legislation gives 12 months. Some of these matters require quite complex investigations, and so I do not want to speak for what is needed from a police perspective. What we do need is a vision over these matters. It is important that prosecutions that sit in the Children's Court are aware of the matters that are outstanding and need to be brought before the court. Often they cannot tell us that. We need to be able to know that so that if I am sitting in the fast-track remand court I can say, 'Well, I want those matters all brought in before me so I can case manage

them all together and finalise them within the court'. If there are pending matters and if I am told of pending matters, what I do is require the prosecution to contact those informants and give directions for them to be filed, which I can do under the Criminal Procedure Act, so that they are filed earlier for very good reasons.

If I look at some of our analysis of the matters where we had significant periods of presentence detention — and I think that is what Judge Bourke was talking to you about — it is important to appreciate the complexity of the matters that we are dealing with. I can give an example of a matter where a child had 156 days of presentence detention. Now, that is a long time in the life of a child to be awaiting the outcome, but they had 175 charges. They were serious — they were armed robberies, burglary, theft — so 175 charges have to be managed. Now, we are dealing with serious indictable crime that for an adult would be managed through a committal process in the Magistrate's Court, then into the County Court. So if you look at that time on remand, it is significant in the life of a child, but if you look at what we are asking those that are working with the court to do, we are asking them to case manage serious crime in a timely way that preserves the rights of the child.

The other thing I would observe is that when you have cases where identity, for example, is an issue — if faces have been covered — what the prosecution is reliant on and the court needs to see is the outcome of the forensic analysis. Now, there are traditional delays in the provision of that material — DNA, fingerprints, CCTV footage. Most recently I have case managed all the Malmsbury matters and all of those have resolved, but one of the most significant causes of delay in that matter was obtaining the relevant CCTV footage in a way that could be viewed. That is not a criticism of anyone who was involved in that, because it needs to be understood by the inquiry that the Bourke Street matter also took a priority for resourcing through Victoria Police. Victoria Police was managing as best it could the competing demands, but that did have an impact on finalising those matters as soon as we could.

Everyone rightly wants to see children, including me, brought to account or have their matters resolved as soon as possible, but there are many inputs into the Children's Court system that impact on our ability to do that. Do you follow?

The CHAIR — I do. May I just ask about the young person you referred to and gave the circumstances there of 156 days in custody and so on. How old was that person?

Judge CHAMBERS — I do not know that I have that information. Just one moment. Yes. At the date of sentencing, they were 15.

Ms CROZIER — Thank you very much, Judge Chambers, for being before us this afternoon. It is much appreciated. I know we are running out of time, so I will be as quick as I can. When Professor Terry gave evidence before the committee he had some comments about the Children's Court. He thought it should be reconstituted, but that was not a negative towards what was going on; it was a resourcing issue, as he said. But he also made the point:

> Give it responsibility not only for the making of orders but for the final oversight of orders and bolster its composition to include professionals and community representatives who especially could take some of the workload in regard to the supervision responsibilities.

He went on to say that the Youth Parole Board should also be merged with the Children's Court. Do you agree with him?

Judge CHAMBERS — What I think is a system that works demonstrably well is the New Zealand system. There you have judges hearing matters, but they can refer every child in that case to a conference that is supported by expertise. So they have education at that table; they have a multidisciplinary approach. It is through that process that comprehensive plans are developed for children and then brought before the judge and intensively monitored by the court, and I think there you bring in the expertise that is being discussed.

Ms CROZIER — So should that be for parole decisions?

Judge CHAMBERS — I certainly think that process leading up to parole makes a lot of sense.

Ms CROZIER — So it is a leading up to parole, not actually the final decision.

Judge CHAMBERS — I actually think that process throughout the system works. For example, if you had a planning process that was multidepartmental, for want of a better word, you would have education there, you would have family, community leaders, the child, youth justice, informed by risk assessments and forensic experience. If you developed appropriate plans at that point, at the point of sentencing, if the child is going to be released, that makes sense, and then if you are doing it closer to parole, it is then fresh in the child's mind. If they are making a commitment to a plan, then putting that process around parole probably makes sense because you have then got a comprehensive plan that can be considered by the parole board and monitored by the parole board.

Mr MORRIS — Judge, I was hoping to just maybe extrapolate a little bit on what is a low-level case for diversion. At what point is diversion not applicable or able to be applied?

Judge CHAMBERS — Currently the legislative framework is an odd cobbling together of the Criminal Procedure Act and the Children, Youth and Families Act, so there is no legislative guidance around that presently, and I understand there is a bill before Parliament to provide a specific regime for diversion in the Children's Court. But putting that to one side, the first thing the court will take into account is the attitude of the prosecution, and the prosecution have an obligation to consider the impact on the victim and to liaise with victims. So where you have got an offence that is one of violence, for example, and the impact on the victim has been significant, really the court will want to hear from the prosecution as to whether that is an appropriate matter for diversion.

I have not been keen to define offences that are suitable for diversion, because as every judge will tell you, there are different levels of seriousness within armed robbery and aggravated burglary. So you need to look, first of all, at the objective seriousness of the offence. Then you need to look at the individual's role in the offending, matters personal to the child, and then determine whether or not it is a matter appropriate for diversion. If the prosecution oppose diversion, the court has no power to make a diversionary order. So that is how the court is best informed about the impact of victims. Having said that, I still am of the view that diversion programs that are effective are a better outcome than placing a child on a good behaviour bond, on a promise to be of good behaviour but with nothing more.

Mr MORRIS — I have just one final question, and this is a complex one, so a shorter answer rather than a longer answer, I understand, may be difficult. We have had some discussion around longer sentences perhaps providing a better opportunity for young people to reform their ways, rather than shorter sentences which disrupt their lives and do not necessarily give them the opportunity or the capacity to be — —

Judge CHAMBERS — And by 'sentence', do you mean detention?

Mr MORRIS — Yes, in detention. So a short sentence may disrupt a young person's life without giving them an opportunity to reform their behaviour and the like. Do you have a view on whether longer sentences rather than shorter sentences can actually provide children with a greater opportunity to reform what have been the behaviours that have got them to the position they are in?

Judge CHAMBERS — I will go back a step. In sentencing, under the Children, Youth and Families Act a sentence of detention is clearly a sentence of last resort. The law tells us that, and that is consistent with international obligations. In sentencing a child, the court has to take into account many considerations in determining what is an appropriate sentence, and that includes the length of a sentence. That includes whether the child entered a plea of guilty, when they entered the plea of guilty, their circumstances that are personal to them — for example, if they have got intellectual disability — the impact of the offending on victims, the seriousness of the offending, the role they played in the offending. So in working through all those things the court comes up with what it considers an appropriate sentence, having regard to the various different sentencing considerations that apply to children that apply under the Sentencing Act. For example, general deterrence, which is using that child as an example to others, is not a matter the court is allowed to take into account when sentencing.

So in answer to your question, what the court is assisted by, in terms of the focus on rehabilitation of young children, is evidence-based effective programs preferably in the community, where it is appropriate that a child be placed in the community. In detention, I think where there needs to be some discussion is what programs we are offering to children upon being remanded. If the reality is, even with the fast-track remand court, that there

are many reasons why it takes time to finalise and sentence a child, why are we not starting earlier? Because there is some reason they have been remanded.

Ms SPRINGLE — You mentioned the legislation that is before the Parliament currently. In part of that legislation there are several clauses that appear to undermine the dual-track system that we currently enjoy in Victoria. You may or may not be able to answer this — I do not know how familiar you are with that piece of legislation — but in terms of what appears to be the rollback of the dual-track system to some extent — —

Judge CHAMBERS — The dual-track system?

Ms SPRINGLE — Yes. How do you think that will impact on the ground?

Judge CHAMBERS — Mindful that the Children's Court does not sentence to the dual-track system — that is a sentence available to adult courts, both the Magistrates Court and County Court, and the Supreme Court if need be, I think the committee has already heard evidence from a number of witnesses about the dual-track system, and that really that is a reasonably settled population of people between the ages of 18 and 21. I think it is Judge Bourke's view that generally — and it may well be a factor of maturity — they tend to do better once paroled, but beyond that legislation is appropriately a matter for Parliament and not for the court.

The CHAIR — I just have two very brief questions. I am conscious we started late and we are running over time, but you mentioned earlier the practice direction that you had done yourself in relation to the fast-track system. Would it be possible for you to share that with us?

Judge CHAMBERS — I have a copy of that for you here.

The CHAIR — On your person? I am impressed. I was just going to suggest you might supply to us later, but that would be terrific.

Judge CHAMBERS — I can provide that to your secretariat.

The CHAIR — That is brilliant. The second thing is: when you were describing the fast-track process and the funding that has been made available for that, is that going to fix this backlog and get the court back on an even keel going forward, or is that something that needs ongoing attention?

Judge CHAMBERS — It is early days. We are four weeks in. The initial signs are positive. The reason I did spend some time outlining to the committee the various structures of the Children's Court is because the Children's Court operates centrally at Melbourne but then in courts of the Magistrates Court of Victoria on particular days. For example, Dandenong, which has been the focus of a lot of the youth matters coming before the court, they sit now I think two days a week in the Children's Court. It was one, but facilitating their ability to do that work is contingent on a number of things. For example, the cells that facilitate that court are full, so children cannot come out to those cells because they are gazetted as prisons, so you have got adult prisoners in those police cells. So children — and women actually — cannot go out to those police cells unless you move those sentenced prisoners out somewhere else.

That may ease with Ravenhall coming on board in November. I think that will ease some of the strain on the police cells, but to ensure that the fast-track remand court is available statewide will have resource implications for sure, but I am keen to see and monitor and evaluate how it is working at the Melbourne Children's Court.

The CHAIR — You said that the fast-track process started in May. What was the date?

Judge CHAMBERS — Effectively it started on 1 June. It was 29 May.

The CHAIR — I think we have well and truly run out of time. Your Honour, thank you very much for coming before us today. It has been very, very useful. You will be provided with a copy of the transcript within a few weeks for review.

Witness withdrew.