

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into youth justice centres in Victoria

Melbourne — 22 March 2017

Members

Ms Margaret Fitzherbert — Chair

Ms Nina Springle — Deputy Chair

Mr Daniel Mulino

Mr Edward O'Donohue

Ms Fiona Patten

Mrs Inga Peulich

Mr Adem Somyurek

Ms Jaclyn Symes

Participating Members

Ms Georgie Crozier

Mr Nazih Elasmr

Ms Colleen Hartland

Mr Gordon Rich-Phillips

Witness

Ms Mamie Williams, executive director, health and safety, WorkSafe Victoria.

The CHAIR — I propose to open this evening's hearing and welcome everybody present. Those who are appearing and also those who are in the gallery this evening, welcome.

The committee is hearing evidence today in relation to the inquiry into youth justice centres in Victoria, and the evidence is being recorded. To witnesses I say again: welcome to these public hearings of the legal and social issues committee. All evidence taken at this hearing is protected by parliamentary privilege; therefore you are protected against any action for what you say here today, but if you go outside and repeat the same things, those comments may not be protected by this privilege. I invite you to briefly address the committee. We are suggesting that people take about 5 minutes or so, and then we will open it up to questions.

Ms WILLIAMS — Chair, I was told to take about 10, so it is probably going to take about eight. Are you okay with that?

The CHAIR — Sure, absolutely.

Ms WILLIAMS — Okay. My name is Marnie Williams, and I am the executive director of the health and safety business unit at WorkSafe Victoria. I would just like to thank you for inviting me to appear to discuss WorkSafe's activities in relation to youth justice centres. I am representing WorkSafe for the purposes of this hearing, and our head office is located at 222 Exhibition Street in Melbourne. The key points I will be making relate to WorkSafe's activity as it relates to workplace health and safety at the Malmsbury, Parkville and, more recently, Barwon youth justice centres.

Our vision is to ensure that Victorian workers return home safely every day. As the regulator of workplace health and safety, our key responsibilities include the prevention of workplace injury and enforcing Victoria's occupational health and safety laws. WorkSafe is also responsible for managing the Victorian workers compensation scheme. Our role and the requirements and protections that apply to Victorian businesses and workers are set out in the legislation, specifically the Occupational Health and Safety Act 2004 and the Workplace Injury Rehabilitation and Compensation Act 2013.

The primary role of WorkSafe inspectors is to ensure that duty holders, such as employers, comply with health and safety legislation, and they do this through the provision of advice, through workplace inspections and through enforcing the law. Our inspectors have legislative powers to enter workplaces during working hours or when there is an immediate risk to anyone in order to inspect workplaces and assess compliance with health and safety laws. Our inspections are conducted either proactively, in response or as part of our planned or strategic programs, or otherwise in response to service requests, complaints or notifiable incidents.

When a WorkSafe inspector detects a contravention of safety laws, an inspector will take action to ensure the contravention is remedied by the duty holder. Now, we can do this by a number of means. One of those is through obtaining what we call immediate voluntary compliance. That is where a duty holder remedies a contravention at the time of our inspection. In those instances we take no further action. We can issue what we call an improvement notice, and that requires a person to fix an issue within a specified time. We can also issue a prohibition notice, and that is where we observe an immediate risk. That requires the activity giving rise to that risk to stop immediately until that risk is remedied. We also can, under certain circumstances, give verbal directions that are required to be taken where we observe an immediate risk, and again under certain circumstances we can work with employers on what we call a risk control plan in order to effect compliance. When a WorkSafe investigation reveals evidence of a breach of the OHS act, WorkSafe will consider whether a prosecution should be commenced or another form of enforcement action should be taken. Our investigations and prosecutions may commence whether or not a breach has resulted in a death, injury or disease. So we do not have to wait for someone to be injured, basically.

I am now going to take you through our attendance at the youth justice centres, and I am taking it through quite an extensive period, so from 1 January 2010 to 10 March 2017, but I can during question time elaborate on that. During that period we have conducted a total of 107 visits at youth justice centres in Parkville, Malmsbury and again later in Barwon at the Grevillea unit. Forty-five of those visits have been conducted in the calendar year of 2016 and this year, inclusive of 2017. As I said, I can take you through a breakdown of those visits if you are interested.

Eighty-eight per cent of these visits were all done in response to a service request or an incident. So the vast majority have been response related. During WorkSafe's most recent visits to the youth justice centres,

inspectors have held discussions relating to systems and training in place to prevent and manage occupational violence. I will just take you through some of the key themes of the activities that we have been doing with the Department of Health and Human Services at their workplaces. Firstly, we have been responding to a number of incidents where workers have been injured while attempting to separate clients engaging in either challenging or aggressive behaviour.

Our response has involved assessing the sufficiency of information, instruction and training for casual and permanent staff in relation to tactical response. We have looked at issues regarding the safe systems of work. This was raised by inspectors during a visit to Malmsbury in September 2016 to discuss health and safety issues raised in the preceding months of August to September. Our inspectors discussed staffing numbers, client resolution procedures and staff training, and issues regarding systems of work for retreating in emergency situations were also raised during a visit to Parkville in November 2016 as a follow-up to another incident that occurred in that month.

Issues regarding infrastructure have also been a common theme in many of our visits and have involved responses to incidents where either furniture or fixtures have been able to be modified or used by clients as weapons. Other infrastructure issues relate to the fit for purpose or the fabric of the infrastructure and are essentially around the fortification of that infrastructure, so around the suitability of doors, walls, ceilings and the like. There have been a number of visits around that. We have looked at the maintenance and servicing of CCTV cameras and protocols in place where CCTV feeds are not available, and we have provided advice and engaged in ongoing inquiries in relation to an incident where the CCTV had been removed in an area where an incident occurred.

Another theme has been administrative in nature, and this regards the mix of clients and the communication of risk profiles of those clients either between shifts, with staff or to agency employees. This issue came up in a WorkSafe response to another incident at Parkville, and our inspectors were advised about the changing ratio of sentencing to remand clients, which appears to be a large driver of some of the challenges that the centre is facing. At that time our inspectors recommended that Parkville youth justice review the client mix and options for further reduction in the larger client groups. So we made some recommendations in that regard.

I am now going to take you through some of our enforcement activity. Since 2010 we have issued 21 improvement notices to the Department of Health and Human Services as the operator of the youth justice centres. These notices have been issued to observe contraventions of safety laws. One of these notices was subsequently withdrawn. In four additional instances we issued what we call, as I said, a voluntary compliance, and this was where the duty holder remedied the contravention at the time of the inspection.

Ms PATTEN — Sorry, Ms Williams, was that on top of the 20?

Ms WILLIAMS — Yes, there were four voluntary compliances as well. That is exactly right. I am very happy in question time to go through that detail. I am very conscious of the time.

In terms of investigations I think it is really important for the panel to understand that we are continuing to investigate matters relating to the Malmsbury riots in November 2016 and later in January 2017. As these matters are currently the subject of what we consider a comprehensive investigation, I am unable to comment any further in regard to those matters. I want to take you through our claims — —

Ms CROZIER — Could you just clarify — the November 2016 riots at Parkville?

Ms WILLIAMS — No, Malmsbury. November 2016 and January 2017. We are talking about Malmsbury.

Ms CROZIER — Everything at Malmsbury. You are doing an investigation, and you cannot confirm to the committee what you are finding? Because I have got questions about that particular period of time that I want to have the committee have a fuller understanding on.

Ms WILLIAMS — I have got my general counsel here, Leanne Hughson, but my understanding is that because it is currently the subject of a comprehensive investigation we need to be very careful what we talk about because it could actually compromise that investigation.

Ms CROZIER — A police investigation?

Ms WILLIAMS — No. We are doing an investigation under the Occupational Health and Safety Act, but it is a criminal jurisdiction, so these are indictable offences — so, quite serious.

Ms CROZIER — I agree. They are very serious.

The CHAIR — Can I just ask: when might that investigation be complete?

Ms WILLIAMS — It is in its very early stages, so I would suggest it will take some time. It is like, ‘How long is a piece of string?’. As the panel would appreciate, these are very complex workplaces and very complex issues that are being looked at.

I was just going to take you through the claims data and costs. Over the seven-year period from 2010 till the end of February 2017 WorkSafe has received 395 claims for compensation and has made payments in excess of \$10 million to DHHS employees who have worked at both the Malmsbury and Parkville youth justice centres. These are the payments that are made to date, and where claims are ongoing this amount will continue to increase. The compensation paid over this period has included payments for loss of income — so, weekly payments — and medical expenses. The vast majority of those claims were from the Parkville youth justice centre and a lesser amount through Malmsbury.

It is also important for the committee to understand that we have also received five claims that have been made from the Department of Education in relation to the Parkville College. These are employees who are not employed by the DHHS but rather other employers who actually work in those workplaces. We have had four from Parkville and one from Malmsbury, and we have had an additional claim made from a caterer who was working in Parkville. It is important to also note that the Grevillea unit was registered as a workplace separate to Barwon Prison on 1 January this year, and WorkSafe has received an additional claim in March in respect to an injury caused by an assault which occurred on 2 January 2017. Again, I am happy to go into a bit more detail there.

In addition to the action taken by our inspectors on the ground, WorkSafe senior management, including myself, have attended a series of meetings to understand the action being taken to address the recommendations in a number of consultants’ reports outlined in the report on its review to the approach to the prevention of occupational violence in secure services, which was prepared by Peter Muir Consulting in 2015, and the review on the prevention of occupational violence program, which was prepared by FBG, which I can refer to as the FBG report.

These comprehensive reports were commissioned by the Department of Health and Human Services to see if there were opportunities to improve safety in youth justice centres, particularly around the prevention of occupational violence. A number of recommendations have come out of those reports, and we have been working with the department in relation to their implementation. I think it is important to note that we continue to work with the department, and now the Department of Justice and Regulation, to ensure the safety of workers and clients during this period of transition, because we understand there is a transition to the Department of Justice occurring in the next week or so. On that basis, I am happy to take your questions.

The CHAIR — Sure. I might start, then, with just a couple. You took us through some figures of visits to the youth justice centres between 2010 and 2017 and broke that down further — 107 visits in total, 45 in 2016 and 2017. Are you able to do a similar breakdown for the figures that you gave on — —

Ms WILLIAMS — I can do it by year, if you want the visit numbers.

The CHAIR — Yes, that would be useful — on improvement notices and also claims. If you could do a breakdown, that would be useful.

Ms WILLIAMS — I will go through the visits for you first. In 2010 we did 17 visits; in 2011 we conducted nine; in 2012 it was 15; in 2013 it was 12; in 2014 it was seven; in 2015 it was two; in 2016, it was 27; and in 2017 it has been 18. In relation to the notice numbers, in 2010 we issued seven improvement notices; in 2011 we issued one; in 2012 we issued one; in 2013 we issued one; in 2014 there were no notices issued; in 2015 there were no notices issued; in 2016 we issued three; and in 2017 we issued eight. In relation to the voluntary compliances, we issued three in 2010, and we issued one in 2016. Would you like to know in terms of claims year by year?

The CHAIR — Yes please, if you have that.

Ms WILLIAMS — Okay. In 2010 we had 50; in 2011 we had 53; in 2012 we had 51; in 2013 we had 65; in 2014 we had 62; in 2015 we had 37; in 2016 we had 64; and in 2017 we have had 13, year to date.

Ms CROZIER — If I may, Chair, just to follow on from that, with those claims, are you able to give the committee a breakdown of what each of those claims were? Maybe take that on notice.

The CHAIR — Yes, that is a good idea.

Ms WILLIAMS — I can give you a high-level breakdown. This particular breakdown is from the claims from 2014 to 2017, which are the more recent ones.

Ms SYMES — Just to clarify, this is a breakdown of — —

Ms CROZIER — What sort of claims?

Ms SYMES — I would be interested in amounts as well.

Ms WILLIAMS — I can give you the values right now, and I can take you through the type of mechanism, what we call it. For DHS, and this is the period 2014 to where we are at in 2017, in that period we are talking about 176 claims. The period I am talking about covers 176. Most claims are related to being hit by moving objects — there were 61. Body stressing was 48. Mental stress — —

Ms PATTEN — What is body — —

Ms WILLIAMS — I will explain what it means, yes. Mental stress was 38. Slips, trips and falls were 17. So ‘hit by moving objects’ is more than likely hit by something being thrown or hit by another person, and ‘body stressing’ is likely to be musculoskeletal, and it will be related to, probably, interacting with other people. I would hazard a guess that is what it would be.

Ms PATTEN — So ‘hit by moving object’ can include a fist?

Ms WILLIAMS — It could. So there might a mix between the two.

Ms PATTEN — It might be a ball or it might be a fist or it might be — —

Ms WILLIAMS — Absolutely. It is not a perfect science where claims get categorised, but that is what they will be, absolutely. I am able, if you like, to give you some comparison with the prison system — the adult prison system — but that is a matter for you if you want to understand that.

Ms PATTEN — Out of interest.

Ms WILLIAMS — Okay. Do you want me to go through the costs first, and then I will give you a comparison?

Ms SYMES — Yes.

Ms WILLIAMS — Okay. So the costs, if you bear with me — this is this \$10.23 million we talked about. The breakdown of the costs: in 2010 we are talking in excess of \$2.6 million; in 2011 it is \$1.9 million; in 2012 it is just over \$1 million; in 2013 it is \$2.1 million; in 2014 it is \$1.5 million; in 2015 it is \$368 000; and in 2016 it is \$751 000. That will continue to develop if people are still receiving benefits, but if they have returned to work and they are off benefits, the claims will cease. So some of them will continue to grow. Does that make sense?

Ms SYMES — Yes, but it is year on year data — —

Ms WILLIAMS — That is calendar year, but what we are saying is that if someone reported a claim in 2010 and they are still receiving weekly benefits, that number will continue to climb.

Ms SYMES — To be included in the following year?

Ms WILLIAMS — Yes. I will just check. That is my understanding of how we report it, yes.

Ms SYMES — This is a question that I am sure Daniel would better articulate than me. What is the reason for a reduced monetary value but a pretty consistent incident value? What would be the cause of that?

Ms WILLIAMS — That is about the development of the claim. The older claims have been on the scheme for a lot longer, and if the beneficiaries of those claims have not returned to work, then they will continue just to receive weekly benefits. The longer the claim has been on the scheme, the more cost it is.

Ms SYMES — Yes, I understand that. But I do not understand why it would only be in the hundreds of thousands versus millions in 2015.

Ms CROZIER — Because they have been claiming for longer.

Ms WILLIAMS — Because they have been claiming for longer — more medical costs, more expenses and more salary that we are compensating the injured person for.

Ms PATTEN — Are there one-off payments involved in that as well?

Ms WILLIAMS — No. It depends on what has been accepted, so they continue to grow. Does that make sense?

Ms SYMES — Yes.

Mr MULINO — I guess one interesting thing would be to figure out whether there is both a time component, though, and a change in severity of incident component, because it does appear that the drop-off is pretty severe.

Ms WILLIAMS — They are there because they are not yet developed. So for someone who has just made a claim today, we will have only paid a small amount on that claim. But if they stay on our books for 10 years, we will start to see those claims continue. What you are seeing in the older claims — —

Mr MULINO — Just going back to your numbers, it went from \$1.9 million in 2011 and then \$1 million in 2012 and then \$2.1 million in 2013.

Ms WILLIAMS — Some of it will be due to — —

Mr MULINO — That seems to suggest that there was a — —

Ms WILLIAMS — Severity, yes. Some of those claims in 2010 might be really severe, significant claims that are really complex that require significant cost. It could be more a mix of mental injury or something requiring significant surgery, so it depends what — —

Ms SYMES — And less significant claims in the later years.

Ms WILLIAMS — That is exactly right.

Ms SYMES — I understand now.

Ms WILLIAMS — The make-up of the claims will determine the cost. What we are seeing is that changing. You see in 2015 it is a relatively good year, but over the course of that period it has generally been around the same time. The other thing you need to look at is the remuneration of the employer. What we see year on year is that the remuneration has continued to increase, so what you are probably seeing in the remuneration increasing is that staff numbers are going up, the place is getting bigger, but the claims are remaining stable, with one year where we have had a reduction, so they have had really good performance in that year. There is a big story behind all of those numbers.

Ms CROZIER — Could I just also ask, in relation to Mr Mulino's and Ms Symes's questions on that breakdown, if we could have the numbers of full-time staff as opposed to part-time staff in that breakdown of claims provided as well?

Ms WILLIAMS — We will not have that.

Ms CROZIER — You will not have that?

Ms WILLIAMS — That is a question I think you will have to ask the Department of Health and Human Services. What we will have is the remuneration; we do not know whether they are part-time or full-time.

Ms CROZIER — Thank you. We will.

Ms WILLIAMS — If you are referring to agency staff, who will be employed by a different agency, they will have their claims on their books.

Ms CROZIER — Is that a separate amount then, because they are agency staff?

Ms WILLIAMS — Yes.

Ms CROZIER — Are you able to provide the committee with that?

Ms WILLIAMS — I might have it in here, if you bear with me. I do not think it is significant.

Ms CROZIER — I think it would still be beneficial for the committee to understand.

Ms WILLIAMS — Yes. If you bear with me, I think I have that breakdown. If not, I will take that on notice.

Ms SPRINGLE — My question is: are you are aware of any comparative evidence about how to make things safer for staff in these facilities?

Ms WILLIAMS — That is a very good question. Can I say it is a really complex and challenging workplace. I have to commend the Department on engaging Muir and FBG and getting their consultancies to provide advice. Peter Muir came from the New South Wales jurisdiction and held a very senior role in similar workplaces. I have actually spoken to my jurisdictional colleagues about the challenges and is there anyone doing it better, and the reality is it is very hard to find best practice. From our perspective, other than where we have issued improvement notices where we think there is opportunity for improvement, what we can see certainly over a significant period of time is a number of initiatives that the DHHS has put in place quite proactively to try to manage and prevent occupational violence. If the committee gets the chance to see the Muir report, he very clearly articulates a range of initiatives that have been put in place over time. But it is an ongoing challenge.

Ms SPRINGLE — Just as a follow up to that, it would be great if you could unpack for me what your understanding is of the concept of security in that environment and how that impacts on staff safety.

Ms WILLIAMS — I do not know if I can answer that question. What do you mean in terms of the concept of security?

Ms SPRINGLE — The question Ms Symes just asked is: do you mean infrastructure? It would include that, but it might be other things as well. In my observation, when we talk about youth justice and the facilities, there seems to be a conflation of the concept of security versus stability, and I think they are used interchangeably. I would be interested to know what WorkSafe's understanding of the concept of security in a youth detention centre is.

Ms WILLIAMS — Do you mean security for the clients or security for everyone?

Ms SPRINGLE — For everyone.

Ms PATTEN — Presumably for the workers, because that would be WorkCover.

Ms SPRINGLE — Yes, exactly. Well, I mean I think they are intimately linked, from my perspective.

Ms WILLIAMS — I would have to take that on notice.

Ms SPRINGLE — That is fine. That is absolutely fine.

Ms WILLIAMS — I am not sure I can specifically answer that. What is abundantly clear, certainly at Parkville — and obviously the government has made announcements in relation to a new facility — is that there are plenty of opportunities around the infrastructure. The infrastructure in and of itself has conflated and contributed to some of the challenges that have been observed in the centres, absolutely.

Ms PATTEN — Thank you. It has been very interesting. The number of notices that WorkCover has issued over some years is substantial. When you issue a notice, do you give a time period for that notice to be met? Are those notices duplicates, where a notice has not been complied with and another notice has been issued?

Ms WILLIAMS — No, not in this instance. If a duty holder fails to comply with a notice, we actually take that quite seriously and that in and of itself is an offence, and that would be a matter we would refer for comprehensive investigation. The DHHS has not not complied with any of our notices. They most certainly have requested extensions on several occasions in order to comply. So when we issue a notice, our inspectors have to form a reasonable belief there is a contravention and articulate their reasons for that belief, and that requires us to collect evidence to prove that there is a contravention. We then discuss that with the duty holder and have a conversation with them about what it will take to remedy that contravention and negotiate a time frame.

I can give you some examples where we issued a notice early last year on fortification of doors at the Parkville facility, and we negotiated a time frame. That was suitable to the employer. They then formed a view that they were not going to be able to meet that and requested an extension of time. Where we can see a justification and see that interim controls are in place, we will extend.

Ms PATTEN — Thinking about Parkville in particular, was there a point where WorkSafe came to the position that the buildings themselves, the property itself, was beyond — —

Looking at the numbers, you are issuing 15 — —

Ms WILLIAMS — Twenty-one notices over a seven-year period.

Ms PATTEN — Was there a time when WorkSafe felt that that was an unsafe workplace or was there always a remedy for it?

Ms WILLIAMS — The challenge is that the duty holder has to control the risk as far as is reasonably practicable. How do I explain this? It is evident in a whole host of reports that there was plenty of information available to the duty holder to say that Parkville was not fit for purpose. We were working with the Department to make sure that they were doing what they needed to do, within what they are able to do with their budget constraints, to make that as safe as possible. That is what ‘as far as is reasonably practical’ will mean.

Obviously the government has now made a decision to invest and purchase and build another facility. That is a great outcome from our perspective, but we cannot shut the place down and require them to go and build another facility, because that goes beyond our power. The duty is on the Department to do what is reasonably practical. Certainly when I got involved and had a lot of conversations at a senior level, I was very interested to know how much work was going on behind the scenes to really work on another facility.

Ms CROZIER — Thank you very much, Ms Williams, for those clarification points. Could you give a clarification in relation to what a practice improvement notice is and a provisional improvement notice is? Is it the same thing?

Ms WILLIAMS — No. A provisional improvement notice is a notice that is issued by a health and safety representative. A health and safety representative is an elected representative of a designated work group, and they have the power under our legislation where, if they form an opinion there is a contravention in a workplace and they followed an appropriate issue resolution process and that process has not resolved the issue, the health and safety rep can issue a provisional improvement notice.

Ms CROZIER — Could you give a breakdown of the figures, the same as you have done for the provisional improvement notices, then for us on those?

Ms WILLIAMS — I do not believe there have been any notices. I can go and check on notice, but my understanding is, if a provisional notice is issued by a health and safety rep, the Department has the option of complying with that notice. We may not know that that notice has been issued. We will only get involved if the Department or the employer disputes that notice, and at that time we will come in and we have to basically make a decision on whether we set aside or affirm that notice. That being the case, it would be included in the count. I do not believe we have had any provisional improvement notices issued in youth justice, but I will go back and double-check our data.

Ms CROZIER — And just in relation to the 21 PINs that you mentioned, one had been — —

Ms WILLIAMS — These are INs, not PINs.

Ms CROZIER — Yes, I realise there is a — —

Ms WILLIAMS — They are issued by us.

Ms CROZIER — Another question, on the one that was withdrawn, could you explain to the committee why that was withdrawn?

Ms WILLIAMS — Yes, okay. That was a notice issued, if you bear with me, at Malmsbury in September. That is the one that we quite often see quoted in the newspapers. That particular notice was withdrawn on the basis of a couple of matters. Firstly, technically we did not think it would survive an appeal process.

Ms CROZIER — In what regard?

Ms WILLIAMS — Predominantly because the inspector is required to form a reasonable belief that there is a contravention, and in the inspector articulating his reasonable belief, he failed to articulate what aspects of the system — so the safety management system in the department — were inadequate. We did not believe that that would withstand an appeal, and so on that basis we withdrew the notice and we undertook a whole series of further inquiries to be really clear and really specific on what aspects of the systems of work that were put in place were actually not adequate.

Ms CROZIER — Just in relation to the investigation that you are undertaking now — that is, from the time period of November to currently and ongoing, which you mentioned previously — that September PIN notice would have nothing to do with that investigation or those findings? You probably cannot answer that, because you have said to the committee you cannot answer questions in relation to that investigation.

Ms WILLIAMS — I will say this: a lot of the notices that are being issued are generally related to systems of work that are about managing occupational violence risk. There are lots of different elements of the systems within DHS that all go towards, in one way, shape or form, controlling or mitigating that risk. It is related, but it is not the same.

Ms CROZIER — Just one final one on this issue: would the committee be able to get a report of the investigation once it is concluded?

Ms WILLIAMS — Potentially, yes, and it will depend on whether we, having done the investigation, then decide to move forward with a prosecution too.

Ms CROZIER — Prosecution against?

Ms WILLIAMS — The department. It is actually the Crown, so we would be prosecuting the Crown.

Ms CROZIER — The government.

Ms WILLIAMS — Yes.

The CHAIR — Just a brief follow-up on that: in relation to the September incident where the notice was withdrawn following a letter or a request, who made that request?

Ms WILLIAMS — No-one made the request. It was self-initiated. Essentially we took a look at the notice, and when you look at the notice it attempts to join together a few concepts, and it has been done in a way where

it could not withstand a challenge. We have got a section in our act which is called a 114. We do this quite routinely, where if we have a look at some of the work that our people do and we believe that it is not going to withstand an appeal, we quite often will withdraw them. What I think is really important to understand is we withdrew it, but we then went and continued a whole series of inquiries.

Due to the complexity of the workplace, of the issues, I will give you a comparison to try and bring it to life a bit. When our inspectors go into many workplaces and look at a lot of less complex workplaces, there are lots of standards. There is a book that says, 'If you need to put a guard on this machine, it looks like this, or if you need to operate a forklift safely, it looks like this'. It sort of goes to your question, Nina — if I can call you Nina — —

Ms SPRINGLE — Yes, of course.

Ms WILLIAMS — I am not sure how formal I have to be. It goes to the question: what is the standard for a system of work in the youth justice system? There is no rule book on that. It is a really complicated matter. So for us, in order to form an opinion about what is practicable, what is reasonable and what are suitable controls, there is no rule book. So we have to do really significant and in-depth inquiries, which did take us quite some time, and we subsequently issued notices that were very specific and very clearly articulated which aspects of the systems were inadequate and required improvement. Actually even though we withdrew the notice in September, we issued other notices which go to the heart of the issue, which is that we believe there are aspects of the system that require improvement and these are the systems of work that are all going towards the reduction and the prevention of occupational violence in this workplace.

The CHAIR — If I may follow up on that, there are some FOI documents that were obtained in relation to this issue, and one of the notes on them says:

On 16 September 2016 —

and a name or identification is redacted —

... wrote to WorkSafe to have the improvement notice cancelled. On 20 September 2016 the internal review unit at WorkSafe cancelled the improvement notice.

Ms WILLIAMS — Okay. That is our regional operations manager, Mr Trevor Butler. Our system is that, where we want to withdraw a notice because we believe it is technically deficient, we initiate a process. I cannot actually remove them. Another part of WorkSafe actually reports through to Leanne. They have got the power; it is called our internal review. We write to them and we say, 'These are the reasons why we believe that notice should be withdrawn'. They review that. They will go, 'Yep, we agree', and it gets withdrawn. So that was all internal.

The CHAIR — Good. That makes sense. Thanks for clarifying.

Mr MULINO — Just one quick question, just to go back to a point that Ms Springle raised earlier around infrastructure, a number of the incidents were related to the quality and age and design of the infrastructure, so is it fair to say that that is a major contributing factor to some of the incidents over the past few years?

Ms WILLIAMS — Yes.

The CHAIR — I have one further question. On 18 August there was an incident where a 15-year-old in custody was being restrained by a staff member, and in the process his right leg was broken. Does that matter remain ongoing?

Ms WILLIAMS — I think I have got some information on that matter. No, I do not think it is ongoing, but if you bear with me, I understand two staff members were terminated as a consequence of that. I could be wrong. So the date was 20 — —

The CHAIR — It was 18 August 2016, at Parkville.

Ms WILLIAMS — I have got it somewhere in here. There is a lot of information here. I might have to take that on notice.

The CHAIR — That would be fine.

Ms WILLIAMS — But my recollection is that is where the client broke his leg, or the staff member?

The CHAIR — Yes. It says a 15-year-old in custody was being restrained by a staff member, and in the process his right leg was broken. Ambulance transported him to the children's hospital.

Ms WILLIAMS — I will have to take that on notice, but as I said, I think that matter is now finished. I understand — and I will confirm that — that of the staff members involved, at least one of them was terminated, I think.

The CHAIR — We will wait to hear from you on that one, thank you. It has been pointed out to me that we have run over time, even allowing — —

Ms WILLIAMS — Sorry.

The CHAIR — No, it is not you; it is us. It is definitely us. But thank you for — —

Ms WILLIAMS — So I owe you the comparison with justice, because I did not get to it — we got sidetracked — but you had asked me that.

The CHAIR — Yes, that would be excellent.

Ms WILLIAMS — We will make sure we get that to you.

The CHAIR — Sure, and hopefully the report, when it is completed, subject to your own checks. Would it be possible for you to return to the committee when that investigation is complete, because that would allow us to have a more full discussion of circumstances?

Ms WILLIAMS — It depends how long your committee is standing for, because the investigation, by the time it is done and then the legal review, may take quite some months, and if we prosecute it will take longer, because it will be before the courts, so we cannot bring it.

Ms CROZIER — So moving to corrections will not have any impact on that investigation?

Ms WILLIAMS — No, not at all.

The CHAIR — In that case thank you very much for your contribution. You will receive a copy of the transcript in a few weeks time for proofreading.

Witness withdrew.