

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into youth justice centres in Victoria

Melbourne — 27 June 2017

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Professor James Ogloff AM.

The CHAIR — Thank you for joining us today at this public hearing 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 understand that proceedings today are also being filmed, so I draw that to your attention. I invite you to address the committee briefly. We have asked witnesses to keep it to 5 minutes or so if they can, and then we will open it up to questions, so we are in your hands.

Prof. OGLOFF — Thank you. First, let me just thank the committee for inviting me to attend today. Obviously the circumstances that brought us to this inquiry are particularly troublesome, but it is my sincere hope that the focus on this area will actually help see some developments in this most important field. Over my career I have actually found that youth justice is the most important element of the justice system, given both the long-term implications of young offenders and opportunities that do arise for early intervention. In fact we know the younger a person enters the youth justice system, the more likely they are to offend and in fact to become persistent offenders over their life course.

Just very, very briefly I will outline my background for the committee. I am trained originally as a clinical and forensic psychologist and lawyer. Currently I am foundation professor of forensic behavioural science at Swinburne University, and I am director of psychological services and research at the Victorian Institute of Forensic Mental Health, which is known as Forensicare. As part of these roles I direct the Centre for Forensic Behavioural Science, which is Victoria's research and training centre, operated jointly by Forensicare and Swinburne University.

I have worked in the field, including working with young offenders, for 35 years. In fact the first young offender I worked with is now 51, so it has been a long time. In Victoria I have worked at Forensicare for 16 years and first at Monash University for 12 years before moving to Swinburne in 2014. Previously I worked in Canada and the United States in similar roles. I have had extensive experience around Australia with youth justice and currently am a member of the Youth Justice Advisory Committee for New South Wales.

In Victoria I have had occasion to assess young offenders for court, I have provided advice regarding the management of young offenders and I have overseen evaluations of a range of matters, including alcohol and drug use and mental illness in young people, the assessment of offending violence risk among young offenders, the relationship between things like childhood sexual victimisation and later offending, and the provision of violence intervention programs to young offenders.

As the committee will be aware, Penny Armytage and I recently undertook a review of youth justice, which we completed, and the report is now with government and the department for their consideration. Rather than speaking to that report, it is my intention today just to try and focus on general knowledge and expertise.

Given the brief time, I am just going to very quickly highlight four topics of importance for the committee. The first pertains to, just very briefly, the range and nature of young offenders and offending itself. The second is mental health and related services for young offenders. The third topic is the need for intensive services for some particularly difficult young offenders. Then I will end by emphasising the need for ongoing evaluation in what we do and research.

Very briefly, as the committee will be aware, there is a well-established pattern of offending across the overall population, and offending does peak in the late teen years. If you look at a graph over the life course of individuals, most offending does occur in the later teen years. There is generally a very sharp decline thereafter, and we call this the age crime curve. It is a well-known fact, and it is certainly evident in Victoria.

The good news within that is most young people who initially come into contact with the legal system do not ever return. One of the things that is very difficult is we have two competing trajectories. One is the majority of young people who do not return. On the other hand, what we see is a small number of young offenders who are responsible for an inordinate amount of offending and often serious offending. At the same time what we are seeing — and you will be well aware of this — is a reduction in the total number of people receiving a sentence in the Children's Court year on year, while at the same time we are seeing the proportion of young offenders who are committing personal injury offences actually has increased over the last, say, five or six years.

The challenge we face with our youth justice system is obviously to ensure that we do not broaden it unnecessarily to bring people in who would not benefit from it, and in fact potentially could be harmed by it and

cause future harm, but at the same time recognising we have a number of youth who require very intensive supervision and control in a form we have not seen to date.

The final thing on that is that obviously one of the challenges we face, which is part of our culture, is the heterogeneity of the population of young people. We know that we have very high rates of mental illness, intellectual disability — you have talked about substance misuse in the last session — education disconnection, exposure to family violence and social disadvantage. More than half the youth we know have had formal contact with child protection, and we have a very diverse offending population, with around a third of the young people coming from non-traditional Australian backgrounds.

It is still the case — most troubling, I think, to me — that the proportion of Koori young people is still dramatically higher than the population rate, and that actually potentially has gone up in the last decade, not down. The numbers may be going down, but the proportion is going up. So, taken together, what I am showing is that the youth justice system has to be flexible enough to deal with a whole range of young people, from those who do not require much in the way of intervention all the way to the most difficult.

Second, I was going to mention very briefly mental health and related services. You will be aware of this. We know that between a quarter and a third of young offenders have actually had formal contact with the public mental health system, and in fact more than one in 20 have had a history of admission to a psychiatric hospital. By contrast, in the general population, this is many times greater than we would see with other children. It is incredibly rare for a young person to be admitted to psychiatric hospitalisation, yet one out of 20 of young offenders are. All types of serious illness are grossly over-represented in the population.

Of course what I am talking about is contact with public mental health services. Most people do not go to public mental health services. They go to GPs, private psychologists or psychiatrists, so the rates are potentially higher. Some work I have done is when we have interviewed young people we found that fully two-thirds of girls report having been diagnosed with a mental disorder and roughly half of boys, so there is no doubt that mental illness is a particular problem within the population.

On that, I think it is important to note that I am not saying that mental illness is what causes young people to offend. Rather, we know that if you look at the contributing factors to offending, they are actually pretty much the same between people with mental illness and people who do not have mental illness. The complication is, of course, the mental illness makes it very, very difficult to manage young people and of course for them to benefit from any sorts of interventions. So, there is little doubt that providing mental health care to young offenders, including those in custody, is humane, helpful and necessary, but at the same time we need to still address a range of other issues present in those young people.

If we take a population health perspective, when young people come in contact with the youth justice system, given that the majority are disadvantaged, it creates an opportunity to help identify and later remediate the mental health condition. In Victoria we are very fortunate — and it is quite ironic — that we have both the leading young mental health service Orygen, which is internationally recognised, and Forensicare, the state forensic mental health services, similarly internationally recognised. Possibilities abound to work with these services to provide better interventions for young offenders, but to date that has not happened. Indeed Forensicare and Orygen piloted a youth forensic mental health care clinic a few years ago. Although funding was not provided, we continue to try to look at opportunities for funding. One of the themes of course is that we are under-servicing the mental health needs of young people in our youth justice centres.

The next point, I think, is potentially the most important for understanding some of the recent incidents which have occurred. That is, given the changing nature of the population and, as I mentioned, growing numbers of young people engaging in personal injury offences as a proportion of the total number of kids coming in, what has actually happened is we simply do not have services intensive enough to manage that group, so we really need to ensure that severe and persistent young offenders are the focus of intensive services.

There is certainly merit in trying to improve social conditions for all Victorians, but that is probably too diffuse and low intensity to make much impact on the group I am talking about. In fact, social exclusion and disadvantage alone do not explain the serious violence that we are seeing being committed by some youth. As such, the focus needs to be more on the factors that do contribute to this sort of behaviour.

With respect to what you do with the population, there first needs to be comprehensive assessment. We often do not understand the drivers in an individual case for why the young person is behaving the way they are. There are a whole range of areas that need to be considered. I will not go through them, but they include everything from education, family and so on. In fact, the rule of thumb is the younger the young person is when they come into contact with the legal system, the more likely that family problems are contributing, whereas by the time young people are coming in at, say, 16 or 17, usually it is the peer group rather than the family. Obviously those years of 10 to 17 are highly changeable for young people — the forces that influence them.

With respect to custody centres, we require an intensive intervention unit, which is essentially a community of change where all staff, whether they are youth justice workers or professionals, have a focus on remediating that young person's behaviour. Now, some jurisdictions do have these sorts of units; unfortunately, we have not. With respect to community, similarly there is an inadequate range of intensive programs for young people, so on the occasions when I have assessed young people, for example, it is often the case that there is simply no service that you could refer them to where you would have any expectation that they would be able to manage that young person.

By way of contrast, in the adult system Forensicare runs a problem behaviour program in the community service. It has been seen as highly successful, with more than 1200 people having gone through that program. Evaluation shows that in people who complete, reoffending reduces by about 60 per cent, and similarly — —

Ms PATTEN — How many people did you say went through that?

Prof. OGLOFF — More than 1200 — these are adults — with a 60 per cent reduction in offending. For those who have mental illness, the mental health outcomes also were improved.

Finally, the focus has to be on desistance from crime and of course integration with the community. Very often what we are seeing is a disconnect between services that are provided and there is not a continuity, particularly when young people are re-entering the community. It is very important to think, for example, that for young people even a period that seems short — say, 46 days average length of remand or something — is essentially half a school term or almost a school term. So if you are not at school, you are separated from friends and family and you are trying to come back to community. Your environment is going to be entirely different.

The final area, of course, as a professor over many years, is we really need to invest more in research and evaluation. I think it is very unfortunate that not only in Victoria but in general we know much less about young offenders and how to evaluate and treat them and remediate their behaviour than we do with adults — we know even less about how to address violent offending in particular — so we need to have a concerted focus on directing research in Victoria in the area.

In the adult offender realm, we have been able to make quite a lot of advances. In my own research centre we have received funding through the Victorian government recently through Corrections Victoria at Forensicare to establish what is called the Catalyst Consortium. This is a national consortium of research excellence to reduce violence and persistent offending. It is still in the developmental phase, having just launched. We have engaged staff and are working quite broadly trying to understand violence and offending, remediate that behaviour and obviously look at community integration. This is the kind of work that is needed in the youth justice space.

More broadly, of course, ongoing evaluation and research are required to ensure that youth justice is more effective in meeting the mandate, and particularly allowing them to keep abreast with what changes are occurring. It is not good enough to find out after events occur that the population has changed, for example, and they have not been able to manage. To date it has been very difficult for people like me to conduct independent, external research with young offenders in Victoria. While our centre has done some contract research with the Department of Health and Human Services in the past, independent research has generally been impossible to conduct. This has stymied our understanding of these important issues and, again, is a far contrast from the adult system.

Those are the comments that I prepared, trying to highlight those four areas. I am obviously happy to take any questions on those or other matters the committee wishes me to address.

The CHAIR — Thank you very much, Professor. Your comments have been extremely useful, and I think there will be a lot of questions. I want to start with a couple just briefly about the report that you have prepared for government with Ms Armytage. When did you finish it and where is it up to? I understand it is with cabinet.

Prof. OGLOFF — Yes. The report was finished in April — the work of Penny and me was done with the support staff — and it is now with the department and government.

The CHAIR — Do you have any sense of time frames for what is going to happen with that report?

Prof. OGLOFF — I really do not. I have tried to inquire about that, because obviously there is quite a lot of interest in it. I should say it is a very substantial report, so my understanding is that they are working through that report.

Ms PATTEN — Well, I hope it is a brave report.

Prof. OGLOFF — I think it is.

Ms PATTEN — I am interested, and you have obviously mentioned, that the younger someone offends the more likely they are to travel through our justice program.

Prof. OGLOFF — Correct.

Ms PATTEN — There have been some recommendations from other organisations to increase the criminal age of culpability. Is that something that you have considered?

Prof. OGLOFF — Absolutely. Just to give you a very brief example, around the world obviously the age of criminal responsibility ranges dramatically. In my own home country of Canada, 12; in Scandinavian countries, 15, 16. Last year I was at a conference, and of course one always thinks the system we grow up in is the correct one, so a group of us were discussing these matters, and rather than trying to have esoteric discussions we used case studies. We said, ‘What would happen in your country?’, and we had a couple of case examples. For example, an 11-year-old boy who engages in offending behaviour, what would happen? In Canada, obviously, you cannot be arrested, so there is no justice response; in Scandinavia, similarly. What we actually found is that ironically the jurisdictions that do not have a young age of criminal responsibility have a more inclusive model.

Just to give you a very concrete example, what would typically happen in, say, Scandinavian countries, even with someone 13 or 14, is the first thing they would do is look at the family — what is happening with the family, what supports do the family require — and engagement with education. They would look more broadly at the young person’s needs because there is no option to arrest or detain or to put someone on an order.

What you typically find in Victoria is the opposite. So if a young person engages in behaviour serious enough to warrant custodial intervention or even community-based orders, often all those connections start to become separate — not intentionally; it just happens. So imagine as parents, you find out the child has been arrested. Is that a child with whom you are going to allow your children to spend time with? The school, which may have already been having difficulty with the young person will now have every opportunity to essentially expel that young person. The family, who has probably got difficulties to begin with, will find this just as another stressor. So ironically, although it seems maybe counterintuitive, low age of criminal responsibility actually tends to sever some of these sorts of natural ties. So it is not that there is no response; it is just not a criminal justice response.

Mr MORRIS — I was hoping to ask another question that sort of goes along the same lines there — one that might seem counterintuitive. It is along the lines of optimum length of sentence if a young person is to be incarcerated, and this is something that I have heard discussed with others in terms of the disruption to a young person’s life if they are to be placed in the youth justice system. In terms of it being a short sentence, the disruption actually proves to be quite negative, whereas a longer sentence actually allows that disruption to then normalise and present an opportunity for further education and perhaps better outcomes once that person is released from that facility. I know it is a very broad question, but is there a length of sentence that provides a better opportunity for a better outcome for a young person, rather than a shorter sentence or an overly extended sentence?

Prof. OGLOFF — I think that is a complicated question; there is no simple answer. One of the premises, though, which I think is important to highlight is the difficulty is often with the uncertainty of a short sentence or, as you have discussed recently, lengthy periods of remand. It is the case that for a lot of young people there is absolutely no capacity to settle. You have seen the centres, where young people are in and out for periods. They do not know how long they will be there. There is very little in the way of rehabilitation that occurs in that period of time, and even trying to engage in something like education.

Certainly in England they have had a recent review of their youth justice system, and they have made some recommendations along the lines that, if an individual reaches a threshold that they actually require incarceration for safety of community or some other purpose, it needs to be long enough for them to engage in a particular range of programs and services. It is akin to, for example — they do not use this language; this is my interpretation — things like school semesters or a school year. So the idea is that the young person has some certainty in the period of time that they will be there. We certainly see that in our centres. Once young people are sentenced there is often a settling period, because they now have some degree of certainty around the length of time they will be in the facility.

Mr MORRIS — There has been some discussion this morning about the fact that Indigenous youth are over-represented in the youth justice system. Are there other groups that have been identified that are over-represented in youth justice as well?

Prof. OGLOFF — We obviously know that the Indigenous are still the most problematic — that is the one group. What happens if one looks at the pattern of incarceration over decades in Victoria is whatever newcomer group there is is typically over-represented in that group. It is always typically the second generation where we see that. That is very common in all countries, which are these western countries with a colonial history. The current numbers, obviously, are Indigenous still, and I think the focus needs to stay on that, because there is something more problematic if Indigenous people continue to be grossly over-represented, yet they are obviously not newcomers to the country.

At the present time we see over-representation of Pacific Islander and Maori people. We also see some African over-representation. I should say the numbers are low, although the disproportion is high. In 2015/2016, for example — that fiscal year — I think there were 62 African youth in youth justice, so a very small number but greatly disproportionate compared to the population. We also see a range of other backgrounds with over-representation, even Italian, for example. There is a small group of people who are Italian who are over-represented, and New Zealand and so forth. So there is quite a lot, and I think it is as I mentioned at the outset part of our heterogeneous culture.

Ms CROZIER — Thank you very much for your evidence this morning, Professor Ogloff, and for the work that you have been conducting in this very important area for a long time. I am hoping that report will be somewhat made available to the broader community. I note the terms of reference were very extensive and there was a lot of work that you needed to do. Additionally the advisory group consisted of many people and there was a relatively short time frame in which you conducted your work. I am just wondering — there were obviously serious incidents occurring in the lead-up to your commencing this work and a number of reviews that were being conducted — were you privy to any of those reviews that had been conducted by the department?

Prof. OGLOFF — Yes. We commenced that work in July. June-July last year was the initial contact around it — so before a lot of the current events occurred — but as part of the review I think there had been more than 30 external reports done and we were given access to those.

Ms CROZIER — The full 30 external reports?

Prof. OGLOFF — Correct.

Ms CROZIER — So they are the things — for example, the Muir reports that Peter Muir was conducting for the department — you had access to to conduct your work?

Prof. OGLOFF — That is correct.

Ms CROZIER — Could I just go to another point. You spoke about the intensive unit for remediate behaviour being applied in other jurisdictions. Are they Australian jurisdictions or are they international jurisdictions?

Prof. OGLOFF — Really New Zealand. New Zealand is the closest. There are not any at that level in Australia. There are a couple of things that come close, but New Zealand has a real history of establishing what they call special treatment units. The analogy I use is that they are trying, for example, to learn a new language — and for a young person who is an offender it often is a new language. One example was given to me recently by a friend who has a daughter who teaches in a disadvantaged area. The little kids were asked, ‘What did you do on the weekend?’. ‘I was out thieving with my dad’, so for the young person thieving with dad is a normal behaviour. So we are trying to teach young people almost like a new language. The two ways you learn a new language are you can go along to language class the way most of our kids do, where you learn Italian or whatever language — Chinese now — but no-one actually can speak Italian or Chinese at the end of that education because you go for an hour or two, you learn it, and then you basically go back to your regular culture. So these special treatment units are similar in that they immerse the young person in a very different form of behaviour.

For young people in our youth justice centres, even if they are attending programs, say, treatment programs where they are trying to change behaviour, they go back into a regular living unit where the antisocial values are really what is going to keep them safe — being stronger than the other boys, not being taken advantage of. So that is why we think these intensive units are very important, only for the very small number of people that need it. Similarly it gets some of those people away from the other youth who will be detrimentally affected by their presence.

Ms CROZIER — I have got lots of questions and I am conscious that other members do too, but could I just confirm with those 30 reports that you mentioned, in what time frames were those reports conducted?

Prof. OGLOFF — I think the 30 were from 2010. My memory is from 2010 onward.

Ms CROZIER — Are you able to provide the committee with a list of those reports?

Prof. OGLOFF — I would need to take it on advisement in terms of what is considered confidential in the report.

Ms CROZIER — I am not suggesting the entire reports; I am just suggesting a list of the reports.

Prof. OGLOFF — I will take it under advisement, and if I can, I am happy to do that.

The CHAIR — Since you started the work with Ms Armytage I believe there has been a decision to transfer youth justice from one department into corrections. What are your thoughts on that approach?

Prof. OGLOFF — Well, of course we had no role in that transfer.

The CHAIR — That is understood.

Prof. OGLOFF — My own view is it does not really matter which department services or houses it. If you look around our country, in many states it is in justice, in some states it is still in sort of human services. What is more important is how it is structured, how it is managed and what occurs within that framework. I think there are advantages to justice because there is expertise in that area, but there obviously still need to be very strong connections to, for example, child protection and youth services. So as long as those things are managed, there is no evidence that being in one particular department or the other, either in Australia or internationally, seems to have much bearing on the outcome for young people.

Ms SPRINGLE — I would appreciate it if you could offer your reflections on the idea of this new small, violent cohort that we keep hearing about from various different stakeholders, and if you have any thoughts about perhaps how that has come about.

Prof. OGLOFF — A couple of things are important. I keep having to tell people there have always been violent young people. I gave a speech not so long ago to a group of experienced people, and I mentioned the names of a few notorious people who were all teenagers when they committed their crimes. So this is in and of

itself not new. What is new I think is two things. One is the extent to which they are working together in what we are calling for want of a better term a crime wave.

I think there are probably three reasons that we see the change. The first is there can be little doubt that it is much easier for young people to be in touch with other young people who are interested in these things through things like social media. So that is real problem at the present time. It used to be in my generation in working with young offenders that this was why we tried to not get them to come to youth justice centres, because they would meet each other. Now it really does not matter, because you come there and of course now you are going to be potentially Facebook friends and social media friends. So we are seeing that these social media connections mean that people who otherwise would not have opportunities to come together are, and added to that is the element that we know to some extent there is organised crime and others involved in some of that.

The second is with the growing population it is obviously going to be the case that just proportionally we are going to have larger numbers of people who are going to engage in what used to be very rare events, and, like I said, we probably have not prepared enough for that. So that is probably more predictable than it seems. For example, years ago we undertook a review of a particular violence program — the centre that I run — and we were already recommending these intensive intervention needs. So the writing has been on the wall just because the population has gone up dramatically and the proportion of young people is going up.

The third point is of course a more complex matter which is just around matters such as desensitisation. It does seem to be the case that young people as a group — and if you have your own children or teenagers you will know this — tend to be very self-focused; what is going on in their life is the most important thing, even at the expense of other people. If you have got young antisocial people, there is a desensitisation that we see. I think that is probably exacerbated with some of the other changes in society that we are seeing. It is a complex answer, but some of it is predictable and some of it is probably less predictable.

Ms SPRINGLE — You talked about the disproportionality of Indigenous kids and kids from certain backgrounds. Do you have thoughts around why that is so?

Prof. OGLOFF — Yes. The first thing it is always important to say is that the majority of people in all those groups do not offend. It is not that they are Indigenous — that is not why they offend. It is not that they are from Africa — that is not why they offend. The majority do not offend, but disproportionate numbers do, and there are a range of reasons. One is of course that it is typically groups of social disadvantage. The second, I think, relates particularly to newcomers, if I can call them that, to the country. Again you see this in New Zealand, Europe and North America, where young people often do not feel that they fit, particularly if they are of a different race. For example, I came to Australia as an immigrant, and I brought children, all of whom are white and all of whom now sound Australian and fit in. But if I was from a country where I had dark skin or a different cultural background and my kids could never really fit in, those are the kids that have difficulty.

In the course of my work I meet with many young people from different backgrounds, not all of whom offend — in fact most do not — and the common experience is that they do not really quite fit. So you get that social dislocation. You get disadvantage, social dislocation, and the saddest thing — and this is for most young offenders — is that it is an identity for them. For people who do not have much going in their life, being seen as the toughest or the one who can engage in the most outrageous behaviour carries with it rewards. It means that suddenly they have a place that they can fit in. Those are the common explanations that we use because it is a phenomenon seen really everywhere.

Ms SPRINGLE — I just have one last question, and it is around the new facility at Cherry Creek. That has obviously been announced, and the planning is going ahead. I am assuming that started prior to you tabling your report with the government.

Prof. OGLOFF — Yes, that was done before that.

Ms SPRINGLE — It would be good to get some of your thoughts about how appropriate a 224-bed facility is in terms of best practice and how that reconciles with a rehabilitative, therapeutically informed approach to youth offending.

Prof. OGLOFF — I think there are advantages and disadvantages. One of the philosophies that I adopt in all institutions, including at the forensic hospital where I work, is that having a large campus with a secure

perimeter allows you a lot of flexibility inside. The reality is that as long as the place was large enough, you could actually have a lot of outdoor space that people could routinely access. That has not been able to happen at the youth justice centres now, except for at the Malmsbury centre. That is one advantage, but it requires very careful planning so that the living units are not, obviously, large, noisy and dorm-like. That is the problem that we see. Most of the world is moving towards either smaller facilities or units within facilities, and I think there is capacity to do that there.

Another disadvantage is being too far away from services. This is something that is of my very private view. The current Parkville site, for all its limitations, could not be better situated in terms of close proximity to the best children's hospital, to the Orygen youth service, to courts and to everything else. There are obviously a variety of issues and reasons why decisions were made to move, but it will be very difficult to recreate that network and also for families visiting and so forth. We know, for example, through the media that at Barwon some families had difficulty getting there and were given an allowance to try to get there. Obviously to the extent we want families to connect with young people while they are in a facility, that will be harder to do further away.

Ms SYMES — Professor, I was just wanting to explore your comments around mental health issues a little bit more. The one in 20 admissions was something that struck me. I guess mental health is a very broad, overreaching description. I was wondering if it would help the committee if you could break that down a little bit more tangibly, and I am just flagging a follow-up question in terms of good practice in relation to that.

Prof. OGLOFF — That is actually a really good question. I probably should have done a better job of that. I really mean psychiatric illness. I do not mean broadly speaking mental health. I mean primarily psychotic illness, where people are out of touch with reality; depressive illness, where people have clinical depression; bipolar disorder, where they have a cycle between depression and high mood; trauma disorders, so post-traumatic stress disorder; and anxiety. The word anxiety is always a bit dubious, because everybody gets anxious. I was anxious coming here this morning. But anxiety clinically is a very different thing. It does not mean that you are worrying about how you will be able to speak. It really speaks more to a clinical state of being unable to concentrate and focus because of an anxiety disorder. So really depression, psychosis, traumatic disorders and anxiety, that is what I mean is over-represented. They are the illnesses of course that require specific psychiatric care.

Ms SYMES — Is the mental health background discovered once they are in a facility? I am just wondering if there could be better linkages.

Prof. OGLOFF — What normally happens, and again what needs to happen, is that when people are admitted to, say, prison or a youth justice centre, they have to have a health screen, and part of that needs to look at mental health in two ways: one, what is the history, and getting that information; and two, how is the person presenting at the present time. Usually it is a screen followed up by an assessment. But it is unfortunate, both in youth justice and in the adult system, that we see young people who are first diagnosed when they come into a facility, because if you think about society there just are not places where people are systematically reviewed in any way, even schools.

Ms SYMES — And with the new facility I understand there will be dedicated mental health beds. Is there anything you would say in relation to best practice for the implementation of those?

Prof. OGLOFF — So obviously two quick things. One is there is a need for so-called 'mental health' beds. This just means a place within a facility that is going to be more clinically oriented. But in our state obviously, if someone requires treatment in hospital, then they should still be going to hospital. One of the great limitations we have, say, contrasted with New South Wales, is we do not have a youth forensic unit. In New South Wales they have a forensic hospital similar to our forensic hospital, the Thomas Embling Hospital, but they have a fully functioning forensic unit, ironically run by someone we trained at our centre in that forensic area who is an adolescent forensic psychiatrist. But we do not have that here. So that sort of facility could not be run within a youth justice centre; that really needs to be within a hospital setting, with all of the therapeutic components that you would have. Just like we do not treat prisoners involuntarily in prison; we move them to hospital for that sort of treatment. There is still a need for mental health beds for people who are not at that level of unwellness that they can manage in the facility, but we must be very careful to keep the line clear between hospital and psychiatric services and justice and youth justice services.

Ms PATTEN — Just following on from Ms Symes, we were looking at the fact that we are locking up people with mental illnesses. Do we have diversion programs for psychiatric illnesses; and if we do not, are we locking up people because we do not have a diversion program or a program that we can enlist that child into?

Prof. OGLOFF — I think everybody would agree there is a lack of adequate resources in two ways. One is like I have already mentioned, a screening method, and then two is a formal diversion. So in other work we have done — not with young offenders but with general offenders — we found that 17 per cent of all people being brought into police custody are active psychiatric patients in public mental health, but there is no system that clearly links people back to those. In youth justice that is still very much the case. For a variety of reasons people are not identified, so we do talk about the need for better diversion and better identification, absolutely.

Ms PATTEN — Just a quick follow-on from Mr Morris's question about length of sentence. It had been suggested to me some time ago that rather than looking at time limits on sentences, we should be looking at achievements or milestones. So rather than saying to a child, 'You'll be in there for eight months', it could be 'until you achieve a cert IV or finish a drug and alcohol program or a mental health program'.

Prof. OGLOFF — It is a very difficult question again because you are depriving someone of liberty, so there always has to be a realisation. I should say the best programs are in the community; internationally the best programs that change people are community-based. So where we fall down, or have fallen down, is a disconnect, as I mentioned. For example, we were involved in developing a violence and prevention program for youth justice which has modules. The first two modules have to be done in order, but the rest can be done in any sequence so they can be done in custody or in community. That is more what I would mean. What is required is a plan for the young person. These are the things that need to happen. But whether that is all in custody or in community, I think, differs.

The problem at the present time is that it has been very difficult to get traction either in custody or in community for anything other than early monitoring and detaining. You will have heard that the education investment has been significant, and I think that is one of the really important developments we have seen in Victoria, but we have not seen other services developed in that way.

Mr MORRIS — You were talking before about association with young people and the like. In your reviews have you seen evidence of gang-like behaviour within these types of facilities?

Prof. OGLOFF — Again, just speaking broadly, there are issues around gang behaviour, although probably we do not see it to the extent that even countries like New Zealand do. But certainly one of the complications is the mixing of people and how you try to keep that away from the institution.

Ms CROZIER — Professor, part of the terms of reference asked you to assess the current and future needs of each cohort of children, young people and their families who are at heightened risk of involvement with the criminal justice system, including the support and prevention needs of children within primary school age and the transition and support needs of young adults up to the age of 25. I am just wondering whether that took into consideration the dual-track system, and what your findings were in relation to taking that age up to 25 for youth justice and any implications of that?

Prof. OGLOFF — Again, not speaking to the report — that is something we certainly did not look at specifically — we looked at the dual-track system but not changing the age. It is important. The dual-track system is something that is not well understood, but it can work very well and, really, despite all the problems that have occurred — —

Ms CROZIER — Is it working well?

Prof. OGLOFF — I think it is working well. If you look at where the difficulties are occurring, they are less with that population. Probably there are a couple of areas where things need to be properly remediated, so at Malmesbury, for example, which traditionally has been a very good facility, the secure side now which has actually got younger boys, that is where a lot of the difficulties have occurred. The senior side is much more settled. The difficulty, of course, is how do you identify which people should be at that facility versus adult?

Ms CROZIER — So in terms of those age groups you described, the older young people compared to the younger boys, what age groups are you referring to?

Prof. OGLOFF — By senior boys I mean 18 to 21 and the 16 to 17 group have been — some of them — moved to the secure facility there at Malmsbury.

Ms CROZIER — That is because of the Parkville riots and the inability to house them in Parkville?

Prof. OGLOFF — I think they were already — I mean, I could not say definitively — starting to be there before because of behavioural problems and so forth, yes.

Ms CROZIER — But your view is to have a separate site to house those older young people and keep the younger boys separate from them?

Prof. OGLOFF — I do not really mean a separate site. It can happen within the same sort of facility. For example, if you came to Thomas Embling Hospital, we manage acute, very difficult people, very unwell, who never go into the formal property. They just stay in their unit and they have a courtyard. But we have others who have open access to the whole grounds. Even at night they can come out — not out of the hospital but into the grounds. So it is that principle of having a secure perimeter. That is what I mean. You would have a unit within whatever facility where they would be able to be there. So it does not necessarily have to be freestanding.

The CHAIR — Professor, in the terms of reference there were under point 15 a number of services and programs that were out of scope for the review that you conducted with Ms Armytage, one of which is listed as the client death inquiry. I am just curious as to what that is. Is that a reference to any client death inquiry or is it a specific report?

Prof. OGLOFF — Any investigation of any youth who have died while they have been in detention, so broadly speaking.

The CHAIR — Have there been any deaths? No.

Prof. OGLOFF — No; that is right.

The CHAIR — That is what I thought. I was just checking that. Earlier you mentioned that you believe that the dual-track system has been successful.

Prof. OGLOFF — Yes.

The CHAIR — I would like to get a greater understanding of what you see as the indicators of success.

Prof. OGLOFF — I should just take a step back. The indicators of success really need to be looked at both as how the young person does but also the likelihood of reoffending. What we do see is a high degree of, like I said, settled, engaged people, and I have met with many of these people in my job. People finishing education, finishing TAFE, getting qualifications, learning skills — that is success.

To my knowledge there has not been a formal evaluation, say, of recidivism, where you compare — and it would be very difficult to do because people are selected to go there. So you really would not have a very good experiment unless you did it entirely randomly. But generally speaking, if you compare the young people coming into adult corrections, it is often a much less settled kind of experience and certainly we see probably relatively similar rates of reoffending if you just look at the broad numbers. So there is no indication, for example, that they become worse by being in the youth system and there is every indication that they do seem to settle more and have their needs met in a better way.

The CHAIR — Thank you. On behalf of everyone, I would like to thank you very much for meeting with us today and for the comments that you have made, which have been very useful. You will be provided with a transcript within a few weeks for review.

Prof. OGLOFF — Thank you for your time and your attention.

Witness withdrew.