

TRANSCRIPT

STANDING COMMITTEE ON LEGAL AND SOCIAL ISSUES

Inquiry into youth justice centres in Victoria

Melbourne — 30 May 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

Mr Greg Barber

Ms Georgie Crozier

Mr Nazih Elasmar

Ms Colleen Hartland

Mr Gordon Rich-Phillips

Witnesses

Mr Julian Kennelly, Media and Communications Manager, and

Mr Andrew Capp, Team Leader, Membership Development, Community and Public Sector Union.

The CHAIR — I welcome the witnesses and also members of the public. The committee is of course hearing evidence today in relation to the inquiry into justice centres in Victoria, and the evidence is being recorded. For witnesses, welcome again to this 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 note that a submission has been received. My understanding is that this has arrived just this morning. I have literally seen it 5 minutes ago, so I have not had an opportunity to read it in any way. I guess at this stage we are in your hands. What we have been asking people to do is to make a brief comment to the committee, certainly no more than about 5 minutes, and then open it up to questions.

Mr KENNELLY — Thank you. I acknowledge the traditional owners of the land that we are meeting on today and pay our respects to their elders both past and present and to their emerging leaders and elders of other tribes. I also acknowledge some youth justice staff who are present in the room today and have been the subject and on the receiving end of violence and vicarious trauma as a result of what has gone on over the last few years.

Just by starting off, many of the problems the system is now addressing have been many years in the making as the young offender profiles have changed while the staffing was systematically and deliberately deprofessionalised and of course the facilities have been left to deteriorate. The responsible department, governments, regulators and even the human rights proponents ignored the tensions that arose as a result.

There have been multiple investigations, reviews and inquiries, and these have raised many issues relating to the administration of youth justice. However, many of the recommendations from these inquiries have been given at best lip-service, we believe, by department management and at worst simply ignored. Many of CPSU's recommendations to these previous inquiries about the inadequacies of the youth justice system, its management, its resourcing and its staffing still remain as valid today as when we first raised them.

We say that the department has excelled in giving unconditional commitment to adhering to report and review recommendations, but nothing ever changed. The department's inadequacies as a manager of the program throughout this period are rightly the focus of employee complaint, and the departmental secretary, the regional director along with the head of secure services at the time bear the responsibility. The previous director of secure services created the environment that resulted in unsafe systems of work. Experienced staff were forced out, many on spurious misconduct claims, and others chose to leave because of the intimidation and lack of support from management.

The actions of offenders are rarely subject to consequences for those actions, notwithstanding the heinous nature of these. Instead of consequences, management engaged in widespread behavioural bribery under the guise of a therapeutic model to maintain order. This was best demonstrated by the use of rewards such as pizza, Coke, DVDs et cetera to quell behaviour deemed threatening or unacceptable.

Occupational violence was ignored by management; staff were told to just toughen up. Consequences for actions remained unattainable because management refused to hold young offenders responsible. Incident categories were recalibrated to hide the violence, and this was achieved by changing the category 3 reporting obligations. This change meant staff were not warned about violent behaviour by young offenders in a timely manner, exposing staff to risk. WorkSafe Victoria, in its role as OHS regulator, failed to hold the department accountable for the consistent breaching of the Occupational Health and Safety Act and its regulations in regard to the need for a safe system of work. Not one single prosecution was launched against the department during this time.

We had the Comrie inquiry and ended up with a single entry point being funded, yet the real reason for the incident, being the poor state of Parkville's accommodation, was never addressed. One individual staff member was held personally responsible and sacked. The Ombudsman's report in 2010 described conditions in youth justice as disgraceful, yet the department and incoming government did nothing except strip resources and impose a staff freeze. Human rights lawyers went missing, and no application was ever launched in the Supreme Court concerning the Parkville site. There were subsequent reports by Peter Muir and White and Caldecott into the review of services, and of course the own-motion reports from the CCYP.

Ultimately CPSU wants our members to be safe at work and to be able to fulfil the role that many of them have been dedicated to for decades. Our recommendations aim to give practical meaning to the youth justice practice principles that were agreed and are contained in appendix 4 of the current VPS enterprise agreement. I was not going to go through each of the recommendations, because they are there in the back section of the report but probably refer to them if we get an opportunity when we address some questions, Chair. I am happy to finish there and allow comments to be made.

Mr MULINO — Thanks for your evidence. I just had a question, firstly, in relation to the government's recently announced moves to increase consequences for assaults on youth justice custodial staff. Do you think that your members support those measures?

Mr CAPP — Yes, we do. We think that has been a good move by the government, and it is strongly supported by members.

Mr MULINO — I just wanted to get a little bit more detail in relation to the new behaviour management model. Was the CPSU on the working group that developed that new behaviour management model, and what are your thoughts on it?

Mr CAPP — Yes, we are. It is a process that began late last year. It is a bipartite process between the department — originally the Department of Health and Human Services, and now the Department of Justice and Regulation — and the CPSU. The aim is to develop a new behaviour management model within the youth justice system, one that can more effectively manage client behaviour, one in which there are appropriate responses to the behaviour of the clientele within the youth justice system, one which ensures consistency and stability in the way that the clientele is managed.

Mr MULINO — Final question: just in relation to one of the changes in machinery of government, I am wondering what the CPSU's thoughts are on moving the youth justice system to the Department of Justice and Regulation. Do you think that was a sensible move, and why?

Mr KENNELLY — We advocated for it.

Mr MULINO — What you think some of the advantages of that are?

Mr KENNELLY — Hopefully a new management approach. Clearly an opportunity to reassess some of the individuals within the lines of responsibility within the old department and the program. There is also the opportunity to have a better coordinated approach with the additional support that has come from officers of the department of justice from Corrections Victoria that are now working within the youth justice institution.

Ms SPRINGLE — Thank you for your time today. You talked about some misconduct claims against staff that were dismissed, and you called them spurious. Why? What is the evidence that they were spurious misconduct claims?

Mr KENNELLY — Do you want individual examples?

Ms SPRINGLE — That would be great.

Mr CAPP — I would prefer not to go into individual examples, but I can talk in general terms. Since 2011, when the former director of secure services took over, the approach to the management of misconduct and underperformance of staff within the youth justice centres changed markedly. It became a far more punitive approach, so for any little infraction or perceived infraction staff were subject to misconduct proceedings, and I think I am right in saying that between 2011 and the present day there have been about 70 to 100 experienced staff leave the system. A lot of those people left because they felt persecuted. They felt that they were being unfairly treated. There were a small group that were dismissed — some of them rightly — for misconduct, but the overwhelming majority, in our view, were usually targeted for matters that really should not have gone down to misconduct. They should have been dealt with by supervision — more of an educative approach rather than a punitive approach.

Ms SPRINGLE — So you would accept that as a result of the 2010 Ombudsman report there were some issues with staffing and assaults and other like kind of incidents that were plaguing the system?

Mr CAPP — I am aware of those allegations and the report that you are referring to and, as I said, there were some dismissals that were justifiable. I think the overwhelming majority were not. When you look at the figures, I think I am right to say that far more people left rather than being dismissed. They were put on misconduct and they decided that they were not prepared to put up with that treatment or, in terms of settling the matter, the department offered them a financial settlement.

Ms SPRINGLE — But it would be right to say that there were issues before Mr Lanyon took over and therefore it is not really a black-and-white situation, is it?

Mr CAPP — There was a marked change in approach in our view, and it dates from him taking over as the director of secure services.

Mr KENNELLY — Just to add to the response, the current Victorian public service agreement contains a commitment to a whole-of-government review of the management of misconduct, and this would include the flaws identified in this submission as part of the past practices of the department.

Ms SPRINGLE — Sorry, which submission?

Mr KENNELLY — He made some comments in relation to some of the — —

Ms SPRINGLE — In your submission?

Mr KENNELLY — Yes.

Ms SPRINGLE — Okay, sorry. We have just got that, so I have not read it obviously.

Mr KENNELLY — I understand, so part of the new agreement means that we will have an opportunity to have single common misconduct approaches across the agencies that are employer signatories to that agreement.

Mr CAPP — To just add to that, we recognise that in any organisation there will always be people who do the wrong thing. What we are saying to you is that we believe that since Mr Lanyon took over to the time he departed the approach resulted in a lot of experienced staff leaving, and that was unnecessary in our view.

Ms SPRINGLE — Absolutely, and I do not think there is anyone who is disputing that. Just a couple of other things that were part of your brief statement, Mr Kennelly. You talked about the kids having pizza as part of a therapeutic, trauma-informed response or a therapeutic response. I do not think there is anyone within any sector that would put that in the category of trauma-informed responses, and I certainly have spoken to a number of people within the sector about the definition of trauma-informed responses. I personally think that they have never really been given a good shot in any kind of thorough, systematic way. But is that what you would consider to be trauma-informed responses — pizza for kids that are doing the right thing?

Mr KENNELLY — It was by way of reference to an example, to the reward system that was being run and so on.

Ms SPRINGLE — But you would categorise a reward system as part of a trauma-informed response?

Mr KENNELLY — I think that is part of the behavioural management model that exists now, so yes.

Ms SPRINGLE — Right, and it was not like that before?

Mr KENNELLY — Well, there have been behavioural management systems in place, yes.

Mr CAPP — I think part of the problem is with the breakdown of the staffing situation within the youth justice system, the response to behaviour became more desperate to try and manage what was becoming an increasingly difficult situation.

Ms SPRINGLE — Of course, yes. I think we would all be on the same page in saying that this is a really complex, difficult environment.

Mr KENNELLY — The application and the inconsistency of it, particularly between the reward for time at Parkville college versus the fact that 30 minutes earlier maybe the kid had assaulted a staff member — those sort of inconsistencies in application.

Ms SPRINGLE — I guess my point is that I would challenge the idea that that is a trauma-informed response, but anyway, that is neither here nor there. The last question I have is: you talked about the move over into corrections, that you are hopeful that there will be a different behavioural management — —

Mr KENNELLY — Yes, it is into the department of justice.

Ms SPRINGLE — Sorry, yes. But it will be administered under the same act, so do you have — —

Mr CAPP — Sorry. Can you explain that?

Ms SPRINGLE — Well, it will still be administered under the Children, Youth and Families Act. It will not be under any sort of justice — —

Mr CAPP — No.

Ms SPRINGLE — It has not moved out of the act. So how would you envisage those changes to behavioural management would be implemented in that? You said that you were hopeful there would be a shift.

Mr CAPP — Well, that is what the union is currently working on with the department — to give you its full title ‘Supporting and responding to the behaviour of young people in youth justice precincts’. At the moment there is an implementation committee that is looking at what is required in terms of staff training and also education for the clientele within the youth justice centres, and we would be hopeful that within the next couple of months that training could be rolled out.

Ms SPRINGLE — Okay. But you could not give me any more indication of what changes you think there will be logistically in operation?

Mr CAPP — In broad terms it is about an appropriate response to behaviour, whether that is rewarding good behaviour or challenging and appropriately dealing with bad behaviour, and ensuring that there is a consistency of approach right across both sides.

Ms SPRINGLE — What does ‘appropriate’ mean? What is the philosophical underpinning to ‘appropriate’?

Mr CAPP — We are talking about a system that ensures that, first of all, it is not a process of punishment but it is a process of education. It is also, as I said, ensuring that there is a consistency of approach, and that is something that has been lacking over the past seven years. I am not quite sure what more you want me to say about it.

Ms SPRINGLE — For example, does the CPSU see the behaviour that these children are exhibiting as a symptom of a deeper problem or is it viewed at face value?

Mr KENNELLY — Of course.

Ms SPRINGLE — Which one?

Mr KENNELLY — The former.

Ms SPRINGLE — The former?

Mr KENNELLY — Yes.

The CHAIR — I have a question about use of capsicum spray, which stems in part from the quite reasonable comments you have made about staff safety. My understanding is that there have been injuries incurred to staff in the use of capsicum spray, possibly as a result of inadequate training, and I am interested in any insight you may have into that.

Mr CAPP — Can you give a bit more detail in terms of where and when?

The CHAIR — My understanding is that this has happened relatively recently. I do not have a document or anything that I can provide you with, but my understanding is that capsicum spray has been deployed and that there has been a WorkSafe claim as a consequence.

Mr CAPP — I can, yes, confirm that it was deployed. I was not aware that there had been an injury.

The CHAIR — Right. So can you elaborate on your understanding of how capsicum spray is used and whether staff have had effective training? How often is it used from what you are hearing from your members?

Mr CAPP — I think what you are referring to is an incident at Grevillea unit, and of course Grevillea is now closed. There may have been capsicum spray used at Malmsbury more recently. I am not sure, I would need to check that. But the youth justice floor staff are not using capsicum spray.

The CHAIR — Right. So it was just used at Grevillea?

Mr CAPP — That is the one I am aware of.

The CHAIR — Are you aware of how often it was used?

Mr CAPP — I could not tell you the number of times. I think there was a specific incident in which it was used. It might have been used twice at most, as far as I am aware.

The CHAIR — Do you know anything about the nature of the incidents that led to its use?

Mr CAPP — I know something of those incidents.

The CHAIR — Can you tell us?

Mr CAPP — I am not sure what you are asking me? Are you asking me to describe — —

The CHAIR — Can you describe the circumstances in which it was used?

Mr CAPP — I think there were perhaps two. There was a staff assault; one in which one of our members who was with the ERG — the Emergency Response Group, that were placed in the Grevillea unit — was king hit from behind. I think the other incident was in regard to when a client was being attacked by three other clients, and a number of our members were lying over that client to try and protect him. That is my knowledge of it.

The CHAIR — Where exactly did that occur? Was it inside? Was it outside?

Mr CAPP — Which one?

The CHAIR — When staff were lying over a — —

Mr CAPP — I think that was out in the yard, from memory.

Ms CROZIER — Thank you, gentlemen, for being before us this morning. Thank you for providing the submission, which we received when we walked in the door, so I have not had time to go through that, but if we have time there are a number of points I would like to go to. Could I ask how many times the minister has met with you both formally and informally?

Mr KENNELLY — Not once, I do not believe.

Ms CROZIER — Not once? Nor formally or informally?

Mr KENNELLY — No.

Ms CROZIER — What about when she was opposition spokesperson? How many times did she meet with you?

Mr KENNELLY — I think there was one occasion.

Mr CAPP — I could not answer.

Mr KENNELLY — I think on one occasion.

Ms CROZIER — One occasion. So she has not met with you at any functions, spoken to you, spoken to your members at any functions at any time over the last four years?

Mr CAPP — She came out to a committee meeting of the working party that was setting up this new behaviour management model out at Parkville?

Ms CROZIER — When was that?

Mr CAPP — Last year.

Ms CROZIER — Who was on the committee for that working group?

Mr CAPP — This was the bipartite committee I was talking about, so CPSU representatives and departmental representatives.

Ms CROZIER — If I can just speak to the number of staff that you said in your submission, and you have referred to, that have left the system. How many have left the system in the last two and a half years?

Mr CAPP — I could not tell you exactly, but I think the rate of attrition has probably slowed overall. I think probably in the last 12 months there were a reasonable number that left because of the — —

Ms CROZIER — What is a reasonable number?

Mr CAPP — I could not give you the exact figures.

Ms CROZIER — Would you be able to get those figures for us, because we are — —

Mr KENNELLY — No.

Ms CROZIER — No?

Mr KENNELLY — No. We do not go into members.

Ms CROZIER — Okay. Of those youth justice workers, how many are members?

Mr KENNELLY — I suspect that is commercial in confidence.

Ms CROZIER — Commercial in confidence? You cannot tell me how many youth justice workers — —

Mr KENNELLY — I can, but I am not going to.

Mr CAPP — We have the overwhelming majority of staff.

Ms CROZIER — So what is an overwhelming majority — 60 per cent of staff, 75, 90?

Mr MULINO — He just said that he is not going to answer.

Ms CROZIER — It is a different question. You are not answering. You are looking at me blankly — do you not know?

Mr KENNELLY — Of course I know.

Mr MULINO — It is a different question.

Ms CROZIER — Well, if I could go to another point then, because this is the problem. We cannot understand how many actual staff have been going through the system, and you have made some claims in your submission and here today about the cuts to staff, and I want to know how many have actually left the system or indeed are on WorkSafe or stress leave.

Mr KENNELLY — Will they not be in the annual reports of the department?

Ms CROZIER — We are undertaking an inquiry now, and those annual reports are due out later this year. I would like to know — —

Mr KENNELLY — Last year's is available; the year before is available. Is there a comparator?

Ms CROZIER — I am asking you now, because you are making some claims to us this morning and we are trying to understand — —

Mr KENNELLY — We know that there were 1000 staff removed from the Department of Human Services between 2011 and 2013, of which some proportion of those 1000 would have been working in the youth justice system.

Ms CROZIER — Well, if you know those figures, then why can you not tell me the current figures?

Mr KENNELLY — Well, as you said, the annual report is not out yet.

Ms CROZIER — How many of those 1000 staff removed from DHHS were actual frontline youth justice workers?

Mr KENNELLY — Frontline youth justice — what do you mean by frontline?

Ms CROZIER — On the floor.

Mr KENNELLY — I do not think the figures are broken down like that, are they?

Ms CROZIER — You have just claimed that 1000 were removed from DHHS, so I am trying to get an understanding — —

Mr KENNELLY — I just compared the annual reports to look at the overall numbers in DHHS, so I just did the maths.

Ms CROZIER — Well, I find it extraordinary that you will not — —

Mr KENNELLY — I find it extraordinary that you are seeking information that you changed the law on in 1993 to remove access to that information, as in how many union members there are.

Ms CROZIER — I think this is part of the problem, is it not?

Mr KENNELLY — You would want to talk to your predecessor, I suspect.

Ms CROZIER — Mr Kennelly, with all due respect, I am trying to get an understanding — the committee is trying to get an understanding — of actually how many — —

Mr KENNELLY — I think you are trying to make a political point, are you not?

Ms CROZIER — If you would let me finish, what I am trying to say is that I am trying to get an understanding of how many youth justice workers have left the system and how many are actual members of the union and how many complaints you have actually received from those youth justice workers.

Mr KENNELLY — As I said to you, we will have the numbers of youth justice members who have left the system in any particular period.

Ms CROZIER — How many are they? You will not disclose that?

Mr KENNELLY — No.

Ms CROZIER — Could you explain why?

Mr KENNELLY — It is commercial in confidence.

Ms CROZIER — How is it commercial in confidence?

Mr KENNELLY — It goes to the whole nature of our representation of our membership numbers. I think you are beleaguering the point and wasting our time if we have only got a short period of time here.

Ms CROZIER — I think it is important to understand how many workers are in the system, how many are left and how many are on WorkCover.

The CHAIR — I think the witness has made it clear that he is not going to answer this question, and I suggest that we move on.

Mr KENNELLY — Well, you can get the WorkCover data, you can get the department data, and if you want the union data, you are not going to get it.

Ms CROZIER — I find it fascinating, and I will pass it on to Mr O'Donohue.

Mr KENNELLY — I am sorry, I think it was the payroll deductions removal in 1993 by the former government, so all that information has — —

Ms CROZIER — It is 2017, Mr Kennelly.

The CHAIR — Order! I think Mr O'Donohue has the call, and we will move on.

Mr O'DONOHUE — Ninety-three was a good year. It was my first year at university after finishing school. It was a long time ago. If I could ask —

Mr KENNELLY — We are still cleaning up the mess from those days.

Mr O'DONOHUE — What is the current percentage of casual staff employed at Malmsbury and Parkville?

Mr KENNELLY — Have you got the department report?

Mr CAPP — I could not give you exact figures on casuals, but I can tell you that on average 30 per cent of the roster at Malmsbury is agency labour hired.

Mr O'DONOHUE — How are Parkville and Malmsbury coping with the closure of Grevillea and the transfer of those — —

Mr CAPP — There is a lot of pressure on both sides. It means that both sides are operating at or above capacity and the actual choices in terms of moving clients when there has been misbehaviour or violence is very limited.

Mr O'DONOHUE — And what sort of impact is that having on your members and the staff in general?

Mr CAPP — It is causing a great deal of stress and anxiety.

Mr O'DONOHUE — Could you describe to the committee perhaps the impact on your members and on staff of working through one of the riots we have seen — perhaps the Parkville riot that saw the place virtually trashed or the Malmsbury escape earlier this year? What is the impact on those who are responding and having to deal with the situation, calling the police, dealing with all the violence et cetera?

Mr CAPP — Trauma — the simple way to describe it. I have had many members say to me after those serious incidents that they were seriously considering leaving the job. They had been implored by their husband or wife or children or parents to leave because they did not believe that they were safe.

Mr O'DONOHUE — And what has the response from the employer been like to provide trauma counselling and support and to work with those people to deal with those issues?

Mr CAPP — It can be improved, and that is part of our recommendations. We want to see more resources and greater emphasis devoted to the welfare — mental health — of people who work in the youth justice system.

The CHAIR — Thank you. I have a further question, and then there are further questions from Ms Crozier and Ms Springle. In your opening statement you referred to accident definitions — I might be paraphrasing you there — being recategorised. Can you elaborate on that, please? I have just done a quick flick through the report which, as you know, we just got. I cannot see a reference to that there, so that is one reason why I am raising it with you now.

Mr KENNELLY — They just simply shifted the category 3 incidents to case notes on the clients, so then they were protected by personal privacy and were never publicly reported.

The CHAIR — Okay. When you say ‘they’?

Mr KENNELLY — The department management, the head of secure services.

The CHAIR — And how was a category 3 incident defined previously?

Mr KENNELLY — I will take that on notice.

The CHAIR — I appreciate I am asking you for a definition. I do not mean the specific definition, but if you could give us some guidance as to, you know, in generic terms the kind of behaviour that might be considered a category 3, that would assist.

Mr KENNELLY — I will take it on notice.

The CHAIR — When did this happen?

Mr CAPP — 2012.

Mr KENNELLY — It has subsequently been changed more recently.

The CHAIR — And what is the more recent change?

Mr KENNELLY — They are now reporting the incidents.

Mr CAPP — I do not think that has been implemented. I think the Department of Health and Human Services made changes across the board, right across their programs, and they have been reviewing it. I do not know whether the changes have actually made.

Ms CROZIER — I understand that there was a member from DHHS who was seconded into the CPSU last year. I think her name was Ms Mary Cronin. Could you confirm who is paying her salary? The minister has confirmed it previously.

Mr KENNELLY — Not within my knowledge. I am not directly employed.

Ms CROZIER — So no-one has been seconded from DHHS into CPSU?

Mr KENNELLY — Absolutely. But I do not know, in my knowledge, what the financial arrangement is. If you said the minister has confirmed what it is, then — —

Ms CROZIER — No, no. She has not confirmed. I am asking you who is paying her salary.

Mr KENNELLY — I do not know.

Ms CROZIER — You do not know. Okay. Would you be able to find that out for the committee?

Mr CAPP — We can take that on notice.

Ms SPRINGLE — You have been advocating for more secure infrastructure in terms of, you know, a purpose-built facility, and we have had some submissions from staff — former staff, youth justice staff — saying that really behaviour management comes down to the relationships with the children, so can you give me some indication of what evidence base you have?

Mr KENNELLY — The young offenders?

Ms SPRINGLE — The children. We could go back and forth forever, but, you know — —

Mr KENNELLY — You have probably got other people waiting for you.

Ms SPRINGLE — That is right. Can you give me some indication of what evidence base you have used to come up with your position on that?

Mr CAPP — I do not fully understand.

Mr KENNELLY — I think you have miscategorised us, but — —

Ms SPRINGLE — You do not understand what an evidence base is?

Mr CAPP — No, I do, but I am not quite sure exactly what you are asking.

Ms SPRINGLE — As I said, I have not had time to go through this submission in any great detail, but I do have some notes here that have been prepared by the secretary that say in September 2016 Mr Kennelly called for a purpose-built management facility with higher security than current juvenile detention centres, designed to house up to 20 underage offenders and staffed by Corrections Victoria. There is quite a large evidence base from other jurisdictions to say that high-security infrastructure is not the answer to these problems. So I am asking you what you have based that — —

Mr KENNELLY — Am I being quoted there?

Ms SPRINGLE — Yes.

Mr KENNELLY — Or is that the *Herald Sun*'s story?

Ms SPRINGLE —

In the short term it could be in another facility, if that requires legislation change we should get on to it, otherwise someone is going to get killed ... We also want an end to the procrastination around the rules of restraint. There are no consequences (for juvenile inmates) and staff fear they will be disciplined and sacked for acting.

That is a direct quote. The other is not.

Mr KENNELLY — Correct.

Ms SPRINGLE — I am just trying to get to —

Mr KENNELLY — I think we picked it up in one of our recommendations in relation to the planning for the new facility.

Ms SPRINGLE — Yes. Really, what I am trying to tease out is how you have come to the conclusion that you have come to around a high-security management facility.

Mr KENNELLY — I do not think it was our conclusion; I think it is contained within the Peter Muir report.

Ms SPRINGLE — Okay. Yes, that answers the question. I just want to know what evidence you are using to base the foundation of your position.

The CHAIR — I think that has been answered. Just on that recommendation — I think it is number 8 — you are seeking ongoing consultation in relation to physical facilities and the planning for Cherry Creek.

Mr KENNELLY — Yes.

The CHAIR — Have you had consultation to date on this?

Mr CAPP — No.

The CHAIR — No — none?

Mr KENNELLY — Thank you for drawing our attention to it. That was where the mention of the complex needs unit is based.

The CHAIR — Okay. All right. That is understood.

Mr MULINO — You have acknowledged, I think, that there are a number of complex contributing factors to the current issues that we are facing. Some of these factors have been evolving for some period of time, it is fair to say, is it not?

Mr KENNELLY — Yes.

Mr MULINO — We are now dealing with a complicated situation, but a number of the issues are longer term issues, which adds to the difficulty of fixing them in the short run.

Mr KENNELLY — It does. Many of the changes that have been implemented more recently have restored some order inside the institutions. The ability to have additional staff from corrections to provide surge support and emergency response has seen improvement. That is also seeing to some extent youth justice staff returning to rosters and the ability therefore to lessen the reliance on agency staff, although there are many agency staff that have had employment within youth justice for a period of time and are well worthwhile to be brought from their agency employment arrangements into employment within the department.

I think the fact that the emergency response and SESG are available has protected the facilities better when there has been an incident, even though there have now been significant periods of time between what you would describe as a critical incident. Previously the police would have performed that role, and obviously there is quite a significant time delay between them arriving, setting up and entering the facility. That has meant that the level of damage or the time that transpires has been decreased.

Mr MULINO — Just one super-quick follow-up question: just following up from Ms Crozier, how many times did the CPSU formally meet Minister Wooldridge, to your knowledge?

Mr KENNELLY — Never.

Mr CAPP — We sought meetings, but they were never agreed to.

Ms CROZIER — Has the minister sought meetings with you then?

Mr KENNELLY — No.

Ms CROZIER — No, she has not. And she has never met with you informally either at any functions, any CPSU functions?

Mr KENNELLY — I would have to go and check my calendar. I do not think I have been at any social functions. I was not at state conference. I do not think I ran into her there.

The CHAIR — Do you meet with her staff?

Mr KENNELLY — Of course.

The CHAIR — Okay, so you have access that way.

Mr KENNELLY — We have access, of course.

The CHAIR — One last question: you referenced the Muir report before.

Mr KENNELLY — Yes and no.

The CHAIR — Do you have a copy of it?

Mr KENNELLY — Yes and no.

The CHAIR — I think you are pre-empting my question.

Mr KENNELLY — Of course. Yes, we do, and no, you — —

The CHAIR — Excuse me, I am speaking. My question was: do you have a copy of it?

Mr KENNELLY — Yes.

The CHAIR — Thank you. I do not think there are any further questions.

Ms CROZIER — Why did you say no? I think we have a copy.

Mr KENNELLY — I was pre-empting the question ‘Can we have a copy?’, and I was going to say no.

Ms CROZIER — Why is that?

Mr KENNELLY — It is not our report to give.

The CHAIR — So my question was ‘Do you have a copy?’.

Mr KENNELLY — Yes.

The CHAIR — You do have. Where did you get it?

Mr KENNELLY — I think we were involved in the consultation process.

Mr CAPP — It was provided by the department.

The CHAIR — The department gave you a copy of the Muir report, but the Parliament is not allowed to have it.

Mr KENNELLY — I do not think that is a question you are directing at us.

The CHAIR — We have just had this song and dance about consultation and access. You have access to a report that the government will not release.

Thank you for your time here today. It has been very illuminating. You will receive a copy of the transcript in a few weeks for proofreading. Thank you.

Witnesses withdrew.