

CUSTODIAL LEGISLATION (OFFICERS DISCIPLINE) AMENDMENT BILL 2013

Consideration in Detail

Resumed from 13 March.

Debate was adjourned after clause 7 has been agreed to.

Clause 8: Section 110 amended —

Mr P. PAPALIA: As has become customary with our intermittent coverage of this legislation, I would just like to confirm where we stand from today's notice paper. There is an amendment standing in my name regarding clause 16, at the top of the page, which is —

Page 28, lines 4 and 5 — To delete “**due to loss of confidence**”

I have further amendments to page 29 of the bill. As I discussed with the minister prior to the interruption to this debate, I do not intend going through the entire second half of the legislation in the same fashion that we did for the part that related to prison officers. We stopped at that part of the bill that relates to youth custodial officers. I felt that was a good place to separate the debate. At the outset, as our very first proposal was to remove entirely this section of the legislation, we still believe that was the appropriate thing to do. The minister chose not to countenance that proposal and our motion was then defeated on the division. I do not believe there is much point going through every single amendment, as we discussed some time ago. However, it is still important, given that it still impacts on the vast majority of youth custodial officers, despite the minister's suggestion that he may have been emailed by only a couple of officers. The vast majority of youth custodial officers with whom I have discussed this in the company of their representatives and their union believe that this provision is inappropriate, unjustified and unfair. We need to make that fact clear and present the case on their behalf. Therefore, in order to reiterate those observations, and also conceding that we have made a lot of the points already regarding the prison officers, I seek leave to move half of the amendments on page 11 of the notice paper en bloc. I seek leave to move en bloc the amendments.

The SPEAKER: We are on clause 8.

Mr P. PAPALIA: I thought we were on clause 16. I am sorry. It has been so long.

The SPEAKER: I am told that we are on clause 8.

Mr P. PAPALIA: I am happy to move our amendment, if the minister wants to —

The SPEAKER: The amendment to clause 16? I am told that we are now on clause 8. Member, have you got anything to say about clause 8?

Mr P. PAPALIA: I will go back to clause 8 then, and we will move that amendment, which the minister will no doubt oppose.

The SPEAKER: We have to deal with clause 8 first.

Mr P. PAPALIA: Yes, that is what I understand.

Clause put and passed.

Clauses 9 to 15 put and passed.

Clause 16: Part 3 Division 3 inserted —

Mr P. PAPALIA: As discussed with the minister some days ago, I seek leave to move en bloc the amendments standing in my name that are on page 11 of the notice paper, down to the amendment at the top of page 12 that proposes to substitute “Written notice of CEO's determination”. Do members understand where I am talking about?

The SPEAKER: I know exactly where you are talking about.

Mr J.M. Francis: So do I!

Mr P. PAPALIA: I am glad.

The SPEAKER: I was confused at the start, but now I am not confused.

Mr P. PAPALIA — by leave: I move —

Page 28, lines 4 and 5 — To delete “**due to loss of confidence**”

Page 29, lines 11 to 14 — To delete the lines.

Page 29, lines 21 to 23 — To delete the lines and insert —

- (a) the chief executive officer has formed the opinion on reasonable grounds that the custodial officer:
 - (i) has engaged in corrupt conduct (or any other conduct constituting an indictable offence); and
 - (ii) is no longer a fit and proper person to hold a position as a custodial officer; and

Page 30, lines 5 to 8 — To delete the lines and insert —

- (1) If the chief executive officer has formed the opinion on reasonable grounds that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer, the chief executive officer may remove the custodial officer.

Page 30, lines 12 to 14 — To delete the lines and insert —

- (3) The chief executive officer shall conduct any necessary investigation to determine if a custodial officer is a fit and proper person to be a custodial officer.

Page 30, lines 28 to 32 — To delete the lines and substitute —

document might incriminate the custodial officer.

Page 31, line 3 — To insert before “proceedings” where it first occurs —

or disciplinary

Page 31, lines 23 and 24 — To delete “and imprisonment for 12 months”

Page 31, line 25 — To delete “**Notice of loss of confidence**” and substitute —

Written notice of CEO’s determination

As I have stated, I do not intend to draw out the debate unnecessarily, but I will state at the outset, as an indicator, that we are of the view that there is no need for this legislation to cover youth custodial officers. The minister is aware that they are already subject to the Public Sector Management Act. In my view and, I think, in the minister’s view, youth custodial officers have far more in common in many respects with social workers and youth workers than they do with prison officers or, for that matter, police officers. The argument that the minister has conveyed in the public domain is that they have similar powers to police officers and therefore they have to be subject to this legislation. There is no evidence that I am aware of, beyond a couple of unspecified references by the minister to a couple of individuals, of widespread failure or disciplinary matters in the youth custodial officer workforce. There is no suggestion that there is widespread corruption in the youth custodial officer workforce. They, by definition, deal with juveniles and are less likely to be engaged in corruption. The likelihood that juveniles would have the capacity to pervert the course of justice or corrupt a youth custodial officer is far lower than the likelihood that that would happen between those involved in organised crime and prison officers.

We do not believe there is any argument for imposing these laws on youth custodial officers other than that they work in the Department of Corrective Services and are responsible for incarcerating people. The minister knows that the argument that youth custodial officers encounter the public and can employ powers in dealing with the public is not the same as the argument that prison officers encounter visitors in the adult prison system. Youth custodial officers are much more adjusted for the circumstances of the individuals and families they deal with and the importance of providing family contact and those sorts of factors; we know that. We are now talking about only one facility, thanks to the really bad decision that the minister made to shut Rangeview Remand Centre and cram all the juveniles into one facility. We are talking about a relatively small workforce. We are not talking about a workforce that has been subjected to widespread corruption. There is no evidence of widespread disciplinary matters or failures in the disciplinary process. There is no justification for this legislation, other than perhaps to use it as a potential heavy stick to hit members of the workforce with if they do not endorse the minister’s proposals in the future. As I have indicated in this place and in the public debate, we have evidence that confirms that the government considered the privatisation of the Banksia Hill Detention Centre as a cost-cutting measure to meet the requirements of the budgetary process, not to improve services or benefit the community.

Mr W.J. JOHNSTON: I was very interested in the comments of the member for Warnbro and would like to hear from him further.

Mr P. PAPALIA: It is a way to cut costs and provide a cheaper service. That is essentially the bottom line. We know that is the case. We know that deliberations were made in the second half of last year, after the very late

budget that was delivered in August. We have seen the document in the public domain. We know it is a real document. That was confirmed by the Commissioner of Corrective Services. The minister claims not to have seen it; I will take him at his word. The truth is that his department, at the request of the minister and his government, was preparing cost-cutting measures, and one measure that was being considered was the full privatisation of juvenile detention. That would provide the much sought after and otherwise elusive justification for this legislation, because it would give the minister the power to hold a sword over the heads of members of the workforce and suggest to them that if they do not like it and do not get on board, the government will get rid of them and therefore they will become a management problem. As the member for Cockburn indicated in many contributions the last time we discussed the prison officers part of this legislation, we know that a very broad spectrum of behaviours might result in a loss-of-confidence notice from the commissioner. The legislation provides the ability for it to be used as a heavy-handed, sledgehammer-like management tool to compel people to go along with something that they do not believe is in the best interests of not only the workforce, but also the state.

I have no doubt, and I have always said, that youth custodial officers are an incredible asset to this state. They get into the job with the intention of making our society a better place and trying to change the behaviour of juvenile offenders before they get caught up in the adult system and go on to cause us no end of pain. They deserve respect and they deserve to be treated as an asset to the state. The suggestion that this type of legislation has to be imposed on them without any evidence to justify it indicates that there is an ulterior motive. As evidenced by the documents that confirm that the minister's department was considering privatisation, that motive must be the intention to privatise and cut costs and to impose those sorts of decisions on youth custodial officers and threaten them with the ultimate sanction of the loss of confidence and the loss of their jobs in the event that they do not go along for the ride. If that is not the case, the minister should demonstrate it. He should give us the evidence. He should show us the dire need for youth custodial officers to be included in this legislation, which was not mentioned in the second reading speech; otherwise, the entire second half of this legislation is irrelevant. Certainly, the amendments that I have moved en bloc are quite relevant. They cannot be contested. Despite the fact that members of the workforce see this legislation as unnecessary, they are being reasonable. I have run these amendments by people who will be affected by this legislation. They do not like them, but they see that they would ameliorate the pain and the potential negative consequences of the legislation. If that is not the case, the minister should give us an indication why youth custodial officers are so terrible that he feels that he has to impose this legislation on them.

Mr J.M. FRANCIS: I thank the member for Warnbro. I will make a couple of points. I accept that in relation to organised crime, the possibility for youth custodial officers to act corruptly is far lower than the possibility presented to prison officers in the adult prison population. I guess there is less temptation in that regard. That is not to say that it does not exist. I am happy to elaborate on a particular piece of history from a couple of years ago that might put it in perspective. However, before I do that, I point out that youth custodial officers obviously have the same use-of-force powers and a number of other powers that adult prison officers have. I also point out that although the job description forms for prison officers and youth custodial officers—I will read these into *Hansard*—are worded differently, essentially the thrust of their jobs is very similar. If the member does not have a copy of these forms, I am happy to provide them to him, but they are publicly available. The job description for a prison officer states that they contribute to the safe, secure and efficient operation of a prison and custody of prisoners, duty of care, repatriation to the community and reduction in reoffending. Prison officers act as role models for prisoners and motivate and encourage them to amend their behaviour in line with the department's aim to increase community safety. The job description form for a youth custodial officer states that they are responsible for the safety, security, care, wellbeing and developmental needs of young people in custody; work with young people in challenging situations by diffusing and managing conflict, are required to provide a positive role model for young people; have the ability to work with young people from Aboriginal or diverse cultural backgrounds; and are sensitive to cultural issues.

As I said, both prison officers and youth custodial officers certainly have a number of different powers, including the use of force. However, just because they deal with people under the age of 18, it does not mean that we do not expect exceptionally high standards of integrity from those charged with protecting the public and dealing with very difficult juveniles, many of whom present very confronting situations for youth custodial officers to deal with. I will sit down shortly, because it might take me a few more minutes to provide the member for Warnbro with an example. This example was provided to me by someone I know from outside the defence force and politics, who came and had a chat with me after I became a minister and told me his story of working at Banksia Hill Detention Centre about three years ago. This is a gentleman in whom I have complete faith and a man of absolute integrity. This man worked at Banksia Hill about three years ago. He loved working there. I do not want to go into too much detail, but he was not a youth custodial officer; basically, he taught kids to make things and to craft wood. He had been there for some time and he absolutely loved this job. One day he saw two youth custodial officers—this is not going too far back in history—racially vilify and physically abuse an

Aboriginal juvenile detainee. He did the right thing and reported that. As a result, for the rest of his time at Banksia Hill, he was subject to revenge bullying by a small faction or clique of youth custodial officers. They tried everything on him in revenge for snitching.

Mr P. PAPALIA: Mr Speaker, I would like to hear more from the minister.

The SPEAKER: I will explain something for the minister. The minister should finish his full five minutes and somebody should then jump up. Anyway, we are listening with interest, minister—carry on.

Mr J.M. FRANCIS: Essentially, they set him up for a number of different internal charges, including smuggling cigarettes into Banksia Hill. They put cigarettes in the bag of this gentleman, who has never smoked a cigarette in his life and would never have done anything like that, in order to start disciplinary procedures against him in retaliation or revenge. That is not a practice that the member for Warnbro would condone, or that anyone would condone. It was a horrible experience for this man, having people gang up on him and destroying the job he loved. He could not stand it anymore and he applied for another job at what was then Rangeview; he wanted to keep working with kids. He went for the job interview at Rangeview, and during the job interview three youth custodial officers made it perfectly clear to him that he would not get the job unless he participated in the practice of making three items of anything of value produced by the detainees and providing them to the youth custodial officers who were putting pressure on him during this job interview. He was expected to give these officers anything of value that was produced in the place. It was such an intimidating and threatening interview process over what essentially was an illegal activity that he walked out and never went back again. This is a man I think the world of. It is not the only story I have been told, but it is one that I wanted to provide to the chamber to put this into perspective. It explains that someone who is a prison officer, youth custodial officer or public servant in a government department is not immune from the prospect of inappropriate behaviour. The temptation will be there, for whatever reason, to act inappropriately. This differs from other parts in the public sector in that youth custodial officers are already covered under the Public Sector Management Act, but the expected standard and levels of integrity amongst those charged with protecting people in custody, whether they be juveniles or adults, is the same and I expect those staff members of the Department of Corrective Services to be above reproach at all times. Unfortunately, not all of them are, although they are only a small minority.

It is a very tough job; I know that. I have the highest respect for those who work in that system. In my time as minister I have probably visited Banksia Hill more often than any other institution. I try to get out there on at least a monthly basis to talk to custodial officers at length about the issues. During the AFL grand final last year—because Collingwood did not make the cut; sorry, Premier—I chose to spend half a day and go out to Banksia Hill and watch the grand final with the juvenile detainees and the youth custodial officers. I spent hours out there. I try to go out there on a regular basis to talk to them about many issues. As I said to the member for Warnbro earlier in consideration in detail, in my conversations with prison officers in adult prisons I generally raise with them the question, “If you were commissioner for a day, are there people you work with who, for whatever reason, you would think are unsuitable to be employed there?” When I asked this of officers at Banksia Hill, without fail, every youth custodial officers I asked said, “Absolutely.” Youth custodial officers have the ability, just as prison officers do, to not meet the expected standard in the community, which is why this bill will apply to them just as it does to prison officers.

Mr P. PAPALIA: Without reflecting on the veracity of the story that the minister has been told, because I do not know about that, I want to ask a couple of questions. Firstly, what year was this individual employed at Banksia Hill and then applied to go to Rangeview? Secondly, were any of the offences to which the individual referred legal under the Public Sector Management Act or condoned under the current disciplinary process? I assume they were not. If that is the case, why on earth do we need other legislation? Why was this incident not properly investigated and, if necessary, referred to the appropriate authorities, be it the police or the Corruption and Crime Commission, if it was deemed to be corruption? Why was the internal investigation unit not tasked to resolve the matter at the time? What happened to the oversight provided by the minister’s predecessor and by the government? Why have they all failed to compel appropriate standards? The law is currently capable of dealing with such an issue and we do not need this legislation to deal with the circumstances that the minister outlined, which were entirely illegal, inappropriate and wrong under the current legislation and should have been dealt with appropriately at the time.

Mr J.M. FRANCIS: I will go back and say that it was not that long ago, but it was when Wandoo Reintegration Facility was still Rangeview.

Mr P. Papalia: It was before September 2012.

Mr J.M. FRANCIS: It was about three years ago. Obviously that series of events would have breached numerous sections of the Public Sector Management Act; I accept that. However, if it had been investigated the commissioner would not have had the ability to compel youth custodial officers to answers questions, which is certainly a key part of what we are doing in this bill. As the member could imagine, when dealing with prison

officers or YCOs, for various reasons, witnesses are reluctant to come forward, especially if there is a culture among a small few of bullying and putting pressure on other staff members to act inappropriately or just to drive them out of the workforce. Those practices are not acceptable. As to what happened, I am certainly not going to compromise myself and ask the new commissioner or anyone else in the department to go back and review a case from three or four years ago for someone I know personally.

It is not the only story. The member for Warnbro knows that in recent history five youth custodial officers were stood down—they have been reinstated—for not securing cell doors in Harding unit, where the more difficult juvenile detainees are kept on a temporary basis. It was not just that they did not secure the door; it was left unsecured for some time. This is just another example that shows that although they may not have been in breach of the Public Sector Management Act, if someone leaves a cell door unlocked at Banksia Hill and part of their duty at night is to check that the doors are locked, but they tick and flick the sheet and say, “Yes, we checked them”, it is a serious breach of integrity that is likely to compromise the safety of the juvenile detention centre and those who work within it. The point I am making, member for Warnbro, is that youth custodial officers are expected to display exactly the same standards of integrity as those expected from prison officers. They have the same ability to jeopardise the safety and good order of detention centres as have prison officers.

Mr P. PAPALIA: Is it wrong to leave cells open in a juvenile detention facility under the Young Offenders Act 1994, the Public Sector Management Act 1994 or the regulations governing the operations of Banksia Hill Detention Centre?

Mr J.M. Francis: That is wrong.

Mr P. PAPALIA: I assume it is not appropriate behaviour to walk around unlocking cells and leaving them open or whatever—to fail to lock cells. To fail to lock accommodation or to fail to lock doors that should be locked is obviously a failure, but it is not corruption.

Mr J.M. Francis: No—well!

Mr P. PAPALIA: I mean in the custodial officer context.

Mr J.M. Francis: More unlikely.

Mr P. PAPALIA: The suggestion that those individuals are in the same category as those the minister referred to in his anecdote earlier, I think, is wrong. That confirms what we have been saying. Those failures can be dealt with; they are not endorsed, supported or promoted by the current rules and regulations governing discipline of youth custodial officers, so why do we need this legislation? It is unnecessary. It will change considerably the terms of employment of a group of people without the minister providing reasonable argument to do so. It sounds as though the minister is clutching at straws. It is kind of silly to suggest that leaving the doors unlocked is in the same category as the incident to which he referred. I am concerned about the anecdote he gave about the other incident that occurred sometime before September 2012. Why has there not been an investigation into that matter?

Mr J.M. Francis: There may well have been, but I am not going to make inquiries.

Mr P. PAPALIA: From listening to the minister’s arguments, we would assume that such behaviour is commonplace. The minister is suggesting that we need this new legislation because there is a problem and he gave that anecdote as justification for it. Would it not be reasonable to suggest that he investigate what happened with that matter and provide it as evidence or perhaps refute it? As much as I take the minister’s word for the qualities and character of the individual conveying the story to him, in the absence of any knowledge of the extent of any investigation and the nature of any failure in that investigation—whether it was related to individuals not giving evidence or refusing to give evidence that would then therefore be changed through the implementation of this law when individuals can be compelled to give evidence—the minister has no case. It is not a justification. It may not be even real. For all we know, there may not have been an investigation. If there was not, it was a failure of management at a lower level rather than the higher level. It is not because the commissioner of the day was necessarily constraining his ability to compel people to give evidence; it may be some other reason entirely. It may be in fact the failure of the then internal investigations unit, of which there is evidence of failures and of perhaps potential corrupt practice. That is the evidence that has been made public that was the most concerning in the public domain regarding leakage of investigations and lists of individuals being made public via documents being left near a photocopier in the internal investigations unit. But those people will not be subject to this legislation; they are okay; they are all right; they are in headquarters. Questions to be raised regarding failed practice and corrupt behaviour are not entirely about the Department of Corrective Services, but there are certainly some issues there. I would have thought the incident to which the minister referred may have been an opportunity to pursue the matter and find out what broke down in that process and in the authority that is responsible for investigating failures within the system rather than not bothering to go there, or not going there

intentionally because the minister felt he might compromise himself somehow. I do not see how that will compromise him.

Mr J.M. FRANCIS: It might help the member for Warnbro, although I can see that we will not agree on whether YCOs should be included, if I provide him with a copy—I do not think I have provided it—of this list of discipline charges of youth custodial officers.

Mr P. Papalia: I would appreciate that.

Mr J.M. FRANCIS: This list covers 2010–11, 2011–12, 2012–13 and 2013–14. For prison officers, we generally stuck to the 2010–11 year. For consistency I might put that into perspective. In 2010–11, there were five charges of conflict of interest—improper association; neglect of duty—failure to report, five charges. My understanding of that—I may stand corrected—is that that is unauthorised absence. I do not mean not turning up for just one day; the absence must be consistent; the YCO, must be, essentially, a repeat offender to be charged with failure to report. It could also mean failure to report an event. Certain events require mandatory reporting. There were five charges of neglect of duty; five neglect of duty—other; four charges of unauthorised access to official information, which is very concerning, by the way, for a number of reasons. There were 20 charges of personal behaviour and unprofessional conduct. Of those 20 charges in 2010–11 more than seven were officers. Eighteen of those charges were found guilty and two were withdrawn, but they were not found not guilty. The outcomes were eight cautions, five five-day fines, four fines of one day, and one reprimand and no action. In 2011–12, following the six charges, there were six resignations by youth custodial officers. To put it in perspective, six out of a workforce of 200 is three per cent. I appreciate that it is absolutely the minority of youth custodial officers, but it is a similar percentage to that of prison officers.

Mr P. Papalia: Are they still in the workforce?

Mr J.M. FRANCIS: Six of them resigned in one year.

Mr P. Papalia: Is the system failing?

Mr J.M. FRANCIS: No.

Mr P. Papalia: It seems to me that the system works. You keep giving evidence of the system working when people who have done wrong have been compelled to leave.

Mr J.M. FRANCIS: The issue is, as occurs with prison officers, that the process takes far too long.

Mr F.M. Logan interjected.

Mr J.M. FRANCIS: I know that, but it is the same principle. If it takes too long —

Mr P. Papalia: Hang on! When did they offend in such a way that resulted in their departing the youth custodial officer workforce? When did they offend; was it that year? How long did it take?

Mr J.M. FRANCIS: I have a correction. Of those six resignations, two officers resigned for six charges; it was not six resignations.

Mr P. Papalia: So that is one per cent. When did they offend; was it in the same financial year?

Mr J.M. FRANCIS: I am not sure. It depends on what time of the year it was. I will give the member this statistic sheet covering four years.

Mr P. Papalia: Clearly, of interest to us will be the length of the case prior to their departure because the minister's justification for this legislation is that the current provisions are inadequate, but we have not really seen the evidence.

Mr J.M. FRANCIS: The principle, though, is that youth custodial officers charged with similar duties to prison officers, as far as the wide range of requirements of the job are concerned, are expected to have the same standards of integrity.

Mr F.M. LOGAN: That was a very interesting story the minister used to justify these changes to the legislation. Given the fact that the chap who told him this was his friend, did the minister take that matter up with the member for Warren–Blackwood as the then minister?

Mr J.M. Francis: It was after I became the minister; I made that clear.

Mr F.M. LOGAN: That is not the question I asked. I ask the minister: did he take up this issue about his friend with the then minister, the member for Warren–Blackwood?

Mr J.M. Francis: No; he was not the then minister.

Mr F.M. LOGAN: I think the minister will find that the member for Warren–Blackwood was the minister in 2012.

Mr J.M. Francis: If only you had listened member for Cockburn. You were not in the chamber when I started my five minutes.

Mr F.M. LOGAN: I have been here.

Mr J.M. Francis: You walked in and missed the start of my answer, and that is your problem.

Mr F.M. LOGAN: Just answer the question, minister.

Mr J.M. Francis: If you'd been here, you would have heard me.

Mr F.M. LOGAN: I was here. I have been here for over half an hour and I heard the whole story. Just answer the question. Regarding the story of the minister's friend that he told, did he take the matter up with the minister of the day?

Mr J.M. FRANCIS: If the member for Cockburn had opened his ears and listened to the start of my answer, he would have heard that the story was told to me only after I became the minister. The member was not in the chamber; he was not listening. I will not spend the rest of today repeating myself for members of the opposition who are not in this place for the entire process.

Mr F.M. Logan: I was in the chamber.

Mr J.M. FRANCIS: The member was not listening.

Mr F.M. LOGAN: I did not hear the minister say that he heard the story only after he became the minister.

Mr J.M. Francis interjected.

Mr F.M. LOGAN: Okay; has the minister referred this matter to a statutory authority? The minister has highlighted to Parliament today a significant number of breaches of acts. Has he referred this matter to the Corruption and Crime Commission?

Mr P. PAPALIA: I would like to hear more from the member for Cockburn.

Mr F.M. LOGAN: The minister came into Parliament today and outlined a story and none of us know whether it is true. We do not know whom the minister is talking about. We do not know whether the story is true and it has never been tested. The minister then used that story as justification for this bill making these changes to the work patterns of youth custodial officers and the laws that govern their work. The minister outlined in the story a whole series of breaches of various acts of Parliament, yet he will not answer the question about whether he referred this matter to the relevant authorities, never mind that he did not take any action as the minister responsible. He could have referred the matter to the appropriate authority, being the CCC, even if he did not want to be involved in the process for some unknown reason. The CCC would have a very strong interest in this issue. Why did the minister not do that? On the basis that he will not answer the question at all, we can dismiss the story as nothing more than hearsay and as having no impact on the reasons for these changes to the act of Parliament—no impact whatsoever. The minister will not even answer a very basic question about whether his knowledge of illegal activity was referred, as should have been done by law, to the appropriate authority, never mind the fact that he did not investigate the matter himself as the minister concerned. Therefore, we just have to ignore all of what he has told Parliament about the justification for these changes before us today.

Can the minister tell the house how many youth custodial officers have been warned or disciplined about consorting with, or have been seen consorting with, organised crime or outlaw motorcycle gang figures?

Mr J.M. FRANCIS: To my knowledge and according to the advice I have been presented, there would not be many. At the start of this process today while we were talking about why these changes should apply to youth custodial officers, I made it clear—once again, I am not sure whether the member for Cockburn was listening—that obviously there is less likelihood for a youth custodial officer to be presented with an attraction for corruption by figures such as outlaw motorcycle gang members. If the member had been listening, he would have heard me make that particular concession.

Mr F.M. Logan: You say lots of things; I am just asking you a question.

Mr J.M. FRANCIS: Had the member for Cockburn been listening earlier, he would have heard me make that concession that the possibility of an attraction for youth custodial officers to be associated with corruption is obviously going to be much lower, because of the type of people they protect, than it would be for prison officers in the adult prison population.

Mr F.M. LOGAN: I can assume from that answer that it is zero. Can the minister please tell the house how many youth custodial officers have been charged with trafficking contraband?

Mr J.M. FRANCIS: To my knowledge and according to the advice I have been presented, none in the last four years.

Mr F.M. LOGAN: We come to the point of the minister's arguments to make the changes to the act that governs the work of youth custodial officers. We must remember that the work they do is in a secure environment—not a prison—designed to look after people under the age of 18. A significant proportion of those people are under the age of 16; some are as young as 12 and there have been younger people there as well. In many cases we are talking about children, not adults—not the hard organised crime figures who may be locked up in prisons or the types of evil, nasty people the member for Butler has encountered in his visits to prisons. We are talking about children and young adults in a secure facility, not a prison. That is why the people to whom these changes will apply are called youth custodial officers, not prison officers. The minister stands before this house and argues that, by and large, the work that youth custodial officers do and the policies and the requirements we expect of them are the same as that of prison officers. That is just not true. There is not a secondary school in Hakea Prison, but there is a school in Banksia Hill Detention Centre, because there are people locked up there who, by law, are required to go to school.

The way the youth custodial officers do their work and the philosophy at Banksia Hill is that they like to keep it as a campus environment—not a prison environment, a campus environment. People are free to move around the campus and they feel they can actually work inside that environment to change their lives, go to school, get some qualifications and at least leave there and not come back again. That is how Banksia Hill is set up. We have heard from the minister justification for making changes to the Prisons Act because of the behaviour of a number of prison officers within the system who cannot be dealt with under the current legislation. We know that is not true, but that is his justification. We have heard from the minister about prison officers consorting with organised crime figures. We have heard from the minister about prison officers smuggling in contraband. We have heard from the minister about prison officers consorting with outlaw motorcycle figures. We have heard from the minister about the time taken to deal with any disciplinary issues, or issues relating to what I have just talked about, under the current policies and provisions of the Prisons Act. But I am talking about youth custodial workers looking after children. I asked the question of the minister: how many youth custodial officers have been involved with organised crime figures or outlaw motorcycle gangs? The answer was none. I asked: how many youth custodial offices have been charged with bringing contraband into Banksia Hill? The answer was none. We asked the minister whether he could explain where the breakdown occurs in terms of the time taken to discipline or deal with youth custodial officers under their act for any breaches of policy or their working conditions. He did not provide any information—none at all.

Mr P. PAPALIA: I do intend to contribute to this line being followed by the member for Cockburn, but I would like to hear more from him now.

Mr F.M. LOGAN: For every argument the minister has made justifying the extension of these provisions to youth custodial officers he has not provided any supporting material, information or statistics to show why that should occur—none at all! This is an outrage. The minister is doing this because he knows he has the numbers in this house and can ram it through. That is all. He is applying the fallacious argument that these are the problems in the prison system, therefore we have to fix it this particular way—by changing the Prisons Act—and, by the way, the same problems occur in the youth custodial officers area at Banksia Hill, and that is the reason he is also doing it for those employees of the state. He came in with some stupid cock-and-bull story about some bloke he knows and something happened to him at some stage, and then what he described to Parliament as breaches of various acts of Parliament. When we asked him what he did about it, the answer was “nothing”. We asked him whether he had reported it to the appropriate authorities as he was required to, particularly as a member of Parliament, and the answer was no. He did not do anything. On top of that, he provided no evidence whatsoever that the problems he has identified in the prison system are there in the youth custodial services area; he has not identified or justified them at all. He is simply doing it because he has the numbers in this house to ram it through. Out there in Banksia—I have been out there a few times as well—there are major cultural problems. The minister talks about cultural problems in the prison system, but there are major cultural problems in Banksia because ministers have never listened to the prison officers. In July 2012, a delegation of Banksia Hill officers—one who had only just come out of hospital after a broken jaw—was standing in the rain on the front steps of Parliament House, pleading with the then minister to do something about the behavioural problems in Banksia caused by the closure of Wandoo, the increasing number of kids coming to Banksia Hill and the workload problems they have out there—the staffing problems. They were pleading with the minister of the day and said to him, “If you don't do anything, it will turn into a riot.” What happened? Less than a year later we had the Banksia Hill riot.

The employees this minister is going to screw down even more as a result of these changes to the act have already suffered enough from the violence that has been dished out to them by some of the older offenders at Banksia Hill, and the failure of successive Corrective Services ministers to listen to their complaints and address the issues. It led to a massive riot and the destruction that everyone in this house knows about. Those are the cultural problems at Banksia Hill that start at the very top with the minister's job. That is where it starts,

compounded by a failure to act and a failure to listen to the youth custodial officers. What do we and they have as a result of what they have been through, including a riot? They have this rubbish that he brings into Parliament House, screwing them down further as public servants, taking away their conditions of employment as public servants and then handing unbelievable disciplinary powers to the chief executive officer of that organisation.

Mr P. PAPALIA: We are not going to go on forever on this clause, but I think the member for Cockburn has given a very clear and reasonable summary of where the flaws in the minister's argument are, but I will refer back to the minister's second reading speech. When ministers bring legislation into this place, ultimately the second reading speech is supposed to concisely convey to the public and anyone using this legislation or referring to these debates in the future, the argument for the need for this legislation. The second reading speech for the Custodial Legislation (Officers Discipline) Amendment Bill 2013 consists of five pages, one paragraph and one line. Of those five pages, one paragraph and one line the last three pages are irrelevant to the argument for the legislation; they detail the nature of the changes in the legislation. Setting those aside, that leaves two pages of quite well spaced and sparsely typed justification for the legislation. Of those two pages that justify the need for it, maybe one and a half pages refer solely to prison officers. There is waffle about public accountability, efficiency, effectiveness, responsiveness and transparency, but when we come to the need for it, it refers to prison officers. The final half-page gets to the crux of the matter and indicates the need for the legislation. I will read it out because it is not very long. The copy of the second reading speech I was given states —

The Government proposes to reform these disciplinary processes by way of legislative amendments to the *Prisons Act 1981* and the *Young Offenders Act 1994*. This reform will ensure that both Acts:

- contain contemporary discipline processes consistent with processes implemented across the WA public sector ...

We know that that is already applicable to youth custodial officers, so it is not making any difference there. The second reading speech continues —

- satisfy the community's expectation that all public officers act with integrity in the performance of their public duties.

What evidence does the minister have that people in the community of Western Australia do not believe that youth custodial officers act with integrity? Where is the evidence of that? The minister knows that youth custodial officers are highly respected, to the extent that anyone knows who they are. The only time that youth custodial officers have come to the attention of the public is when the minister attacked them. When I went out and said, "This is a bit unfair; these are the guys who are having to deal with the consequences of a bad decision to shut one of only two youth custodial facilities and cram everyone in. They're suffering under the workload imposed and the minister's attacking them", most people I heard commenting in the public domain agreed with me that it was a bit unfair, to the extent that they know who youth custodial officers are. It is not the case that there is a great mass of people in the public who have concerns about the integrity of youth custodial officers. Therefore, the two dot points about why the government is changing the Young Offenders Act 1994 do not seem to be relevant; they are not backed by any evidence. It is frustrating on our side to hear this debate. The minister is extending these arguments—I think that they are also dubious arguments for prison officers—without evidence to youth custodial officers. I know that the minister has decided to do this and I know that there is an intent to push this legislation through regardless, but I think it will be embarrassing. In the end, anyone reading this debate in the future will wonder what on earth was going on.

The final part of the second page, which is all the justification that is in the second reading speech, states —

The proposed legislative amendments are intended to:

- engender internal and external trust in the corrections system;

As I indicated, I do not think that there is a lack of trust in the area of juvenile detention, other than what the government has imposed on it. There was a riot as a consequence of the situation that the government created, but that does not mean it is the youth custodial officers' fault. I do not think that the public believes that either.

Mr F.M. LOGAN: I would like to hear more from the member for Warnbro on this matter, if I may.

Mr P. PAPALIA: My view of the external trust at least is that the public, inasmuch as it is aware of who youth custodial officers are, probably admires them. Like me, members of the public probably think that youth custodial officers have a very hard job to do under fairly trying circumstances, which have been made worse by this government's bad decisions. As I have said on numerous occasions, I do not believe that this whole process has done anything to build internal trust within the two workforces impacted on by this legislation. The

government has undermined that internal trust and the introduction of this legislation has been counterproductive as a process. Therefore, I do not think that dot point is relevant.

The second dot point in the last part of the justification states that these legislative amendments intend to —

- reduce difficulties and technical delays currently encountered in removing corrupt or seriously disruptive officers ...

We have not heard the minister give any evidence of corrupt officers in the youth custodial officer workforce other than an anecdote, which, as the member for Cockburn indicated, probably could and should have been dealt with by referral to the appropriate authorities. That aside, there is no real detail, so we cannot really comment too much. However, the argument that technical delays are currently encountered in removing corrupt or seriously disruptive officers has not been pursued on the minister's behalf either. Has the minister tabled that document he was going to table?

Mr J.M. Francis: No; I have to get a copy of it.

Mr P. PAPALIA: If the minister could do so, that would be good because I will be able to look at what he was saying. That aside, if any of those disciplinary matters extended beyond a reasonable time, I would have thought the minister could tell us about that now because it would be part of his justification for the bill. If, as the minister suggested, most recently two individuals left the service, it effectively confirms what we suspect; that is, the system works. The system enables the government to get rid of people who should not be in the workforce and these people are currently not delaying the process unduly. Therefore, the second dot point has not really been supported by the minister's contribution to this debate.

The final dot point states —

- diminish the risk of prison officers and youth custodial officers misusing their special powers.

I am very sceptical about this point. I acknowledge the minister's anecdote and I would be very concerned if his friend encountered that behaviour. I would always urge that those types of behaviours be reported appropriately and the people involved be dealt with. It is entirely inappropriate that anyone racially vilifies, bullies or behaves in the way that the minister referred to. My experience with the youth custodial officer workforce is that it does not comprise that type of person. In fact, I have yet to find the individuals whom the minister is concerned about. If those individuals are in the workforce, I would have thought that the minister would have presented the evidence. My expectation, my experience and my encounters with youth custodial officers are such that, as I said, I was compelled to admire and respect them. In many respects, I sympathise with the circumstances in which they find themselves as a consequence of the government's bad decisions. Shutting one of only two juvenile detention facilities would always be a bad decision; it was always going to result in disruption to sentenced juveniles by remand juveniles and in disruption to the delivery of services and mentoring for both these groups. It was going to result in a circumstance that would, ultimately, potentially lead to a riot, which is what we saw at the start of 2013. That was the government's fault. The government saw that, it was warned about that, and it went ahead regardless. It cost us a lot of money; the state's taxpayers funded something like \$40 million to transform Rangeview Remand Centre and build capacity at Banksia Hill Detention Centre. It was very expensive. The costs are still being felt. The pain is still being worn by the workforce and, sadly, the outcomes are still being influenced. As a consequence of those circumstances, we will still have individuals who go into the juvenile detention facility return to the community worse, more likely to reoffend, than if they had not gone in there. The minister knows the outcome—Fran, get ready!

Mr F.M. LOGAN: I am still listening with bated breath to the member for Warnbro.

Mr P. PAPALIA: I am not going to continue for much longer!

The minister knows the consequences: one in three of the juveniles who go into detention in this state goes on to offend in such a way that they end up in the adult prison system. This information is a bit dated; it now may be higher as a consequence of the changed circumstances in the juvenile detention facility. The minister knows that the vast majority of the juveniles who are in detention in this state are Aboriginal. The minister knows that if Aboriginal offenders go into the adult prison system, around 70 per cent of them will reoffend within five years. Therefore, we are setting ourselves up for a massive negative consequence. The answer is not to attack the workforce; the answer is a reappraisal of the bad decision that was made to undermine juvenile detention by cramming all the juveniles into one facility. That is the answer.

I am very concerned about some of the legislation that has been announced recently and the potential consequences, as reported in *The West Australian* today. I find it inconceivable that the minister would not have had quite robust modelling of the impact of that legislation, particularly on juvenile detention numbers. If the minister has not had that modelling, it is borderline incompetence or ineptitude. It is basic practice, and I am talking about not only the minister but also the department. James McMahon is a great man and a good friend of mine, but if the department has not provided the minister with projections of the consequences of introducing the

legislation that the police minister has been rabbiting on about, that is a failure. The minister should know right now how many additional juveniles, and adults for that matter, will be put into detention and prison as a consequence of those changes to the laws. He should also know the cost of that to him and his department because that will have a direct impact on everyone who goes into the employment of the state in prisons and juvenile detention facilities, and it will have an impact on the rest of us when those people go into crammed facilities and then those facilities are compromised as a consequence of that overcrowding so that juveniles come out more likely to reoffend than they would have had they been in a juvenile detention facility that was not overcrowded. The minister knows, and I know, that the projections have a more deleterious effect for juveniles than for adults. The minister knows that the current projection is more than we currently have in detention, as I understand it. It is 200 in 18 months, and there are 163 in Banksia Hill Detention Centre at the moment. If the minister is going to throw another 200 in there, heaven help us! Apart from anything else, it will be the world's biggest crime university. It will be incredible! All these guys will be put in there so that they can network and learn skills that they do not currently have, and those skills will not be carpentry; they will be learning all manner of break-and-enter skills and the associated criminal skills that are required to go on to a far more promising career in the adult prison system. That is our message: leave the workforce alone. Do not blame other people. Acknowledge where the fault lies.

With regard to this legislation and youth custodial officers, why is the minister doing it? He should concede that it is a bad move. The suggestion that it is required is completely unfounded. There is no supporting evidence or fair justification for it. Youth custodial officers are already subject to half of the change; they are already subject to the Public Sector Management Act. There is no-one the minister cannot kick out now whom he will be able to kick out under this new legislation. All the minister is doing is causing angst and uncertainty in a workforce that has already been subject to all manner of hardship as a result of bad government decisions.

That is it, minister. I am going to draw this part of the debate to a close, unless the member for Cockburn wants to speak.

Mr F.M. Logan interjected.

Mr P. PAPALIA: I will let the member for Cockburn complete the opposition's contribution to this block of amendments. If the minister lets the member for Cockburn speak, I will not get up again. We will then divide and rush through the second half, because I do not think we are going to hear any great change from the minister. Sadly, he has not provided any new information, particularly in relation to youth custodial officers. That is very disappointing. The whole legislation is questionable, but this is unjustified.

Mr J.M. FRANCIS: While I think of it, I will make another analogy between prison officers and youth custodial officers. I have always accepted that there are a number of differences between prison and custodial officers. It is my understanding that both sides of the house support the amendment to the penalties for assault on a public officer; so if a prison officer is assaulted that will be covered by the legislation that provides for punishment for assaulting a public officer. Youth custodial officers are included in that amendment. I understand that the member for Warnbro also supports youth custodial officers being covered by that as well.

Mr P. Papalia: Absolutely, but you can't extrapolate support for defending those individuals against assaults to somehow imposing all these new rules on them and subjecting them to what is, in effect, far less fairness and normal process than they currently enjoy. I do not see how you can make that connection.

Mr J.M. FRANCIS: I would come back to the point, though, that loss-of-confidence provisions and the process are not a punishment regime. As I said a number of times during consideration of the section about prison officers, it has to do with the commissioner having regard to the integrity, honesty, competence, performance and conduct. It is not necessarily just about corrupt or criminal conduct. "Integrity, honesty, competence, performance and conduct" could include a number of different scenarios outside what is punishable under the Criminal Code. It is about not only those who may or may not be charged with a criminal act or charged for breaches under the Public Sector Management Act, but also having regard to those other character requirements of integrity, honesty, competence, performance and conduct. The same conditions are expected to apply to youth custodial officers as they would to prison officers.

Mr F.M. LOGAN: From what the minister has just said, therein lies the reason the opposition opposes this. On the one hand, he tells the media that these changes have to be introduced because of the shocking things that have been going on within the prison officers' culture and employment, such as trafficking contraband, consorting with criminal figures and outlaw motorcycle gang figures et cetera. There are examples of that, but very few examples, and the minister is able to deal with that under the current conditions that exist in prisons, whether by policy or legislation, but that is not what this is really all about. What this is all about lies in the words of the bill—the Custodial Legislation (Officers Discipline) Amendment Bill. This is about the work being done by prison officers, or youth custodial officers, and the relationship between them and the chief executive

officer and the ability of the CEO to exercise more power over them in their everyday work, and that is why the bill is called the “officers discipline” amendment bill. That is what the bill is all about.

One of the questions that is still outstanding concerns the way youth custodial officers are governed as public servants, because they are not sworn officers; they are public servants governed by the Public Sector Management Act. They have an award and an enterprise bargaining agreement in place. That is a contract of employment, signed off by two parties—or a number of parties, actually—the government and the Community and Public Sector Union–Civil Service Association of WA. Within those provisions, whether it is the award or the enterprise bargaining agreement, is a clause dealing with notice of termination. How can those conditions of a contract of employment be changed—and they are changed—by the provisions being debated in the chamber today? The notice of employment provisions are changed as a result of these provisions. How can that take place without further amending the enterprise bargaining agreement or the award itself? I would like to know how that can be done. It may be possible when this bill becomes an act and overrides the EBA. I am not sure, but I will hear from the minister on that in a moment.

Does the minister accept that some of the cultural problems associated with Banksia Hill Detention Centre, which I described earlier—the cultural problems that go to the lack of confidence that that workforce has in the department and successive ministers to listen to them, to fail to act to address the issues, which they have complained about at length—have arisen because, once again, the government has broken its promise to the people of Western Australia? I take the minister to the Liberal Party’s policy prior to the 2008 election in which it committed to build a new young offenders’ prison in addition to Rangeview and Banksia Hill. There was a commitment to do that. That policy was initiated by the previous shadow minister for justice, the member for Hillarys, who then had it put into the policy of the Liberal Party.

Mr P. PAPALIA: I would like to hear more from the member for Cockburn.

Mr F.M. LOGAN: The minister knows—it is in his electorate—that it was never complied with because the government decided to change Rangeview prison to a young adult offenders’ prison and contract that out to Serco. As he knows, all the inhabitants of what was then Rangeview were moved into Banksia, leading to overcrowding, staffing problems and issues, violence, and ultimately a riot.

Mr J.M. Francis: Sure.

Mr F.M. LOGAN: Does the minister acknowledge that that further breaking of an election promise ultimately led to the problems that we have seen in Banksia Hill including workers’ compensation, which the minister highlighted? We can link those workers’ compensation claims back to the number of attacks that occurred. Not everyone fell down the steps or slipped over at work making a cup of tea; a lot of them had their jaws broken and various other things. That is the reason they are on workers’ compensation. I am sure the minister had that discussion when he was out there watching the football with them. Two questions: one is about the relationship between these provisions in the bill and the contract of employment; and the second is about the failure of this government to deliver on 2008 election promises as drafted by the member for Hillarys that has led to the problems in Banksia Hill. I do not think the minister thinks this will fix the problems out there; all I can suggest is that it will make it worse.

Mr J.M. FRANCIS: Firstly, I point out that when the member talks about changes or alterations, he is suggesting it is a retrospective change to conditions of employment. Member for Cockburn, I do not accept that it is a change in conditions of employment, but I would put on the record that right now, if youth custodial officers are given notice of termination, they are provided with four weeks’ pay in lieu. Under loss of confidence —

Mr F.M. Logan: Yes, that is right.

Mr J.M. FRANCIS: That is what it is at the moment.

Mr F.M. Logan: No, no—when no notice is given, they receive four weeks. The whole point is notice. A series of steps has to be taken in giving that notice. If the employer does not want to give notice, four weeks is paid out, as the minister just said, but if the employer does not do that, they have to work their way through the various steps of notice, like any other conditions of employment that govern everyone in the whole of Australia. This goes to change that.

Mr J.M. FRANCIS: At the moment it is four weeks’ pay in lieu. Under loss of confidence, youth custodial officers would be given 28 days’ maintenance payment—that is, the same number of days plus up to six months during an appeal, at the minister’s discretion. If anything, if it is changing it at all, it is changing it more in their favour than what it currently is.

On the general question about issues regarding the population of Banksia Hill, what happened at Wandoo and then at Rangeview, I have made this point—this also ties in with the member’s point about workers’

compensation: the rate peaked at about 26 per cent of youth custodial officers having workers' compensation claims. Not all of them were off work, but it still obviously created staffing issues. About six months ago it peaked at about 26 per cent; that is, one in four staff had a current workers' compensation claim. Yes, not all claims were for falling down the stairs or for broken jaws; there were a lot of reasons other than physical injury. I was critical of some of the youth custodial officers. It is hard not to question it when over one in four of the workforce has a workers' compensation claim. Not many government departments could operate like that. No businesses could operate like that. I was also critical —

Mr F.M. Logan: Did you compare it with other government departments?

Mr J.M. FRANCIS: I did, actually. I compared it with the Department of Fire and Emergency Services because I have both portfolios. As far as risk to workplace injury, stress and, to a degree, post-traumatic stress disorder that firefighters and road crash rescue workers would be subjected to, I would suspect—with all due respect to youth custodial officers—that these guys are on the front line of some pretty horrible things.

Mr P. Papalia interjected.

Mr J.M. FRANCIS: I will get to that.

I was also critical of the Department of Corrective Services' failure to recruit enough youth custodial officers to cover natural attrition in a workforce. That would happen in any workforce. They did not do it. In fact I think it was almost two years between intakes of youth custodial officers. That has obviously been addressed. Thirty-eight YCOs commenced this year. I think the department is still searching for more applicants at the moment. It is about to close off on a second intake. As for all the conspiracy theories about any will of the government to privatise Banksia Hill or that we can en masse rid ourselves of a workforce, why on earth would we massively increase the size of the workforce at Banksia Hill if that were the case? Of course it is not the case. At the time of the riot there were about 230 juvenile detainees to about 200 YCOs. Now the ratio is about 230 YCOs to 160 detainees. We have dramatically increased the ratio of YCOs to juvenile detainees.

Mr P. PAPALIA: I dispute some of the things the minister threw in there. Ultimately, we are not going to agree on the need for youth custodial officers to be included in this legislation. We will stand by our comments today.

Amendments put and a division taken, the Acting Speaker (Mr I.M. Britza) casting his vote with the noes, with the following result —

Division

Ayes (18)

Ms L.L. Baker	Mr F.M. Logan	Mr J.R. Quigley	Mr P.C. Tinley
Dr A.D. Buti	Mr M. McGowan	Ms M.M. Quirk	Mr P.B. Watson
Mr R.H. Cook	Ms S.F. McGurk	Mrs M.H. Roberts	Mr D.A. Templeman (<i>Teller</i>)
Ms J.M. Freeman	Mr M.P. Murray	Ms R. Saffioti	
Mr D.J. Kelly	Mr P. Papalia	Mr C.J. Tallentire	

Noes (33)

Mr P. Abetz	Ms E. Evangel	Mr R.F. Johnson	Mr J. Norberger
Mr F.A. Alban	Mr J.M. Francis	Mr S.K. L'Estrange	Mr D.T. Redman
Mr C.J. Barnett	Mrs G.J. Godfrey	Mr R.S. Love	Mr A.J. Simpson
Mr I.C. Blayney	Mr B.J. Grylls	Mr W.R. Marmion	Mr M.H. Taylor
Mr I.M. Britza	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic (<i>Teller</i>)
Mr M.J. Cowper	Mr C.D. Hatton	Mr N.W. Morton	
Ms M.J. Davies	Mr A.P. Jacob	Dr M.D. Nahan	
Mr J.H.D. Day	Dr G.G. Jacobs	Mr D.C. Nalder	

Pairs

Mr B.S. Wyatt	Mr T.R. Buswell
Mr W.J. Johnston	Ms W.M. Duncan
Ms J. Farrer	Mr J.E. McGrath

Amendments thus negated.

Mr P. PAPALIA — by leave: I move —

Page 31, lines 28 to 30 — To delete the lines and substitute —

which the chief executive officer has formed the view that the custodial officer has engaged in corrupt conduct or is no longer a fit and proper person to hold a position as a custodial officer.

Page 33, lines 9 to 12 — To delete the lines and substitute —

- (2) Where a custodial officer has commenced an appeal under section 11CH, the Minister shall direct a maintenance payment must be paid to the custodial officer for a specified period after the maintenance period unless there are exceptional circumstances justifying that the custodial officer should not be paid a maintenance payment.

Page 33, after line 16 — To insert —

- (4A) At the end of the specified period referred to in subsection (3), the Minister shall review the progress of the appeal and renew the maintenance period for a further specified period not exceeding 6 months unless:
- (a) the appeal has been determined by the WAIRC; or
 - (b) there are exceptional circumstances justifying why the custodial officer should not be paid a maintenance payment.

Page 33, after line 19 — To insert —

- (5) A custodial officer who has commenced an appeal under section 11CH and is aggrieved by:
- (a) a period of any suspension; or
 - (b) the exercise of the Minister's discretion to not make a maintenance payment that results in undue hardship to the custodial officer,
- may apply to a commissioner in the WAIRC who may either substitute or vary or affirm the decision of the chief executive officer, or the Minister, as the case may be.

Page 35, after line 25 — To insert —

- (d) fourth, it must consider the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct and is no longer a fit and proper person to hold a position as a custodial officer.

Page 35, lines 26 to 30 — To delete the lines.

Page 36, after line 13 — To insert —

; and

- (c) the validity and cogency of the facts on which the chief executive officer has determined that the officer has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and is no longer a fit and proper person to hold a position as a custodial officer.

Page 38, after line 30 — To insert —

; and

- (c) the WAIRC must allow the appellant to amend any reasons why the dismissal was harsh, oppressive or unfair.

Page 42, line 19 — To delete "(not exceeding 12 months)"

Page 45, lines 1 and 2 — To delete the lines.

Page 45, lines 21 to 25 — To delete the lines and substitute —

element of an offence of which the custodial officer has been convicted.

Page 46, after line 31 — To insert —

- (4) A custodial officer aggrieved by the period of suspension may appeal the chief executive officer's decision under section 11CE(5).

I do not intend to speak to these amendments. We have covered the subject matter in some detail for some time now: firstly, during the debate on the legislation relating to prison officers; and, secondly, in the debate relating to youth custodial officers. All our comments stand. I have no doubt, as discussed, that the minister intends to push on regardless. Therefore, we oppose the legislation being applied to youth custodial officers.

At this point I am incredibly tempted to pursue some very technical details about proposed new section 11CC, perhaps in an effort to test the acting minister on his deep knowledge of the subject, but I will not do that.

Amendments put and negatived.

Clause put and passed.

Clauses 17 to 22 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR J.M. FRANCIS (Jandakot — Minister for Corrective Services) [1.43 pm]: I move —

That the bill be now read a third time.

MR P. PAPALIA (Warnbro) [1.43 pm]: Regardless of the fact that some of it may have been repetitive and no doubt a little tedious for the advisers, it was worth repeating the debate on the section of this legislation that pertained to prison officers and the section that subjected youth custodial officers to the same rules and regulations and legislation, because it became very clear and incredibly obvious that all the arguments conveyed by the minister, flimsy though they were for applying this legislation to prison officers, were completely inappropriate for youth custodial officers. The youth custodial workforce is a very small, dedicated, hard-working and long-suffering workforce as a consequence of the appalling decisions made by the Barnett government to shut one of only two juvenile detention facilities and cram all the juveniles into the other facility. That workforce deserved our respect and our support; instead, it was attacked by the minister earlier last year when he said they were not up to the job and perhaps needed to seek other employment. Then he attacked them through this legislation, which sends a very clear message to all those people impacted by the new laws. The minister is saying that they are not valued and that he does not trust them.

By its very nature, the legislation imposes new laws for discipline purposes on a workforce. The justification is that they are bad; therefore, the minister needs better laws and we need to give these extreme powers to the Commissioner of Corrective Services so he or she can compel people in the workforce to give evidence because the minister has lost confidence in these people. The minister is saying that the fundamental basis for proposing this legislation is that the workforce is bad. He is saying that there is a problem with corruption. He is saying that there is a problem with discipline that cannot be dealt with under the current legislation. He is saying that not only is the workforce corrupt and there is a discipline problem, but when workers are engaged in the current disciplinary processes, they intentionally delay the process and frustrate it to such an extent that he needs to change the law to deal with that problem. He is saying that to all members of the workforce. He prefaces his argument with the observation that the vast majority of corrective services officers uphold the highest standards of ethical behaviour but no matter how many times he repeats that statement, it will not wash away the fact that he is tarring the entire workforce of prison officers and youth custodial officers with this wrongdoing that he claims justifies the new laws. That is the truth.

That means that the minister is, at the very outset of this process, completely undermining what he claims he intends to do. He claims that he is about changing culture. He claims that he is about imposing a regime of higher standards and greater respect within the workforces, yet the first thing he does is undermine that process. A cursory knowledge of change management would tell him that the primary requirement for achieving good, positive and effective change in any work environment is to have the people impacted by the change take ownership of it. Members of the workforce should never be attacked as the first step in trying to get them to take ownership of the cultural change that is to be imposed. If they are going to take ownership of it, they have to be engaged with it and to think that it is a worthwhile outcome and objective, and that they will be participants in framing that cultural change and the process through which it is achieved. What the minister has done is contrary to just about every fundamental business management or leadership principle one might care to espouse or seek out. There is no justification for what he has done in trying to achieve cultural change. What he has done is counterintuitive and counterproductive.

That aside, if we are going to be fair to the people impacted by the legislation, we need only go to the minister's second reading speech and seek from there his arguments for change—for imposing this legislation on this workforce. As I said in my recent contribution in respect of youth custodial officers, the first thing that is obvious about this second reading speech is that it is pretty flimsy. It lacks any detail, and there are no specific examples. There were anecdotes or brief references, with no detail, to things such as improper or inappropriate relationships, including links between prison officers and organised criminals, prison officers supplying drugs and other contraband to prisoners associated with outlaw motorcycle gangs, and sexual relationships between prison officers and prisoners when cells within a maximum-security prison may be left unsecured, thereby compromising the security and good order of the prison.

When the minister was asked about the nature of the offences to which he referred and details of timing and the extent of wrongdoing, it was all shrouded in secrecy. Generally he implied that he could not reveal that detail because it might identify individuals, or, as an alternative excuse, because it might compromise some case that may have been before the courts at the time. Who knows? So little detail was provided that we are incapable of deciphering the justification for not providing any details. Therein lies the problem. It is not an unusual response from the Barnett government to claim incapacity to reveal the truth or to reveal the actual circumstances of events; we have seen a lot of that, recently and over the years. But in this case there was more detail on the front page of *The West Australian* midway through last year about the stories to which the minister referred than he was able to provide in his second reading speech in Parliament! There was more detail in the media, by way of leaks and photographs, than there was in the minister's speech. In our attempts to interpret what the minister was getting at, the opposition had to assume that some of the references in his second reading speech were to the photo of Paul Jarrett on the front page of *The West Australian*. There was never an explicit connection between the two, but I assume that one of these references was to him. It was in the public domain, and the minister commented obliquely on the case at the time. He referred to widespread corruption in relation to that photograph and other stories, and, feeding off those stories, the suggestion that there was a need for widespread cultural change. He referred to that at the time in the media, but he could not bring himself to come in here and comment in specific terms about any of the cases to which he referred. That makes it really difficult for us to be generous to the minister in respect of his argument. If he does not have the capacity to give us any details of the cases that he is using as his prime justification, why should we even believe that they are real? I understand that there are some questions around the individual to whom I referred; but, having said that, he is no longer in the prison officer's uniform.

The argument that we need to change the laws to root these people out and to get rid of the widespread corruption and the cultural problems within the department has not been made. Part of the reasoning that the minister used to avoid having to prosecute the argument was that there is a need for secrecy because these matters are so security related and liable to prejudice a case before the courts, or are likely to identify an individual, yet some of these individuals have already been identified in the media. The minister could have confirmed, at the very least for the sake of our curiosity, that this was one of the individuals to whom he had referred, because that would have ticked off one. Out of a workforce of a couple of thousand, we could have said, "Yes, we've got one." That was part of the minister's justification, but he has inflated his argument. His suggestion that widespread corruption within the prison officer workforce needs to be prosecuted is completely inflated, as far as I can see, unless he has some outstanding revelation that is going to come to light in due course. Maybe he has, and he is saving it up so he can get out there, do a stunt, and get some more self-promotion in the media. That may be the case, and I frankly would not put it past the minister.

Mrs L.M. Harvey: You'd never do that.

Mr P. PAPALIA: I have never put a bracelet on my ankle for a couple of days and wandered around, saying that it was going to keep the community safer, but the minister has.

That aside, it is undeniable that the minister's whole argument with regard to prison officers is flimsy, unproven and shrouded in secrecy and innuendo, in an effort to inflate the real nature of the problem. His motivations are questionable. We have indicated what we think his motivations are and that is backed up by evidence. A document demonstrates that he has actively sought out cost-cutting measures within the Department of Corrective Services, including widespread privatisation, and privatisation throughout the prison system. Very specifically, after the August budget last year, the minister's department was considering privatising Banksia Hill Detention Centre. The conclusion in the document, which was confirmed as real by the Commissioner of Corrective Services, was that that privatisation was not to take place at that stage. It did not say, "We're never going to consider this", or "What an outrageous suggestion", or "We couldn't possibly cut the quality of services to juvenile detention by privatising it." It did not say any of that; it said, "Not at this stage."

That means that the minister was actively considering that proposal. If he was actively considering that proposal, what a handy thing to have legislation that would enable him to throw out a whole bunch of people or, at the very least, threaten them with loss of employment were they not to go along for the ride, or, if they were to complain, to indicate their concerns to the public, or to publicly reveal the extent of the negative consequences of the Barnett government's bad decision to shut one of only two juvenile detention facilities in the state, and cram all the juvenile prisoners into the remaining facility. The consequences for them are very real; they have had to live with that.

The very clear result of that decision is poor health amongst the workforce. The very real consequences of that bad decision by the government include the vulnerability of that workforce to assault and the riot at the beginning of last year. These can be sheeted home to the Barnett government's bad decisions, and the minister's only response has been to turn around and attack the workforce—the very people who have had to deal with the

appalling consequences of that very, very bad decision. It does the minister no credit at all to publicly condemn a workforce suffering the consequences of his own government's bad decisions, and to bring into this place unjustified legislation that will fundamentally change their workplace conditions.

Debate interrupted, pursuant to standing orders.

[Continued on page 1575.]