

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Division 55: Corrective Services, \$771 406 000 —**

Mr J.M. Francis, Chairman.

Mr C.C. Porter, Minister for Corrective Services.

Mr I.D. Johnson, Commissioner.

Mr D. Creedon, Chief of Staff, Office of the Attorney General.

Mr I.A. Giles, Deputy Commissioner, Adult Custodial.

Ms H. Harker, Deputy Commissioner, Community and Youth Justice.

Ms J.T. Tang, Deputy Commissioner, Offender Management and Professional Development.

Mr G.A. Doyle, Assistant Commissioner, Corporation Support.

Mr J. W. Peach, Assistant Commissioner, Custodial Operations.

**Mr P. PAPALIA:** The minister last year very kindly accepted the proposition that we are constrained by time, that this is a large area to cover and that I had a number of questions prepared in advance. In the event that we do not get through them, the minister undertook to take them as read in for the purposes of providing information as supplementary information. I was wondering whether the minister would consider that again. The minister always has the option of not answering them in his own time. There is nothing tricky in the questions but some questions request a significant amount of data that potentially could not be provided today anyway. I first wonder whether the minister would consider that.

The other thing the minister undertook very kindly to do was suppress the natural enthusiastic inclination of government members of the committee towards shielding the minister, because he obviously did not really require it. Without wanting to suppress any real questions, again I ask whether the minister is willing to do that; it would be very helpful. I have 14 written multipart questions for the Department of Corrective Services, but there are a couple also for the Inspector of Custodial Services that we want to get through, too. I understand that the committee will take a lunch break as well.

**The CHAIRMAN:** I will deal with that issue, minister. Unfortunately, the member for Warnbro is not allowed to table papers or written questions.

**Mr P. PAPALIA:** No; no.

**The CHAIRMAN:** But outside the procedure of this committee —

**Mr P. PAPALIA:** Mr Chairman, this is an arrangement that occurred last year with the compliance of the minister involved.

**The CHAIRMAN:** I am aware of that, if the member will let me finish. Outside the arrangements of the committee, if the minister is willing to undertake that privately, obviously I will not allocate numbers to those questions.

**Mr C.C. PORTER:** I am, as long as the member is willing on a gentlemanly basis to agree not to bully my colleagues if they do not do the same for him!

**Mr P. PAPALIA:** The minister knows I would never bully his colleagues!

**Mr C.C. PORTER:** Excellent.

**The CHAIRMAN:** We will move on from that. I ask the minister to introduce for Hansard his advisers, please.

[Witnesses introduced.]

**Mr P. PAPALIA:** I refer to the major spending changes table on page 681 of budget paper No 2, and the first line regarding the state's only private prison, Acacia Prison.

**Mr P.T. MILES:** It is not private.

**Mr P. PAPALIA:** Okay—privately operated prison, Acacia. My question has a number of parts. Why did the contract exceed anticipated costs by \$1 million last financial year and again by \$1.542 million this financial year?

[12.40 pm]

**Mr C.C. PORTER:** This is the salary parity issue. Those cost increases relate to the fact that there are contractual obligations inside the Acacia prison services contract that require, if pay increases are granted to

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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departmental staff outside of Acacia but inside the auspices of the department, those increases be reflected in the employment conditions of the contracted staff. Provision is made in the contract to maintain parity between the contractors' workforce and the general public sector workforce that I am in charge of as Minister for Corrective Services. Those payments are made to the contractor that relate to the proportion of wage increases above the consumer price index.

**Mr P. PAPALIA:** Can the minister confirm that in the out years it is expected that this contract will exceed its budget by up to \$10.6 million between now and the end of the term of government? If I am correctly reading it, is there more to it than just the equity between the private system and the public sector prison officers? Is it also related to the additional number of prisoners who have been placed in Acacia and are going to be placed in Acacia? Are there any contractual implications if the department requires the contractor to take more prisoners over this period of time?

**Mr C.C. PORTER:** My understanding of the situation is that the line item that has been referred to is exclusively about wage parity issues. The principle behind that is that if wage parity is not maintained, employees at Acacia will be lost to the public system. We cannot operate the two concurrently. That being said, there are still significant savings per head for every prisoner that is domiciled at Acacia as compared with the public sector at large, but that line item is just about parity increases.

The second part of the question related to whether there is likely to be increases in the moneys flowing under the contract as the number of prisoners increases at Acacia with the expansion that we have planned. Yes; but my understanding is that that requires renegotiation of the contract above its peak of 1 000. That will not appear as —

**Mr P. PAPALIA:** What is the level? Is there a level at which it has to be negotiated?

**Mr C.C. PORTER:** That is right. Once the prison capacity is over 1 000, then the contract has to be renegotiated. Of course the extra wings that we are building at Acacia will take that prison population over 1 000.

**Mr P. PAPALIA:** In the interim, has there been any flexibility provided to the contract provider, Serco, with respect to obligations on it within the contract for prisoner engagement time and those sorts of KPI measurements? I know the minister is saying that this line item does not necessarily deal with that, but I think it is in the public interest with regard to the contract. Maybe there is another line item somewhere that might be more appropriate. Like all prisons, Acacia is overcrowded—what impact does that have on the contract? Is the company still required to meet all obligations or is flexibility provided? If flexibility is provided, what is that flexibility?

**Mr C.C. PORTER:** I may get Graeme Doyle to speak further to this, but that line item, as we discussed, relates to wage parity issues. It seems to me the question is generally does more money flow to Acacia by virtue of it having more prisoners in there —

**Mr P. PAPALIA:** Or are we asking them to do less for the same amount of money per prisoner; and they have got more prisoners so they get more money?

**Mr C.C. PORTER:** Or are there “shortcuts” in terms of what they are doing? My understanding is it is a definite no to the latter. It is the case that the more prisoners that go into Acacia, the more contract payments flow to them. That money appears as a line item inside the increases that were occasioned in the midyear review and Treasurer's advance in the daily average prisoner population. They still receive money pursuant to their contract on a per head basis but this appears as a separate line item because it is in addition to the increased money that flows because of the increased population through the daily average prisoner calculation. I will get Graeme to add to that if I have said anything incorrect there.

**Mr P. PAPALIA:** Excusing the fact that this is probably the wrong line item, is the minister absolutely certain that there has been no reduction in the provision of contact hours, for instance, as a measure of provision of service? I note that there are significantly larger numbers in the prison but there is the same prison capacity. There has not been much in the way of expansion of workshops, educational facilities, or indeed the ratio of staff to prisoners, which is lower than the public system. Has there been no impact on the provision of that service?

**Mr C.C. PORTER:** I see the point the member is making. If I could perhaps answer it this way: it is undoubted that a range of prisons, including Acacia, are experiencing levels of pressure that they have not experienced in recent times by virtue of an increased population. That might mean adaptive changes in routine at Hakea or Acacia, or other prisons. In answer to the question, the prison receives a certain amount per head of prisoner which is meant to provide for certain services—from food and clothing to education, employment, training, and the provision of prisoner programs. My understanding is that none of those things are being cut back by virtue of

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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the fact there are more prisoners. That would not make sense because a daily rate is still being paid into Acacia per prisoner to achieve a certain range of key performance indicators. It might be the case that the increased pressure in terms of sheer physical space in the prison has created some changes in routine—I do not deny that is a possibility—but I am not aware that any of those have significantly reduced any of the things that Acacia is required to provide to a prisoner pursuant to its contract. It is still doing all of the things it is required to do.

**Mr P. PAPALIA:** I refer to page 681, the fourth and fifth line items under “Major Spending Changes”. My question relates to the daily average prisoner populations. I have tried to extract an answer from the former Treasurer, who obviously was not across it enough—and that is no criticism of him. I would very much appreciate if the minister could explain how the daily average prisoner population is calculated; how that calculation is then used in projecting costs; and the budgeting process, if it is? Finally, why does that projection appear to indicate an expectation of a drop in prisoner numbers by around 220 this financial year, when the prison muster has consistently grown from April 2009 until the start of this year, and now seems to have plateaued a bit?

**Mr C.C. PORTER:** This is an area that is not without its complications. Every time I explain it, I struggle to understand why it is done this way. Let me preface everything I am about to say by saying this is the way it has always been done.

**Mr P. PAPALIA:** I am not suggesting it is not; it is just I do not know how it works.

**Mr C.C. PORTER:** I appreciate that concession.

What occurs is that at a particular point in time an estimate is made of what the daily average prisoner population will be for the year that we are about to go into. That is taken in a very inelegant way by looking at a point in or about when the budget comes down in May, and it says that our daily average prisoner population now is what we expect it to be over the next 12 months. That is something of a legal or an economic fiction, if I can put it that way. It is a process of setting a base and then reimbursing for the increases that are expected but that we do not bother to try to quantify in May. The reimbursements will come with the *Government Mid-year Financial Projections Statement* and the Treasurer’s advance. I accept it is the case—as did the Treasurer—that because of that way of going about calculating how much the system will require in the next year, and as we have had very large growth in the prison population, the amount required has increased. I will give members some examples that I think will help to clarify the situation. The daily average prison funding model has resulted in some pretty strong variations over the years. The total additional funding that occurred in 2003–04 was \$10.3 million; in 2004–05, \$18.5 million; in 2005–06, \$1.3 million; in 2006–07, \$9.2 million; in 2007–08, \$10.7 million; and, in 2008–09, \$15.7 million. It is, obviously, now a larger figure in the vicinity of \$49 million. It is always an underestimate.

[12.50 pm]

**Mr P. PAPALIA:** It is always an underestimate, so it is not an indication that the department expects measures it is taking now will result in a reduction of the muster by 220 by the end of the financial year.

**Mr C.C. PORTER:** No. It is purely mechanical, and it is simply the way that Treasury does it. It is not predicting what it thinks the daily average prisoner population will actually be throughout the 2010–11 financial year. It is just saying, as a fiction, that it will assume that it will be exactly as it is now; and, to the extent that that is exceeded, the process is through midyear review and the Treasurer’s advance to recoup the additional expenditure. I would say that that may not be the best system in the world.

**Mr P. PAPALIA:** No; can I suggest, particularly in light of the past decade, that it probably does not really serve any purpose, or it certainly does not accurately predict what will be required.

**Mr C.C. PORTER:** No, but I add to that that one of reasons it has been done this way, I suspect, is that no-one has thought of a better system. That is because the growth in the prisoner population is lumpy. Although long-term trend lines can be drawn in a year and among seasons, there might be significant drops and significant increases at certain points in time. A trend line can be drawn, but drops and increases might occur sharply both ways, and, in effect, if we put it coarsely, it is so volatile over the course of a 12-month period that no-one thinks it is worth the effort to try to predict what it will be.

**Mr F.A. ALBAN:** Page 685 of the *Budget Statements* has a heading “Services and Key Efficiency Indicators”, which indicates that the net cost of service estimate for adult offender services for 2009–10 was \$515 million, up from the 2008–2009 actual of \$466 million, and projected to be \$529 million in 2010–11. Where do the increases come from? Does this represent value for money for the taxpayer, and could we redirect money from building projects to community-based projects?

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr C.C. PORTER:** That is a very good question, member. To be fair to other members, I will try to answer it as briefly as possible. Where does the growth come from? The member for Warnbro and I disagree on that issue of composition—it is very rare that I have the opportunity to put an alternative view.

**Mr P. PAPALIA:** What about every question time?

**Mr C.C. PORTER:** The member never asks me a question!

The member for Warnbro has the view that there are large pockets, or cohorts, inside the prison population that, in broad terms, perhaps could be better placed somewhere else. I take a different view, and the member for Mindarie agrees with that view. We have about 4 800 prisoners in the system at the moment. Who are they? What have they done? I have a very firm view—to a man and woman—that the prisoners in there, based on appropriate sentencing and criminal history and recognition of the offence that has occurred, should be there. In my view, there are not large pockets of that prison population who could appropriately go somewhere else. I know the member for Warnbro points to, say, fine defaulters in that regard, but I think that is an instructive category: if we consider fine defaulters, I think at the last count 18 people were in the prison system for that. If we take a snapshot look at the prison system —

**Mr P. PAPALIA:** I am focusing on, in particular, fine default that might lead to other convictions that ultimately result in, particularly, Indigenous people from remote communities being incarcerated on a cyclical basis because they do not have a licence at some stage or they lose it, and they then drive by necessity without one.

**Mr C.C. PORTER:** I do not disagree.

**Mr P. PAPALIA:** They have no capability to pay the fine.

**Mr C.C. PORTER:** I do not disagree that there is room for considerable reform to make sure that Indigenous people receive fewer fines in particular areas, and do not lose their driver's licence. But I do not think that that immediately translates to the proposition that the member put, which is that the fine defaulters in prison at the moment are either a large group or a large group who should not be there.

**Mr P. PAPALIA:** But those people I talked about are a large group, are they not?

**Mr C.C. PORTER:** Yes, but they are not in prison.

**Mr P. PAPALIA:** There are a few of them in Roebourne; I saw them when I was up there!

**Mr C.C. PORTER:** All I can do is give the member factual information. If we take a snapshot, as at 20 May—this is the most recent information available to me—18 people were in prison serving time for fine default alone; that is the only reason they were there. People who are serving fine default and other things —

**Mr P. PAPALIA:** I will concede that what the minister is criticising is legitimate when it is focused on criticising the nature of my question, which is constrained by having to write it down to try to extract that information from the minister.

**The CHAIRMAN:** The member for Warnbro will have the next question. This is not an opportunity to have an open conversation across the floor of the house without going through the Chair. I have been fairly tolerant, but the member for Warnbro has the next question.

**Mr C.C. PORTER:** There can be a misleading impression that those people who are serving time for fine default alone are people who are in prison for traffic offences and nothing else. The fines they have refused to pay—notwithstanding offers to put them on time-to-pay arrangements, and notwithstanding all efforts made to get fair payment of the fines—are for assault of a public officer; breach of bail; burglary; damage; damage to property; dangerous driving; being in excess of 0.08 blood alcohol content; extortion; misleading police; having no motor driver's licence with it being suspended; and possessing specified drugs—they were all individuals. Two people are in for drug possession, and another one is in for stealing as a servant. One is incarcerated for threatening to cause detriment; and one for unlawful common assault. I just do not accept that there is some cohort of prisoners who can be easily moved out of prison. If we look at the composition of the prison population, which we can do by way of pie charts or any other way that we want, the breakdown of the 4 840 people in prison as at 31 January 2010 is 18.6 per cent for break, enter and steal; 1.2 per cent for offences against property and the environment; 7.6 per cent for offences against justice and good order; 9.7 per cent for drug offences; 6.4 per cent for traffic offences, which will be very serious traffic offences; two per cent for immigration—an issue I raised recently—42.1 per cent for crimes against the person; and 12.1 per cent for robbery and extortion. In answer to the question of the member for Warnbro, I put an alternative view to the one that has been expressed that there is some easy cohort of prisoners who can be identified who should not be in prison: I think that that is not correct.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr P. PAPALIA:** I will not pursue this now because it will soak up time, but I do not think I ever said it was an easy cohort to identify; I said that there are such people, and a lot of people agree with me, minister.

That aside, I would like to refer to budget paper No 2, volume 2, page 684, under the heading “Outcomes and Key Effectiveness Indicators”. How is the projected rate of imprisonment of 295 per 100 000 of adult population arrived at, which is up from the budget target of 230 per 100 000 of adult population at the last budget? How does that link to the projections for daily average prisoner population referred to earlier, if it does at all? Based on the dramatic change from last year’s prediction to the actual result, why should we have any confidence in this figure? Is it another one of these ones that, historically, we just ignore and we provide because we have always done it?

**Mr C.C. PORTER:** The member has raised a good point, which, at its heart, is: if the department gives some kind of anticipation as to the daily average prisoner population next year, why is that not used as a basis for Treasury funding? The unfortunate argument is that that is just not how the Department of Treasury and Finance does it, as we have discussed. I will explain to the member how that figure is arrived at: that represents the midpoint between the high and low range of prisoner population projections for the end of 2010–11. The high range prisoner population projection is 5 736, and the low range is 5 009 as at 30 June 2011.

**Mr P. PAPALIA:** Is that for the end of the fiscal year 2010–11?

**Mr C.C. PORTER:** That is right—30 June 2010–11. This graph, which I helped develop with the department, has several lines on it. When I became minister, the ways the department was going about anticipating rises in the prison population were not as good as I would have liked them to be. I am not claiming that I have been some genius in it, but, together, we have tried to develop better modelling. The bottom green line is the lower bound projection for the prison population, and the lighter coloured line is the upper bound projection. That took into account natural rates of growth, growth in police—what we knew historically about the effect of growth in police—and legislative changes, including truth in sentencing, mandatory sentencing and basically everything that we could factor in. The member will see that the operational bed capacity is the maroon line and the actual population is the blue line, and both of them, it could be fairly said, represent a midpoint between higher and lower bound projections. Indeed, pleasingly, the operational bed capacity is now starting to exceed, relatively significantly, the actual population. I raise that diagram to show that what we have developed is a model that is working, I think, relatively well at this stage in being able to predict where we are at, but it is still very, very volatile.

**The CHAIRMAN:** I remind the minister that as members cannot table documents, it is very hard to incorporate a graph into *Hansard*. Please keep that in mind.

*Meeting suspended from 1.00 to 2.00 pm*

[2.00 pm]

[Mrs L.M. Harvey took the chair.]

**The CHAIRMAN:** Members, we have a quorum. We are on division 55. Member for Mindarie.

**Mr J.R. QUIGLEY:** At a law and order conference on the weekend the Chief Justice, when speaking of rates of imprisonment —

**Mr P. PAPALIA:** Excuse me; it is the line at page 684 of the *Budget Statements*, “Imprisonment rate per 100,000 adult population”.

**Mr J.R. QUIGLEY:** Yes; I am referring to the imprisonment rate per 100 000 population on page 684.

The Chief Justice said, in his address on Saturday at a conference at Notre Dame University, that by his reckoning of the rate of Indigenous imprisonment—he asked all attendees to bear this in mind when they went to bed—one in 12 Aboriginal males in Western Australia would be sleeping in a prison that night and that the Western Australian Indigenous population is becoming the most imprisoned Indigenous population in the world. First, does the Attorney General agree with the Chief Justice’s analysis of the situation; and second, what does he plan to do to correct it?

**Mr C.C. PORTER:** Is that analysis of the rate of Indigenous incarceration as a percentage of the total prison population?

**Mr J.R. QUIGLEY:** Of the Indigenous population; he said approximately one in 12 would be incarcerated.

**Mr C.C. PORTER:** In Western Australia?

**Mr J.R. QUIGLEY:** Yes.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr C.C. PORTER:** I would have to look into how that figure is calculated. There is no doubt, and it has been a matter of some long and ongoing discussion, that there are high rates of Indigenous incarceration in Western Australia. But I think that one thing that needs to be borne in mind with respect to that level of incarceration is why it is the case. Again, the member for Mindarie has asked me what I am going to do about it, and a number of things are being done about it.

**Mr J.R. QUIGLEY:** We are in opposition; we cannot do it.

**Mr C.C. PORTER:** Indeed. When I was in opposition, the percentage rate of Indigenous incarceration increased from 34 per cent to 41 per cent. That goes to show that it is a very difficult problem to manage, because it is cross generational and cross portfolio. What I would caution as a starting position is that that has to be held in context to the facts that the reason why there is a high rate of Indigenous incarceration is the high rate of Indigenous offending. In a very interesting speech given by the President of the Children's Court, His Honour Judge Reynolds, the point was made, specifically with respect to child offenders, that Indigenous imprisonment is the direct result of Indigenous offending. Whether the Indigenous persons are children or adults, the reason they are in jail is that a court, in determining that a sentence of last resort had to be used, had no alternative but to place those persons in prison. The member asks what we are going to do about it. I take that as a royal "we" in terms of the government. The things that can be done about it are to try to improve conditions in housing, welfare, education and health, as well as try to improve the programs available inside my two portfolios. Indeed, the programs available in my portfolios are going to be somewhat narrower than are those outside my portfolios. In answering an earlier question, I went at some length through all those parts of this particular budget that represent targeted spending in those communities in which we know that there are health, education and welfare issues that increase the risks of offending. I put it to the member that in fact that sort of expenditure represents a far more serious treatment of the problem than what was experienced, with respect, under the previous government.

**Mr J.R. QUIGLEY:** In relation to both the Coroner's Court and freedom of information, the Attorney General wants to refer back to the period prior to his taking office. Looking forward, however, unless he is going to keep on pointing the finger backwards forever, the Chief Justice and, as I recall, the Commissioner of Police, Dr Karl O'Callaghan, asked what is the utility in imprisoning Indigenous people for driving under suspension when they can never get a driver's licence because of the standard questions on the licence form. For example, in the east Kimberley, Indigenous people are asked on the licence test to describe how to handle on and off ramps on freeways, when they will never see a freeway in their life. What is the point? What utility is being served by our society locking up Indigenous people for not having a licence, when they are driving in remote areas where they present no other problem to the community in terms of safety? They will just be locked up forever. That is a cohort the Attorney General challenged my friend from Warnbro to identify and it is the cohort that I have identified. What is the utility?

**Mr C.C. PORTER:** Again, there are two parts to that question: what is the utility of incarcerating Indigenous people per se and what is the utility of incarcerating Indigenous prisoners for that particular type of offence? I might just read the member a quick statement given that he has —

**Mr J.R. QUIGLEY:** Sorry, in relation to the Attorney General's first comment about the purpose of incarcerating Indigenous people generally, if they commit indictable offences of a serious nature, of course they are going to be incarcerated. I asked about a cohort.

**The CHAIRMAN:** I will just remind members that this is not a broad-based philosophical discussion. This is about division 55—the document that is in front of us.

**Mr J.R. QUIGLEY:** The rates of imprisonment.

**Mr P. PAPALIA:** Yes, it is flexible debate.

**The CHAIRMAN:** If the Attorney General is willing to take the question, it is fine.

**Mr J.R. QUIGLEY:** He has taken it.

**The CHAIRMAN:** I just want to remind members again that this is not a broad-based philosophical discussion. This is consideration in detail of division 55; Attorney General.

**Mr J.R. QUIGLEY:** Of a particular line item, being the rate of imprisonment per 100 000 of population.

**The CHAIRMAN:** Broadly speaking.

**Mr J.R. QUIGLEY:** No; I am speaking very particularly.

**Mr C.C. PORTER:** Madam Chair, I am very happy to answer the question —

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr J.R. QUIGLEY:** Thank you.

**Mr C.C. PORTER:** —because it identifies the rather simplistic approach that is sometimes taken in this area. The idea that I can decrease the rates of Indigenous incarceration as they exist in Western Australia at the moment through reform in that area—and I agree there should be reform in that area—is, with respect, simply ridiculous. The number of people who find themselves in prison for the reasons the member for Mindarie has just elucidated is very, very small indeed. And it will not make a major impact on the Indigenous imprisoned population. That is not to say that it should not be done. The reason it should not be done is, I agree, that the balance has not been properly struck in that area yet. The Minister for Indigenous Affairs and I have devised plans for regional and community Aboriginal licences in remote areas. Let me say, that is not going to be without complications. The fact is that a balance has to be struck between individuals driving without a licence, and the propensity of those people to fall inside the ambit of the criminal justice system, and also the purpose to be served in ensuring, for the safety and welfare of other road users, that those people are not driving without a licence. The member for Mindarie has suggested that it may be a matter of some simplicity to simply delineate those areas where it is safe to drive without a licence and those areas where it is not. Let me assure him, it is not as simple as that. If it were, he would have done it long ago. However, we will come up with a plan for remote and regional licences, but the idea that that plan will have a major impact on the rate of Indigenous imprisonment is simply a statistical nonsense.

**Mr P. PAPALIA:** It is just one cohort that he is raising; it is not the only —

**Mr C.C. PORTER:** Then he has come up with one idea that I agree with, so —

**Mr J.R. QUIGLEY:** But, in furtherance to that, at the same conference—at which, unfortunately, no government members were present—the President of the Children’s Court spoke about his experience imprisoning Indigenous people who were in breach of restraining orders. He said that in these remote areas, a woman gets a restraining order and then fairly soon invites the man to cohabit again. What with alcohol and a further assault, and given that she does not have the access or the wherewithal to have the restraining order lifted when she invites her partner back, there is that question of access to justice. The Attorney General could say to me that that is only a very small cohort of people who have been imprisoned for assault after a restraining order. But all these little cohorts make up the totality of this scandal we have in Western Australia, do they not? We have to attack all these little areas.

[2.10 pm]

**Mr C.C. PORTER:** There is no doubt about that. The President of the Children’s Court said in a speech that reads, according to my notes —

I must point out that the reason that such a high and grossly disproportionate number of Aboriginal children are sentenced to detention is simply and sadly that, as a matter of fact, they commit a high and grossly disproportionate number of the serious offences committed by children, which requires the court, when applying the law to the facts of the case, to impose the sentence of last resort, namely, detention. I am talking mostly about serious grievous bodily harms, with and without intent as a separate element; woundings; assaults occasioning bodily harm; aggravated robberies, including aggravated armed robberies; multiple burglaries; and stealing motor vehicles and driving recklessly.

The first point is that there is a tendency to put out the concept, which is not true, that the people who are imprisoned among those 4 800 and among the 200-odd in juvenile detention are there for matters of minor import, where the laws can be easily changed to ensure that they are not imprisoned. That is not the case.

**Mr P. PAPALIA:** No-one has said that. No-one on the panel on Saturday said that, but they all disagreed with the Attorney General about whether a substantial number of people are in prison who should not be there and who would be better off being dealt with in a more robust manner in the community if we provided proper resourcing and adequate alternatives to community corrections.

**Mr C.C. PORTER:** If the member wants to put specific comments to me as he has done, I am happy to address them. In fact, a lot of people take the view that the government takes—that the prison population at the moment represents people who deserve to be in prison. It is not something that I intend to shy away from. I do not disagree with the member for Warnbro that particular areas of law reform should be engaged in so that a better balance can be struck between community safety and the need to punish offenders. I would certainly identify regional licensing as one of those, and that is underway. I do not know whether I share the view of the member for Mindarie that there should be some form of relaxation of the level of imprisonment for breaches of restraining orders in regional, remote or urban communities.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr J.R. QUIGLEY:** That is not what I advocated. I advocated access to have the order removed. And that goes back to legal aid.

**Mr C.C. PORTER:** I was interviewed recently by *Stateline* about the matter of Pickett. That was a matter, unfortunately, of a murder by a person who had breached a restraining order and who had previously breached a restraining order. I do not disagree, as I said in that interview, that modifications could occur to the very delicate issue of restraining orders. I do not disagree that all these areas are probably right for law reform. But I do not agree that if we make appropriate changes in the areas the member for Mindarie mentioned, they will have, either immediately or in the mid term, any significant impact on the prison population. Surely it is incumbent upon those who consider that there are alternatives to describe what the alternatives are, and that must be something more than saying that there needs to be “innovative community approaches”, because that is vague and fuzzy enough to be meaningless in the extreme. It is an easy thing to say in opposition or at a conference of one type or another, but it is very difficult to do in practice. Real inroads can be made in practical programs in the youth justice area in bail supervision, in finding responsible adults to dampen the growth in the number of juvenile remand prisoners. These are practical things that are being done. A vague statement is made about better community options but no-one actually delivers those with any specificity. The member has given me two, and I have said that they are right for reform, but they will not have an impact on the prison population. If members have ideas that are in excess of those that are already being done—I have gone back in the way we have spent money in really meaningful areas with really good improvements that can be progressively attained in health, education, social housing and welfare—I am very willing to discuss them, but members oppose have not presented them so far.

**Mr J.R. QUIGLEY:** The President of the Children’s Court advanced one on Saturday. I am sure he has advanced it to the Attorney General. He said, “I sit here sentencing Aboriginal children who switch off to me because I am a middle-aged white fellow. I would like Aboriginals to sit with me to communicate with the accused or prisoner before me. I would like mentors in the community.”

**Mr C.C. PORTER:** I have had these discussions with the President of the Children’s Court. First of all, as I understand it, he is a big supporter of the youth justice services we are now expanding in the Kimberley, and of supervised bail. He is appropriately a supporter of that because it is working. Other things the President of the Children’s Court mentioned is to be more expansive and accepting of programs for juvenile Indigenous persons who have come into contact with the prison system where those programs are delivered by the non-government sector. Again, balance has to be very carefully struck there because our government has responsibilities to the health, safety and welfare of children who come into the non-government sector as well as our own. The third thing the member for Mindarie mentioned is the idea that the sentencing process can be tailored to ensure it is more appropriate to Indigenous persons. The suggestion is a sound one in embryo, but where it has been instituted in this jurisdiction, and where we have gone through and looked at what has occurred in the Aboriginal community court, it has, far from being a silver bullet, produced worse results. I think that can be improved, but the member has now given me three suggestions —

**Mr J.R. QUIGLEY:** The Attorney General has been praised for continuing that because we do not know whether we are comparing apples with apples in Kalgoorlie.

**Mr C.C. PORTER:** Indeed. Again, that is a fallacy because I was very careful in that report to compare apples with apples. The one thing I asked was that we make sure that we look at a similar cohort of offenders who went through the Aboriginal community court —

**Mr P. PAPALIA:** The Attorney General raised that in Parliament and we listened to that when he answered a dorothy dixer.

**The CHAIRMAN:** This is an opportunity to ask questions, not to engage in ongoing debate. I have a list of people who are waiting to ask questions of the Attorney General. Member for Kimberley, do you have a further question on this issue?

**Mrs C.A. MARTIN:** I refer to some of the programs the Attorney General was talking about in the Kimberley to divert these young people from institutions. Is the government going to pay the communities? For 30 years I have been a part of this as well. I have watched it. Bail hostels have been established in the remote communities and the people there have been paid peanuts; the community had to contribute in part by providing community development employment program positions and things like that. The people most unable to provide philanthropy were asked to do so. Is the government going to pay them properly so that we are not imposing another level of responsibility without any resources or training? I know it costs \$100 000 a year in some cases to keep these people in custody. I am not saying to throw that at the community but I am asking: is the government going to do it properly? For 30 years it has not been done properly. If we keep trying to do the same thing for 30 years knowing it does not work, to me that is the definition of madness.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr C.C. PORTER:** It is Einstein's definition of madness.

**Mrs C.A. MARTIN:** I know; he is a mate of mine!

**Mr C.C. PORTER:** The figure bandied around of how much it costs to incarcerate a person as \$100 000 is not accurate. I will not go into that detail because time is running short. To answer the member's question, what we are doing about expansion of regional youth justice services in the east Kimberley, the west Kimberley and the Pilbara is moving into communities government FTEs that were not previously there. Are we paying them properly? I believe we are. It seems to me that the member is getting at whether we engage enough with external providers and remunerate them well enough to ensure that the service is a solid one. The first part of the answer to that question is that this government, perhaps because of our philosophical heritage with respect to the viability of government services delivered in the private sector, is very keen to do that and we are doing that in this area more than we have ever done in the past. I will give an example of that. We have boosted the partnerships with external service providers, which has a really big effect in the enhanced delivery of services in the community and prison-based programs. One of the reasons we have been able to deliver more and more programs is we have had greater engagement of NGOs in the community.

[2.20 pm]

**Mrs C.A. MARTIN:** CDEP does not exist any more, which is a good thing.

**Mr C.C. PORTER:** Not-for-profit agencies are now delivering our moving on from dependencies program. One of the good things about those not-for-profit agencies is they have the flexibility to deliver the programs not only in prisons but also in the community. Are we engaging more with the not-for-profit NGO sector? I believe we are. I think the test of the fact that we are paying them a reasonable amount to engage their services is they are very keen to engage with us and provide the services, and it has to be that way. I see that as a very practical way to try to tackle the problem that we all agree exists. My level of frustration is that I hear the complaints about the problem in perpetuity. I rarely hear anything that resembles a high impact, sensible, practical solution, which is expressed in anything other than the most fuzzy and bizarrely vague terms.

**Mrs C.A. MARTIN:** In the places that I have been they have kept these young people away from the public because that is what they set out to do, basically. The infrastructure was appalling. Aboriginal affairs provided it. There was nothing from the state government. It was always doing things on the cheap, which has been a concern to me for a very long time. We all know that remote Aboriginal communities have limited infrastructure and limited services, and we are putting kids out there. That is one of my concerns. The other concern is that if we do this on the cheap, we are never going to get real services. If we pay peanuts, we get monkeys. It is as simple as that. Is there a full commitment to see it through? I understand the argument about real wages and what the award says and that sort of thing. When we get these people out into these remote communities, near enough cannot be good enough. We have to ensure that there is a monitoring mechanism. I am asking the minister what that is. Firstly, once we get those kids out there, it is a closed shop. Secondly, they do not have any way of getting any complaint out because of the remoteness. Is there a mechanism to protect the rights and interests of these children as well?

**Mr C.C. PORTER:** Inside my portfolio area, I can say that in the east and west Kimberley and the Pilbara the types of services that we will start to roll out pursuant to this budget have simply never existed. In terms of professional staff, we will have a juvenile justice supervisor, an Aboriginal team advisor, a juvenile justice team coordinator, five youth justice officers, four Aboriginal support workers, one juvenile justice team Aboriginal support worker, one educational and vocational support worker and one community work supervisor in each of those areas. That is a substantial rollout of staff doing something that has been proven to work in Kalgoorlie and Geraldton. If I had to pick one thing that we could say we are doing in a practical sense to reduce Aboriginal incarceration, that is it. We can come up with other vague statements, more in the nature of complaints than a suggested solution, but rarely is there appropriate recognition of things that do work and governments doing the right thing; and this is one of them.

**Mrs C.A. MARTIN:** That is fine. Again, I come back to whether the rights and interests of those children are looked after, including their psychological needs. Most of those children have been traumatised at some stage in their life. Why are they in the system? It is usually about poverty again. Will there be psychiatric services for some of these kids? We all know that the majority of them are treading this really fine line between surviving for the day and not. Youth suicide is one of the scariest things in my community. When a kid is locked up, we know that there are problems. We know what happens when a child's freedom is taken away. That is why I keep coming back to the rights and interests of those children. We need somebody who can look after their psychological needs or deal with past traumas that have led these children to these places in most cases. Most of these kids are ex-welfare cases. That is what I keep coming back to.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr C.C. PORTER:** I am happy to talk to the member personally about this at any time. I assure the member that this program has not been done on the cheap. In addition to those FTEs that I mentioned, there is a management structure with finance administration officers, clerical support and manager but there are also psychologists —

**Mrs C.A. MARTIN:** The minister did not mention that. That is why I brought it up.

**Mr C.C. PORTER:** I should point out that they will be fly in, fly out workers who will service all of these areas on a rotating basis. This is the full suite of measures in terms of delivering services to these communities.

The other point that the member raised very briefly is that it goes back further than my department alone can reach. I read out those things that are being achieved in this budget with respect to this problem. There is also the expenditure of \$5 million in royalties for regions funding in Roebourne for the Ngarluma Aboriginal sustainable housing process. That will have an impact on Indigenous welfare in that area, which is the only thing that will have an impact on rates of Indigenous incarceration in the long run. There is a tendency to gloss over the enormous amounts of expenditure and effort put in by successive governments and departments to try to tackle what is a very, very complicated problem. It is not cured by changing the laws surrounding licences.

**Mr P. PAPALIA:** My worst fears have been realised, and we are going to be really pressed for time. I make an undertaking not to make any philosophical statements to the minister. I ask him to do the same to me. If he can suppress the dorothy dixers, I would appreciate that. I will not ask any questions that are intended to create any sort of embarrassment. I am trying to illicit some information on behalf of the taxpayers of Western Australia.

The question I have relates to budget paper No 2, volume 2, page 681, the “Major Spending Changes” table, “Recruitment and Training”. How many new prison officers will be recruited using the \$11.25 million allocated over the three years from last financial year? How many, if any, of these prison officers will be recruited from overseas? How many, if any, Aboriginal people applied to become prison officers in the past financial year? In relation to this question, how many Aboriginal applicants were successful?

**Mr C.C. PORTER:** They are the additional funds which total \$3.2 million, \$6 million and \$2 million. That will contribute to the cost of training 624 prison officers over the period 2009–10 to 2011–12. That will be delivered through 26 prison officer training schools. There will be eight in 2009–10, 14 in 2010–11 and four in 2011–12. As to the projected composition of those trainee places that may be Indigenous, I do not have that to hand and I am not aware that there are any specific targets. I can say that there are specific targets with respect to the new facility in Derby. One of my advisers can give the answer as to what that projected figure is. We are setting ourselves a target in Derby of about 40 per cent Indigenous workforce in the prison. Obviously, it will be somewhat easier to recruit in that area.

**Mr P. PAPALIA:** I commend that. I convey to the minister a claim that was made to me. Perhaps he can look into it and let us know whether it is accurate. It has been suggested to me that 40 to 50 Aboriginal people applied to become prison officers in the past financial year as part of this new 300 recruitment drive, or whatever it is. The sceptical statement was that none of them was successful. I do not know whether that is accurate; it is a claim that was made to me. I am interested to find out whether numbers of that significance apply. Every time I talk to prison officers and superintendents, they suggest it is a cultural thing and not many people are interested in getting involved. That would suggest that we have had a good response but maybe our criteria prevent them from getting across the bar. Maybe there is an opportunity to look at that.

**Mr C.C. PORTER:** I am not certain as to the number of applications and acceptances or rejections in terms of the training schools. If that is part of the member’s questions on that agreement —

**Mr P. PAPALIA:** The questions are the ones I read out. The information I just gave to the minister was anecdotal from a concerned individual who raised it.

[2.30 pm]

**Mr C.C. PORTER:** I will be able to access information about the Indigenous status of applicants and how many have been successful in recent training schools, for sure. I will undertake to do that to see whether or not there has been a disproportionate number of rejections and whether or not those rejections could be fairly avoided. One of the difficulties in this area is that there are certain minimum requirements that must be met, not dissimilar to, although not as stringent as, those for Western Australia Police. We are setting high targets in areas like Derby for Aboriginal employment; it is an important part of what we do. I would be distressed if there was an unfair level of rejection for recent training schools. I undertake to look into that and see whether it can be verified. The commissioner might just add something on that.

**Mr I.D. Johnson:** With the Derby project, we are going to run pre-employment training to make sure that we get job readiness specifically targeted at Indigenous people. We do realise, as the minister has already pointed out,

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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that there are barriers if people have a criminal record and the like for eligibility to be a prison officer. We are mindful of that with the Derby project. However, because we want to achieve the targets we set, from a policy perspective within the department we are not going to preclude people just because they have a record.

**Mr P. PAPALIA:** That was another comment that was made.

**Mr I.D. Johnson:** Part of what we are about is rehabilitating people.

**Mr P. PAPALIA:** An observation was also made by the Commissioner of Police on the weekend that significant numbers of particularly Aboriginal males have records from when they were very young that pretty much lock them out of participation in society in a productive way in a lot of areas. He saw that as being counterproductive. It is an observation. We are very supportive of the Derby project and we were part of all of that, so it is not a criticism.

**The CHAIRMAN:** The member for Kimberley has a further question, but I am mindful of the time, and we have two more divisions to get through in 30 minutes.

**Mrs C.A. MARTIN:** Does the minister have the capacity to waive minor offences when people are applying for jobs? Does the minister have that right of waiver?

**Mr C.C. PORTER:** We have that capacity and we already exercise it. I would not have thought that the member for Kimberley, the member for Warnbro or me would be a huge distance apart in our views on how that should be relaxed. But it needs to be done cautiously, because we are all properly subject to public opinion on the prison system. If something goes wrong or badly wrong with a prison officer who has a criminal record and for whom we have relaxed the rules, there is a capacity if we go too far too quickly of bringing undone any future reforms we might wish to achieve in the area. As a minister I accept a certain degree of appropriate and cautious relaxation of rules surrounding criminal record in prison employment, and it should not be an absolute barrier. It is certainly not at the moment, particularly with respect to high targets like 40 per cent at Derby, and unless we are willing to relax that requirement we will not have any prospect of reaching that target. We are probably in agreement that is a rule that can be applied in a relaxed fashion.

**Mr F.A. ALBAN:** Under the fourth dot point on page 683 mention is made of a prison population of 4 886. Whenever incarcerations are quoted, there is always emphasis in the debate on the Indigenous component. I would like to know the proportions of other groups that make up this total population.

**Mr C.C. PORTER:** Given that time is running short and we have covered that in some detail, the point I seek to raise is that we have a high Indigenous rate of imprisonment. Making inroads into that Indigenous imprisonment or, indeed, the overall number of imprisoned persons requires identifying cohorts of people that we can prevent from going into prison in the immediate term or that we can remove from prison safely, having regard to community safety and sentencing principles that say that sentences must reflect community expectations. Those cohorts are far from easily identifiable. I will be quick, but one issue I raise here relates to mental health issues. One of the ways in which we can measure people with mental health issues inside the prison system is by the type of medication that they are on. The statistics show overwhelmingly that those people inside prison who do suffer mental health issues are on medication for depression rather than any form of psychosis. There is inclination to think that, if someone is labelled, flagged or treated for a mental illness, that somehow identifies that person as a member of a cohort of prisoner who should not be there or who can be easily removed based on the premise that I have given. That is certainly not the case. The point that I will make very quickly is that that is a cohort of prisoners—those with some form of mental difficulties—that we can measure on medication. It is a very interesting difference between anti-psychotic medication and depressive medication.

**Mr P.T. MILES:** The minister referred to medication within the prison system. Does the prison system pay for that or is that claimable through some other method?

**Mr C.C. PORTER:** That is part and parcel of the requirements to ensure that prisoners are kept safely and humanely and according to appropriate standards. It is not merely a matter of trite anecdotal fact to say that many prisoners come into the prison system and receive better health treatment and diet than they do outside the prison system. Part of the reason that it costs such a large amount of money a year to have a prisoner incarcerated is because they are receiving a fairly high degree of quality health treatment. We set ourselves a standard that prisoners have to be treated in terms of health in standards commensurate with those in the community. They are best practice standards or average standards, if you like. All pharmaceuticals are paid for by this department. I think the bill for our ongoing health services to prisoners is \$28 million a year, so it is a substantial bill. No Medicare rebate applies to prisoners, so the commonwealth does not take a whip hand in helping us.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr P. PAPALIA:** I refer to the “Service Summary” table on page 682 of budget paper No 2, volume 2. I assume that I will have to read in this question and hopefully the minister can get an answer back to me. Can the minister provide a breakdown of the amount of the money allocated to “Adult Offender Services” expressed both as a monetary figure and a percentage of the total amount that will be assigned for the cost of service provision at departmental headquarters; the cost of service provision in the state’s prison system, including details for amounts allocated to each prison—if possible, expressed as a monetary figure and percentage of the total; and the cost of service provision in community corrections, including detail of amounts allocated to each directorate—I understand that is what they are called? I would like the same information for “Juvenile Offender Services”, which is below that in the same table. If possible, I would like to get a breakdown of costs assigned to the departmental headquarters process, the cost associated with juvenile detention and the cost of service provision in community corrections.

**The CHAIRMAN:** Member for Warnbro, that is a very lengthy question.

**Mr P. PAPALIA:** Yes, it is.

**The CHAIRMAN:** I am wondering whether it would be more appropriate to place it on notice.

**Mr P. PAPALIA:** No, Madam Chair; we had this discussion earlier and I expressed my concern that we had a very compressed time for a large area for which we have a large number of questions. I canvassed with the minister whether or not I might be able to provide him out of session with the list of questions as supplementary and he would accept them as being read in or respond to them in that fashion. Yes, this is a long question. I suspect they will not be able to answer it right now but I am trying to get it on the record.

[2.40 pm]

**The CHAIRMAN:** There are two divisions to go and I am mindful of managing the time of the committee.

**Mr P. PAPALIA:** Bear in mind that we will drive how much questioning goes on in the other divisions.

**Mr C.C. PORTER:** I can get that level of detail for the member. Perhaps if he wants to ask subsequent questions, I can provide him with a brief breakdown, which might prompt any further inquiries that he has. This is a brief breakdown that is based on last year’s budget. I do not know whether these figures have been done for the current budget.

**The CHAIRMAN:** If the member has made an arrangement with the minister to have those questions answered, it is not appropriate, as part of this committee process, to read in an extremely lengthy question such as the member has just done. If the member has made an arrangement to have those questions answered by the minister, that is fine, but this committee is about —

**Mr P. PAPALIA:** I have just sat through some fairly lengthy discussions about opinions on different matters. I understand what the Chair is saying, but I do not think it will be too much of a problem for the minister to respond, as he was about to.

**The CHAIRMAN:** It is up to the committee to decide whether it wants to allocate time for the next two divisions.

**Mr C.C. PORTER:** I will give the member a basic breakdown. Corporate, which is, in effect, head office, to put it in a crude summary, was \$7.355 million last year; community youth justice was \$112.056 million; adult, which is all the adult prisons and detention centres, was \$225.445 million; professional standards, which is a sub-branch of corporate—this is an additional figure to the \$7.355 million—was \$4.513 million; offender management and professional development, which is all the prison programs and the delivery of those types of programs, was \$33.683 million; and corporate support was \$152.659 million, keeping in mind that inside corporate support resided the money that goes to the Acacia contract and the money that goes to the court security and custodial services contract and some other matters. I imagine that as well as the other issues the member has raised, we will be able to give him a breakdown of what it is anticipated to be over the next financial year and perhaps even a breakdown inside that. That at least gives the member a rough idea of the global budget, if he has any further questions, and of where the larger parts of it are going to.

**Mr P. PAPALIA:** A natural question to follow on—if the Chair indulges me—is: can the minister provide me with a breakdown of full-time equivalents within the headquarters of adult custodial and juvenile detention and within community corrections, as a reflection of where all the people are? Again, I understand that the minister cannot do that now.

**Mr C.C. PORTER:** I am sure that we will be able to provide that. In a recent report that we commissioned into community corrections services, one of the things that I asked the consulting group to do was to consider where

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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FTEs are and where they might be moved to. It seems to me that there is room inside this and other departments to maximise the FTEs by moving them to where they are most productively employed.

**The CHAIRMAN:** With respect to the provision of information, minister, I need to clarify for this process whether that will be provided by way of supplementary information, as a question on notice or whether the minister will provide information to the member outside of this committee process.

**Mr C.C. PORTER:** The original agreement was that I would provide information outside the committee process, pursuant to the list of questions that the member would provide to me. If it is the case that a question —

**Mr P. PAPALIA:** I read that particular one in, if the minister is happy to answer that as a supplementary question.

**Mr C.C. PORTER:** My answer has not been fulsome in terms of the detailed question. If that question appears on the list, I will reiterate what I have said here and add any additional information that I can provide.

**Mr P. ABETZ:** On the very last line on page 681 of the *Budget Statements* is an item for royalties for regions and expanded youth justice services in the Kimberley and Pilbara. Could the minister please outline what these services involve? Is it part of the strategy of keeping people out of trouble in the first place, or is it a post-offending type of support service?

**Mr C.C. PORTER:** I thank the member. In deference to the questions that other members might have, this is something that we have gone over in some detail. I will simply say that it is meant to replicate the services that we have provided in Kalgoorlie and Geraldton. Those services have had a tangible, measurable impact on the rate of Indigenous incarceration.

**Mr P. PAPALIA:** A great Labor initiative.

**Mr C.C. PORTER:** I cannot think of another single program that has had as big an empirical impact on the rate of Indigenous incarceration as what we have done in Kalgoorlie and Geraldton. I am sure that rolling out those services across the state will make a substantial difference to the rate of incarceration when juveniles have been given bail but a responsible adult has not been found. It is more than just a supervised bail program. In those two areas, the increased number of juvenile justice team referrals increased very dramatically because there are FTEs on the ground ensuring that the appropriate services are in place for juveniles in terms of the diversionary orders that the police can give. I am very positive about that. It is an excellent way in which the royalties for regions money is being spent, because it targets a problem in the regions.

**Mr P. PAPALIA:** I have seen a business plan for rolling out youth justice centres in the Kimberley and the Pilbara that has identified an initial all-up cost in the first year of \$25 million, including capital works, with a recurrent expenditure of \$13 million thereafter. I understand that there is about \$13 million in the out years for operating the youth justice centres. Does this indicate that no capital works are needed to establish the facilities where all the participants will be placed, or will we have a bodgie version of Geraldton in the south east Goldfields?

**Mr C.C. PORTER:** No, it will not be bodgie. The basis upon which we planned for it was that we would lease the facilities, and so some of the funding that the member can see will be for the lease.

**Mr P. PAPALIA:** As long as the minister is not making Heather do it without enough money, because I would not want that to happen!

**Mr C.C. PORTER:** No, I can say that Ms Harker is pleased with the allocation. It seemed that ownership would have delayed the process. We have tried to hit the ground running by identifying the leases and getting going.

**Mr J.R. QUIGLEY:** I refer to page 684 of the *Budget Statements*. In relation to the prison population per 100 000, the minister said earlier that there abounds a view with which the minister does not agree; that is, there are people in prison who do not deserve to be there. That is something that the minister simply does not agree with. A necessary corollary, therefore, is that the minister thinks it is justifiable that we have the most imprisoned Indigenous population in the western world.

**Mr C.C. PORTER:** What I have said—I have said it consistently—is that, as the member would understand, sentencing in this jurisdiction is a sentence of last resort. As the president of the Children's Court has pointed out, the reason that an Indigenous person or a non-Indigenous person ends up incarcerated is because the court, based on what that person has done, the person's criminal history, the impact on the victim and the need to commensurately recognise the community's view as to what is an appropriate sentence, has decided that there is absolutely no other option but imprisonment.

**Mr J.R. QUIGLEY:** Our Indigenous population is jailed at a higher rate than the Northern Territory.

Mr Christian Porter; Mr Paul Miles; Mr Paul Papalia; Mr Frank Alban; Chairman; Mr Peter Abetz; Mr John Quigley

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**Mr C.C. PORTER:** We have a very, very efficient police service that is identifying and driving more and more people through the courts. Another cohort that has been identified is people who are serving terms of imprisonment of less than two years. That cohort was identified and, by implication, it is asserted that those people are in prison for minor offences or for offences that we might generally categorise as not warranting a term of imprisonment. In fact, I recall an article in *The West Australian* recently—the member might too—about a lady who had been assaulted in Carnarvon. She had received a terrible black eye. A 19-year-old man was sentenced to 12 months jail for bashing a woman during a brawl outside a Carnarvon hotel last month that left her with a punctured lung and other serious injuries. The fact remains that the average term of imprisonment in Western Australia is about 2.2 years.

[2.50 pm]

**Mr P. PAPALIA:** What was the maximum penalty for the offence for which he was charged?

**Mr C.C. PORTER:** I would imagine it is assault and bodily harm, which is 10 years, I think.

**Mr P. PAPALIA:** The Attorney General knows that the question I asked and the actual response he gave were in relation to those incarcerated for a sentence. Maybe I asked the wrong question, or maybe he got it wrong, but he knows what I am getting at—for which the maximum penalty was.

**Mr C.C. PORTER:** Yes, and I do not know whether that data is kept. We keep data for the actual length of imprisonment. I understand that the data that the member received was interpreted either wrongly by him or by my department, but it was an honest effort to give an honest answer. The point I am trying to make is that the average length of imprisonment is 2.2 years. To identify people as serving less than two years as somehow a cohort who should not be in prison does not recognise the fact that some people serve terms of imprisonment of eight months or 12 months for very serious offending. With respect to the member's question—I do not intend to paraphrase it and give him some form of headline—the position remains that if people want to advocate for justice reinvestment and taking money that is otherwise allocated for the prison system and putting it into community-based programs, it is incumbent upon them to identify those people who can be safely removed from prison or safely not placed in prison in the first place, because that is the only way I can run a prison system with less money and less building. That, unfortunately, is a very difficult thing to do in the short term.

**Mr J.R. QUIGLEY:** The Attorney General referred to the conduct of Western Australian Indigenous people as the reason for their imprisonment rates. I understand him to be saying that Western Australian Indigenous people deserve to be the most imprisoned Indigenous population in Australia.

**Mr C.C. PORTER:** After years of cross-examining people and leading them into corners to get them to say things he wants them to say, the member for Mindarie gets lulled into a false sense of security!

**Mr J.R. QUIGLEY:** I have never done that in my life!

**Mr C.C. PORTER:** Whether one is Indigenous or non-Indigenous, one is imprisoned by a sentencing judge in open court, considering all the factors that are relevant. Given that that is the case, and bearing that in mind, all the people in our prison system have —

**Mr J.R. QUIGLEY:** Why do we have the highest rate in Australia?

**Mr C.C. PORTER:** There is a degree of caught criminality in Western Australia that is increasing as police technology and methodologies increase, and that is also having the fortunate and good side effect of decreasing overall rates of crime on accepted measures. The way to reduce the prison population is not to stop investigating, charging and prosecuting crime.

**Mr J.R. QUIGLEY:** Is it not true that it states on page 684 at note 1 that the real reason for the increase in the prisoner population is the Prisoner Review Board?

**Mr C.C. PORTER:** Once again, the member is pointing to a statement and misrepresenting what it says. It is one significant reason for the increased rate of imprisonment, the change in outcomes being driven by the fact of a new chair of the Prisoner Review Board, but in that respect the chair exercises a judicial discretion to release or not release someone who is otherwise made eligible for parole by a court. In exercising her discretion, the present chair places particular emphasis on section 5 of the act, which provides that community safety is a paramount objective. In exercising her discretion in that way, she exercises discretion that is really beyond my comment, but to the extent that I have any comment, it seems to me that she is exercising her discretion sensibly.

**Mr J.R. QUIGLEY:** In view of the Attorney General's obfuscation, we surrender; there are no more questions.

**The appropriation was recommended.**