

PEOPLE SMUGGLER OFFENDERS — STATE PRISON SYSTEM

**711. Mrs L.M. HARVEY to the Attorney General:**

A serious issue has been raised about the potential imprisonment in our prison system of people smuggler offenders who are under the age of 18 years. Could the Attorney General please update the house on this situation and also correct the misinformation put about on this issue by those opposite?

**Mr C.C. PORTER replied:**

I thank the member for the question. It was not necessarily misinformation by those opposite, but just one person opposite. I will mention that person in a moment. It is a shame that he used up his three strikes already because he is going to enjoy this answer, I think.

Last week I informed the house of the cooperation that we have engaged in with the federal Labor government and the Minister for Home Affairs. That cooperation will mean that we will have more manageable numbers of people-smuggling prisoners in our prison system in Western Australia. We will also, in a cooperative fashion, come up with a long-term plan for a more even distribution. This is another issue which arises from time to time and which has arisen recently. It is a very important issue deserving very serious attention—that is, the idea that we are housing in our prison system people-smuggling prisoners who are on remand or who have been sentenced but who have not yet reached the age of 18 years. We have 142 people-smuggling prisoners in our system at the moment, of whom 69 are on remand and 73 have been sentenced. Determining the age of a people-smuggling prisoner is both very difficult and a matter of great seriousness and importance. It is very difficult because of course we do not have access to papers at the time that these matters go to court. It is very important because, firstly, it is obviously quite wrong to have juveniles in adult facilities, and, secondly, there are mandatory sentences for people smugglers that not many people realise or talk about. For those people who smuggle five or more persons, as a first offence, it is a five-year maximum with a minimum non-parole period of three years. For subsequent offences, it is an eight-year maximum with a minimum non-parole period of five years. A person convicted of people smuggling will spend a long time in prison. It is interesting that we have had in this place a long debate on mandatory sentencing for assaults on police. It has been shown to have a clear deterrent effect. The state Labor Party was a bit shy about that. The federal Labor government passed its bill in May 2010. People-smuggling prisoners, for whom there does not seem to be any deterrent effect from mandatory sentencing, spend a very long time in prison.

In any event, the fact is that the Australian Federal Police prosecute these matters based on the information available to it that it gives to the commonwealth Director of Public Prosecutions. The commonwealth DPP appears before a court, there are proof-of-age hearings and there are full trials. What we do is receive the prisoners. From time to time—four allegations have been made recently about four separate prisoners—when any information is received by the Department of Corrective Services, we give it to the AFP. We require that that information then be passed on to the commonwealth DPP and the DPP makes the arguments before court.

The member for Perth takes a different view of responsibility of this matter. This is from a media release from the member for Perth, and it is seriously kooky stuff. The media release states —

Perth MLA John Hyde, who convenes the Parliamentary Friends of Indonesia, said it was deplorable that Prisons Minister Christian Porter had failed to prevent exploitation of Indonesian children.

Four Indonesian prisoners are due to appear in age-determination hearings in Perth next Wednesday and in December.

“It is brutally callous for this Minister to force children to go to court to prove they are children,” said Mr Hyde.

... he’s more concerned with having his prison laundry done cheaply than looking after the human rights of children.”

Several members interjected.

**Mr C.C. PORTER:** The member is a serious nincompoop; he seriously has got things so unbelievably wrong.

Several members interjected.

**Mr C.C. PORTER:** I will take one when I have finished.

**Mr J.N. Hyde:** The Inspector of Custodial Services pointed out that you were using them in your laundries!

**The SPEAKER:** Member for Perth, as I understand it, the Attorney General has indicated that he will take an interjection from you at the conclusion of his speech.

**Mr J.N. Hyde:** I’m sorry; I missed that.

**Mr C.C. PORTER:** Mr Speaker, I will count that as the interjection.

Several members interjected.

**Mr C.C. PORTER:** For the information of the member for Perth; yes, prisoners work in the laundry—can members imagine that?

The member's allegation, though, is that under-age prisoners are being forced to work in the laundry and that that is our fault, and that we are forcing people to go to court hearings.

**Mr J.N. Hyde:** Read the inspector's report! They did not understand English—your own inspector says that!

**Mr C.C. PORTER:** If we ever receive any information that is even suggestive of the fact that someone might be underage, we hand that to the appropriate authorities—namely, the Australian Federal Police; the commonwealth Director of Public Prosecutions; and the courts—and they make a determination. The member might not realise this, but the prisons do not determine guilt, innocence or age; we are bound by a court decision and we take that very seriously. I would also say to the member for Perth with respect to that —

**Mr J.N. Hyde:** Have you read the Inspector of Custodial Services' report? Have you read the report?

**The SPEAKER:** Member for Perth!

**Mr C.C. PORTER:** — seriously bizarre press release and just a couple of other things, that the member can come to me and I will answer his questions for him.

**Mr J.N. Hyde:** You haven't read the report!

**Mr C.C. PORTER:** I have read the report, but the member clearly has not, because the way in which he has interpreted it is bizarre.

**Mr J.N. Hyde:** I have!

**Mr C.C. PORTER:** I will raise a couple of matters for the member: all prisoners, be they people-smuggling prisoners or otherwise, have access to healthy nutritious food in our system; people held for people-smuggling offences do not have to fill in written forms to get rice, as was suggested in the member's press release.

**Mr J.N. Hyde:** It's in the inspector's report!

**The SPEAKER:** Attorney General, take a seat. Member for Perth, I have indicated to you that the Attorney General—on my hearing at least—has indicated that he is prepared to take an interjection from you at the end of his particular delivery. I might suggest that that is the best course you have available at the moment. The Attorney General has the call.

**Mr C.C. PORTER:** I have a few other points.

The department does allow people-smuggling prisoners to write home; the orientation process does its absolute best to explain to people-smuggling prisoners, using interpreters, the consequences and nature of imprisonment; also, very seriously, people-smuggling prisoners are not, member for Perth, prevented from praying. Putting out rubbish such as that in a press release might seem like a smart manner to score political points, but it has the effect of bringing our state, and its well-run prison system, into serious disrepute. If the member has an interjection, I will take it.

**Mr J.N. Hyde:** Chapter 5 of the Inspector of Custodial Services' report details the issues: two weeks' advance notice to get rice within Hakea, where the Indonesians are.

**Mr C.C. PORTER:** Indeed; I think that —

**Mr J.N. Hyde:** The report also states that the prison laundry division is the only division of the prison that is under-represented, so what was happening was that the Indonesians, of whom only four of the 28 were able to speak English, were being encouraged—pushed—into that division, where they were clearly working the laundry; the inspector says that. On the issue of praying; he raises the issue of praying in that they were not able to pray in a culturally appropriate way. Your own inspector details all those issues I referred to, and he says you have not addressed the issues.

**Mr C.C. PORTER:** Yes, it was a brilliant press release. This goes to show that people will see things in a report that they wish to see.

**Ms M.M. Quirk** interjected.

**The SPEAKER:** I have given the member for Perth the opportunity to make an interjection in this case. I have not given the member for Girrawheen an opportunity to interject. I formally call her to order for the first time.

**Mr C.C. PORTER:** Yes, he has got it wrong. The unit manager of any unit in a prison has to give written notice to the kitchen of the requirements of the people in that unit. Go figure! To extrapolate from that that we are requiring individual prisoners to seek written permission to be fed rice is errant nonsense.