

YOUTH DETENTION — INQUIRY

Matter of Public Interest

THE SPEAKER (Mrs M.H. Roberts) [2.54 pm]: Members, today I received within the prescribed time a letter from the Leader of the Opposition, in the following terms —

Dear Speaker

Matter of Public Interest

I give notice that I will move as a Matter of Public Interest:

That this House calls on the Premier to admit the catastrophic failure in the youth justice system in Western Australia and immediately establish an independent inquiry into youth justice, detention, and rehabilitation services in the State.

The matter appears to me to be in order. Is there at least five members who will stand in support of the motion being discussed?

[In compliance with standing orders, at least five members rose in their places.]

The SPEAKER: The matter can proceed.

MS M.J. DAVIES (Central Wheatbelt — Leader of the Opposition) [2.55 pm]: I move —

That this house calls on the Premier to admit his government's catastrophic failure in child detention and without delay instigate an independent review of all elements of Banksia Hill Detention Centre and the youth detention system in Western Australia.

I bring this motion to the Parliament today because this is a very serious issue. All we heard in question time today was the Premier and his ministers refer back to when we were in government. The Minister for Corrective Services washed his hands of an understanding of what happens within the prison system. He said that it is not his job to know that and that he did not need to know what happened. He also used the excuse that our government did it, so it was okay for his government to do it. Clearly, time moves on, science moves on, inquiries and practices move on and there is a capacity for the minister to understand that perhaps he should have been a little more attentive, given that so many experts were pointing out the problems with not only Banksia Hill Detention Centre, but also the entire youth justice system.

Who watched *Four Corners* last night? Did anyone in government watch it? The minister and his office staff would have watched it, but I wonder whether the backbenchers watched it and how they rated the minister's performance. It was an absolute train wreck. He was combative, evasive, antagonistic and very defensive—all signs of a minister who has been caught asleep at the wheel and who had no reasonable answers to the questions asked. In fact, he repeated that again in question time today when he did not answer the questions. Instead, he went directly to a response to something that he thought he was going to be asked about. The performance of the Minister for Corrective Services on ABC's *Four Corners* was dismal and he utterly failed to recognise the situation.

I want to put up-front that the Premier has made the accusation that we have no care for or understanding about what it means for the victims of the crimes perpetrated by some of these juveniles. We do understand and we have been bringing these issues into the Parliament and asking the Premier and the Ministers for Corrective Services, Police and Community Services again and again what they are doing to address the dysfunction and youth crime in many of our communities, predominantly in the north of the state, but to no avail. Government members should not come in here and say that we are not aware of the impact on victims of crime. We talk to them every day. The member for North West Central is, in fact, one of those victims of crime. Thankfully, she is not a victim of one of the more serious crimes that the Premier spoke about, but we understand that people across the community have been subject to this. This is not about minimising the impact on those victims of crime. It is about acknowledging that a growing chorus of people, experts in their field, have been saying for some time that the youth justice system—not just Banksia Hill, but the whole system—including the responsibilities of the Minister for Community Services, is broken. Our communities are broken. We are failing these kids, we are failing our communities and the government is failing those officers who work in the custodial system and those young people who are incarcerated. It is a failure.

During the *Four Corners* program last night, the minister had a set of talking points that he stuck to. It seemed that he had a blissful ignorance of the behaviours and practices in the prison system for which he is responsible. When I was in government and a minister, I sat in this chamber and regularly listened to ministers say that the buck stops with the minister. I have not once heard this minister or the Premier take responsibility for what is a system in

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crisis. The Premier needs to move the minister on. It is clearly beyond the minister to deal with the complexities that are inherent in this portfolio.

We can contrast the minister's performance in the program last night with the performance of the president of the Shire of Derby, and the performance of Mick Gooda and Judge Hylton Quail. Why is it that every other person who has a right, a responsibility and a moral conscience can speak up, even if they do not have to, and recognise that the system is in crisis, and that what is being done is not working?

Let me refresh members' memory of what the minister was asked in the *Four Corners* program last night, and how he responded. I am quoting from the transcript. It states —

The Supreme Court recently delivered a damning ruling against the WA government. It found that on 26 occasions a boy was confined unlawfully to his cell for more than 20 hours a day. Four Corners has confirmed lockdowns of this length continue for children at the adult prison.

The reporter, Grace Tobin, then asked —

Why are you willing to allow your department to continuously break the law?

The minister, Bill Johnston, replied —

Well, I don't accept the basis of that question.

The reporter then asked —

Why not?

The minister replied —

Well, because if you can explain to me what you think that I've done, then I'll respond to the allegation.

The reporter asked —

That children are being unlawfully detained for an inappropriate number of hours per day in their cells.

The minister replied —

Are you saying that's happening now?

The reporter said —

Correct.

The minister replied —

Well you don't have any evidence of that.

The reporter then went on to say —

Two days after our interview with the Minister, the president of the Childrens Court, Hylton Quail, described the government's use of solitary confinement as "child abuse" and warned that "continuing unlawful lockdowns" are putting it at risk of "contempt of court".

We acknowledge that the children with whom we are dealing are difficult. That goes without saying. Children who end up in the justice system often have complex backgrounds. In the Kimberley alone, more than 300 kids aged between 10 and 12 were arrested in the past year. Part of the reason that we have asked for an independent inquiry is that rather than send these young people to Banksia Hill, there needs to be the option of bail into the community. In the absence of that option, more than 600 people a year—63 per cent of whom are Aboriginal—are flown to Perth and locked up in Banksia Hill. As was reported last night, many of these children have neurological impairments.

There is no question that these kids have broken the law. For some time, we have been raising with the government the issue of youth crime and dysfunction. The Minister for Police refused again today to answer the very reasonable question from the member for North West Central about whether he agrees that crime is an issue in the communities of Carnarvon, Derby, Broome, Newman, Fitzroy Crossing, Halls Creek and Kununurra. Everybody except the government can see it. The people in those communities are at their wit's end. They are fatigued, scared, disillusioned and angry. They are sick to death of the crime and lawlessness in the state's north. These young people, many of whom are Aboriginal, are the product of dysfunctional and chaotic home lives. They are without the role models that they need. They are living in overcrowded and substandard housing, and they often find that because of gambling, drinking, fighting and abuse, being on the streets is safer than being at home. Many of them have traumatic backgrounds of abuse and neglect, and diagnosed complex neurological disorders.

I cannot, and I do not, condone illegal behaviour. I have sat with, and empathise with, victims of crime. I have met with people in Derby, Halls Creek, Fitzroy Crossing, Newman, Kununurra and Carnarvon and walked through their communities. We understand that these communities are hurting. However, we are failing these communities. We are also failing these young people. That is because the youth justice system is failing us. Banksia Hill is actually

breaking people. The government's solution to send a number of these detainees to Casuarina Prison defies belief. It is all very well for the Premier to say that we did the same thing when in government. However, six years on, with a massive budget surplus, and a chorus of people who are saying that is inappropriate, the Premier has to look at these things differently. Put simply, setting aside the Casuarina or Hakea Prison argument, every person with whom I have spoken has reflected on the fact that Banksia Hill is teaching these young people to become better criminals. It hardens them against authority and society. It is readily accepted in the communities that I visit, particularly those in the north of the state, that Banksia Hill is part of the problem, not the solution. However, at this stage, because the government is failing to provide alternatives, Banksia Hill is one of the only options that we have. Why has the government not listened? The Youth Affairs Council of Western Australia has stated that children should not be sent to a maximum-security prison under any circumstance. It has stated also that when young people with complex needs have to be sent to a maximum-security prison, the system is broken.

Judge Hylton Quail has said, in response to the challenge that he has seen —

When you want to make a monster, this is how you do it.

His response to the treatment that detainees at Banksia Hill are subject to is, quite frankly, chilling.

The president of the Law Society of Western Australia has said —

Sending children to the main maximum-security prison in WA is not the right solution and there needs to be a rethink.

She goes on to say that the government —

needs to urgently look at how it can redirect funding to the programmes that work to reduce the root causes of crime before behaviour escalates, and how to house children appropriately when either bail is inappropriate, or a custodial sentence is to be imposed.

We cannot even get the Minister for Police, or anyone in government, to consider providing in Carnarvon, in the electorate of North West Central, a safe place for children who are picked up by the police rather than leaving them on the streets.

Mr P. Papalia: It's not the job of the police.

Ms M.J. DAVIES: The minister is right. The police should not be responsible for that. What is the minister doing to encourage his colleague who sits next to him, and the Premier as the Treasurer, to do more so that his officers will not have to bear the brunt of this dysfunctional system? The minister is absolutely right. It is not the responsibility of the police, but they are the only ones on the ground.

Mick Gooda, who was the Don Dale commissioner, has said —

Our answer can't be to just keep locking kids up. We've got a recipe for making kids worse.

There is a continuum of people and opinions on this issue. The Premier has reflected that in the chamber today. There are people who do not believe that detention is appropriate for any child. There are also people who say that these children have committed crimes and there must be rehabilitation and punishment. The Premier refuses to allow an independent inquiry to enable all those voices to come together. The Premier has said, in his arrogance, "I'll sit down with them and I'll come up with a solution. In fact, it's not really broken, but I'll listen to them anyway." That is what I took out of question time today—arrogance. When many esteemed experts are saying that the system is broken, the minister and the Premier are saying, "Nothing to see here". The government's tough-on-crime stance and the speech that the Premier made in question time today would be fine if they were delivering a result. However, we can see from the high recidivism rate that the system is not working. The Leader of the Liberal Party will talk about how many of the children who go through Banksia Hill end up in our adult prison population, and about the revolving door of an ever increasing cohort of dysfunctional and broken children who shift from detention to the community and back to detention. The member for North West Central's comment that kids say "juvie is great" is not a sign that the system is working. It is a sign that their community is broken and this government is failing them.

I ask that the Minister for Corrective Services step aside. That would be the best outcome. The minister clearly does not have a handle on this portfolio. I also ask the minister, and the Premier, as the Treasurer, to take into consideration the opinion of the Inspector of Custodial Services and his recommendation to embed an approach of rehabilitation instead of punishment. He has been scathing of this government. He has said that we need to adequately staff Banksia Hill so that the government can deliver on its promise of shifting to trauma-informed care. Restorative justice programs on country also have to become a necessity, more than just the one that has been announced by this government. The government is in a position to deliver that. We also need diversion programs to keep people out of the justice system by dealing with the root causes and to keep them on the straight and narrow. That is also a necessity.

The reality is that it costs more than \$1 300 a day to keep a young person in detention—\$500 000 a person a year. That is an enormous amount of money for a small cohort of people whom we could do far better for if we listened to the experts, had an inquiry and allowed everyone to have their say in an open and transparent manner. There needs to be something for the government to be held accountable to. Instead, it is harking back to six to 10 years ago and saying, “You did it, so it’s all right for us to do it.” That is not an adult conversation.

We should all be paying attention to the revolving door, the great expense to the taxpayer and the moral imperative to make sure that we are not returning people to the community worse than when they arrived in the system. We are failing the children, our police, the Banksia Hill Detention Centre staff and our communities. It is broken.

I call on the Premier to consider holding an independent inquiry. The government should use one of the parliamentary committees and use the system to make sure an approach is adopted, acknowledged and understood, because it is a complex issue. The Premier should not dismiss the idea arrogantly as he has so many other suggestions. Too much is at stake for our state.

The DEPUTY SPEAKER: Sorry, before the Leader of the Liberal Party starts, could Minister Papalia and the Attorney General tone it down or take it outside, please? Thank you.

DR D.J. HONEY (Cottesloe — Leader of the Liberal Party) [3.11 pm]: The reality is that under this government Western Australia’s youth justice system is in disarray. Although the majority of my contribution will focus on the details of Banksia Hill Detention Centre, I want to reinforce the Leader of the Opposition’s comments. What we have seen on the *Four Corners* program is not especially or particularly the result of a failure at Banksia Hill, although there are failures there. The whole system has a failure: a large part of the state is, effectively, becomingly lawless due to youth crime issues.

Mr P. Papalia: Where is lawless?

Dr D.J. HONEY: Wait for the contribution.

I agree with the Premier that if children commit very serious and violent crimes, which the Premier outlined today, those children have to be in custody, but for those children in custody, the focus has to be on rehabilitation, not punishment. I will go through this today. Clearly, whatever rehabilitation processes the government has in place are failing; they are failing our children and the communities those children come from. This is where the system falls down. Too many kids are running around all night in those communities. If we go to Carnarvon, Broome, Fitzroy Crossing, Halls Creek, Kununurra or Newman—particularly East Newman—we see exactly the same behaviour. Too many kids are not going to school.

The Premier told us to make some suggestions, and I will make a couple of suggestions to him. The first is to go and spend a night in Halls Creek, not as the Premier with an entourage—I am using the term here respectfully—but as Mark McGowan, a dad and someone who cares. He should go and spend time in the community. Can he stay in that community for a night and tell me that those children are being properly cared for? He should do that. He should try to drive through the whole of Derby. He should spend time in those communities. He should go to Carnarvon on a school day, drive around and see the number of kids—mostly young Aboriginal kids—who are on the street during the daytime with no-one paying any attention to them whatsoever. It is not one or two kids, but dozens. That is a suggestion for the Premier: to do that—just him, not with a big entourage and not announced. If it is announced, everyone cleans everything up for him. He knows that is a problem of being the Premier: everyone puts on their best display. He should go and spend some time in those communities and then come back and confront his cabinet colleagues about how effectively they are working.

What is very clear is that it is not working; it is not effective. When I came into this role, I went to Fitzroy Crossing, and I spent a significant amount of time in all the communities along the Fitzroy Valley. I have been back there more recently. I can tell the Premier that whatever his ministers tell him about their programs and however many glossy brochures they have, those programs are not working. All the communities from Broome through to Kununurra are substantially worse with substantially greater crime.

One thing the Premier could do if he wanted to distract youths from going into crime is to give them jobs. He should reopen the Aboriginal workforce development centres that our government established and the McGowan government closed. The Aboriginal workforce development centres in Broome, Geraldton, Kalgoorlie, Bunbury and Perth were closed by the government. They were a way of diverting people from crime; instead, those centres were closed by the government.

Banksia Hill should be properly handling youth. Its existence should primarily be for rehabilitation, but it is quite clear that is not the case. We heard the shocking details of how children are treated in that centre. I was really disappointed that the minister repeated his statement today. Obviously, we want a safe community. Obviously, we want correctional officers working in those facilities to be safe, and we have great respect for the enormous complexity of their job. However, the absolute priority has to be making sure that these children are not only put

in a condition in which the community is safe, but also, as much as is humanly possible, rehabilitated and given a productive and meaningful life.

It has come to the point that some of those children were moved into Casuarina Prison. Again, we understand that the government needs to look out for the safety of staff; however, it is a symptom of a facility that is not working. It is not a solution to the problem at Banksia Hill; it is a symptom that Banksia Hill is not working properly. As the Leader of the Opposition alluded to and my colleague Hon Peter Collier, who is the shadow Minister for Corrective Services in the other place, raised in questions, 298 of the prisoners in Casuarina were previously inmates in Banksia Hill. One-quarter of the capacity of Casuarina is occupied by youth who came through Banksia Hill. That is a measure of the failure of Banksia Hill to rehabilitate those children. Those children have gone on to adult crimes and will lead unproductive lives in a great majority of cases.

Casuarina has a capacity of about 1 200 people. Of the 571 children housed at Banksia Hill during the last 12-month period, the period I looked at, 405 are Aboriginal children. By my reckoning, Aboriginal children represent about one-thirtieth—three per cent—of the child population in the state, but they represent more than 70 per cent of the population in Banksia Hill. If the Premier can tell me that that is a symbol of how the system is working, I will be dumbfounded. Those are terrible statistics. These children are, unfortunately, under government care; they are, effectively, wards of the state because they are completely under the government's care. They are coming out of the corrective service system not rehabilitated but demonstrating more criminal behaviour, as some people have indicated.

Another measure of how that facility is failing and failing to inspire children with purpose and hope in life is that over 351 self-harm and suicide attempts were made there. That is pretty much one event every day of the year. These children feel they have no hope, no future and no options. For a number of them, ending their life is better than continuing it. That is the devastating situation. A lot of those children—the great majority of them—come from desperate family situations. What is this government doing, in a whole-of-system sense, to effectively deal with those family situations? I am serious about the Premier going to some of these towns, but he should also go and meet the women in some of these remote communities. He should go and spend some time—again, not with an entourage, but just him and maybe an offsider—with the women in those communities, listen to them and their stories and listen to what they tell him, because they will tell him what they have told me: that the programs do not work. There might be big offices and lots of people employed in different roles, but it is not hitting the ground in their communities.

We have heard the minister talk about the whole issue of mental health, but it is clear that the approach the minister is taking is not working, because we are seeing such terrible outcomes. There is a cycle of hopelessness for children in custody. We do not need more programs; we do not need more spin from the government. We need the government to take a hard look at this whole problem. The Leader of the Opposition raised the point that the Premier has made it very clear publicly and in this place that he believes that his government is doing the right thing. He has said, "Well, if people can come forward with solutions, tell me." I have already made some suggestions to the Premier. He has said, "If people can come forward with some solutions, tell me, but essentially we have all of this under control. I've got this all under control." He is going to get a hand-picked group of people to come in and he will stare them down and see whether they have anything to offer him. That inquiry will not reveal anything. He might get a couple of suggestions out of that group, but this state needs a whole-system inquiry into why so many children are entering the criminal justice system. Why are there so many dysfunctional families in those communities, and why is it getting worse?

As I said, I have gone to the north of this state as often as I possibly can; I have done it on a number of occasions since I have been in this role and, distressingly, every time I go back to those communities, it is worse. It is not better; it is substantially worse. Fitzroy Crossing introduced mid-strength alcohol into the community and had the first generation of children in about three generations coming through the school system who did not have foetal alcohol spectrum disorder because it had alcohol under control. Youth crime in that community is now out of control. Elders in that community are getting beaten up. The Premier needs to go, not with an entourage, and talk to the elders in Fitzroy Crossing.

Mr P. Papalia: Whereabouts?

Dr D.J. HONEY: I am not going to be distracted by the minister.

Mr P. Papalia: Whereabouts? That's not true!

Dr D.J. HONEY: The minister should get out and have a look at the communities as well.

The government has announced that it is going to build an on-country rehabilitation alternative to Banksia Hill, but like all Labor projects, that has again been delayed. The government's programs are completely failing to prevent children entering the criminal justice system in the first place. The system is also failing those children once they come into custody and the government's care. It is not as though there have not been reviews and commentary on

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this issue. Under the previous Liberal government, major redevelopments were undertaken at Banksia Hill in 2010 and 2012. The current government has now announced, after five and a half years in office, that it is also going to do something, but we have not seen anything come through. As I said, this government has an appalling record on delivering services.

In 2017, the first year of the current government, the Inspector of Custodial Services released a report that cited some major key findings. One was about staff morale and people being disempowered. The report was also critical of several incidents. Where was the substantive response from this government to that report? That was at the beginning of its first term in office. That report found that, overall —

Behaviour management practices at Banksia Hill have been inconsistent, inexplicit, and ineffective.

Where was the response from the Labor minister and government to that report? In 2018 the Inspector of Custodial Services reviewed that report and found that there had not been any significant changes under this government. The overview heading of a 2022 report of the Office Inspector of Custodial Services, *Inspection of the intensive support unit at Banksia Hill Detention Centre* should have given the Premier and the minister a hint: “Banksia Hill Detention Centre is once again in crisis”. The minister has come into this place and said that he should not have had concerns; I say that he should have had concerns. This government is failing a whole generation of youth in the north of this state, and the Banksia Hill Detention Centre is failing the youth detained there. It is not a rehabilitation centre; it is a punitive centre. A disturbingly large percentage of the children that attend that centre are effectively going directly into adult correctional facilities after brief stints back in their communities. That is why we need the Premier to instigate an independent, wideranging inquiry.

MR M. MCGOWAN (Rockingham — Premier) [3.25 pm]: The government will not be supporting this motion. At the risk of repetition, I will again say some of the things I said during question time today. There is a group of young people in Western Australia who go into detention. It is a very small number in comparison with the overall number of young people in the state and a very small number in comparison with the overall number of people engaged with the youth justice system. These are essentially young people have been found guilty of some sort of crime or misdemeanour. It is an unfortunate reality that they go into detention because of the fact that they have committed multiple offences, some of them very violent and threatening to other people, so magistrates send them into detention.

That happens for a few reasons. One reason is protection of the community, because obviously whilst they are in detention, they are not breaking into people’s homes, assaulting people or stealing cars and driving them the wrong way down roads. Another reason is to provide them with education, welfare services and psychological services and the like, which they probably would not access outside that environment, to give them an opportunity for some form of rehabilitation. Thirdly, it is to protect them. If they continually break into houses, eventually a home owner is going to hurt them. If people find someone in their lounge room or bedroom at 2.00 in the morning, they are going to get hurt at some point if they keep doing it. There is a whole range of reasons why some of these young people end up in some form of detention.

Nine out of 10 people caught up in the youth justice system do not end up in detention; they have community orders, community work orders or supervision orders. There are measures through which welfare or child protection officers are required to visit; that is what occurs for nine out of 10 offenders, so there are restorative justice techniques being applied to those young people. Despite all that, when young people continually break into people’s homes at night, steal cars and drive them at police cars, burn down houses, break into businesses or assault people—sadly, a very commonplace offence—they are going to end up in detention. That is what happens, because it is a last resort. That is what the justice system has as a last resort for these young people.

Regardless of what the Leader of the Liberal Party said, when they end up in Banksia Hill, there is a huge number of programs available and staff who are dedicated to helping these young people. They devote their lives to that, and I admire them: the youth custodial officers, teachers, education officers, the psychologists and the other staff there. It is a difficult environment, and oftentimes they are disappointed. They try and try, and they think they have a young person back on track, but then they leave detention, catch up with their friends and start breaking into houses or hanging out in gangs in Northbridge or whatever, and they end up back there again. That can be heartbreaking for those staff because they tried but it did not work. However, we will continue to try. All those programs are available. I did not even know until recently that there are actually music programs for the detainees to learn how to play an instrument and join a band. It is wonderful for a young person to do that. There are also football and basketball programs, and there are teachers and staff whose role is to hopefully connect the young people to a training opportunity or an apprenticeship opportunity when they leave. I think around 14 staff are dedicated to those two things—education and connecting the detainees to training when they leave Banksia Hill. They are good things to do. Sometimes it does not work. Often it fails because we are dealing with young people who are often damaged by whatever occurred in their lives outside Banksia Hill. As I have said before—I will explain it again—

Banksia Hill has about 85 to 95 detainees there at the moment. In 2012, there were 192. The number of detainees in Banksia Hill has gone down by more than half. When some of the people outside this place who are complaining had responsibility for it, the number of detainees in Banksia Hill was double the number of detainees there now. They should reflect on that.

When the prisoners leave—I have lost my train of thought—they often end up back with their friends or in their groups or perhaps drinking or taking drugs and they end up back at Banksia Hill, so we try again. But a small group of around 10 or 15 per cent of the detainees in Banksia Hill destroyed their cells. Incredible as it might seem, they actually destroyed their cells. Members have seen the images. They pulled toilets and sinks off the walls, knocked holes in the walls and doors, and even removed doors. People could not work how they did it, but somehow they did. They also climbed onto the roof. Their cells were destroyed. How do we deal with them? What do we do? Only one place was available to put them, which was unit 18 at Casuarina Prison. That was the only place available. We could not put them in a youth hostel somewhere or a school. The only place that was secure enough was unit 18. Unit 18 does not connect with the adult prisoners and the detainees cannot see the adult prisoners. The group of 10, as it now is, behave in such an extreme way that when they come out of the cells, particularly in groups, they will attack the guards. A youth custodial officer goes to work and knows that if the detainees are released all at once, there is the likelihood that the officer will be attacked or the young people will try to escape. That is the reality and the practicality of what we are dealing with. What do we do? Apparently, the management technique is to release them from their cells for shorter periods in smaller numbers so that they can be better managed in that environment. Four of the detainees in unit 18 have Nintendos and I understand that all of them have televisions. The other six do not have Nintendos because they were smashed. All the detainees in Banksia Hill have Nintendos. I got attacked for this, but it is true. They have Nintendos and can play them when they want. It is a management tool. They can watch television when they want. The young person who featured in the television show last night with the presenter was calling for no detention. Think about that. Think about people not having detention no matter what they do. What would that say about consequences? How are we ever supposed to teach someone about consequences if they can do anything and there is no detention?

Dr D.J. Honey interjected.

Mr M. McGOWAN: I am just telling the member that is what was said on the program last night. I do not agree with that. A lot of people have emailed me saying that they agree with that, but I do not agree with it. I think all those people need to have a little bit of a think about the victims. Think about the old ladies at home who get broken into at night. Think about the people walking their babies. I saw CCTV footage on television a couple of weeks ago of a woman walking her baby down a pathway who was viciously attacked. Danny Hodgson was viciously attacked. What world are we living in when people say there should be no consequences for that? That is a perversion, in my view, but last night I heard people say it on the show. I fundamentally disagree. No doubt I will get attacked by various people for saying that. They will misrepresent me. The reality is that we have to have consequences in life. If people misbehave, there is a consequence. If they hurt someone else, there is a consequence. If they burn something down, there is a consequence. If they destroy themselves, we have to manage them. That is why they are put in detention. I saw on the show last night the footage of youth custodial officers being attacked. One of those individuals—a young man; a juvenile—who is at unit 18 has attacked staff on 83 occasions and threatened and attacked other juveniles. That is why he is there. It is because of his behaviour. Some people try to say that the behaviour is created in Banksia. Why are they in Banksia? Did they go in there without any behavioural issues? Is that what they are alleging? That does not make sense to me. If someone is in Banksia, it is because of their behaviour outside.

Ms M.J. Davies: You should not get worse, though.

Mr M. McGOWAN: That is why those programs are there. The 10 people who have gone to unit 18 behaved extremely badly outside. One of detainees in unit 18 was the juvenile who tried to bring down the plane flying out of Broome. Hold on! There were six people on that plane—six people—so he is in unit 18.

We have all those programs and dedicated staff. We are doing everything we can to rehabilitate these young people, and many are rehabilitated. But we have done more than that. Outside of Banksia Hill, we have put in place programs such as Target 120, which we are rolling out around the state. That is properly funded and has people whose roles within the Department of Communities is to intervene in the families of those individuals and help them manage their children to get their children back on track. We are funding our schools better than ever before. We are putting more resources into the lowest socio-economic schools to provide literacy and numeracy programs. We fund numerous programs across the community. I saw on the show last night one of the programs that provides patrols of an evening to get young people off the streets and back home or into some form of care. The government funds multiple programs around the state to do those types of things to try to help. We are doing a range of things on the outside and inside the detention centres.

The number of people in detention is coming down. As I said to the Leader of the Opposition, in November 2012, 192 people were in detention, and in November 2022, there were 85. There it is. The number has actually come down.

I did not see that particular statistic on the show last night. I did not see them interviewing someone whose house was burnt down or someone who was bashed or someone who was raped. Do their rights not deserve to be taken into account? Do they not deserve to be heard on this program? It is as though they do not exist, but they do exist. They live in suburbs like mine and they deserve some form of recognition and protection. There is a balance in all this. It is about protecting the community and also providing the services and rehabilitation for young people who end up in detention. In many ways, the people who go into detention have to want to access it. If all they do is plot and plan how they will beat and hit a youth custodial officer or another inmate or destroy something, I do not agree with the idea that somehow that is the government's fault, which is what the opposition is alleging. If that is the detainee's attitude towards life, how is that the minister's or the department's fault? They provide all these resources and services for these young people to get them back on track.

As I have said a few times in public, I grew up in little country towns for most of my upbringing. I mixed with a lot of kids from dysfunctional backgrounds and there were a lot of Aboriginal kids in my school. I mixed with a lot of kids from low socio-economic backgrounds. I want them to have the best opportunity in life. That was my background. I want them to have the best opportunity in life. I want them to go to school and get educated. I want them to do training and go to university, and we provide numerous services to do it. If they do not take up those opportunities, if they hurt other people, if they sexually assault other people, if they drive cars at police cars or if they try to bring down aircraft, there are limited things we can do apart from detain them to protect everyone, and protect them from themselves to be honest. If a young person—a 12, 13 or 14-year-old—breaks into someone's house at night, what do members think a father would do to protect his wife or children? They will hurt them because it is terrifying. We need to protect those young people from themselves in some ways, which is why detention might help protect them.

I do not expect a lot of people will agree with this, but I think the balance is there to protect the public and protect the victims, and make sure we have huge amounts of resources to rehabilitate and prevent people going into detention. If there are any other good ideas out there or things we can do, I look forward to hearing them—practical things that can be done to improve the system. What can we do? If people have something sensible that would work and would make a difference, we are more than happy to listen. I am more than happy to listen to what they have to say this week or next week. I also think there should be a little bit of acknowledgement of the reduction to more than half. We have put the custody notification service in place. We do not imprison people for fine defaulting anymore. We are introducing new laws to keep mentally ill people out prisons and new laws to release mentally ill people from prison at least at the time they would have been released had they been convicted. All these things are being put in place or have been put in place under this government. It is as though those things do not exist. We are reviewing the juvenile justice legislation. There is \$25 million being spent to improve Banksia Hill Detention Centre. The Aboriginal services unit has been designed specifically to provide support for Aboriginal detainees. A new crisis care unit has been constructed. All these things are part of what we are doing to try to improve the situation. I would hope—although I do not expect it will happen—that the critics outside this place, particularly those who were responsible for the prison population when it was nearly 200, might acknowledge some of those things rather than just come up with complaint after complaint and no solutions. It is easy for those on the outside, when they did not do anything when they were in a position of responsibility, to criticise those who are now in a position of responsibility. There is nothing more contemptible than someone who had responsibility and did nothing about it, then criticising those who came after them who improve the situation. We see it a lot in political life. I will not support this motion. I thoroughly endorse the minister and the role he has played. He has done a very good job in very difficult circumstances.

MR W.J. JOHNSTON (Cannington — Minister for Corrective Services) [3.43 pm]: The corrective services portfolio is a very difficult one. It is certainly not for the faint-hearted, nor is it for the cold-hearted. If people believe some media reports, it would seem that I am personally responsible for choosing which young Western Australians are sent into detention. Of course, who goes into detention is entirely a matter for the WA Children's Court. Further, if people listen to the opposition, it would seem that I personally direct staff in the detention centre in their day-to-day operations. Of course, neither the Young Offenders Act nor the Public Sector Management Act allow me to do that. Some people contributing to the current debate about managing young offenders think that it is as easy as talking on the radio. Other commentators think it can be fixed with a wave of a magic wand, and, abracadabra, everything is perfect. Unfortunately, I have to live in the real world with real problems, real issues and real consequences.

I will quote from the Inspector of Custodial Services' report 135 of April 2021 into Banksia Hill Detention Centre. I do this to make the point that this was the independent advice given to me about our youth custodial facility when I became minister. What did it say? I quote —

Banksia Hill Detention Centre has been the subject of considerable focus for this office over the past 10 years. We have published seven reports about the centre since 2012, but in recent years some stability

has returned. The three years prior to this inspection have probably been one of the most settled periods in its history.

At the time of this inspection we noted several factors that should allow Banksia Hill to progress and build on recent stability. Many areas of the centre were already taking advantage of these opportunities and I commend them for doing so.

The report did not say that Banksia Hill was perfect but it did say it was settled. This is a contrast to Banksia Hill in the past. For some unknown reason, the former Liberal–National government closed Rangeview Remand Centre and transferred those remand detainees into Banksia Hill. This made operations much harder. Remand detainees arrive with complex issues, including leaving violent situations, often impacted by drugs. They are often unknown to our staff and disconnected from education. Generally, remandees stay for very short terms, disrupting Banksia Hill in the process. They are housed with the specialist staff all too briefly for those specialists to make a real difference. This contrasts with sentenced detainees who usually stay for 18 months or longer, in careful programs tailored to their individual needs with the time to assist them on their rehabilitation journey.

Let us have a look at what Banksia Hill was like in 2012, before Rangeview closed, while the Liberal and National Parties were responsible. I quote the Inspector of Custodial Services' seventy-sixth report from January 2012 —

For example, the reality is that children in detention are subject to being 'locked down' in their cells or units far more frequently than is the case at adult prisons ... This Office does not suggest that safety or security should be compromised, but firmly believes the current use of lockdowns is excessive and that the necessary resources should be found to at least bring practices in line with adult prisons.

It goes on —

Regression is officially badged as a targeted and individualised regime for improving behaviour. Legally, it sits separately from the rules relating to the 'punishment' of detainees for detention centre or criminal law offences. However, we found that it involves a restrictive regime which is in many respects indistinguishable from formal punishment, and generally of longer duration.

My point is that that was happening when the former government was in power. The idea that it is worse now is not supported by the evidence of the Inspector of Custodial Services. Look what happened in January 2013. In the media release of 7 August 2013 the inspector says —

The January loss of control at the Banksia Hill Juvenile Detention Centre was an entirely predictable incident, not because the young people at Banksia Hill had suddenly become worse, but because the facility had become increasingly unstable over the preceding 18 months and this had not been properly managed.

The report goes on to quote —

"The 20 January incident began when three detainees accessed a low roof—an unacceptably common event. It escalated to mass disorder as the detainees became aware that many cell windows were vulnerable to external attack. Basic security failings were exposed, including easy access to building materials and weaknesses in fence design

What did the former minister, Joe Francis, say in Parliament about this? He said —

It is worth noting that this government will always put the protection and the safety of innocent people in society first.

It is no wonder that the Liberal and National Parties do not want to talk about their record. The idea that the challenges in youth detention are new is incorrect. It is always a very difficult process. It is always better to work in the community before offenders come into detention. That is exactly what the McGowan government is doing with Target 120 and many other investments into our community. That is why the overwhelming majority of young offenders are managed in the community, not at Banksia Hill. Put simply, a young offender has to be involved in many, many criminal actions before the courts will send them to detention. Often, these will be serious and violent offences, and only in the most extraordinary cases are they under the age of 13 years. I am advised that since I have been minister, just one 11-year-old has ever come to Banksia Hill and no 10-year-olds. In fact, the courts have very rarely detained anyone under 13 years of age. Why do we have any young offenders housed at unit 18? I have already explained this many times. The reasons are that in the lead-up to Christmas 2021, the number of detainees sent by the courts increased significantly. This increase was unexpected. It meant our recruitment program for youth custodial officers did not keep pace with the number of detainees. That meant that over the Christmas period of 2021, the centre's operations were suboptimal. Earlier this year, the situation was exacerbated by a small cohort of violent young offenders who caused incidents at the centre, attacking staff and being involved in other incidents. In response, the Community and Public Sector Union–Civil Service Association of WA and the staff they represent asked to move some detainees to Wandoo Rehabilitation Prison. The Department of Justice considered this suggestion, but

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we could not accommodate the request. This was for two reasons. Firstly, the Wandoo prison's infrastructure is not sufficiently robust to house this cohort of offenders. Secondly, and even more importantly, Wandoo is the women's alcohol or other drugs rehabilitation prison. Moving youth offenders to Wandoo would have stopped the operation of the award-winning women's AOD program and would have led to other disturbances of the women's estate, which is in a fairly stable situation.

On examination, only one facility in Western Australia is available for use. That facility is the unused unit 18 at Casuarina Prison. Because it was the only available facility and because it is very large and suitable for temporary use as a youth custodial facility, on the advice of the Department of Justice, I declared it a youth detention facility. Following this declaration, the Department of Justice moved a small cohort of young offenders into unit 18. This move has allowed Banksia Hill to return to a calm operating environment, which allows the expected services to be provided to all the detainees there. Although unit 18 continues to be difficult to staff because a majority of staff do not want to work in an environment with high risks to their safety, we are nonetheless providing the range of medical, psychological, education and recreation services to the detainees at unit 18. We are hiring new staff. Sixty-three new youth custodial officers have been trained and have commenced, and 19 more are in training now. We are always looking for more and we are trying to recruit from more varied backgrounds.

It is expected that unit 18 will not be required after 30 June next year. We are spending over \$21 million on infrastructure improvements at Banksia Hill. This will include upgrades to the intensive supervision unit to create a crisis care unit to provide a therapeutic environment for detainees in crisis. It will also include the upgrade of a unit to house violent detainees, to ensure the safety of staff. The safety of staff is a legal obligation on the director general, in accordance with the Work Health and Safety Act, and it cannot be compromised, regardless of the views of commentators. In addition, \$4 million will be spent on the Aboriginal engagement unit, and there will be additional investments for other minor works, including in-cell technology to support online learning for detainees. We have also engaged Nous, the consultancy service operated by former Mental Health Commissioner Tim Marney. Nous has developed a new model of care for Banksia Hill, based on a trauma-informed approach. The Department of Justice and the Department of Treasury are currently working through the business case to ensure a successful introduction of this new model of care, as has been requested by the Office of the Inspector of Custodial Services. Only when the business case is ready will it be implemented, because we need to ensure that this work is successful.

I want to turn briefly to the media commentary about our youth custodial system. I do not want the perfect to be the enemy of the good. We have only one youth custodial facility because the Liberal Party and the National Party closed Rangeview Remand Centre. We are working with the Kimberley Land Council on an on-country facility in the Kimberley. This is an investment of more than \$14 million to try a new way of handling youth offenders over the next three years. The business case is currently being refined because it has to be adequate. It should not be rushed. This facility will not be a detention facility. While ever the courts choose to send offenders to detention, we will need a detention facility. Over the years, on several occasions, the concept of multiple small detention facilities has been examined and rejected. This is because it is very hard to provide the services needed at multiple sites. Further, there are many challenges in site selection. I know that only too well—just look at the travails of choosing a new Broome prison site or the campaign by the Liberal Party opposing the creation of the Boronia Pre-release Centre for Women in Bentley. I invite any local government that is within 100 kilometres of the GPO to request that the government build a youth detention facility in its community; I look forward to that occurring. I personally take the view that choosing a site and doing the necessary planning studies and consultation with the local community, and then building a new facility, would take at least five years, and probably longer. By then, every detainee at Banksia Hill would be an adult.

Calling for the closure of Banksia Hill is an easy thing to do; it costs the commentators nothing. Of course, it would also change nothing and achieve nothing. Even if we could build a new facility, we would still need to invest in improving Banksia Hill. These simplistic suggestions do not help and simply confuse the serious work that has to be done to protect the community, protect the workforce and protect the detainees. However, if any non-government organisation wants to build a new facility to take that small and difficult-to-manage cohort of offenders from Banksia Hill, I encourage it to put forward a proposal. The WA government is not arrogant; it accepts that others have good ideas.

Point of Order

Mr R.S. LOVE: I want to seek a ruling on the current status of standing order 1, the general rule of conduct in the house, and the footnote referring to forbidding the reading of speeches. The minister has been going for 10 minutes or so and is obviously reading from a document. I seek your instruction to the house on the general rule and whether that is acceptable.

Mr W.J. JOHNSTON: On that point of order, I am reading from notes in my own handwriting; it is not a complete speech.

Extract from Hansard

[ASSEMBLY — Tuesday, 15 November 2022]

p5318c-5328a

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The DEPUTY SPEAKER: I agree with you. There is no point order. The minister is referring to his own handwritten notes. Considering the delicacy of the topic, I believe he is ensuring that he puts across the correct terminology during his response to this motion. Carry on, minister.

Debate Resumed

Mr W.J. JOHNSTON: Thank you, Deputy Speaker. If any NGO wants to put together a business plan to take on the difficult-to-manage cohort, we would be pleased to consider it. In the same way that we have responded to the KLC's proposal, we are prepared to consider other well-structured and sensible ideas.

In closing, I want to table some documents: the seventy-sixth and 135th reports of the Office of the Inspector of Custodial Services, and the media release of the Inspector of Custodial Services of 7 August 2013. I also want to table the transcript of my long interview with the ABC *Four Corners* program. I understand that some excerpts of that interview were put to air last night. Please note that this is a rough edit from an automated transcription system, so there are some errors.

[See paper [1666](#).]

Mr W.J. JOHNSTON: There are no easy answers in youth justice. If there were, we would have already achieved them. The McGowan government is doing what is necessary. It is investing in the community to reduce criminal behaviour, supporting communities in developing local solutions, recruiting police officers to ensure that criminal behaviour can be identified early, and supporting community corrections, which manages almost 90 per cent of young offenders outside the detention centre. The government is also making unprecedented investments at Banksia Hill to protect the community, protect the dedicated staff and help detainees on their rehabilitation journey.

Division

Question put and a division taken, the Deputy Speaker casting his vote with the noes, with the following result —

Ayes (6)

Ms M. Beard	Dr D.J. Honey	Ms L. Mettam
Ms M.J. Davies	Mr R.S. Love	Mr P.J. Rundle (<i>Teller</i>)

Noes (42)

Mr S.N. Aubrey	Ms K.E. Giddens	Mr M. McGowan	Ms R. Saffioti
Mr G. Baker	Ms E.L. Hamilton	Mr D.R. Michael	Ms A. Sanderson
Ms L.L. Baker	Ms M.J. Hammat	Mr K.J.J. Michel	Mr D.A.E. Scaife
Ms H.M. Beazley	Ms J.L. Hanns	Mr S.A. Millman	Dr K. Stratton
Mr J.N. Carey	Mr T.J. Healy	Mr Y. Mubarakai	Mr C.J. Tallentire
Mrs R.M.J. Clarke	Mr W.J. Johnston	Mrs L.M. O'Malley	Mr D.A. Templeman
Ms C.M. Collins	Mr H.T. Jones	Mr P. Papalia	Ms C.M. Tonkin
Mr R.H. Cook	Ms E.J. Kelsbie	Mr S.J. Price	Ms S.E. Winton
Ms L. Dalton	Ms A.E. Kent	Mr D.T. Punch	Ms C.M. Rowe (<i>Teller</i>)
Ms D.G. D'Anna	Dr J. Krishnan	Mr J.R. Quigley	
Mr M.J. Folkard	Mr P. Lilburne	Ms M.M. Quirk	

Question thus negatived.