



The Issue

Rangeview Juvenile Remand Centre will be redesigned as a facility for young adult males. What should be the new facility's philosophy and regime? What can be done for young women? Will the facility meet the needs of young Aboriginal men? Who will be eligible? And who will control entry, transfer and release? Banksia Hill Detention Centre will become a multi-function facility for all juveniles, male, female, sentenced and remand. What are the consequences? And is enough being done to reduce the number of juveniles in custody (especially on remand)?

Introduction

The Government has committed to opening a new custodial facility targeting male offenders aged 18 but less than 22. The statement announcing the policy concentrated on the facility helping 'young offenders turn away from a life of crime to ensure that they do not become habitual criminals', providing strong release and resettlement supports and providing useable skills.

The Office of the Inspector of Custodial Services has raised many different concerns about the management of young adults in custody since its inception. The first direct comments, in the *Report of an Announced Inspection of Roebourne Regional Prison*, Report No 14 (April 2002), related both to young Aboriginal men from the region and, more generally, to the risks that vulnerable young men face in the adult custodial system.¹ Our concerns culminated in 2004 in a comment that a dual track approach to sentencing for young adults should be explored, allowing some young adults to be diverted away from mainstream adult prisons.² Victoria has had such a system for a number of years.

This Office therefore strongly supports the principle of developing separate places for the accommodation and rehabilitation of young offenders. However, such facilities must have the right philosophical basis, reach all core target groups (especially young Aboriginal people) and be underpinned by appropriate infrastructure, legislation, policies and procedures.

Given the drastic levels of overcrowding being experienced in Western Australia's prison system, it will also be critical to ensure that the unique role of the new facility is maintained. Otherwise there is a real risk that it will drift into becoming 'additional bed capacity' for an overflowing system. If this happens, the opportunity to do something different will be lost.

The plans for a new 18-22 facility for men also involve a redevelopment of the juvenile custodial facilities with significant capital expenditure. The redevelopment of two sites presents a unique opportunity to examine questions such as the development of options for children in the regions (to reduce the number of remands to Perth) and new options for young females. *The aim should be to move in new directions, to get value for money and not simply to reshuffle the cards. Value for money is not about the cost of the facility: it is about providing the necessary programs and supports to rehabilitate young offenders, to reduce offending (and therefore the number of victims), to lengthen and improve the quality of life of young people, and to benefit communities.*

The Plan: Redevelop Rangeview and Banksia Hill

Rather than constructing a new facility, the Government intends to redevelop the existing Rangeview Remand Centre for juveniles as the 18-22 year old facility and to remodel Banksia Hill Detention Centre for juveniles so that it will become the sole juvenile custodial facility. *It is therefore impossible to consider the future of Rangeview without also considering the future of, and impact on, Banksia Hill.*

Rangeview currently houses all female juveniles (both sentenced and remand), most male remandees and a small number of sentenced males. Rangeview has a design capacity of 56 and its population tends to fluctuate between 50 and 65. Banksia Hill Detention Centre currently houses only males, the majority of whom (around 80 per cent) have been sentenced. Its design capacity is 120 and its population has latterly been between 85 and 100.

The vast majority of detainees, both sentenced and unsentenced, are Aboriginal and the proportion rarely drops below

seventy five per cent. In other words, *Aboriginal people are even more over-represented in the juvenile than the adult system*. Young Aboriginal men are also even more over-represented in the 18–22 age group than in later age cohorts.³

At the end of July 2009, there were 13 females in juvenile detention, 10 of whom were Aboriginal. Across the juvenile custodial system, *males outnumber females by ten to one*.

Philosophy and Aims of an 18–22 Facility

It is critical to develop a strong, cohesive and innovative operational philosophy upon which infrastructure needs, policies and operational procedures can be built. This includes articulating aims, objectives and outcomes for young offenders.

18–22 year old offenders are an appropriate target for a new type of facility as they are generally still emotionally and cognitively immature and prone to act impulsively. Many lack self esteem, have poor education/work histories, and come from backgrounds marred by family instability, violence and substance abuse. The provision of programs and supports in the right areas offers the prospect of reducing their future offending.

The facility should provide a holistic approach to the management of young offenders, addressing family and social issues as well as matters personal to the offender, in order to reduce the risks of further offending and long term enmeshment in the criminal justice system. It should provide offenders with insight into their offending behaviour and with mechanisms to moderate those behaviours. It should also provide practical skills to prepare them for life in the community through education, training, skilling and structured re-entry supports. The facility itself should operate on the basis of personalised and intensive case management.

Transitional and Post-Release Services & Supports

Providing released prisoners with set support upon release is fundamental to the successful re-entry and re-connection of ex-prisoners. Most prisoners crave the same basics as other people, namely, accommodation, employment and family support (and /or support from friends and others). The targeted funding of non-government providers for such services and coordination with government agency providers is essential. Counselling and practical support is also needed so that the young men have somewhere to turn when issues arise and someone to assist in issues such as budgeting and forward decision making.

In line with the fact that the general operational philosophy should reflect more of a juvenile-orientated position, and the facility itself driven through the Juvenile Custodial Services (JCS) division of the Department of Corrective Services, it would be most consistent for Juvenile Justice Officers to support and monitor young men upon release into the community. The relationship should begin while the young person is in custody and be continued upon release, enhancing the chances of success on re-entry.

Cost

If the anticipated outcomes are to be achieved, it will be necessary for Government and the community to accept that the provision of such a regime will cost more per prisoner per day than a facility with lower goals. However, these costs will be more than offset if the centre succeeds in its goals.

Project Management and Privatisation

JCS is managing the development of the philosophy and future operational policies and procedures for the new facility. *Given the expertise of JCS in the management of young offenders it is important that this division should continue to drive the project, with Corporate Services in the Department meeting any technical and contractual needs.*

It is very likely that that the government will test the market for redeveloping Rangeview and for operating the new facility. This Office has no in-principle position as to whether the facility should be publicly or privately operated for the simple reason that experience has shown that both the private sector and the public sector are capable of running both good prisons and bad. What really matters, if privatisation is to work, is that the nature and aims of the facility in question are clearly articulated; that private sector management is appropriate for that facility, given its role, location, workforce requirements etc; that the process of ‘contracting in’ services is properly managed (with a focus on value for money and the contractor’s capacity to deliver a high quality service, not just cost); that the contract itself is clear and contains appropriate standards, targets and penalties; and, not least, that the State then properly monitors the services that are provided.

As demonstrated by the 2008 death of Mr Ward, an Aboriginal elder who ‘suffered a terrible death which was wholly unnecessary and avoidable’⁴ in a prisoner transport vehicle, it is critical to remember that privatisation is not about risk shifting. *When services are privatised, the State retains responsibility for people*

in custody. By contracting in a service, the State cannot contract out of its duty of care and no contract can shift that ultimate responsibility and risk to the private sector.

Reducing Numbers in Custody

Western Australia has an extremely high rate of child incarceration compared with the rest of Australia.⁵ Well over 50 per cent of juvenile detainees are on remand, not sentenced.⁶ And a large number are detained a long way from home, contrary to principles espoused by the United Nations.⁷ An overriding imperative has to be a reduction in the number of children being remanded in custody generally, or in Perth because of a lack of regional alternatives. *Hand in hand with the redevelopment of Banksia Hill, it is therefore essential to invest in diversion from remand as well as innovative safe options for children, including placement with other families/communities⁸ and appropriate supervised accommodation. The costs of such investments are likely to be offset by reduced transport costs and reduced custody costs.*

The development of an 18–22 year old facility poses a risk of ‘net-widening’; in other words, young men who would previously have been placed on a community order or a suspended sentence will be sentenced to custody, or the courts may impose a longer custodial sentence. *Legislation must ensure, as far as possible, that net widening does not occur.* The best way may be to provide that decisions about placement at the new facility can only be made after the judge or magistrate has already decided that the young person will be imprisoned and has fixed the length of sentence.⁹

Young Women

The new Rangeview facility will be limited to males. Although we do not advocate any change in this regard, it does raise the obvious question of what will be done to improve the situation of young women. On 4 August 2009, there were 27 women aged 18 and under 22 in the State’s prisons, three-quarters of whom (20) were Aboriginal. They are generally just as vulnerable and just as damaged by substance abuse and family instability as their male counterparts. Indeed, their issues are even more complex and layered; the vast majority have been victims of serious physical and/or sexual violence and many are young mothers. In the absence of a designated place for them, they will continue to be housed in existing prisons.

Juvenile girls have suffered from the fact that their numbers are so low that a separate facility for them is considered unviable. They have therefore been a small

part of a male-centred system. Although a separate female precinct is planned in the redevelopment of Banksia Hill, there are serious risks in the fact that they will form an even smaller proportion of what will still be, essentially, a male-oriented place. Based on current numbers, they will go from around 20 per cent of the Rangeview population to less than 10 per cent of the revamped Banksia Hill.

It is therefore critical that innovative age and gender-specific policies are developed and implemented for young women. Given that the juvenile detainees (especially those aged 15–17, who are the vast majority) tend to have similar issues and needs to the young adult women, it would be worth scoping the potential for a female-specific facility which would cater both for female juveniles and for selected young women up to the age of 22.¹⁰ Alternatively, consideration could be given to the benefits of using the new female precinct at Banksia Hill for such a purpose.

Selection Criteria

(a) Age and Sentence Length

The fact that the facility will be limited to young men aged over 18 and less than 22 raises the question of how best to deal with those men who will turn 22 during their sentence. In our view, they may well benefit from placement at the new facility. The enabling legislation should explicitly permit this and should ensure that people are not automatically transferred as soon as they turn 22. The legislation will also need to establish the processes that apply to transfers from the new facility to mainstream prisons, either because the person has turned 22 or for other reasons. The *Young Offenders Act* 1994 provides a useful template for developing appropriate criteria and processes.¹¹

Consideration will also need to be given to whether there should be a limit on the maximum time that a person can stay at the new facility. Very long stays may block access for other young men and may not add greatly to the young person’s rehabilitation once the programs on offer are exhausted. On the other hand, transfer to an adult prison may also cut across the gains made at the 18–22 facility.

(b) Criminal Record

It is inevitable that consideration will be given to excluding some categories of offenders from the new facility. The most likely exclusion relates to people convicted of sexual offences. However, it would not be sensible to adopt a blanket policy that would

automatically exclude sex offenders. This label covers a wide variety of offences, some of which may be appropriate for placement at the facility. Many young sex offenders are damaged, vulnerable, and likely to benefit from placement at the new facility and, provided that issues of security and control can be addressed, they may be appropriately placed there.

There may well be suggestions that young men convicted of violent offences (or of selected violent offences included in a legislative Schedule) should also be excluded. However, a key aim of the new facility should be to address issues such as alcohol and drug fuelled violence and family violence. The exclusion of violence would also make the new facility irrelevant for most of the young Aboriginal men who are in greatest need of innovative new programs.

A blanket ban on people convicted of violent or sexual offences would therefore run counter to the aims of the new facility. Placements should be focussed upon and managed on an individual basis with appropriate risk and needs assessments.

(c) Reaching Young Aboriginal Men

Aboriginal people comprise nearly four per cent of the State's population and around 42 per cent of the State's total prison population. The position is even worse amongst younger Aboriginal men. They constitute 75 per cent of the male juveniles in custody and 55 per cent of male prisoners aged between 18 and 22.¹² Over-representation is far higher in Western Australia than in any other part of the country.¹³

It is therefore incumbent on the system to ensure that innovative new initiatives such as the 18-22 facility will actually meet the needs of Aboriginal men. Failure to do so will lead to claims that the facility is 'structurally racist' and caters only for relatively 'easy' groups of offenders such as hoon drivers, one-off offenders and people from 'good families'. Decisions about criteria for placement at the new centre, about the regime (including program delivery, work and training opportunities, learning about culture and links to family) and about operational requirements must all be taken with an eye to reducing the incarceration rate of Aboriginal people.

A significant problem concerns the participation of Aboriginal young men from regional and remote Western Australia. On the one hand, it is hard to justify the removal of young men from their country to participate in a metropolitan prison's programs. On the

other hand, it would be unfair to deny some of the most disadvantaged offenders the opportunity to participate. Consideration needs to be taken as to how this quandary can be most fairly and equitably addressed. In terms of the new facility, *it is critical to ensure that the young Aboriginal men from regional and remote areas have ready access to telephone and video links and that their families are encouraged to visit and given appropriate support (travel and accommodation) to do so.* In the longer term, if the 18-22 facility proves successful, equity demands that consideration should be given to establishing similar units in regional prisons.

To meet the goal of impacting on young Aboriginal men, it is critical that Aboriginal people are fully involved in the new facility. This should begin with engaging Aboriginal elders and organisations in planning and design. Aboriginal people should then be involved in conceptualising and delivering programs and in providing mentoring and cultural support. Innovative steps are required, including, if necessary, relaxing some of the restrictions on the employment of people with prior records.

(d) Other Criteria

The criteria for placement at the new facility must be consistent with its operational philosophy and with the need to reach all relevant groups. In Victoria, the two key statutory criteria are vulnerability and prospects for rehabilitation.¹⁴ It is likely that these, or similar criteria will be used in Western Australia.

A narrow interpretation of 'vulnerability' and 'rehabilitation' could lead to the result that the new facility would be limited, in effect, to young people who are serving their first custodial sentence and who might be bullied in mainstream adult prisons. However, this would be too limited a focus and would mean the new facility missing the most important target groups. Given that the overwhelming priority is to break the cycle for young men (both Aboriginal and non-Aboriginal) who are at risk of becoming enmeshed in the system, it is essential to adopt broader definitions. For example, access should not be precluded by matters such as prior contact with the justice system, previous record or a breach of previous orders.

Vulnerability and prospects for rehabilitation should be broadly defined and applied. Vulnerability should include vulnerability to long term enmeshment in the system, immaturity, impulsiveness, literacy and education levels, interpersonal skills, mental impairment of any sort, and

any history of victimisation or self harm. ‘Prospects of rehabilitation’ should focus on the fact that the facility will be offering new, different and better targeted programs, and should not be interpreted to exclude those who have previously failed.

Processes for Entry, Transfer and Release

(a) Entry

There are two main options for ‘gatekeeping’. One is for the court simply to impose a sentence of imprisonment and for the Department of Corrective Services to decide whether an individual should be placed at the 18–22 facility or at a mainstream prison. The other is for the court to determine initial placement.

In principle, this Office favours the option of the courts controlling initial entry and the enabling legislation could be modelled on the Victorian ‘dual track’ system. In Victoria, an offender can request to be considered for placement in a youth justice centre. A youth justice worker then undertakes a comprehensive assessment against criteria for suitability and furnishes a pre-sentence report to the judge. The judge then makes a determination as to whether the offender enters the adult custodial system or the youth justice centre.

There are a number of advantages in a court-based system in preference to a system controlled by the administering Department. First, there is a clear, transparent and potentially appealable process. Secondly, it places a check on the actual or perceived use of placement decisions as a management tool. Thirdly, there is a risk that with the pressures of overcrowding, inappropriate prisoners would be placed in the facility if the Department was the sole administrator of entry.

(b) Transfers

Three main forms of transfer will arise when the new facility becomes operational. The first is relatively simple, namely, transfers out of the juvenile system into the 18–22 facility. Currently, transfers from juvenile detention centres to prisons are handled by a Children’s Court Judge on application by the CEO of the Department.¹⁵ These transfers can occur either because the young person has reached the age of 18 or for management reasons. With the advent of the new 18–22 year old facility, the legislation will need to be amended to allow the 18 year olds to be transferred to that facility rather than a mainstream prison. This additional option is likely to benefit young people and will also reduce the need for

Banksia Hill to house 18 year olds. *Clearly, transfers out of the juvenile system should remain the responsibility of the Children’s Court.*

The second main transfer issue relates to moving a person from the 18–22 facility to an adult prison. This could occur under a number of circumstances but the most common are likely to be where the offender has reached 22 years of age but still has a substantial portion of his sentence to complete or a transfer for disciplinary reasons. The first type of transfer would be routine and could be governed by the initial order of the sentencing court; that is for the offender to serve the first part of his sentence at the 18–22 facility and the remainder in the mainstream system.

With regard to disciplinary transfers, for reasons similar to those we expressed regarding initial entry, we believe that such decisions should not be taken by the administering Department. In addition to concerns about muster control, there is also a risk that threats of transfer will be used inappropriately to control prisoners (a matter on which we receive constant anecdotal evidence from some prisons). *It would be better to place transfer decisions involving young adults in neutral hands, such as a judge or the Supervised Release Review Board (in effect, this State’s juvenile Parole Board).* In Victoria the policy is to continually work with the young man to continue his placement at the Youth Justice Centre and only to move for a transfer when there is an absolute compromise to the safety of others or themselves; transfer decisions are taken by the Juvenile Parole Board.

Finally, *provision should also be made for young men who have been sent to a mainstream prison to apply for transfer to the 18–22 facility.* Since this would involve a change to the intention of the sentencing court, this is a decision that properly belongs with a court and should not be vested in the Department or the Supervised Release Review Board.

(c) Release

It will be necessary to decide whether decisions about parole from the 18–22 facility should be taken by the Prisoners Review Board (the adult Parole Board) or the Supervised Release Review Board. Since the new facility will draw on juvenile justice principles and is being driven by JCS, *it may well be appropriate for the Supervised Release Review Board to be responsible for granting parole and for monitoring parole conditions.*

However, the Prisoners Review Board has recently tightened up dramatically on parole. This presents a

problem of equity in that very different criteria and practices may be applied to those who make it to the 18–22 facility and those who are in mainstream prisons (for example, young Aboriginal men who remain in regional prisons). *The question of responsibility for release therefore requires careful evaluation in terms of equity of treatment.* One solution could be for the Supervised Release Review Board to be given statutory authority for the release of all 18–22 year olds within the Western Australian system.

Essential Regime Elements

Building on what has already been said, *the facility must develop and maintain strong relationships between staff and prisoners* to succeed. It should rely on strong positive incentives for behaviour management to develop self-responsibility and determination in the young men. *Families should be involved as much as possible* in the programs and in the overall development of their prisoner family member, as they provide an essential link in successful reintegration. And to the largest extent possible, the facility must provide a ‘normalised environment’.

Some of the more important elements are as follows:

- Highly personalised and interactive case management.
- Identification of the young man’s needs by using tools that are suited to the nature of the population and especially to Aboriginal youth.
- Capacity to respond to the complex behavioural and social needs of young men and avoid the trap of merely replicating services provided in adult prisons.
- No overcrowding.
- A system of home leaves integrated into the end portion of the sentence to set prisoners up to succeed on release.¹⁶

Staffing Requirements

The success of the 18–22 facility will hinge on the qualifications, commitment and attitudes of staff. The new facility is intended to have a specialised role and is not ‘just another prison.’ *Staff should therefore be required to have relevant minimum qualifications, preferably involving youth work or social work as well as relevant specialised custodial training.* Each unit within the centre should also have a counsellor or similarly qualified professional based within it.

Rangeview Infrastructure Needs

There are a number of advantages in the selection of Rangeview Juvenile Remand Centre as the site for

the new facility. It will be far less expensive than a new purpose built facility, the local community accepts that there is a custodial facility there, and it can come online faster as more limited works are required. However, there are some issues with respect to the infrastructure at Rangeview and the knock-on consequences for Banksia Hill should not be under-estimated.

(a) Cell Size and Double-Bunking

Cells in the older three units at Rangeview are quite small, even for teenaged boys. Many of them were designed for single occupancy but are now double-bunked. For the centre to reach the Government’s target of 80 beds, double-bunking will be the norm. And it will be double-bunking of larger men not juveniles.

Such normalisation of double-bunking runs contrary to international standards which provide that cells that are designed for single occupancy should only be double-bunked if this is necessary ‘for special reasons such as temporary overcrowding.’¹⁷

Conditions of occupancy are important to the successful achievement of outcomes. Putting volatile young men in cramped conditions increases the chances of confrontation and fights. Cramped cells also make it very difficult for prisoners to undertake any study or preparation for education / programs / training or to find the ‘space’ and time to reflect on their lives and actions.

Finally, poor accommodation conditions will not encourage offenders to apply for placement at the facility and may lead to some requesting a transfer to the adult system (or, at worst, transgressing the rules to prompt a transfer). Prisoners should want to be there, and poor accommodation would discourage this.

We believe that more accommodation (including single cells and purpose-built multi-occupancy cells) should be included in the re-design to ensure that young men are not routinely double bunked in cells that were designed to be occupied by a single juvenile on a short term basis. Alternatively, the number of inmates could be reduced in the short term with expansion occurring during future works.

(b) Education, Programs and Training

The new facility is intended to focus on providing programs, training and usable skills. Many of the target group have limited literacy, numeracy and computer skills. Rangeview is primarily a short-term remand facility for juveniles and has very limited facilities. This is one of the reasons that longer-term male remands move

to Banksia Hill. *Significant investment in new workshops, classrooms, areas for program delivery and computers is required if the new facility is to meet its aspirations.* Space inside the fence is limited but there would appear to be scope to extend the perimeter fence to accommodate new facilities.

Since a primary focus of the new facility is successful community re-entry, the regime should also incorporate a flexible and positive approach to out of prison activities. These should include education, training and work opportunities in the community and home leaves in the latter part of the sentence.

(c) Visits facilities

The visits area at Rangeview is cramped and poorly-equipped (in terms of both facilities and security). *The redevelopment and expansion should involve new facilities for visits, including an outdoor area and a supervised play area for young children. There should also be substantial investment in additional facilities for regular contact using telephones, video links and the internet.*

The Future of Banksia Hill

Although the main purpose of this paper has been to examine issues surrounding the 18–22 facility, it is important to conclude with some brief reflections on the substantial impacts for Banksia Hill. It will move from being a male-only, largely sentenced inmate facility to a male and female, sentenced and remand facility. Mixing all ages and genders and both sentenced and remand inmates will pose considerable challenges.

We have already discussed two critical questions. First, there is a risk that the girls will become even more marginalised in the new facility than they are at Rangeview: *the position of the girls must be at the forefront of the Banksia Hill redevelopment, not an afterthought.*

Secondly, the *number of remands, especially from remote and regional areas must be reduced through appropriate investment in diversion and alternative accommodation.*

Many of the comments we have made about the new 18–22 facility are equally applicable to Banksia Hill. *The redevelopment presents an opportunity to improve:*

- *Opportunities for home leaves and other out of facility activities (which are very limited at present¹⁸).*
- *The visits area and support for families from regional and remote areas to visit the children.*

It is also unfortunate, in our view, that there is no current intention to construct any minimum security facilities for juveniles. In this respect, juveniles are disadvantaged compared with adults for whom there is a massive expansion in minimum security places and in work camp placements. *The question of minimum security options for juveniles should be re-opened.*

In terms of staffing the new Banksia Hill, much will depend on whether Rangeview is privately operated. If Rangeview is run by the private sector, it is likely that a large proportion of its current staff will move to Banksia Hill. The cultures and operating environments at Rangeview (mainly a short term remand centre) and Banksia Hill (mainly a facility for longer term sentenced inmates) have inevitably been somewhat different. *In it will be important for the Department to carefully plan and change manage the merger of the two staffing groups.*

Evaluations

It is essential to build in a robust program for evaluating the new facility. This requires identifying the measures and methodology, and collecting and collating relevant data from the commencement of the facility. Although reducing the extent and seriousness of offending is one of the key objectives, other quantitative and qualitative measures of performance and success should also be developed. These might well include successful employment placement and retention, enrolment in further educational activities, and successful reunification or reintegration with families.

In assessing real costs and benefits, the evaluations must not be limited to the new facility but must compare its outcomes with those that are achieved by other 'mainstream' prisons.

Similarly, it is also important that evaluations are undertaken about the Performance of the new juvenile detention arrangements at Banksia Hill. This should include (but not be limited to) the impact of the joint facility on the various cohorts (girls, young detainees, remandees), the effectiveness of programs being delivered and the identification of any gaps in service requirements.

Conclusion

The Office of the Inspector of Custodial Services broadly supports the idea of a facility for young adults. However, this paper has raised numerous issues with respect to the new 18–22 year old facility at the Rangeview site and the consequential impacts on Banksia Hill Detention Centre.

They include:

- Philosophy, aims and regime at the new facility
- Project management and privatisation
- Reducing the number of juveniles and young people in custody
- Meeting the needs of young women
- Reaching young Aboriginal men
- Selection criteria for the 18-22 facility
- Processes for entry, transfer and release
- Infrastructure needs at both facilities
- The future of Banksia Hill
- Building in robust evaluations

The Office seeks comment on this Issues Paper from agencies, departments and individuals.

Comments should be forwarded to the Director of Strategic Operations by **25 September 2009**. Alternatively, comments can be made by visiting the OICS website at <http://www.custodialinspector.wa.gov.au/go/publications-and-resources>. This paper and a précis of comments received will be posted on the Office's website in due course.

- 1 [4.41]-[4.43].
- 2 OICS, *The Diminishing Quality of Prisoner Life: Deaths at Hakea Prison 2001 – 2003*, Report No. 22 (March 2004) [7.24].
- 3 See below.
- 4 A Hope, Coroner for Western Australia, *Record of Investigation into the Death of Mr Ian Ward*, June 2009, 5.
- 5 The most recent statistics from the Australian Institute of Criminology (2006-2007) show that in the final quarter of that year, Western Australia had the second highest juvenile detention rate in Australia at 59.4 young people per 100,000. The highest rate was found in the Northern Territory (127.9 per 100,000), the lowest in Victoria (9.0 per 100,000) and New South Wales had the rate closest to that of WA (38.0 per 100,000): Taylor, N, *Juveniles in Detention in Australia, 1981-2007* (Australian Institute of Criminology 2009) 38.
- 6 This compares with around sixteen per cent in the adult system.
- 7 For example, Rule 30 of the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* states as follows: 'Open detention facilities for juveniles should be established. Open detention facilities are those with no or minimal security measures. The population in such detention facilities should be as small as possible. The number of juveniles detained in closed facilities should be small enough to enable individualized treatment. Detention facilities for juveniles should be decentralized and of such size as to facilitate access and contact between the juveniles and their families. Small-scale detention facilities should be established and integrated into the social, economic and cultural environment of the community.'
- 8 A good example of innovation is the recent collaboration of the Police, JCS and the Department for Child Protection in Broome in placing persistent young offenders with families in other communities.
- 9 See below for our proposals on how offenders should be selected for placement at the 18-22 facility as opposed to mainstream prisons.
- 10 This is not the place to attempt to map out how such a facility would look and the aim is to promote some lateral thinking. There is something of a dilemma in that United Nations conventions consistently argue for the separation of adults from juveniles as well as the separation of males and females. But it could be argued that in Western Australia, with a relatively small number of females in custody but an overwhelming preponderance of Aboriginal people in that cohort, there would be significant benefits (for example, in being able to deliver programs relating to family violence, parenting etc) in having a larger group on one site (with appropriate segregation). In terms of location, options would include the redevelopment of sites such as the old Riverbank and Nyandi prisons or a designated area at an existing female prison.
- 11 See below for further discussion.
- 12 At the end of 2008 (figures provided by JCS) there were 362 sentenced prisoners aged between 18 and 22 in the Western Australian prison system. 199 of them were Aboriginal.
- 13 The Australian Bureau of Statistics states that 'Indigenous people were 21 times more likely to be in prison than non-Indigenous people in Western Australia; the highest age standardised ratio of Indigenous to non-Indigenous rates of imprisonment in Australia.' Report 4704.0 - *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples*, 2008: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/39433889d406eeb9ca2570610019e9a5/D5D682247B842263CA25743900149BB7?opendocument>
- 14 Section 32 of the *Sentencing Act 1995* (Vic) states that a court may impose a youth justice centre order: '(a) if it believes there are reasonable prospects for the rehabilitation of the young offender; or (b) it believes that the young offender is particularly impressionable, immature or likely to be subjected to undesirable influences in an adult prison.' In making such a determination, the court is to have regard to the nature of the offence and the age, character and past history of the young offender.
- 15 Section 178 of the *Young Offenders Act 1994* (WA).
- 16 It may be noted that very few juveniles currently access day release or home leave from Banksia Hill.
- 17 Rule 9 of the United Nations Standard Minimum Rules for the Treatment of Prisoners.
- 18 We were told that over the last year, only day release application from Banksia Hill was approved, to participate in work experience.

