



PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 26 May 2022

REVISED EDITION

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UNCORRECTED PROOF

Thursday 26 May 2022

The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

POLICE OFFENCES AMENDMENT (WORKPLACE PROTECTION) BILL 2022 (No. 15)

First Reading

Bill received from the House of Assembly and read the first time.

APPROPRIATION (SUPPLEMENTARY APPROPRIATION FOR 2021-22) BILL 2022 (No. 14)

Third Reading

[11.04 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

That the bill be now read the third time.

Bill read the third time.

CRIMINAL CODE AMENDMENT BILL 2022 (No.4)

Third Reading

[11.05 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

That the bill be now read the third time.

Bill read the third time.

YOUTH JUSTICE AMENDMENT (SEARCHES IN CUSTODY) BILL 2022 (No. 9)

Second Reading

[11.06 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

That the bill be now read the second time.

Mr President, this bill addresses concerns raised by the Commissioner for Children and Young People following media reports of two separate incidents involving personal searches of youths in the Hobart Reception Prison in early 2019.

In response to these reports the commissioner undertook a review of the relevant legislation, policies and procedures regarding personal searches of children and young people, and provided a memorandum of advice which was made public on the commissioner's website. The commissioner provided her memorandum of advice to assist the development of reform to better promote and protect the wellbeing and best interests of children and young people in custodial facilities.

The objective was to ensure relevant legislation, policies and procedures regarding searches are in line with well-established human rights standards and principles and contemporary best practice.

The commissioner's review made eight recommendations to the Tasmanian Government. While the commissioner's review was in part a response to reports regarding the personal searching of youths within the Hobart Reception Prison, it considers searches of children and young people held in custody in custodial facilities generally. These are police watch houses, prisons - including reception prisons - and detention centres. The review considered the continuum of search types of children in custody from least intrusive to more intrusive, with a detailed review of the legislation and procedures governing searches of children and young people in custodial facilities.

The Government thanks the commissioner for raising these concerns and we are pleased to inform the Council today that we have acted on these recommendations.

The Tasmanian Government is committed to minimising the need for intrusive searches in our custodial facilities, whilst balancing the need for searches for safety and security reasons. Searches prevent potentially harmful and prohibited items such as drugs and weapons from entering the custodial system and reduce the risk of self-harm and harm to others, including staff. I am pleased to advise the practice of routine personal searches has already ceased in all custodial facilities in Tasmania. The extent and nature of the searches being undertaken is determined by individual circumstances and least intrusive principles.

However, this bill drives a paradigm shift, expanding these principles in a consistent way across all custodial facilities for youth, ensuring a trauma-informed approach to keeping children and young people safe in our facilities. It builds safeguards around all search types, with extra safeguards for personal searches defined in the bill as 'unclothed searches'.

In delivering these legislative reforms, the Government has also been responsive to the commissioner's recommendation to invest in alternative security strategies, such as body scanners, that will minimise the reliance on more invasive search types.

In March 2021 the Attorney-General and Minister for Justice was pleased to announce the commitment of \$1.3 million to body scanning technology in the Hobart and Launceston Reception prisons, the Mary Hutchinson Women's Prison and the Ashley Youth Detention Centre. The new full body scanners will be able to detect objects on or inside a person's body and clothing without the need to physically remove items of clothing or make any physical contact with the person being searched. Scanners are able to provide an instant internal image

that can reveal contraband such as drugs, mobile phones and weapons. Body scanners are another tool to support the safety of staff and youth in custody and, importantly, reduce the conduct of more intrusive searches that involve touching the youth or removing their clothing.

The Government is appreciative of the involvement of many key stakeholders for making these changes. The bill has been developed through the inter-agency working group, chaired by the Department of Justice, and composed by senior executives from the Department of Justice, Communities Tasmania and the Department of Police, Fire and Emergency Management. Through this collaborative effort, agencies have responded to the commissioner's advice and public and stakeholder advice to deliver a bill that is consistent with national standards and international conventions relating to the treatment of young offenders.

In drafting the bill, the Government is particularly mindful that young people are among the most vulnerable members of our community. The Government recognises that the way we engage with young offenders must reflect this vulnerability. We also acknowledge that the current legal framework is complex with powers to search a youth in custody in custodial facilities located in a number of acts. Further, responsibility for different custodial facilities is defined in different acts administered by the minister for Children and Youth, the Minister for Police, Fire and Emergency Management and the minister for Corrections.

We would like to thank all of those for their support in delivering this bill to the House. The Government shares a commitment to the protection of children and young people in each of our facilities which has helped us deliver the transformative changes in this bill for a consolidated and comprehensive search framework for youth in custody.

I will now outline and address key elements of the bill. Regarding searches to which this bill applies, this bill responds to the issue of complexity in the searches framework highlighted by the commissioner by defining the discretionary power to search a youth in custody in custodial facilities in the Youth Justice Act 1997. This means where a youth is in custody in a custodial facility in Tasmania, the provisions detailed in this bill will apply in relation to those searches.

Custodial facilities are a watch house or detention centre as currently defined in the Youth Justice Act 1997, and a prison defined as under the Corrections Act 1997. This includes the Risdon Prison Complex, Ron Barwick Prison, Mary Hutchinson Women's Prison, as well as the Hobart and Launceston reception prisons, Ashley Youth Detention Centre and certain areas of police stations.

Importantly, the bill does not authorise or apply to body cavity searches. This very rare search type will continue to be subject to existing stringent requirements in other acts. Body cavity searches can only be authorised by a magistrate such as under the Misuse of Drugs Act 2001, the Poisons Act 1971 or the Forensic Procedures Act 2000. The limitations on those searches are defined in those acts and this bill does not alter those requirements.

I now turn to the authority to search and the authorisations related to that. For prisons and detention centres, the bill establishes the authority to search is the person responsible for the custodial facility, and other officers that they authorise. In respect to prisons, the authority is the Director of Corrective Services, correctional officers specified in the director's standing orders and a correctional officer ordered by the director to conduct the search. In respect of detention centres, the authority is the secretary responsible for the Youth Justice Act, the

detention centre manager established under the act, persons specified in the secretary's instructions, and a person ordered by the secretary or detention centre manager to conduct the search.

A police officer is also authorised to conduct a search, and this power is consistent with the other statutory powers and responsibilities of police officers. However, any police officer or authorised officer must not conduct an unclothed search unless they are authorised by the relevant authorising authority for their facility.

I now turn to the requirements as to gender of search officer conducting the search. The bill takes a best practice approach to the required gender of the search officer for particular searches. The required gender means male search officers search male youths and female officers search female youths. Special provisions apply to youths who are transsexual, transgender and intersex. If their preferred gender is not immediately available, the youth may request a male or female search officer conduct the search.

A search that does not involve the removal of clothing or any touching is, as far as is reasonable and practical, to be conducted by a person of their own or required gender. Searches that do involve the removal of clothes or touching of a youth must be conducted by the required gender unless the person in charge of the facility authorises an exception because of the urgency of the search due to risk of harm to the youth. For unclothed searches, this also applies to persons observing the search.

The limited exceptions allowed by the bill recognise that these provisions apply to all custodial facilities, including police watch houses where officers of the required gender may not always be available. However, the exceptions are subject to appropriate safeguards depending on the type of search undertaken.

I now turn to the conduct of searches and use of force. The bill establishes decision-making criteria for the type of and manner in which searches are conducted. Searches of youth must only be conducted when a search officer or the relevant authorising authority believes on reasonable grounds this search is necessary for the relevant search purpose, which will be described later. Also, the type and manner of search must be proportionate to the circumstances.

The bill includes provisions supporting the implementation of the least intrusive framework in decision-making and conduct of search, including limitations on clothing removal, completing the search as quickly as possible, providing that any use of force is subject to the requirements of being the least intrusive option and the youth is offered reasonable privacy.

The least intrusive framework continues to apply in both the authorisation and the conduct of unclothed searches. The bill recognises searches of youths that involve removal of clothing have the potential to cause greater distress or trauma and that is the most intrusive type of search. It is also recognised this type of search will sometimes remain necessary for legitimate reasons, including the safety of the youth or other persons.

For unclothed searches, the bill requires specific approval from a relevant authorising officer to conduct this type of search. There are also limitations to the purposes for which an unclothed search can be conducted. Unclothed searches cannot be conducted simply for the

taking of items into safekeeping. This responds to the issue highlighted by the Aboriginal Land Council of Tasmania during consultation.

In applying these principles, some searches will still involve intrusive acts, such as needing to touch a youth when searching, such as for frisk searches when necessary. Technically, any touching of another person under the statutory power can be seen as a use of force. The bill makes clear that the search officer must not use force unless it is the only means by which the search can be reasonably conducted, and must be the least amount of force necessary.

Use of force is also subject to the relevant requirements, such as considering information provided by the youth and reducing distress and trauma to the youth as far as practicable. This recognises that contact between the search officer and the youth can be necessarily part of some search types. However, the bill responds to the commissioner's recommendations on use of force by effectively making significant force, such as forcible restraint of a youth, a last resort.

To ensure accountability for use of force in searches of youths, the bill provides for reporting requirements for the use of force, other than excluded force, to the person in charge of the custodial facility. For example, this ensures that the relevant force will be recorded and reported for timely review.

The purposes in the bill for which a search can be conducted reflect the purposes already defined in the acts relating to searches in custody in custodial facilities, including the Police Offences Act 1958, the Corrections Act 1997 and the Youth Justice Act 1997. This means a search can only be conducted when one of the purposes of the search is associated with: the safety of youth or others, to obtain evidence, to ascertain whether the youth has possession of a concealed weapon or drugs and, where the search is a clothed search, the removal of articles belonging to the youth.

The Tasmanian Government has listened to stakeholder feedback and has included a hierarchy of searches in the bill. This provides clarity for search officers to enable them to determine the least intrusive search type against a continuum of search intrusiveness.

The commissioner's memorandum of advice highlighted the importance of the youth being informed about searches while in custody and recommended improvements to operational procedures in this regard.

The bill establishes requirements that a youth is to be informed of the intent to search, informed if an unclothed search is to be conducted, and provided the opportunity to voluntarily surrender items in reasonable privacy. The bill requires search officers to take into account information provided by youths, including their preferences, to ensure a trauma-informed approach. In practice, for example, sometimes a search purpose might be achieved either through patting down a youth's pockets or the youth removing their jacket to show whether their pockets are empty or not. Some youths may feel more vulnerable about being patted down, while others may prefer a pat down to taking off any clothing. This bill ensures their preferences will be considered.

The bill also requires general information to be available for viewing in custodial facilities about search obligations. This will help youth and their representatives know they can ask for more information about search procedures, the complaints processes and so on.

A facility's search procedures must also be made available online, with any necessary redaction for security purposes.

The Government recognises consistent search register requirements are necessary to monitor the conduct and searches of youth in custody. The bill requires these searches conducted under its provisions to be recorded in search registers, including the degree of intrusiveness, the use of force and any other details required by regulations.

The register is to be available for inspection by the Custodial Inspector, the Ombudsman, a person approved by the person in charge of the custodial facility, or a person or body prescribed in regulations.

The Tasmanian Government expects relevant operational procedures may require review on commencement of this bill and intends to engage with key stakeholders as part of this process. As always, this would include consultation, particularly between departments, the commissioner and the Custodial Inspector.

The Government is committed to further positive outcomes for children and young people through the Tasmanian Government's Youth Justice Reform process being undertaken by the Minister for Education, Children and Youth.

I commend the bill to the House.

[11.24 a.m.]

Ms SIEJKA (Pembroke) - Mr President, I am relieved that this is before us. As most of you are aware, I was previously the CEO of the peak body, the Youth Network of Tasmania. YNOT represents the needs and interests of young Tasmanians aged 12 to 25 years and those who support them.

One of the very first meetings I went to as a young and very fresh CEO at YNOT, was to the Ashley Youth Detention Centre Advisory Group. Data was presented to the group about strip searches. This was at the time a 12-year-old was stripsearched by a police officer in their home, not once but twice, and there was considerable community concern and media on this issue. I was shocked that strip searches were conducted to the extent that they were and if I am honest that they were conducted at all. When I expressed this shock, I was told that they could be performed on children as young as 10 years, which made it worse, and what was even worse, that cavity searches were allowed as well. Yes, I may have been quite naïve and fresh but even now with the benefit of time, I still find it distressing.

This very much became somewhat of a passion project for me and I would bail up anyone who would listen to me about it. I sought out research and advice from a range of academics, lawyers, decision-makers across various jurisdictions. I would even bail up police officers in my social network about it. In retrospect, I may have been a little bit annoying.

I was really into it at one stage. I am worried about my search history at one point because I was very into it.

Ms Forrest - Passionate about a cause.

Ms SIEJKA - That is right. The more I found out about it the more troubling I found it as well. Young people in these settings are highly vulnerable, often have experiences of complex trauma and can be deeply impacted by these intrusive experiences. I do understand that searches are necessary at times but it was the frequency, the way they were conducted and the understanding of the rules surrounding them that was greatly concerning to me. At the time, the item most frequently found through these searches - which were routine - was cigarettes. To me, a strip search seems an extreme way to find these.

I produced several papers and met with a number of people both here and around Australia in an attempt to create change in this space. There seemed to be a lack of knowledge of the procedures, the rules were not formalised and there was a distinct and concerning lack of the trauma and vulnerability of young people in these situations. Even the deputy commissioner was not entirely clear on the various and numerous acts the area fell under.

At the time I was told it was not possible to use body scanners or wands due to the costs associated and that when surveyed, young people in custodial settings reported that they were comfortable with routine searches being conducted as they felt safer knowing that others were searched too. Surely there is more that can be done to create an environment of safety beyond strip searches. Unfortunately, abuse of power does occur and sadly further trauma can occur as a result of searches. Remember, we are talking about highly vulnerable young people who may not present as being vulnerable but they generally are.

I was pleased to see the commissioner take up this work in 2019 and I am pleased to see this action being taken now. It is reassuring to hear that the approach that has been taken appears to be trauma-informed. It was reassuring to hear that the line of authority and the rules have been clarified, and it is understood that the type and manner of searches need to be proportionate with the aim of the least level of intrusiveness as possible. It is particularly reassuring to me that the need to inform young people is now clearly specified.

I remain concerned though about the allowed use of cavity searches on young people. I know they are not used very often and I know that coming up with an example of when that has occurred, who knows how far back it is, but they are still allowed and it is still there as a mechanism. I am not happy about it at all. I remain concerned about the use of strip searches in police settings too and I am hopeful that work will follow in this space. I also hope that considerable work is done in the form of training or education to ensure that those intended to conduct the strip searches fully understand the rules and procedures surrounding this area because it is complex.

I am indeed relieved to see that this work has been done and I thank the commissioner for the work that she has done as well. These changes were very much needed.

[11.29 a.m.]

Ms FORREST (Murchison) - I thank the member for Pembroke for her comments and expressing her passion. I am sure she was not annoying. I am sure she was effective, because here we are. These reforms, as with one we dealt with yesterday, are often the work of many people engaging over many years to address and fix a problem - a very real problem. I agree this has been a very real problem.

I too welcome the bill. As the Leader stated during her contribution and the member for Pembroke, I absolutely acknowledge that young people are among the most vulnerable of our

community, particularly those young people who find themselves interacting with our complex and confusing justice system. As an adult, I know I would find it daunting without a deep and well-informed knowledge and experience of how the system works. Even trying to support constituents dealing with the justice system and all matters related to it is not easy. Where we have more vulnerable people, particularly with low levels of literacy and other challenges, it is even harder.

I note the Leader's commitment on behalf of the Government to recognise and respect the way those involved in the justice system, including us here in this place as we consider legislation that has a direct impact on young people and how we engage with young offenders, must reflect their vulnerability. We come back to the trauma-informed approach that is being used, which is a reflection of that acceptance of the vulnerability of these young people, acknowledging they are finding themselves in this situation because they have done something wrong. It does not mean they have to be further traumatised as a result. I also note this legislation can override law in relation to children to ensure they are protected and their vulnerability considered, and that is an important point.

I understand this bill applies to all custodial settings but, as the member for Pembroke alluded to, it appears not to contemplate the searches of youths and children that may be deemed urgent and necessary in other settings. The Leader did indicate, or the members of the team at the briefing indicated, there was likely to be consideration of this matter in future legislation. I am sure the member for Pembroke will be quite engaged in that also, as other members have indicated too.

I do note the Commissioner of Police has standing orders in place to offer some protection, but we do need to make sure we take a consistent and comprehensive approach to all young people and youth who may find themselves exposed to our justice and custodial settings.

The Leader also committed to providing clarity as to whether any searches conducted on children or youth outside these settings that are not covered in the bill are recorded in the register. I hope she is about to provide a bit of feedback. I hope her advisers are off to do some background research on that. I look forward to that response in her reply.

This is important in terms of accountability and ensuring children and young people are properly protected and not further traumatised. Mind you, it is retrospective in that case, rather than proactive.

I also want to acknowledge the work of Leanne McLean, the Commissioner for Children and Young People and her advocacy and work for young people in Tasmania, and particularly for her raising her concerns with the Government following media reports of two separate incidents involving personal searches of youths in the Hobart Reception Prison in early 2019. Also, her subsequent review of the relevant legislation, policies and procedures regarding personal searches of children and young people that has actually led to this bill, as well as the work of others and consultation with relevant bodies. The Aboriginal Land Council is one that the Leader referred to.

The commissioner's memorandum of advice sought to promote and protect the wellbeing and best interests of children and young people in custodial facilities and to ensure relevant legislation, policies, and procedures regarding searches were aligned with well-established

human rights standards and principles and contemporary best practice. The commissioner's review made eight recommendations. I acknowledge the Government has acted on all these recommendations, some that require legislative reform and others requiring policy or procedural change within our custodial settings. I will perhaps have one question coming about some of the rollout of those more procedural matters.

Clearly, there does need to be a balance between minimising the need for intrusive searches in our custodial facilities while balancing the need for searches for safety and security reasons. The member for Pembroke also noted there are times when searches are necessary, but it is how they are conducted that is the point in question.

I also acknowledge that searches prevent potentially harmful and prohibited items, such as drugs and weapons, from entering custodial systems and reduce the risk of self-harm and harm to others, including staff. Staff safety is just as important as the safety of other people in the facility. The safety of all engaged in the custodial facility is crucial, but I am confident these searches can be carried out in a way that does not add to the potential trauma of young people engaging in the system.

I understand from the briefing and my research into this bill that the first draft released for public comment was basically a high-level approach, and lacked specific provisions regarding the conduct and processes around the conducting of searches on youth. I am pleased to see we have before us a much more detailed bill, a bill that creates a hierarchical approach to searches to ensure the least intrusive approach is taken in a very structured way. This is such an important aspect of the safety of others, as well as the safety of the youths themselves, and ensuring that we do no further harm.

I appreciate the requirement for authorisation to escalate that is enshrined in the bill is straight up through the hierarchy, and that provisions are there to ensure that the least intrusive method or approach is used. I also welcome comments that the practice of routine personal searches has already ceased in all custodial facilities in Tasmania. The extent and nature of the searches being undertaken is determined by individual circumstances and uses least intrusive principles. I am sure, as the member for Pembroke outlined, it was quite an eye-opener to see what was actually going on before and therefore this is a very positive step. It is like the old adage: we have always done it this way so we will continue to do it. We need to constantly review what we are doing to ensure it is contemporary and we are not creating further harm.

This is an important and appropriate step. Yes, these people are engaging with our justice system and custodial facilities because they have done the wrong thing, and the penalty or the punishment should reflect this. However, every young child who engages with our system should be treated according to well-established human rights standards and principles and contemporary best practice. Further traumatising a young person will do nothing to enhance their reintegration into society. In fact, it may make their chances of reoffending even greater. Surely, that is not the outcome we want.

The importance of ensuring a trauma-informed approach to keeping children and young people safe is very well recognised. I am pleased to note that the Government's decision to invest in alternative security strategies, such as body scanners, to minimise the reliance on invasive search types in Hobart and Launceston reception prisons, the Mary Hutchinson Women's Prison and the Ashley Youth Detention Centre, has been partly implemented. I understand these scanners have been installed in some settings already, including Ashley, but

they are not yet operational. I ask the Leader for an update on this matter. It is okay to have a procedure and a policy, but if it is not operational, you are missing the point. Could the Leader provide some more detail around what is happening, particularly in Ashley, but in other facilities too? I understand they are going to be right across the board.

Mrs Hiscutt - Through you, Mr President. You have heard that they are there but they are not operational, is that right?

Ms FORREST - Yes. If I am wrong, I am happy to be corrected. I also acknowledge the engagement with other ministers in the response to the children and youth, including the minister for Children and Youth, the Minister for Police, Fire and Emergency Management, as well as the minister for Corrections who brought this bill to the parliament. These matters do cut across a range of areas and a range of portfolios. It is only when you can work together across this, across parties and across parliament that we can achieve a good outcome.

I do not doubt the complexity around the searches framework, to ensure that we can treat all Tasmanians in a respectful manner, including adults, even when they may have participated in actions or behaviour that is not in keeping with community expectations, community standards and the law. I am sure you have all heard people in your own community say, well, they deserve what happens to them. They are called a range of names which I will not repeat here. I believe that creates part of the problem, and we make it hard for these youths to turn their lives around, if we maintain that attitude. We have to look at it from a different viewpoint.

Mr President, whilst the second reading speech delivered by the Leader is comprehensive, and it does go through all the steps, I wish to comment on some of the provisions in the bill. I am pleased to see this level of detail and clarity around how searches will be conducted and the accountability measures that have been included.

I note that 'any police officer or authorised officer must not conduct an unclothed search unless they are authorised by the relevant authorising authority'. That is a quote from the second reading speech. I note that there is a clear line of accountability and authorisation there.

I commend the Government for ensuring requirements as to the gender of search officers conducting searches have been taken into account, especially for youth who are transsexual, transgender, or intersex. These are a particularly vulnerable group of young people and it is good to see that their individual or specific needs have been recognised in this bill, particularly as it does go to their very person.

The Leader stated the bill takes the best approach to the required gender of the search officer in particular searches. The required gender means male search officers to search male youths, and female search officers to search female youths, with special provisions applying to youth who are transsexual, transgender or intersex. I note that if the preferred gender is not immediately available, the youth may request a male or female search officer to conduct the search.

It is good that it is in the legislation, but it comes back to the application, and the capacity to deliver. There is the exemption provision. I am concerned that in our non-urban areas of the state the application of these provisions might be challenging. I asked at the briefing for any details of the availability, especially in our regional areas of the state, of officers to meet

the requirements when involved with the searching of the youth. I know the information might not be available and it is something we can certainly follow up in budget Estimates.

However, it is important to note that this will make it work, or not, in the way that avoids the use of exemptions. When you are relying on exemptions, then you can undermine the intent. If this is an issue we might see the application of the exemption used more, and I suggest that would be used more in our regional areas. This needs to be monitored to ensure the use of exemptions can be avoided as much as possible. There is a need to identify gaps, and for the DPFEM to look at where they might need to pay more attention to the gender mix in a particular region.

The Leader referred to the process for conducting unclothed and, on rare occasions, invasive searches. I acknowledge the comments made by the member for Pembroke about invasive searches being conducted on children as young as 10.

Ms Siejka - They are allowable.

Ms FORREST - I accept that is a very rare thing, but whether it is appropriate is a matter for another discussion. However, I appreciate that there are measures and protections that are outlined in clause 6 of the bill, and there may be further questions in the Committee stage. I understand that the Leader is aware of the concern around the use of invasive searches on young people. I note they are conducted under the authority of a magistrate in a health facility by health practitioners; but even so, it is a terribly invasive thing to do to a child or a young person.

I am very pleased to see the measures and protections clearly outlined in the bill, including the provisions relating to the least intrusive framework in decision-making and in conducting the searches - when do you make the decision, and when do you conduct the search - including limitations on clothing removal; completing the search as quickly as possible; providing that any use of force is subject to the requirement of being the least intrusive option; and the youth is afforded reasonable privacy.

It is noteworthy that the least intrusive framework continues to apply in both the authorisation and the conduct of unclothed searches. This should ensure all searches and even the need for them, that is the authorisation of the search, must take this approach - that is, the question of the least intrusive approach will, I assume, be considered at least twice in the process, when the decision is being made whether or not you can conduct it and then how you actually conduct it.

I also note that unclothed searches cannot be conducted simply for the taking of items into safekeeping in response to matters highlighted by the Aboriginal Land Council of Tasmania during the consultation. We know that Aboriginal people, and particularly Aboriginal youth, are over-represented in our prison and custodial settings, that this is a sad indictment on our society and continues to be a matter we need to address outside this bill, but we do need to appreciate aboriginality creates an additional layer of vulnerability, particularly for our youth. This is particularly the case for Circular Head and other parts of the state - but I am familiar with Circular Head - that the over-representation of Aboriginal youth in our justice system is simply not okay.

All engagement with members of the Aboriginal community need to be undertaken in a culturally respectful manner and we do need to look at the underlying problems of situations that create this huge inequity and unacceptable situation. The bill also deals with the use of force or reasonable force, as the former member for Windermere would always make sure was well understood - we do miss him here talking about the use of force.

Ms Lovell - Do we?

Mr Valentine - I do, I always appreciated his point of view.

Ms FORREST - Some of us miss him, some of us may not so much, but he was always pedantic about making sure the powers were there for the use of force and what was reasonable. I am sure you can remember that, those who were here. But the bill does deal with that. It was always interesting to hear his viewpoint on the use of force.

Mr Valentine - Always interested to hear his viewpoint on police matters per se.

Ms FORREST - Generally, but the use of force was one that always got a good run.

Ms Lovell - Forensic, I think

Ms FORREST - Forensic, probably. The bill does make it clear that a search officer must not use force, unless it is the only means by which a search can be reasonably conducted. It must be the least amount of force necessary. That makes sense, it is logical, but clearly, it is a shame it has to be spelt out. As the Leader stated, the use of force is also subject to the relevant requirements such as considering information provided by the youth and reducing distress and trauma to the youth as far as practicable.

I accept that contact between a search officer and the youth can be a necessary part of some search types. However, as recommended by the commissioner, the use of significant force, such as foreseeable restraint of a youth, should only be used as a measure of last resort and as mentioned in the second reading speech. However, this is not implicit in the bill, that it is a matter of last resort, so I ask the Leader if she can provide some clarity on why it is not actually explicitly stated in the bill. We would agree that accountability and reporting on the use of force in conducting searches of youths is crucial. We have all seen and read about appalling breaches of some of these principles in other jurisdictions. It is vital we have strong accountability measures legislated to ensure timely oversight and accountability.

The requirements around the search register will assist in monitoring the conduct of searches of youths in custody. The search registers will need to include information related to the degree of intrusiveness, the use of force and any other details required by regulation. Most of this will be detailed in the regulations, which obviously will be scrutinised by the Subordinate Legislation Committee. It is really important these things are recorded in a contemporary fashion, as soon as possible after the event, notified up the chain and then open to scrutiny as it is the only way to prevent some of the shocking images we have seen out of other jurisdictions.

I am not saying the police are bad. I am saying this is the way to stop it. It is about accountability. The register will also be available for inspection by the Custodial Inspector, the Ombudsman and a person approved by the person in charge of the custodial facility or a

person or body prescribed in the regulations. The question I had about that is, will it also be made available to the Commissioner for Children and Young People? That may be in the regulations, I do not know. Would it be reasonable since she has such an interest in children and youth, that she would have access to that register? Could the Leader inform me whether that would be considered and, if so, is it in the regulations?

These accountability measures extend to ensure that youths are being informed about searches while in custody, that respond to the individuality of the youth who may be subject to the search. We also know that youth with intellectual or learning disability, youth with mental health concerns and the age of a youth and so on must all be considered in this area. A 'one size fits all' approach in terms of a communication and provision of information is not adequate or appropriate.

Sadly, some of the children and young people who find themselves engaging with our justice and custodial systems struggle with literacy, digital literacy and also have some cognitive impairment. This makes it very hard for them to understand the written word and even sometimes verbal instructions or information. The actual needs of the individual or young person do need to be considered.

These considerations need to inform the process the bill establishes relating to requirements of that youth to be informed of the intent of the search, be informed if an unclothed search is to be conducted and be provided the opportunity to voluntarily surrender items in reasonable privacy. Again I say, you need to ensure the child or young person can actually understand what they are being told before the procedure continues.

The bill also requires search officers to engage with a young person to ascertain what approach they may be more comfortable with and potentially less traumatised by, by explaining the purpose of the search and providing options to the young person, such as patting down of a youth's pockets or the youth removing a jacket to show whether their pockets are empty or the pockets of their other clothing may have items in them or not. Again, it is important to consider the youth's preferences as the same outcome can be achieved in terms of the needs of the search officers. Search officers need to feel safe in what they are doing but you also need to consider how to engage with that youth to ensure they understand and they are given the opportunity to surrender items.

We cannot simply assume to know, in any one person's experience, what actions may create an additional or enhanced trauma response. As the Leader stated, some youths may feel more vulnerable being patted down while others may prefer a pat down to taking off clothing. We do not know the youth's background, we do not know the traumas they may have experienced in the past and being patted down may trigger all sorts of reactions for that child or young person. They do need to be listened to.

The bill also requires general information to be available for viewing in custodial facilities about search obligations. That is fine if people can read and understand it, but you have to make sure the young person can understand. This information does need to be provided in an accessible manner.

Sadly, many of the youth who are likely to be subject to the provisions of this bill will have low literacy levels; they may have cognitive challenges. It is one thing to make the information available, it is quite another to ensure that the information provided makes sense.

I know the Leader stated this would help youth and their representatives to know that they can ask for more information about search procedures, complaints and so on but they first need to know that the information can be asked for, it is available and how to ask.

As intelligent adults who are quite articulate, like the people in this room, that makes sense to us. We know our rights but these are vulnerable people who often may lack that skill to know how to ask.

I welcome and support the bill. There are some questions I would appreciate the answers to that I have outlined during my contribution. I certainly look forward to the implementation of this trauma-informed approach and a process that is designed to ensure children and youth who are part of our custodial systems are treated appropriately, safely and in a way that they can maintain their dignity whilst avoiding as much as possible any further re-traumatisation.

Many of the children and youth who find themselves in custodial and justice systems come from backgrounds of poverty, disadvantage, often intergenerational disadvantage, are Aboriginal, possibly homeless and experience a range of negative impacts from other social determinants. As a society, we must do all we can to break these cycles. In my view, and I know it is a view shared by many, we must promote and deliver a trauma-informed human rights-focused restorative justice approach and we must do more to build the fence at the top of the cliff. We need to do more to address the underlying factors that sadly lead some of our youth down a pathway that has the very real risk of creating further harm. It is only when we take that approach we are really going to address the problems.

[11.56 a.m.]

Ms LOVELL (Rumney) - I also welcome this bill and I will make a brief contribution. Many of the points I have wanted to touch on have been covered by the member for Murchison and the member for Pembroke so I will try not to cover too much of the same ground.

We all remember those two incidents in the Hobart Reception Prison in 2019 that sparked this reform and how distressing it was to hear about those incidents. They are a vivid reminder that when we are talking about young people who are engaged with the youth justice system, in many cases we are talking about the most vulnerable young people in Tasmania. I welcome this bill and I am pleased to see we have this before us and we will deal with this. I suspect this will be broadly supported in the Chamber and I know it is supported across the parliament.

I thank the department officials for the briefings that we received. I know we had a briefing here in the Legislative Council. I had a briefing prior to that as well as the responsible shadow minister for the Labor Party. I also thank the Commissioner for Children and Young People, not only for the work that she has done in starting this reform but also the conversations I have had with her since.

Members have spoken about the importance of consultation and this was one of the key issues that I was keen to see and hear more about. Who was consulted in the formation of this bill? In particular, the question I had is whether or not young people in custody were consulted when this bill was drafted and when this policy was reached? I was pleased to hear that the Commissioner for Children and Young People, now with a youth advocate for young people in custody, was able to do that quite quickly and undertake that consultation. Some of the things that the commissioner outlined that came from that consultation were again a reminder for me of how important that is because I found them quite surprising.

The Leader has spoken about the hierarchy of searches and how what I or someone else who is not engaged with that system might assume is the least traumatic, least distressing hierarchy of searches might not actually be for the people who are impacted by this bill and who are subject to those searches.

I was also a little surprised to hear from the commissioner that some of the consultation from those young people in custody outlines that they actually feel safer in many instances when they know searches are being conducted. While I might have assumed that young people do not want searches to be happening, they do not want this, they do not want to be searched, for some of those young people they actually gain some comfort from knowing that searches are happening and that in turn makes them safer.

I wanted to highlight those two examples because that, for me, was a reminder of how important it is not to make assumptions, that we might think we have a view and we might think we have all the research and all the education and all the ability to make those judgments but we are not the ones who are impacted by this. It is so important that we do not make those assumptions because it can be dangerous so I was pleased to hear that consultation was undertaken and, more importantly, listened to.

I know the Commissioner for Children and Young People is comfortable that the eight recommendations made in that original memorandum of advice have been broadly met by the Government and included with this bill, but there are a couple of matters I wanted to clarify.

I welcome this bill and I welcome the reform but, as other members have pointed out, the real key to the success of this will be the implementation. This is a significant shift and will require a change in culture in many of those facilities and the importance of making sure that is very closely monitored and that adequate education, training and resources are provided to those facilities to make sure that they can adapt their practices.

The register is a welcome addition. A key part of this bill is that we are tracking these searches and the processes that are reached in that decision-making process. One thing that is not a requirement for the register is whether contraband was found as a result of the search. I am interested to hear from the Leader whether this is something that might be in regulations. It is important that we ensure we are not searching people unnecessarily and that the processes we go through to make that assessment are sound.

The member for Murchison talked about body scanners. I was also looking for an update, and I will wait to hear the Leader's response. The member for Murchison also talked about the use of force, and I share those concerns. I would have liked to see in the bill that the use of force is explicitly a last resort. I understand that may have been a drafting issue or a technical issue. I am keen to hear an explanation from the Leader, so we can be absolutely clear that is the intent of the bill and the intent of the Government and the policy, and why it cannot be explicit in the bill.

Tasmania has an opportunity for some very important reform in youth justice, with the very welcome closure of Ashley Youth Detention Centre and the new facilities that will replace Ashley. This bill is a very good first step in that process of reform that is needed in our youth justice system, but it is only part of that journey and I hope we will see a continuation of that through that reform process. I welcome this bill and I look forward to hearing those responses from the Leader.

[12.02 p.m.]

Ms WEBB (Nelson) - Mr President, I am very pleased to speak on this bill. I thank the Government for bringing it forward and for the briefings provided.

We are looking at this bill in the context of a youth justice system which has utterly failed thousands, probably, of Tasmanian children for decades, through governments of both stripes. It has become a matter of such urgency that we are now in the midst of a commission of inquiry that is, in part, looking at that very system.

There is still a detention centre at the heart of our youth justice system. This current Government has known for at least six to eight years that it is entirely insufficient and unfit for purpose. There was an investigation into the Ashley Youth Detention Centre in 2014-2015. An independent, expert review from Noetic said that it should close. That was explicit expert advice to this Government, and it was ignored.

Ms Siejka - A lot of work went into that.

Ms WEBB - A lot of people contributed to that review, certainly from the sector that the member for Pembroke and I were in at that time. A clear recommendation was made, and ignored. The decision was to keep the Ashley Youth Detention Centre open and spend \$7 million on it. It is interesting that yesterday in another debate we had the member for McIntyre mention that \$7 million was spent making the entrance look pretty.

That \$7 million was apparently supposed to be spent making it into a better trauma-informed, more therapeutic environment for youth detention. If all that happened, according to someone who has observed it, is that it made the entrance look pretty, then no wonder we are where we are today. What a shame that it is six to eight years later, or something like that. Absolutely appalling.

To have lurched towards closing that centre, which thankfully now has been committed to, but is still at least two years away from now, it is such a shame that we have to get to those points of urgency, and people's distress reaching such high levels that it bursts into the public domain in such vivid ways.

Unfortunately, it is just not Ashley and its closure where we saw that dynamic play out, where action is taken when we have that vivid, urgent, public airing of difficulty. We had that with this area too, and it is such a shame that it took those distressing stories about searches of children to get to this point. We talk about them as youth or young people, but they are also children. It was highly distressing to hear those stories and to have that then trigger this reform. Thank goodness we are here; but what shame is on us that it took that, and that we had not fixed that earlier when we knew it was occurring.

Having said that, it is very important to remember that the children we are talking about, who encounter our youth justice system, by and large are children that we as a community, a society, and a government have already failed on multiple fronts. These are typically children who have encountered difficulty in many aspects of their life. They have encountered difficulty in their home environment that might have involved trauma or abuse. They have had difficulty in their education environment, and often many of them have already absented themselves from our educational system because it has not served them well - it has rejected them and been

unable to meet their need. They are often children who have precarious housing and home situations. Many of them are homeless or in very temporary or uncertain housing situations.

There is a category of children called 'crossover kids'. They are children who have exited education, are experiencing homelessness or precarious housing, and they are also in our youth justice system. It is a very common trilogy that we see. These are children we, as a community, have failed on multiple fronts. That context is important when we are talking about this bill, which is very specific around searches in custodial facilities. However, it is worth having in mind that the children we are talking about are children in that broader context. That is why it is particularly pleasing to see the care that has been taken with many elements of this bill to accommodate the fact that children who are going to be dealt with in this manner - who have likely come from backgrounds of disadvantage, potentially of significant trauma, abuse, and different sorts of failures of our systems - need and deserve particular care taken when we interact with them in the youth justice setting.

Having said that, it is good - distressing as it was - that the Commissioner for Children and Young People clearly raised concerns when we had those particular cases come to light, and was able to provide recommendations to Government which Government then responded to. I understand that the reason it has taken some extra time to come to this place is that there was a round of consultation on a draft which received considerable input and was responded to, which is pleasing to hear. Taking extra time to respond to worthwhile expert and community advice, and advice from children themselves, means that we have a much better bill than it might otherwise have been if we had rushed back then and set aside that advice.

I note that the Commissioner for Children and Young People wanted matters relating to youth searches in custody to be in line with those well-established human rights standards and best practice approaches in a contemporary environment. Quite frankly, that is exactly the line we should be taking on most things. If we were to have a human rights act in this state, that would be the default position. If we had a human rights act as a fundamental piece of our legislative architecture then we would be able to pin all manner of things to it, things like this bill, but also many others which really could and should have an explicit connection to a human rights basis. It is very pleasing to see it explicitly stated in relation to this bill and to have that sit back with that advice from the commissioner.

It is also pleasing, in the meantime, while we have waited for the development of this bill to come to fruition, that current practice has already been modified, improved, adapted, and we no longer - it is reported - have routine unclothed searches and things that had been occurring, but that has already been positively changed.

Without a legislative basis, we have already been introducing those concepts of accommodating individual circumstances and applying the least intrusive principle in our current practice. Body scanning technology is an excellent way forward and I believe the Government has invested in it. I am interested to know where we are up to with that being in place and being used. With children, it is particularly important that we are able to, to the greatest extent possible, ensure those non-intrusive search options are available that do not involve touching or removal of clothing. I look forward to the full implementation of that technology and those sorts of options.

This bill relates to the Youth Justice Act which we have heard already can override other laws in relation to matters such as this. One of the things that did occur to me though is the

Youth Justice Act has a definition of youth as 10 years or older. Currently in this state, 10 years is the age of criminal responsibility, which no one will be surprised to learn I regard as utterly shameless. We have discussed it in this place in a motion and we have agreed, as a Chamber, and put to the Government that it should be at least 14 years. I look forward to the inevitable day when we will make that change in this state.

What happens currently if there is any circumstance where a child under 10 years old, who is not covered by the Youth Justice Act and therefore not regarded as able to be criminally responsible but still may encounter, say, police officers or others, particularly police officers? Are there any cases in which a child under 10 years old is searched? I am interested to understand that. Perhaps the Government would be able to give me an explanation of anything in relation to that circumstance. Can a child under 10 years be searched under any circumstances? If so, do we keep records of that?

Mrs Hiscutt - A bit of clarity. I understood you said you wanted numbers of children who have been searched and then you said the numbers of children who could be searched.

Ms WEBB - No, I did not say the word 'numbers', I said 'can'. Are there any circumstances in which children under the age of 10 years can be searched?

Mrs Hiscutt - Thank you.

Ms WEBB - I am assuming there will be times when police officers, for example, might encounter a child under the age of 10 years out in the community and may be concerned about something they might have on their person, may be concerned about something they might have in their possession -

Ms Siejka - That can be an issue sometimes in my experience when you do go to the child guardian for permission but, as we know, sometimes the guardian also does not have the best interest of the child. It is an area that needs a lot of work.

Ms WEBB - What is the current situation on this, particularly given in this bill - and I will talk about this more - we have a lot of emphasis around information provision? We have a lot of emphasis on keeping records of what has occurred. In those situations there might be a child under 10, who is not going to be dealt with under the Youth Justice Act. What situations might there be on any searching or interacting in that way that we do?

The bill usefully provides a very consistent approach across all custodial facility settings - reception prisons, police watch houses, prisons and detention centres. It is really important we have a consistency of approach across all those and that the bill excludes or does not relate to body cavity searches, because they are dealt with elsewhere, and require a particular form of authorisation through a magistrate. I add my very firm agreement with others in this place who indicated we would regard body cavity searches as the absolute extreme end of things that should virtually never have to occur, particularly for a young person or child. We would always want the emphasis to be that this is an extreme end of necessity that would take us to that place. I hope we never see them.

I note in the bill that it establishes the authority to search and who is able to undertake search actions as then defined in the bill. Clearly, in the case of prisons, it makes sense that the Director of Corrective Services is the authority, then the correctional officers and you can

have specified in the director's standing orders other people authorised in that setting by the director to conduct a search.

In other settings, you have the authority who then can allow others to conduct searches. That seems a fairly clear delineation of who is authorised to do the searches. The interesting one for me is, a police officer is authorised to carry out a search, because naturally, that is also consistent with their other statutory powers and responsibilities.

One of the things I was interested in that we talked about in the briefing, but perhaps can talk about more here and others have raised it and I will reiterate it is that this bill relates to searches occurring within custodial facilities. I understand that police may conduct some form of searches, not within a custodial facility setting if they are apprehending young people. I am keen to understand how the constrictors they have on them in that circumstance align with this bill, or how we might ensure they do align. My understanding from the briefing, and perhaps we can have it confirmed here by the Government, in those situations outside of custodial settings police have to abide by the Commissioner for Police standing orders.

I am interested to understand how those standing orders might currently align with the measures in this bill when it comes to youth and whether we currently see consistency across those two situations where it might be the very same child or young person that might be treated differently out and about somewhere, compared to within a custodial facility. Alongside that, again noting the emphasis in this bill on provision of information and noting the emphasis on recording and keeping a record of activity around searches, the degree to which searches outside of custodial facilities by police officers is recorded and accountable, in that same way.

As others have, I also welcome the measures in this bill that deal with the requirements around gender of the search officer. It is excellent to see a best practice approach in relation to that.

Having the situation where, as far as reasonable and practical, it applies here, makes sense. There will be situations, no doubt, particularly in rural and regional areas, where it might be difficult. However, you would certainly want there to be rigour in the attempt to always require that the gender of the search officer is according to this bill, to the greatest degree possible. If that means a little bit of inconvenience, so be it. We would not default to not complying with it, to the 'oh it is not reasonable or practicable, we will go with who is here'. We would never want that to become anything done casually or without a really genuine attempt to make sure we comply first.

In relation to the conduct of searches and the way that that is outlined and defined in the bill, it is excellent to see that establishment of decision-making criteria about the type of search and the manner that the search is conducted in, and the emphasis that it must be on reasonable grounds and proportionate to the circumstances and be firmly based on the implementation of a least intrusive framework. That is incredibly important. It is impressive to see it put into this bill so explicitly.

There will still be a lot of discretion to a certain degree in applying that decision-making and determining that least intrusive approach and what is proportionate. You cannot eliminate all of that. I want to understand how those who may be authorised under this bill to conduct searches will be guided and trained in an ongoing way, and receive professional development

about applying those principles. Others have asked about training as well. It is a reiteration of that same question.

Again, the use of force is along similar lines in the bill, which is that least amount of force necessary principle, which I believe we would all agree is really important to see.

I wanted to pick up on the relevant search purposes in the bill. That part of the bill talks about there being relevant purposes for searches, and safety of the youth or others being a relevant purpose to obtain evidence, to ascertain whether the youth has possession of a concealed weapon or drugs and, where the searches are clothed searches, the removal of articles belonging to the youth. One of the things I wondered about, in terms of a relevant purpose being to obtain evidence or to ascertain whether there is a concealed weapon or drugs, do the officers conducting the search need to have reasonable grounds to believe that those things are present before conducting the search, and a bit of a description about what that might mean? 'Reasonable grounds', if that is the case.

As others have raised, I wish to understand a little more about the information provision that is required in the bill. It is really important that that is a part of this bill and it is pleasing to see it there to the extent that it is.

As others have pointed to, I also wonder how we accommodate the varying capacities of the children and young people who this bill may be relevant to, particularly given a lot of the challenges that many will have in their background. Some will have literacy challenges or challenges relating to capacity; others might have challenges relating to disability.

The member for Murchison very rightly pointed out that we need to make sure they understand. My question is a little more pointed than that. I agree with the member for Murchison, we do need to know that the children understand when they are informed that a search is going to take place and are provided with the information about that. However, what if it is not clear that the young person or child has understood?

I think of times I have interacted with children. I am thinking particularly of a child who might be autistic, where there can be a common response to shut down. It can be really difficult when you are trying to interact with a child who has shut down, to know whether they have actually heard and understood what you have said to them.

In terms of this bill, I want to understand, where it requires that a youth be informed, does that entail that the person is required to also be convinced that the youth has understood what they have been told? Is that requirement to inform about, 'I have said it', or is that requirement to inform one step further and I am confident and know that the child has understood what I have said?

In relation to the general information being available for viewing in custodial facilities about search obligations, I am sceptical that having a poster on the wall or a brochure on a desk or that level of information available will really cut it, or is what we could regard as being sufficient. It would be my best guess that a child taken into custody and in those sorts of scenarios is incredibly unlikely to pick up a brochure or even to notice a poster on the wall. Again, reminding ourselves that this is explicitly a human rights-based approach that we have here, how are we ensuring that the child, the young person, involved here has actually been provided with information that they have understood?

One of the other things I did wonder - it may not have come up in any conversations, I am not sure - is there any requirement that when a search is conducted of a child or young person that their parent or guardian is informed? Thinking about it, at some point some of these children will be returned to a parent, some might be returned to a guardian, some might be returned to a foster care situation, some might be in the detention centre, so that is not so relevant. Although potentially, even for children in a detention centre, if they have been searched, perhaps it is appropriate that parents and guardians are informed about a search having occurred. I am thinking particularly of situations where a parent or guardian may have to deal with impacts and effects later on from the experience that the child had while in custody. They might benefit from knowing what has occurred while the child was in custody, so that they can be on the lookout for picking up on any flow-on effects or impacts later and know how to interpret comments that they might make or concerns they might raise.

Particularly, we are being careful to have mechanisms for complaints to be raised or concerns to be brought forward. I imagine, unless parents and guardians or others responsible for the children have been informed about what occurred, it is hard for them to know that something needs to be followed up. It may be that that is a requirement there. I have not seen it in the bill, but it may be that there is requirement that is captured in some other way to do that.

The final area that I noted in the bill that I wanted to touch on briefly relates to the register of searches that is required to be maintained, which is really important. It is a very good accountability measure, particularly because it records not just that the search has occurred, but the degree of intrusiveness, the use of force and other details that will be further outlined in regulations. I note that the register is to be available for inspection by the Custodial Inspector, the Ombudsman and a person approved by the person in charge of custodial facilities.

The member for Murchison also asked for clarification on whether the Commissioner for Children and Young People would have access to that register. In terms of scrutiny of that register, whether that is something that can be scrutinised by parliament, either say through Estimates or through questions in the Chamber. Is it something that can be looked at through those sorts of mechanisms here in this place?

Does it become something that is RTI-able - obviously privacy considerations would come into play in any of these circumstances - but whether the details, statistics or the data coming out of that register is able to be scrutinised through those other measures too? This is something I am interested to hear about.

I will conclude my remarks by reinforcing that I am really pleased we are taking a much more robust human rights-based approach to this. For children in our community who many of us might find incredibly challenging were we to encounter them in the street, and that is being quite frank, who have found themselves in their situations often because of multiple system failures in our community and society. Both from their home and education environment, from our health and wellbeing services, we have in many cases failed them.

If members are really interested to know more about the young people who might be the focus of this bill, I cannot point them to anywhere better than a piece of work undertaken by Anglicare Tasmania, published in 2017. A research report called *Too Hard? Highly vulnerable teens in Tasmania* by Dr Catherine Robinson looks at exactly these kids aged 10 to 17 who are excluded and outside of the school environment, homeless, involved with youth justice and

falling through all the cracks. The picture painted in that report is utterly heartbreaking, but gives you a very good insight into why we have to go to the lengths in this bill to make sure we are dealing with the vulnerability as effectively as possible.

[12.32 p.m.]

Ms ARMITAGE (Launceston) - Mr President, a further comment to the member for Nelson, if people do want to find out more about these children, they can also join the independent persons register I am on to meet them personally and go and sit with them when they are charged. You certainly do get a new insight into the young people before the justice system. As I have mentioned in the past, the youngest I have sat with is 10.

Mrs Hiscutt - Is the member saying - do they call people like you randomly, or is it for every child? How does that system work?

Ms ARMITAGE - It is not random, no, and let us say being A for Armitage, I do get called quite regularly. I have suggested at times maybe they start at the bottom of the list. There is a register and I have been on it now for about 25 years and I might get called once a month. Actually, I have been called about five times over the last three weeks, so it depends and there is a daytime and a night-time roster, so you can get called during the night.

I got off the night-time roster, because they were calling me when I was in Hobart and I was waking up at two in the morning to say, 'No, I cannot come'. There is always a need for these people because many of the youth, if they do have a parent, they may not wish them to go, but often they do not have a guardian and the police cannot proceed with interviewing them unless they actually have someone there to make sure their rights are upheld.

Mrs Hiscutt - That is what I wanted to know.

Ms ARMITAGE - I thank the Leader for the briefings this morning. I believe this is very important legislation introduced to protect vulnerable young people which has been developed over a significant amount of time. It is essential we have robust legislation governing the search of youths in custody.

We have heard with shock and dismay some of the stories coming from the commission of inquiry into the abuse of at-risk, vulnerable, and at times, sick children by adults who are in positions of trust and power and in the employ of the public sector. There is an inherent power imbalance between detainer and detainee, between adults and children, and between a person who is searching and a person who is being searched. The United Nations defines body autonomy as the power and agency a person has over their body and future, without violence or coercion.

All people, including children, have the right to live free from physical acts or interference, such as touch, to which they do not freely consent. Moreover, consent is only valid if it is informed and lawful. In the context of the justice system and custody, consent to touch becomes a far different practice. After all, being arrested or detained is merely a lawful deprivation of liberty. It becomes then a question of how to manage things like body searches in these circumstances that still keeps the rights and protection of young people at its centre. Nothing, not even being placed in custody, justifies putting a child, or young person, in harm's way. This is absolutely what we need to make sure this bill covers. Strip searches and unclothed and intimate inspection of young vulnerable people's bodies need to be performed in

line with the most robust principles of human rights and laws possible and carried out with sensitivity and respect.

I am of the opinion they should be used only as a matter of last resort and understand that this is what the bill promotes, although the words 'last resort' do not appear in it. I appreciate if the Leader could please provide some context or reasoning for this. I believe that the best way to actually make sure the intent of the bill is executed is to actually spell it out in the statute itself. I note also from the briefings body cavity searches can only be authorised by a magistrate and only conducted in health facilities by medical practitioners and that no search officer should ever be conducting body cavity searches.

I also note the comments from the member for Nelson and, as I said, I have had no involvement at all with body searches. I know when I am there, the police when they take these young people in custody go to extreme pains, sometimes asking four and five times to make sure that every question is understood and that everything they are asking, when they are talking to them about what they may have done - and sometimes it is a witness, it is not always a perpetrator, I must admit. Sometimes there is a witness to something, but they do go to pains to make sure that everything is clearly understood. Sometimes to the extent you think, 'for goodness sake, yes they understand,' because they then ask us, as the guardian, or the person with them to make sure again the young person understands. I can say from that part, obviously I have not been involved in custody searches, but when they are interviewing they really do go to the nth degree to make sure.

Mrs Hiscutt - That is probably a good response to the question from the member for Nelson.

Ms ARMITAGE - As I said, it does not relate to the custodies, but it does relate to interviews.

Ms Webb - I want a response from the Government. I do not regard that as a sufficient answer to my question.

Ms ARMITAGE - No, I was simply pointing -

Ms Webb - No, I appreciate your comments. I wanted the Government to answer my -

Ms ARMITAGE - That is fine. That is from my perspective from what I have seen. As I said, they really go above and beyond in ensuring they understand.

Ultimately, having young people in the custody of detention is a very sad event. When we discussed the age of criminal responsibility not too long ago, many of us reflected on the failings in the system which compels a young person to commit crimes, to harm other people or property, partake in drugs or alcohol, and to give up on their futures by participating in other types of criminal activity. I could talk for hours about some of the young people I have seen who feel they have no future. These might be people aged 12 or 13 who have said they have no future. It is extremely sad when you consider some of the lives they come from and the fact someone like me has to be called in, because even if they have a parent - one I had recently, when I asked, 'Does this young person not have a parent?' and they said, 'They only have a mother and mum was under the influence of alcohol,' and could not come in. The situations at home are often very sad.

When young people arrive in a custodial facility we want that to serve as an opportunity for rehabilitation and even healing. Many of these young people carry trauma with them in some form or another. The last thing we want to do is compound this trauma and stress and limit the possibility for rehabilitation through mishandled intimate searches. This is ultimately what this legislation ought to be about.

I do not think I can properly speak about this bill without addressing all the hard work which was done by the Commissioner for Children and Young People. It was as a result of the commissioner's work and of the staff at the office regarding searches of children in custodial facilities in Tasmania, I believe that this bill actually came about. The commissioner identified a number of problems with eight recommendations accepted by the Government that outline a nuanced and reasonable approach to sensitively handling searches of children and young people in a custodial setting.

To this end, the commitment of \$1.3 million to body scanning technology will ensure that searches can still be conducted, and will minimise the need for unclothed searches to take place. The framework incorporated into the bill expressly states the kind of searches to which the bill applies; establishes authority to search where authorisation can be sought; requirements as to gender of a search officer; how searches are to be conducted and in what circumstances force can be applied; which purposes are relevant for undertaking a search; determines the least intrusive type of manner of search; how youths are to be informed of searches; and establishes a register of searches.

This is a comprehensive bill which incorporates the commissioner's recommendations to a significant degree. It is an extremely positive step towards promoting best practice and keeps the welfare and dignity of young people at the centre when they are placed in custody or detention.

It is important to remember that children and young people have their lives ahead of them. Even if they get caught up in unlawful activities, we need to do our best to give them every opportunity to heal and have a brighter future, especially as many of them are already disadvantaged. We limit their chances of success if we allow them to be subjected to situations where they might be in harm's way.

This bill expresses what might be an extremely traumatic experience. While I understand that it may be necessary for unclothed searches to be conducted from time to time, I am pleased that they will occur in situations of last resort, will be strictly managed, authorised and conducted to ensure that people who are being searched are informed of their rights in the search process. It is hard for me when I read this not to bring examples, because I can remember examples of people that I have been in interviews with that had knives and all sorts of things on them. However, I will be very cautious not to go into examples of cases.

Mr President, I support the bill.

[12.42 p.m.]

Mr VALENTINE - Mr President, I support this bill, there is no question about that, and I thank the Leader for the briefings. It is a significant bill in terms of restorative justice to our youth. I was interested to read a media release by the Commissioner for Children and Young People in Tasmania, Leanne McLean, a person who is highly respected for what she is trying to achieve for our youth. I will read it, so that we can have an understanding of where she is

coming from. Ms McLean made recommendations to the Government, and thankfully all of those recommendations have been taken up. The release reads:

Strip searching - The First Step on the Long Road to Reform.

The Commissioner for Children and Young People Leanne McLean said today the Tasmanian Government has accepted her eight recommendations with regard to the strip searching of children and young people in Tasmania.

'I welcome the introduction by the Attorney-General Elise Archer of legislation to end the routine practice of strip-searching children and young people in custody', Ms McLean said.

'It responds to all eight recommendations I made to Government in 2019'.

Ms McLean said the Bill addresses four key issues, including:

- Ending the routine practice of strip searching
- Consolidates legislation into one piece of legislation
- Introduces a hierarchy of strip searching, ensuring the least intrusive method is employed in any given circumstance
- Embeds the principles that all children and young people are treated with dignity and respect.

This is the component that I found interesting in this release:

'But strip searching is only one part of our youth justice system. While this major shift in approach to searches is most welcome, much greater reform is desperately needed.

'Our youth justice system exists to support young people who are undertaking harmful or risky activities to change their lives, respect and restore those impacted by their behavior, and in turn, keep our communities safer.

'This system should harness a young person's inherent capacity to change, as their body and brain develops, in response to positive and therapeutic influences.

Ms McLean said the Government has recognised Tasmania's youth justice system is not fit for purpose.

'In committing to reform, the Government intends to close the Ashley Youth Detention Centre and transition to a therapeutic model of youth justice where therapeutic detention is used only as the last resort.

'This will require complex systemic reform across an array of services impacting children and young people, their families and communities.

This week, I have provided my view on what is required to achieve this in my submission to the Government's Youth Justice Blueprint.

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'My focus begins in the first 1000 days of a child's life, which is where we can have the greatest effect, including on factors that influence the likelihood of future contact with the justice system.

'My submission is guided by three overarching principles - calling for child-centred reform, acknowledge the right of Aboriginal people to determine and lead the appropriate response for their children and recognise the influence of families, communities, and broader society on the wellbeing of children.'

The release then gives a link to where the Blueprint can be found.

I read the release in, because it is important for us to understand that this is a part of a bigger picture. Most members in this Chamber would understand that as a society, things change over time, but we understand that there is need for further reform and I look forward to that reform as it comes before us in this House.

This is a very important bill. It clarifies who can search. There is a risk-based framework associated in it, with provisions about the type and manner of the searches, requirements about privacy and respect, and the dignity of the individual.

I spent time at Ashley in a role when I was with the department for community welfare. I put the first computing network up there with staff from the department. I met some of the children who were held in custody at that time. I had morning tea with them and spoke with them, and they are vulnerable. There are some who are very canny, very streetwise, very determined; maybe very frustrating to deal with. They are not saints, some of these individuals. But they have rights, and I believe this bill recognises those rights.

You go back through your own life and understand what your attitudes were when you were growing up - possibly in a normal household, if there is such a thing. Then, translate that growing up into a different set of circumstances where your parents may not care about you, where the influences in your life are so different from what we might have experienced as a young person. It is difficult. These things change the way people react and behave, especially children. What they do on the spur of the moment can sometimes be governed by their experiences at home where they might have been beaten up, or in other ways been caused to react in a violent way. Their whole experience impacts on their life and it impacts on how they deal with other people.

These children who come before the various institutions, or indeed, the police at various locations, might well be violent because of their upbringing, but it does not remove the fact that we need to deal with them and make sure that their rights are respected. If you consider your own children, if you have young ones who are under 18, how would you want them to be dealt with and treated?

I am not suggesting that it is here today, but parents who may have children who are going off the rails a bit, have committed certain offences, that is difficult for them to deal with but they care for their kids and they still want their children to be treated properly.

This bill sets out that framework and it is an important framework about the conducting of searches and especially the unclothed searches and they are authorised to do that. It is very

strict. The unclothed searches have to be approved by a magistrate. There are real strictures in place there.

It seems to me that this bill gets it right with regard to minimum levels of intrusion and that is good. I take the point that it does not actually say that it is a last resort. Some parts of it go close to saying that, but it is not actually stated in as many words. There was a question on that from the member for Murchison, if I recall correctly.

It deals with the reportable force, that it has to be recorded, and there is a definition in there as to what is reportable and what is not. There is handcuffing and general handling of the youth outside of any search activity that might be considered. It goes to that level. It does not authorise body cavity searches, which can only be authorised by a magistrate and has to be done in a medical facility. Power to keep in custody until an item might pass, those sorts of things are contemplated.

The member for Pembroke said that the youth may not look vulnerable but they are and I could not agree more, after having my experiences with them at Ashley, even all those years ago. I am going back to probably 1988-89 when I had that interaction. That is quite some time ago and I have to say closing it down is a very good move. I can only hope that there are programs put in place to reduce the requirement for children to be held in incarceration like that because it simply trains them up, going forward, to get used to incarceration and to focus their life down a different track that we really do not want to see them go.

When they are inside facilities and if they get to the point where they go to Risdon, it is a training ground to a degree and no-one wants to see our youth enter their adult life in those circumstances.

The member for Murchison talked about the fact that further traumatising a young person will do nothing for them and it is so true. We want to take a restorative approach and if we are doing things like invasive searches on children, it is very traumatising. They may look brave but underneath it affects the way they think, going forward.

I am pleased to see that when searches do have to occur that the choice of the youth of the gender of the person who undertakes that search is complied with as much as possible but I also think it is really good that in this bill it says that those who are present who may not be conducting the search have to be of that same gender. So, it really does go to the point where because of the person who is doing the search, there is no reason for the youth to feel uncomfortable in that regard if, indeed, they have a gender preference for who it is who searches them. So it should be. That is really part of their rights.

The member for Rumney has stated that it is an important bill with important measures to be put into law but how it is implemented is important too. It is important to recognise that. We can put all the strictures in place but if the people who are undertaking these searches are not educated properly - the member for Nelson made that point - then how are we expected to see change in the impact that searches have on young people?

I support the bill. I have a couple of questions on the way through when we do the Committee stage. I thank the Government for listening to the Commissioner for Children and Young People and also for their own efforts in going into this area. I wait to hear any other comments.

[12.57 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have quite a large amount of summing up so that will cover a fair bit of ground. There is quite a bit of work in the actual bill itself in the Committee stage.

I want to get the feel of the room. Usually on our budget day we listen to the Budget and then leave. Are members inclined to do our usual practice and pick up the budget papers after the speech and go, or do we wish to come back and finish this bill?

Due to the lack of interest we might finish with the Budget speech and depart after that.

I will make a start and we will come back to this bill next week.

We start with the member for Murchison and the question about the Tasmania Police search register in custodial settings.

Data on unclothed searches was previously difficult to extract from the police information system. A change to the recording of this data from March 2022 was made to align with this bill. Tasmania Police records details of personal searches within their online charging system. Within the community, details of searches are recorded in the police intelligence system.

Quite a few people mentioned body scanners. Can we provide advice on when custodial facilities will be receiving body scanners?

The Government will meet its 2020-21 election commitment to deliver body scanning technology into the Hobart and Launceston Reception prisons, the Risdon Prison, the Mary Hutchinson Women's Prison, and the Ashley Youth Detention Centre. It is currently planned that body scanners will be installed by the end of this year which will fulfil the associated 2022-23 Budget allocation.

Ms Forrest - In a calendar year?

Mrs HISCUTT - By the end of this year, after 31 December.

The Government is currently reviewing options and specifications for body scanners to inform the procurement process as well as undertaking applications for relevant licences for installation and the operation of the scanners. These are not installed in any facilities at this stage.

Ms Forrest - I hope it is actually delivered, unlike the ultrasound machine at the West Coast District Hospital which has been approved for years and not delivered.

Mrs HISCUTT - Thank you for that comment, member for Murchison. It obviously is the intention that that will happen and I am sure that that will make searches of youth in custody a lot easier to be tolerated. That is definitely the intention by the end of this year. We will see how we go.

Still with the member for Murchison. Why has the use of force not been defined as a last resort in the bill?

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I do appreciate that members have taken their time to contribute to this bill. There have been some considered thoughts.

Ms Forrest - I want to start reading that one.

Mrs HISCUTT - I do appreciate what members have said about this bill. I have quite a lengthy response to the last resort part of the bill and I have three answers to your questions of quite a lengthy nature, which is followed by the member for Rumney who is also asking about how the register record and things are found. I will go through that one. Then there are some quite lengthy responses here for the member for Nelson. I did allude to the fact that the member for Launceston had answered part of that question and that is part of the answer.

Sitting suspended from 1 p.m. to 2.30 p.m.

STATEMENT BY PRESIDENT

Budget Speech - Attendance by Members

[2.32 p.m.]

Mr PRESIDENT - Members, before I call on question time, some advice on our trip to the other place this afternoon. We are to assemble outside the Long Room at 2.55 p.m. The attendants there will assist us. After the Assembly resumes and the Budget is introduced, the Sergeant-at-Arms will allow us into the Chamber. We will withdraw after the speech has been delivered.

For those not wishing to be seated on the Floor of the House, the Speaker's Reserve can be used and accessed at any time.

Members should be aware your budget paper packages, which include the Budget speech, will be placed on your seat here in the Chamber. That will be available as soon as we leave the other place.

QUESTIONS

West Coast District Hospital - Funding and Equipment

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.34 p.m.]

With regard to staff training and support, including equipment at the West Coast District Hospital:

- (1) Has funding been allocated to a clinical nurse educator? If so, when has or will this position be filled? If not, would a position of clinical nurse educator be funded and employed in the coming financial year?

- (2) Has the promised ultrasound machine, which I referred to earlier, approved for purchase some time ago, been ordered? If so, when will it be delivered and if not, what is the reason for the delay? When will it be provided?

ANSWER

Mr President, I thank the member for her question.

- (1) The West Coast District Hospital is in the process of finalising the establishment of a dedicated clinical nurse educator role. Funding has been allocated for this role. This role will support training and development of the workforce and students placed within the west coast facilities and ensure compliance with residential aged care infection prevention control lead requirements.
- (2) The Department of Health is currently exploring the appropriate model for use of the ultrasound in the Emergency First Response unit.

In consideration of the guidelines required for appropriate and safe use in clinical terms, discussion is being had at a state level on appropriate credentialing of its use and to ensure all users are acting within the scope of practice to facilitate the procurement process. There will shortly be a statewide tender conducted to establish a panel for the purpose of the purchase of the ultrasound.

West Coast District Hospital - Payment of Staff

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.35 p.m.]

I understand the underpayment/incorrect payment of staff has been occurring for approximately six months in the West Coast District Hospital.

- (1) How many staff have been impacted?
- (2) What is the reason behind these errors?
- (3) Have the payment errors been corrected in all cases?
- (4) Have the underlying factors contributing to these errors been identified and corrected? If not, when is it expected that these matters will be fully addressed?

ANSWER

We recognise that some errors can occur during payroll processes. I am advised that once an error is identified, either by the employee or the employer, it is addressed.

Unfortunately, it is not possible to identify the number of staff who may have experienced payment issues from a specific site over a six-month period. The current payroll system is over

20 years old, and predominantly based on manual paper processes. This relies on staff and managers providing all required information prior to the deadline each fortnight.

The Government is currently processing a project for a new human resources information system. This will contemporise practices and any pay adjustments can be entered live into the system to support accurate payments.

West Coast District Hospital - Staff Accommodation

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.36 p.m.]

Mr President, it may be in the supplementary appropriation bill. It needs better attention.

I understand the West Coast Council has agreed to provide units to the Department of Health for staff accommodation to achieve a suitable standard for occupation. The department will be required to fund the upgrade of the units.

- (1) What process has been used to obtain quotations for the upgrades?
- (2) How many quotations were obtained?
- (3) What were the costs obtained?
- (4) Will the work be undertaken to assist in attracting health care professionals to the west coast in an extremely tight housing market? If so, when will the work commence?

ANSWER

I thank the Member for Murchison for her keen interest in happenings within her electorate.

The Health Workforce 2040 report released in September 2021 acknowledges that the rental shortages in Tasmania, particularly in rural areas, impact on health service recruitment and retention. A review of current staff accommodation policy and assets has commenced to understand the gaps and develop a framework to contribute to the removal of recruitment barriers.

The West Coast Council has offered the Department of Health a dwelling for staff accommodation. Council advises that it was not able to fund the works required to upgrade the dwelling to an appropriate standard for leasing commercially, and therefore was seeking to dispose of the property.

The department commissioned a building condition assessment which indicated the property was in very poor condition and required significant work to be undertaken to be brought to a reasonable, but not contemporary, standard for use as staff accommodation. The

cost to upgrade the property, based on the condition assessment, was estimated at \$400 000, which does not represent value for money.

There is a complicating issue as the dwelling is built across both Crown land, currently licensed to the council, and a council-owned park, requiring further costs to undertake a title adjustment. Council has previously been advised that the department would be interested in building a new staff residence on the Crown land should the council demolish the existing building and surrender the current licence.

West Coast District Hospital - Emergency Department Upgrade

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.39 p.m.]

With regard to upgrades and capital works projects for the West Coast District Hospital, I understand the budget has been approved for an upgrade to the emergency department.

- (1) What is the budget allocation for this upgrade?
- (2) When will the work commence?
- (3) What is the expected completion time?
- (4) Will an upgrade to the telehealth facilities be included in this work? If so, what facilities would be provided? Will a model of care or service be implemented to support it, and if not, will this be considered in the near future?

ANSWER

Mr President, I thank the member for her question.

- (1) The Australian Government has committed \$1 million to upgrade the emergency department, and the addition of one aged care bed. The Department of Health through the statewide rural hospitals fund has committed a further \$250 000 to enhance patient flow through the examination rooms.
- (2) The works are planned to commence in September 2022, subject to a successful tendering process starting in June 2022.
- (3) The works will take place in several stages across the hospital precinct with the completion expected in March 2023.
- (4) The project's scope of works includes the integration of telehealth services specific to emergency telehealth. The most appropriate solution to meet the requirements in a district hospital emergency response unit is currently being explored by looking at available IT platforms and hardware plus appropriate consultation with various parties regarding the model of care to support the initiative. For patients,

this will provide efficient, timely assessment and treatment close to home and will improve quality of care for patient outcomes.

West Coast District Hospital - Capital Works

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.40 p.m.]

Mr President, this is my final question on the West Coast District Hospital for today.

With regard to capital works projects at the West Coast District Hospital relating to stage 2 of the Liawenee aged care facility:

- (1) Does the minister believe it would be more cost-effective to undertake the capital upgrade at the same time as the capital works to the emergency department?
- (2) Have the designs been finalised?
- (3) What is the likely cost and has this been budgeted for?
- (4) What processes need to occur for this capital upgrade to proceed?

ANSWER

Mr President, I thank the member for her question.

- (1) There are some potential cost efficiencies if the two stages of redevelopment were to be undertaken at the same time. However, following consultation with council's general manager and local service managers, it was agreed the emergency department redesign and building an additional aged care bed, taking capacity to 17, would be the focus of the available funding from the federal government.
- (2) Currently only the concept designs have been completed.
- (3) The likely cost based on the concept design prepared in 2021 is in excess of \$3 million. This work is currently unfunded. The Premier has committed to working with the council to assist in lobbying the federal government for additional funding. We note the funding commitment by the Coalition in the recent federal election campaign, and we will be contacting the incoming federal health minister to support these additional investments.
- (4) A leading architect will need to be engaged to undertake the detailed design in consultation with staff and other stakeholders, and prepare contract documentation including pre-tender estimates. Once this is completed a competitive procurement process will be undertaken.

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Tasracing - Devonport Track Arrangements

Ms RATTRAY question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.43 p.m.]

Mr President, I asked a series of questions to the Deputy Leader yesterday about Tasracing and the move from the Devonport track. There were 10 questions, and in the interest of time, I invite the Leader to table the responses - given that I have already asked the questions, and I wish to have the answers on the public record.

ANSWER

Mr President, as there were 10 answers, I do seek leave to table the answers and have them incorporated in *Hansard*.

Leave granted.

See Appendix 1 for incorporated document (page 37).

SUSPENSION OF SITTING

Budget Speech

[2.44 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, when we come back from the Treasurer's speech, members will notice that I have been able to negotiate two sets of budget papers for every member this year. There were some members who requested three in total, and I have arranged with other members to make sure those people have three. You will all be able to work twice as hard over the weekend.

Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is to allow members to attend the other place to listen to the Treasurer deliver the Budget.

Mr GAFFNEY (Mersey) - In other years when we have gone to listen, I am pretty certain that lower House members had their papers in front of them. We do not get ours until we get here. Personally, I prefer to sit in my office with the papers in front of me, listening to the speech so I can do some work then and there because of the limited time we have. It happens every year.

Is there any way we can get our papers delivered here? Not to open them down there to create a disturbance. If you look at the *Mercury* today, they have most of the information anyway before we receive it as is.

UNCORRECTED PROOF

I am wondering if there is the ability for us to get the papers here so we can have them whilst we listen to the speech? It is much easier for us. At this stage we have to travel and come back to be able to start working on our budget responses.

Mrs HISCUTT - Mr President, may I respond?

Mr PRESIDENT - Point of clarification, yes.

Mrs HISCUTT - Point of clarification, I have negotiated the other one. I will certainly take your comment on board and see how I go with that.

Motion agreed to.

Sitting suspended from 2.44 p.m. to 3.53 p.m.

TABLED PAPERS

Budget Papers 2022-23

[3.54 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, I lay upon the Table of the Council budget papers for 2022-23 entitled Budget Speech; The Tasmanian Budget, Budget Paper (No. 1); Government Services, Budget Paper (No. 2), Volumes 1 and 2; Appropriation Bill (No. 1) 2022 and Appropriation Bill (No. 2) 2022 and the Tasmanian Budget, Gender Budget Statement.

MOTION

Government Business - Precedence

[3.55 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, I move -

That Government Business have precedence on the next two sitting Tuesdays, being Tuesday 31 May and Tuesday 21 June 2022.

Motion agreed to.

MOTION

Budget Papers - Noting

[3.55 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council)(by leave) - Mr President, I move -

That the Budget papers and the Appropriation Bills (No. 1) and (No. 2) 2022 be noted.

UNCORRECTED PROOF

I look forward to studying the budget papers and getting some more remarks to make next week. The budget papers that were delivered were very interesting and I look forward to studying them this weekend.

Motion agreed to.

ADJOURNMENT

[3.56 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

That the Council at its rising adjourns until 11 a.m. on Tuesday 31 May 2022.

Motion agreed to.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) -
Mr President, I move -

That the Council do now adjourn.

The Council adjourned at 3.56 p.m.

Appendix 1

Added & incorporated into Hansard
L. Hiscutt
26 May 2022

ADVANCE NOTICE TO THE LEADER

OF

QUESTIONS WITHOUT NOTICE

ANSWER PROVIDED TO TANIA
ON 5 APRIL

✓

2/10/22

To be asked by the Hon. Tania Rattray MLC

During the week commencing 22nd March 2022.

Q1. Was Tas Racing offered an extension to continue using the Devonport Track by either the developer or the Devonport Show Society?

The details of any negotiations in relation to this matter are confidential due to potential commercial implications, as are the contents of the settlement deed. At this point Tasracing has not been able to secure a future lease on the Showgrounds.

Q2. If so, what would be the extension time cost per month?

At this point Tasracing has not been able to secure a future lease on the Showgrounds. In any event, the details of any negotiations in relation to this matter are confidential due to potential commercial implications.

Q3. Will Tas Racing still receive the \$8 million committed by the Government if the dual track at Devonport does not proceed?

Yes. The Government's commitment is for the \$8m to be used to construct a new harness track and a new greyhound track on the North West Coast.

Q4. Why has the developer been given a one-month extension to pay Tas Racing for the lease?

Whilst we are unable to provide detail in relation to any negotiations due to confidentiality requirements, the extension has the same terms as the original Deed. The extension allows for an orderly transition from the site for all parties and permitted another three race meetings to be held.

Q5. How is the quantum that Tas Racing have budgeted in total to compensate owners/trainers for travelling when the Devonport Track closes?

Travel compensation is being finalised in consultation with the industry. Compensation is expected to include a payment for trainers and / or drivers based on the return trip distance (i.e. the longer the trip the higher the compensation amount) and a payment for trainers based upon the number of horses or greyhounds being transported.

Owners will not be compensated directly. Any pass-through component or other initiative regarding owners will be at the discretion of each trainer.

This compensation is similar to that provided during the rebuild of the Elwick track.

Q6. What is the timeframe of the expected need for compensation?

It is expected that compensation will continue until the completion of new harness and greyhound racing facilities on the North West Coast.

Q7. Have all owners/trainers been notified of the amount of compensation that will be paid and for what period?

Trainers and drivers have been consulted and notified. As owners are not party to the compensation payment they have not been formally notified at this stage.

Q8. If not, why not and when is this information expected to be received?

Trainers who attended the open industry discussion forums on the evening of Thursday 3rd March facilitated by the Tasracing Chief Operating Officer were provided with a verbal briefing of the compensation program. The briefing included the opportunity to ask questions about the program and take notes. As a result of the initial verbal briefing and additional feedback, Tasracing has adjusted the program based on industry comment (e.g. travel to Carrick for harness trials should also be compensated) and continues to consider input from industry.

Consultation with industry will continue over the coming days and it is expected the compensation program will be finalised shortly

Participants undertaking additional travel in the interim will have compensation payments honoured retrospectively

Q9. What aspects of compensation will be covered in regard to no access to the Devonport training track given that some trainers will spend up to 4 hours in travelling time, eg training, trialling and racing?

This has been considered in the compensation scheme. There are negotiations regarding alternate training venues in the north west currently underway which could alleviate the issue.

Q10. What plan does Tas Racing have for the expected rise in numbers of dogs going into the GAP Program?

Tasracing does not anticipate a rise in the number of dogs going in to GAP.



Hon Madeleine Ogilvie MP
Minister for Racing

- 7 APR 2022