

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON ASHLEY, YOUTH JUSTICE AND DETENTION IN TASMANIA MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON TUESDAY 13 FEBRUARY 2007.

Mr TOM LYNCH, CPSU, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Hall) - Tom, I don't think we have written submission from you.

Mr LYNCH - No. From the outset, I would indicate that as a union representing some of the workers of Ashley, I would endorse the submission made by HACSU and I will not be repeating all of those issues again.

CHAIR - Okay.

Mr LYNCH - The perspective I wanted to take today was to look at Ashley and where it fits into the overall correctional system in Tasmania, which is an area that we have a particular interest in, and the problems that seems to be causing for the efficient operation of Ashley and where we see holes in the overall system, some of which were raised by my colleagues from HACSU.

The Youth Justice Act seems to indicate that Ashley is responsible for the safe custody of children and young people aged between 10 and 18 who have been either remanded or sentenced to detention, so the overarching message there seems to be that if you are in that age group and you have been remanded or sentenced to detention, you will go to Ashley. Whilst I am aware that there are memorandums of understanding and other tools, that seems to be the starting point, and I think there is a flaw in the system in that I don't think you can operate an Ashley-type centre which provides safe custody for children with a genuine effort at trying to provide them an opportunity to improve their lot and to come out of there as better people and not ones on a corrections treadmill, if you are forced to cater for the worst of that group within that age group.

I don't know whether this is a reflection of our society, but certainly I have had feedback from hardened correctional officers within our maximum-security prison system who have recently dealt with some of the young people who have come out of Ashley and they tell me that they cause them greater fear than anyone else in the system. There is a breakdown there where, even within a maximum-security prison environment, you have correctional officers who are not asked to do the things that youth workers are asked to do, who are fearful.

CHAIR - We had a bit of evidence to support that this morning, actually.

Mr LYNCH - So if you put those same people into Ashley I think the only thing you can end up doing is running it as a maximum-security facility, for which it is neither equipped nor staffed to be operated, and you end up with a bad outcome for the vast majority in order to try to cater for this small group.

Ashley itself is designed in various units, but there are only a few of them, and by the time you allocate units for females and very young people you need to keep a close eye on, there isn't a lot of flexibility left to say, 'We'll have more secure units'. Unfortunately, the more secure unit that is there is very large and doesn't suit extra security well, so you are either putting a large number of troublemakers in the one spot and then trying to manage them, or you are putting a couple of people in that facility and then you're overcrowding the rest of it.

Mr WILKINSON - And that has a history of not working in Risdon as well. When they put all the real troublemakers into one area, forgetting about solitary, it didn't work there, so if it didn't work there why would it work with the youth in Ashley?

Mr LYNCH - That's exactly right, with even less ability to control them than you have in Risdon.

The thinking that the CPSU and our members are adopting is that Ashley needs to adopt an overall responsibility for children, but it should be of a sufficient disciplinary standard or history - there should be a test to get in there. We need a fourth option in Tasmania for young people that takes into account things like the crime they have committed, their history of violence and/or threatening behaviour, their physical maturity, or even their absence of remorse; those things should be taken into consideration before somebody is allocated to Ashley. This is of course putting down that we have to have a second option.

There is an MOU between the Department of Justice and the Department of Health and Human Services, but I believe the obstacle there is the appropriate facilities to house people who are not suitable for Ashley. My experience with the justice system is that many other administrative blocks are put in the way, rather than simply saying, 'We don't have it', because if you say, 'We don't have a facility for this person', then of course the question from the Tasmania community is, 'Why not?' I think there is a very clear answer to the problem around the MOU but I don't know that it is necessarily going to be recognised as such.

The new Risdon Prison is, in my opinion, critically short of segregation areas. They have eight dedicated cells on the overall plan for segregation. Prior to moving into the new prison there would have been 10 times that many inmates in segregation. How that has played itself out, I am not entirely sure; I think it has been a mixture of changes in classification and mixing them around as best they can. What I saw as an experiment at using the Hobart Remand Centre for segregation I think has been proven to be a total failure and I hope that is not tried again. Clearly the remand centre is just that - a remand centre. There is nothing for sentenced prisoners to do in a remand centre except go mad, and I think we all saw the outcome of that.

I guess the frustration we have is that none of these issues are new. I don't think anything that was tabled by HACSU and ourselves is new. I will quote to you the summary of recommendations from the review for the secretary of the Department of Health about residents' safety at the Ashley Youth Detention centre. This was a report done by the department, David Fanning and Vicki Rundle and Paul Targett. They are saying that Ashley should conduct a review of unit allocation based on the mix of

residents across the site. The second one recommended that the first further explore and consider the practicalities of segregating more difficult and behaviourally challenging residents into a separate unit at Ashley. Then there was a recommendation to pursue the introduction of a statutory mechanism for the transfer of serious offenders from the detention centre environment into the prison system, taking into consideration models used in other jurisdictions. There was exploring the option of establishing a youth parole board. Then finally, as part of the redevelopment of Risdon Prison, consider establishing a separate facility for those 17-21 year olds who require separation from the general Ashley population yet do not match the prison system profile.

These things have been down as recommendations for some time. There has been a failure to act on them and that has meant that the prison system and Ashley have ended up trying to be everything to everybody. That has been to the detriment of Ashley and I believe to the prison system.

Mr MARTIN - Certainly there is a strong theme coming through in submissions and presentations so far about the need for a separate facility. The recommendations of the previous report puts an age range of 17-21 year olds but I asked the question of someone this morning whether it is too simplistic. You could have a 17 year old going in for the first time and he might not be in that category of people you described before. Do you think it is just an age thing? Does it need to be more complex?

Mr LYNCH - I think we are shooting ourselves in the foot with this age thing. From my observations it is 14, 15, 16; I am frightened of the whole range. I think what we need to do is perhaps - and this is again a simplistic approach - look at the crime that has been committed. Somebody virtually has to earn a place in Ashley. Ashley is somewhere where the State is going to say we are going to hold you in a safe environment and we are going to try as best we can to invest in your future. However, if you have a strong history of violence, if you continue with threatening behaviour, you are going to lose that opportunity. You are going to end up in a prison system which, unfortunately, is not going to be as focussed on your rehabilitation. It is going to be focussed on holding you in an secure manner and in a way that neither threatens the other inmates nor the people working in that facility.

Mr MARTIN - But you are also saying that they don't belong in Risdon either?

Mr LYNCH - Absolutely not. The current facility doesn't have a place for them. It would be an abrogation of the State's responsibility if they put those young people into Risdon. Even with the new buildings and new operating models you can't put those young people in there. It's a tough place and there needs to be a -

Mr MARTIN - Training ground.

Mr LYNCH - Yes. I think we will pay the price for that down the line as well.

Mr WILKINSON - Where should that facility be, Tom?

Mr LYNCH - I think the simplest approach is another fenced area at Risdon, operated as part the prison there. You've got the women's prison, the Ron Barwick and the new prison system. I think it would be logical for people to work in and out of those areas. You

would need to have some new programs and you would need to think about the sort of facilities you would want in there. I think you still want to give these people an opportunity to gain skills and we should make an investment in developing that.

The other thing I mentioned earlier is the shortage of segregation areas and the way the rest of the prison system is being used for that. I think there is probably room within this also to create some additional segregation areas that have people outside that main fence at Risdon. It just gives the prison management some additional opportunities to keep people safe.

Mr WILKINSON - Do you agree that it wouldn't have to be a large facility? That is what I want to look at. Obviously if you put recommendations they are going to look at costs and say, 'We can't afford it because there are other more pressing issues', or whatever it might be. It is a prioritisation thing. I agree that it should not be an age-group thing; it should be a public-interest aspect. If a person has had a number of chances and is still committing dangerous crime that is affecting other inmates then they should be put in a segregated area. It would seem that it doesn't really involve a lot of people. I think at best we have had three to six people - maybe it would be a bit more than that - but it would seem that a facility to house around about 12-15 people may be adequate. It wouldn't be the best facility but it may be adequate at the moment. Do you agree with that?

Mr LYNCH - I think you are probably in the ballpark there. There might be a few more people who would fit this category who are already in the system, but they are well out of Ashley's hands though probably still not being well dealt with within the system. I think that is probably around the number. It needs to be a separate facility, something like the remand centre, where there is no other facilities. They need the workshops, they need something they can do to fill in their time, and that is not necessarily being provided in current areas.

Mr DEAN - Do other States have this system in place - and I think they have - and is there a possibility of us working with another State?

Mr LYNCH - That might be a possibility. I know the States are fairly reticent to do that. Even Canberra is busily building their own prison system now, and I think they are going to run into exactly what we have run into - one prison. You have to make it maximum security because you have to cater for that end of things. I think other States do it in a range of different ways, but being bigger and having different facilities allows you to do that. I think there would be a reticence, especially concerning youth, to move them out of the State away from families and support networks.

Mrs JAMIESON - Would you see any advantage to separate remandees before they have been sentenced, in a separate facility away from those who are actually detainees?

Mr LYNCH - I can see an argument there, except for the fact that we end up with so few detainee numbers. I think if it was a big number there wouldn't be an argument for separating these people, but given the numbers I think it is probably something that we can get away with, just managing them as a single group.

Mr MARTIN - Do you have any comment to make about the amount of time that some young people spend on remand?

Mr LYNCH - I am concerned about the amount of time all people spend on remand in this State. I have a view that prison should be a last resort. I think we are doing that very poorly in Tasmania. Regarding the options for keeping people out of prison, we are really not going down that path. There should be a lot more research and investment in that area. Locking somebody up is a very big step; it is also a very expensive step. You look at the amount of money we spend on locking people up and on community corrections; it is just ridiculous. Clearly we are here to lock them away and forget about them rather than dealing with it. Our recidivism rate is absolutely atrocious and is an embarrassment to the State.

Mr DEAN - The electronic form of remanding is probably a possibility. Is that what you are saying?

Mr LYNCH - I think we need to be lateral. There are some great things being done around the world. Weekend detention and those sorts of things can be a very effective for white-collar criminals. There is a group of people we are always going to have to lock up. I think we really should be making a greater effort at getting this next group out of our prison system because it is not good for them and it's very expensive for us.

CHAIR - Do you have a handle on what the average percentage of remandees is at any one time at Ashley?

Mr LYNCH - From the statistics I saw in that latest report, I understand it is the vast majority.

CHAIR - Would you say 70 per cent or something like that who are actually remandees rather than detainees?

Mr LYNCH - Yes, absolutely. The number of detainees were three to five per year, something like that, and you were getting up to 140-150 remandees in a year, so that is the very big issue. When the courts have been making decisions they are not detaining them; it is this area in-between.

Mr WILKINSON - It would seem to me that they are saying, 'We will give you a taste; this is what it is about. If you commit any further offences this is where you will be'. So it is a sentencing tool; they have a taste and hopefully they do not want to go back and taste it again. However, it takes too long.

Mr LYNCH - The system actually kicks in when they actually get to court. That is when and it comes up with some options, whereas I think it is being driven at that first remand end. There are still not enough resources or facilities there, but that is where we should be trying get them to stop them from going in there in the first place.

I will just make a point that one of the pressures on Ashley has come from Child and Family Services and the lack of the staffing, the crisis, that this whole area is in. I know of situations where child protection workers are going to court knowing that a young person should not necessarily end up in Ashley but they are going to go there because

that is the only option available. There is no home - we are not putting this one up in a pub because of his behaviour or whatever - there is no other option. If we had more foster-care options, rostered-care options, rostered homes and so on these children would not be ending up in Ashley. That is something that we need to be able to deal with.

Mr WILKINSON - Which place in Australia does it best?

Mr LYNCH - I really do not know. It is a bit mixed right across the country and I would not like to comment.

Mrs JAMIESON - Have your members commented at all since the implementation of the Safe at Home legislation about what is happening out there generally?

Mr LYNCH - Anecdotally, yes, there are a lot more children being picked up through that system because of the compulsory reporting, particularly police being required to report children witnessing violence. I wonder sometimes whether you have to report children after the news each night there is so much violence around. It is more anecdotal than anything else, but our systems around children in this State are under immense pressure. I fear for a critical breakdown, and I think Ashley is wearing some of that pressure. Some of it is with the youth justice system where, as I say, they are really not able to do their job until the child turns up at court. They are going to be sentenced and judges make orders. I know the judges themselves are very frustrated about how quickly they can get reports and at what options are open to them, so a major review is needed to look into that.

Mr DEAN - Have your members reported any matters to you regarding inappropriate programs occurring within Ashley?

Mr LYNCH - No, nothing I can comment on. No-one has actually raised that with me.

Mr DEAN - Are things happening there that they believe are not in the best interests of rehabilitation and assisting youth?

Mr LYNCH - The only issues raised are the level of resources available to them. There is a great belief that they could do much better in some of the issues we put on the table if there were additional resources. I have not heard criticism of the existing programs although I note some of the comments from colleagues from HACSU that some of them are probably not well founded, but at least they are activities and they are getting people to do something. I observe other parts of the prison system where we are not even getting that.

CHAIR - Have you or any of your members an issue with the private security firm playing a role?

Mr LYNCH - Quite clearly the issue has been raised with us that there is a level of training and teamwork that comes from people all being trained up together and having that same set of skills. I think private security should be the exception to the rule and not part of the normal roster. Even there I would like to see a line drawn. There is no reason why, over a longer period, you can't have a casual work force or part-time workers who can be called in to do additional hours so that everybody is part of that team. That is what we

do in other places. The improvement of the team approach at Ashley has made a big difference, and I think improving that to another level will make an even bigger difference.

CHAIR - Are you aware how they handle the security issues in other jurisdictions? Are there private contractors in other States?

Mr LYNCH - Yes, it is horses for courses. It is a bit of a mixture. Some States routinely use security for a lot of these detention centres, and they may actually see two roles within a facility like Ashley - security and support to the residents.

CHAIR - Are the detention centres in other States under the jurisdiction of Health and Human Services, or are some under Correctional Services?

Mr LYNCH - It is a bit of a mixture there too.

CHAIR - Do you have an opinion?

Mr LYNCH - I think it is a very hard one. If you put them in Justice they become part of the corrections system, and I don't know that we necessarily want them as part of the corrections system. It is a bit like the secure mental health unit. When you take it out there are some inefficiencies there, and there is some real rub between Justice and Health over who goes where. It is the same between Ashley and Justice. If you put them in the justice system and they are just another wing of corrections, then I think we need to be careful. Maybe it would be more logical to be part of Education, and wouldn't Education love that. We need to make an objective statement about what we are trying to do at Ashley, and then the form will follow the function. What do we want to do? This is the way it should be and this is how it should fit into the system.

CHAIR - Tom, would you like to summarise and encapsulate what you have said, please?

Mr LYNCH - Certainly. I would like to call on the Legislative Council committee to support the call that the CPSU has made for an independent inquiry into the operation of the whole Tasmanian correctional system. We believe that now is a really good time for this. I know the Government says they have invested a lot of money. They have done that and I applaud them for doing it but now is the time for us to look at what facilities we have and how we can best make them operate for corrections within Tasmania. I think it needs to also be broad enough to look at the issue of community corrections, what we are doing to keep people out of the prison system as well, and I think it also needs to look at alternative sentencing options. Maybe we don't need to do whatever the rest of the world is doing and just continually build more facilities. Maybe we need to build some smaller purpose-built facilities that will just serve our needs for particular areas. Somebody needs to sit back now and have an overarching view of the whole system. I would call on the support of the committee for that.

Mr WILKINSON - It has been a legal belief for many years that as far as youth justice is concerned the major and uppermost priority is rehabilitation. Do you believe that?

Mr LYNCH - I personally believe that. However, I think there comes a line where if you tried to apply that to everybody in that youth category then you are going to achieve it

for none of them. I think we need to get to the stage where we say it is a two-way street. If you are a young person within that system who wants to be rehabilitated then we will provide you with the best facility we have for that. Ashley is not that today but, alternatively, there has to be somewhere to house the rest.

Mr DEAN - We should have programs in place to make them want to be rehabilitated. If you ask a kid out there who is involved in crime they will say, 'To hell with everything'.

Mr LYNCH - Absolutely. One dilemma I see here is that the tough group at Ashley may aspire to be in some other unit at Risdon because they see themselves already on the path, so the quicker they get down there and start to throw their weight around -

Mr MARTIN - I see that as the biggest argument not to have a Risdon.

Mr LYNCH - That may well be it.

CHAIR - Thank you very much, Tom, for your evidence and we appreciate your interest in the matter.

THE WITNESS WITHDREW.