



LEGISLATIVE COUNCIL OF TASMANIA

SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION B

Adult Imprisonment and Youth Detention

Targeted Inquiry

Final Report

Members of the Committee

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(Deputy Chair)

Hon Rob Valentine MLC
(until 3 May 2024)

Hon Jane Howlett MLC
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Hon Josh Willie MLC
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Committee Resolution

Legislative Council Sessional Government Administration Committee ‘B’ (the Committee) was established by resolution of the Legislative Council (Council) and its operation is governed by Sessional Orders agreed to by the Council.

On 27 October 2022, in accordance with the Legislative Council Sessional Order 5(14), Government Administration Committee ‘B’ resolved to form a committee to conduct an inquiry on the following Terms of Reference:

To inquire into and report upon Tasmanian corrective services and justice system matters related to adult imprisonment and youth detention including:

- 1. Factors influencing increases in Tasmania’s prisoner population and associated costs*
 - 2. The use of evidence-based strategies to reduce contact with the justice system and recidivism*
 - 3. The provision of, and participation in, services for people in prison and leaving prison (health housing and legal services)*
 - 4. Training and support initiatives for corrective service staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism*
 - 5. Innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania, including to future prison/detention centre design, and*
 - 6. Any other incidental matters.*
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Abbreviations and Acronyms

ABI	Acquired Brain Injury
ACSF	Australian Core Skills Framework
ACT	Australian Capital Territory
AIHW	Australian Institute of Health and Wellbeing
AM	Member of the Order of Australia
AO	Officer of the Order of Australia
AOD	Alcohol and Other Drug
APM	Australian Police Medal
ATDC	Alcohol, Tobacco and other Drugs Council
AYDC	Ashley Youth Detention Centre
CBT	Cognitive Behavioural Therapy
CCTV	Closed Circuit Television
CMD	Court Mandated Diversion
CO	Commissioned Officer
COHD	court ordered home detention
COVID-19	Coronavirus Disease 2019
CPHS	Correctional Primary Health Service
CSO	Community Service Orders
DBT	Dialectical Behaviour Therapy
FTE	Full-time Equivalent
FVOIP	Family Violence Offender Intervention Program
GP	General Practitioner
HDEM	Home Detention and Electronic Monitoring
HRP	Hobart Reception Prison
IDDI	Illicit Drug Diversion Initiative
IHEP	Integrated Housing Exit Program
IQ	Intelligence Quotient
LLNED	language, literacy, numeracy, employability and digital skills
LRP	Launceston Reception Prison
MACR	Minimum Age of Criminal Responsibility
MHWP	Mary Hutchinson Women's Prison
MLC	Member of the Legislative Council
MP	Member of Parliament
NAIDOC	National Aborigines' and Islanders' Day Observance Committee
NCO	Non-Commissioned Officer
NDIS	National Disability Insurance Scheme
NIMBY	Not In My Back-Yard
NPM	National Preventative Mechanism
OPCAT	Optional Protocol to the Convention Against Torture
P&R	Planning and Reintegration Team
P2O	Prisoner to Officer
P2P	Prisoner to Prisoner
PIPE	Psychologically Informed Planned Environments
RBP	Ron Barwick Prison
REO	Reintegration for Ex-Offenders program
RIT	Risk Intervention Team
RNR	Risk-Need-Responsivity Model of Offender Rehabilitation
ROGS	Report on Government Services
ROHD	Released order home detention

RPC	Risdon Prison Complex
SA DCS	South Australian Department of Correctional Services
SAC	Sentencing Advisory Council
Salvos	The Salvation Army
SASH	Suicide and Self-Harm
SRC	Southern Remand Centre
TAC	Tasmanian Aboriginal Centre
TAFE	Technical and Further Education
TLA	Tasmanian Legal Aid
ToR	Term(s) of Reference
TPS	Tasmania Prison Service
TSU	Therapeutic Services Unit
VET	vocational education training

Chair's Foreword

On behalf of the Legislative Council Sessional Committee Government Administration B, I am pleased to present the report of the Inquiry into Adult Imprisonment and Youth Detention.

The Inquiry was established, on 27 October 2022, in response to several key developments within Tasmania's justice and correctional system. It followed the Government's announcements of a new Northern Correctional Facility, closure of the Ashley Youth Detention Centre, and introduction of a new model for the youth justice system. Additionally, the Justice Reform Initiative, which had briefed the Legislative Council in August 2021, continued to advocate for a parliamentary inquiry. This effort was driven by their shared commitment to evidence-based justice policy and the opportunity to rethink Tasmania's approach to justice.

There appeared to be general support with the Government's changed direction that how we as a State implement the necessary changes to achieve better outcomes in our justice and corrections system. With the rising numbers of adults in prison and youth in detention, the increasing cost of imprisonment compared to alternative approaches to justice and corrections, and data showing higher recidivism rates and poorer outcomes for prisoners, it was clear that it was time for Tasmania to reassess its current approaches.

The Committee received 67 submissions and held five public hearings - four in Hobart and one in Launceston. The Committee reviewed examples of best practices across Australian jurisdictions and spent two days in South Australia, where they were hosted by the South Australian Department of Correctional Services and conducted several site visits. During the visit, members received briefings from various entities that focused on a comprehensive, whole-of-system approach to rehabilitation and reducing reoffending.

The submissions, hearings and site visits provided an opportunity for a wide range of interested stakeholders - including government representatives, academics, advocacy organisations, regulators, corrections and youth detention officials, in-custody and post-prison service providers, unions, and legal professionals - to present evidence to the Committee. Of note, the Committee also welcomed the submissions of those individuals who shared their or their family members lived experiences.

This report offers 103 findings and 46 recommendations across the main areas of systemic deficiencies and the need for reform; recidivism and ineffective rehabilitation; social and structural factors contributing to incarceration; service provision and post-imprisonment or detention support; and staff training and support. The main findings are summarised in relation to Terms of Reference in the following paragraphs.

Factors influencing increases in Tasmania's prisoner population and associated costs

Factors the Committee noted influencing increases in Tasmania's prisoner population and associated costs included: the adequacy of rehabilitation programs, availability of mental health support, and the absence of staff and/or staff shortages, all of which, contribute to high recidivism rates and increased prisoner numbers. It is also relevant, that limited sentencing options, and therapeutic services or throughcare supports, and the over-representation of disadvantaged individuals may contribute to increasing costs.

The use of evidence-based strategies to reduce contact with the justice system and recidivism
The Committee inquired into evidence-based strategies to reduce recidivism, and contact with prisons, in the Tasmanian justice system. The evidence received pointed to gaps in rehabilitation, trauma-informed support services, as well as the provision of prevention, diversion and early intervention strategies. For example, our disengaged youth require increased investment in coordinated wrap-around services to minimise contact with the youth justice system, and in the absence of strategies including effective wrap-around services, the Committee finds there is a need to identify and invest in targeted programs. In the adult corrections context this could include exploring and considering adopting successful initiatives from the SA Correctional Services including the 20by26 recidivism reduction program.

The provision of, and participation in, services for people in prison and leaving prison (health housing and legal services)

A number of the Committee's findings highlight gaps in the provision of essential services for prisoners and those exiting prison and detention, especially children and young people, including inadequate mental health and addiction treatment. Comprehensive data is required to evaluate the well-being of children and young people in the youth justice system. This data will assist in the implementation of reports into Health Care and Wellbeing. Accordingly, mental health, alcohol and drug services require significant increased funding to support and guide children and young people to recover from these types of dependencies.

Furthermore, given the challenges related to alcohol or drug dependency for those within and exiting the prison system there needs to be increased funding for services and those workers delivering the services.

This also points to a need for a state-wide therapeutic approach and with adequate throughcare, which include stable accommodation, continuity of healthcare (such as medication), and access to legal support post-release. The provision of numeracy and literacy support, as well as speech pathology is also key. The absence of these services impact reintegration and contributes to high recidivism rates.

Training and support initiatives for corrective service staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism

Staffing, absences, recruitment and retention continue to challenge the TPS. The Committee finds a review of the adequacy of the TPS training unit restructure could assist in identifying weak points as rudimentary training, staff shortages, and inadequate mental health and well-being support are ongoing concerns. Increasing opportunities for professional development, resilience training, and mental health support for correctional officers may support better staff well-being as well as maintaining a more effective and stable prison environment.

Innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania, including to future prison/detention centre design

The Committee recommends an updated long-term strategic plan for Corrections be prepared that includes commitment to substantial investment in restorative justice initiatives and programs.

Importantly, without a dedicated bail support programme, children and young people will continue to require detention.

The Committee notes there is an opportunity to further explore matters related to innovation in design of future prisons and detention centres, including in relation to rehabilitation, mental health support, and culturally appropriate services.

Any other incidental matters

The way justice and corrections matters are shared with the community impacts on the message and should always be evidence-based. The Office of the Custodial Inspectorate is required to meet its legislated role and responsibilities and has to be adequately resourced independent from the Department of Justice to comply with its role. Of note, it is important the Government fully implement the recommendations from the Tasmanian Custodial Inspector's reports: this independent oversight function is charged with examining all aspects of the custodial system to report on the welfare of prisons and detainees.

In addition, the model developed for the Tasmanian National Preventative Mechanism must be fully funded to undertake its legislated role.

Employment opportunities for prisoners need to be fully developed, supported and resourced to provide skills and purpose: the SA Corrections model is an excellent example of industry successes.

Final word

The Committee thanks former Members Hon Josh Willie MP and Hon Jane Howlett MP who were elected to the House of Assembly in March 2024 and Hon Rob Valentine MLC, who retired in May 2024. Myself as Chair would like to acknowledge the work of the Hon Rosemary Armitage MLC and Hon Meg Webb MLC in their contribution and endeavour to finalise this report

The Committee extends its sincere thanks and acknowledges the input from the outgoing Committee Secretary Mr Simon Scott and the support of Ms Allison Scott, Assistant Committee Secretary. The Committee also welcomed Mr James Reynolds as the incoming Committee Secretary and thank him for his support in finalising the report.



Hon Tania Rattray MLC
Chair

24 March 2025

Summary of Findings

The Committee made 103 findings – 68 findings for adult imprisonment matters and 35 findings for youth detention matters. With respect to adult imprisonment matters, the Committee found:

Adult Imprisonment	
Area	Finding
Background	<p>F1. Over the past 50 years, many reports have found aspects of the Tasmanian adult imprisonment and youth detention system to be deficient and made recommendations for improvement and reform.</p> <p>F2. A number of the 2011 Palmer Report observations in relation to the management of the Risdon Prison Complex remain unresolved including:</p> <ul style="list-style-type: none"> a. inmate lack of access to rehabilitation/programs/education b. rudimentary training for corrections officers c. lack of support for ex-prisoners upon release, and d. the continuation of regular periods of lockdowns. <p>F3. Since the role commenced in January 2017, the Tasmanian Custodial Inspector has produced a number of reports identifying long-standing issues which continue to impact the Tasmanian adult imprisonment and youth detention system.</p> <p>F4. Tasmanian adult imprisonment statistics over the past decade indicate increasing recidivism, poorer prisoner outcomes, and increasing costs.</p> <p>F5. Tasmanian youth detention data shows recidivism rates are high and the detention-based supervision costs are higher than the national average.</p> <p>F6. Imprisonment is generally more expensive than alternative approaches to justice and corrections.</p>
Factors influencing increases in Tasmania's prisoner population and associated costs	<p>F7. Over the 12-month period to 30 June 2024, the Tasmanian adult prison system had increased by 7 per cent to 801 inmates, with unsentenced prisoner numbers making over 40 per cent of the total adult prisoner population.</p> <p>F8. In 2024, the Tasmanian crude imprisonment rate was 166.58 per 100,000 adult population compared to 202.9, the average for all Australian jurisdictions.</p> <p>F9. Between 2014 to 2024, Tasmania's crude imprisonment rate had increased by 55 per cent compared to the national average of 12 per cent.</p> <p>F10. A complex range of factors contribute to the increase of both imprisonment and recidivism rates in Tasmania, including but not limited to:</p> <ul style="list-style-type: none"> a. changes in nature and reporting in crime b. changes in government criminal justice policy c. increasing use of imprisonment as a sentencing option and average length of sentence d. increasing in unsentenced prisoners e. social disadvantage and inadequate support services

Adult Imprisonment	
Area	Finding
	<p>f. levels of mental ill health and alcohol and drug related issues, and</p> <p>g. structural and systemic racism.</p> <p>F11. There is an impact on a person's family circumstances and/or work-life with a short sentence.</p> <p>F12. Short sentences do not allow for rehabilitation and other programs to be taken up by adult prisoners.</p> <p>F13. Supervising people under community corrections costs significantly less than incarceration.</p> <p>F14. There are other jurisdictions where short sentences have been abolished.</p> <p>F15. Suspended sentencing options can provide an important alternative to incarceration.</p> <p>F16. Data indicates the abolition of short-term imprisonment would significantly reduce prisoner numbers.</p> <p>F17. Most short sentences in Tasmania are given to the offences of fraud and deception, offences against justice, theft, and traffic and vehicle regulatory offences.</p> <p>F18. Short sentences could be replaced with adequately funded alternative forms of sentencing options.</p> <p>F19. Properly resourced and supervised home detention allows prisoners and offenders to live and participate more fully in the community.</p>
The use of Evidence-based Strategies to Reduce Contact with the Justice System and Recidivism	<p>F20. Noting the persistently high adult recidivism rate it is clear that the current rehabilitation programs and supports are inadequate.</p> <p>F21. The provision of more effective social support and positive reintegration initiatives would likely reduce recidivism.</p> <p>F22. People in prison commonly experience other forms of disadvantage including homelessness, alcohol and substance dependency, low literacy levels, significant mental health issues and trauma.</p> <p>F23. South Australia has had success in reducing the adult recidivism rate through its '10by20' and '20by26' programs.</p> <p>F24. There are inadequate dedicated alcohol or drug services for those within and exiting the Tasmanian prison system, including insufficient funding to fully deliver the Gottawanna program.</p> <p>F25. The Apsley Alcohol and Drug Treatment unit introduced in 2015 was an evidence based and well-regarded program, however it appears to have been discontinued.</p> <p>F26. Whilst there is a partnership between Tasmanian Prison Service and TasTAFE, access to programs/courses is limited, including by short sentences, staff shortages, lockdowns and other factors.</p>
The Provision of, and Participation in, Services for People in Prison and Leaving Prison (Health, Housing and Legal Services)	<p>F27. Prisoners experience a higher rate of mental illness compared to the general community.</p> <p>F28. Tasmania remains severely under-resourced and underdeveloped in terms of mental health services within the prison system.</p> <p>F29. Recommendations from 2019 Prisoner Mental Health Care Taskforce Report and the 2017 Custodial Inspector's Care and Wellbeing Inspection Report relating to mental health treatment and support for prisoners, remain unimplemented.</p>

Adult Imprisonment	
Area	Finding
	<p>F30. Delivering effective mental health services within Tasmanian Prison Services is impacted by the funding disconnect between the Departments of Corrections and Health.</p> <p>F31. People with cognitive impairment are over-represented in the Tasmanian criminal justice system.</p> <p>F32. Other jurisdictions provide a more optimal provision of mental and health care to prisoners.</p> <p>F33. There is a correlation between the severity of an individual's communication needs and the severity of their offending behaviour, and unmapped communication needs lead to a greater risk of recidivism.</p> <p>F34. The increased availability and resourcing of trauma-informed and culturally safe legal and support services within prison would assist inmates, including those with adverse childhood experiences.</p> <p>F35. There is inadequate throughcare and post prison services for exiting prisoners due to insufficient resourcing and accessibility of services.</p> <p>F36. Comprehensive case planning on exiting prison is vital to ensure that prisoners can meet parole conditions and reduce recidivism.</p> <p>F37. Exiting prisoners are commonly released with limited supply of prescribed medication. However, difficulty accessing General Practitioners can lead to interrupted treatment.</p> <p>F38. There is insufficient Tasmanian Government funding for post release support programs.</p> <p>F39. Access to public housing for those exiting prison, rather than homelessness services or receiving private rental assistance, reduces recidivism.</p> <p>F40. The Beyond the Wire program is successful in reducing recidivism amongst participants, however it is only funded to support a fraction of those assessed as eligible.</p> <p>F41. An unacceptably high proportion of prisoners eligible for parole remain in prison unnecessarily due to a lack of suitable accommodation options.</p> <p>F42. The SA Bail Accommodation Support Program provides short term accommodation for alleged offenders on bail who lack accommodation as an alternative to being remanded in custody.</p> <p>F43. Aboriginal and Torres Strait Islander persons are over-represented in the Tasmanian adult prison system.</p> <p>F44. There is a lack of culturally appropriate support services for Tasmanian Aboriginal people in prison.</p> <p>F45. Having community representatives from diverse backgrounds, including Tasmanian Aboriginal people, on the parole board may make individuals feel more culturally safe.</p>
Training and support initiatives for corrective service staff related to increasing individual well-being, professionalism,	<p>F46. In 2022 and 2023, there was a concerted effort to increase the recruitment of Correctional Officers in the Tasmanian Prison Service.</p> <p>F47. The Tasmanian Prison Service training unit has undergone a restructure.</p> <p>F48. Ongoing concerns were raised with regards to the adequacy of Tasmanian Prison Service training.</p>

Adult Imprisonment	
Area	Finding
resilience and reduced absenteeism	<p>F49. The Tasmanian Prison Service provides mental health and wellbeing support to Corrections Officers, however there continues to be significant concerns with respect to the adequacy of this support.</p> <p>F50. Workers' compensation continues to be a significant contributor to staff absences in the Tasmanian Prison Service.</p> <p>F51. There is currently no Aboriginal cultural awareness training for Tasmanian Prison Service staff.</p>
Innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania, including to future prison/detention centre design	<p>F52. The current Corrections Strategic Plan does not include reference to restorative justice initiatives and programs.</p> <p>F53. Evidence from international jurisdictions indicates that prison environments based on the principle of normalisation are effective in achieving rehabilitation and reducing recidivism.</p>
Any other incidental matters	<p>F54. There is a view in the community that imprisonment works to rehabilitate, to deter and to protect the community, however this is not supported by research.</p> <p>F55. Political and community leadership is required to better inform the community about more effective alternatives to prison.</p> <p>F56. The Office of the Custodial Inspector is vital in providing a level of oversight on both Tasmanian adult prisons and youth detention facilities against a suite of established standards.</p> <p>F57. The Office of the Custodial Inspector is under-resourced and cannot effectively monitor compliance with its report recommendations.</p> <p>F58. The Custodial Inspector raised concerns of a perceived conflict with the inspectorate located and resourced within the Department of Justice, being the same department responsible for his areas of oversight.</p> <p>F59. There is currently no regular public reporting of the progress against the implementation of the Custodial Inspectorate recommendations.</p> <p>F60. The Government funded a project to scope what would be required to implement Optional Protocol to the Convention Against Torture National Preventative Mechanism.</p> <p>F61. Other Australian jurisdictions (Victoria, Queensland and the ACT) have a human rights charter that needs to be considered in dealing with adult imprisonment and youth detention matters.</p> <p>F62. Transgender and gender diverse inmates are at a higher risk of assault within the prison system.</p> <p>F63. Whilst not compliant with the Standard Guidelines for Prison Facilities in Australia and New Zealand, the Office of the Custodial Inspector noted that overcrowding within cells significantly decreased with the opening of the Southern Remand Centre in 2022.</p> <p>F64. Tasmanian adult prisoner time out of cell (average hours per day) continued to trend downwards over the period 2013-14 to 2023-24.</p>

Adult Imprisonment	
Area	Finding
	<p>F65. There is a negative impact of lockdowns on prisoners accessing prison education programs, section 42 leave permits, and access to visitors.</p> <p>F66. There is a lack of prison employment opportunities for prisoners.</p> <p>F67. Other jurisdictions successfully run a range of prison-based industries.</p> <p>F68. Other jurisdictions provide vocational qualifications to prisoners undertaking prison industry jobs commensurate with the trades undertaken.</p>

With respect to youth detention matters, the Committee found:

Youth Detention	
Area	Finding
Factors influencing increases in Tasmania's youth detention population and associated costs	<p>F69. Children and young people in youth justice detention have generally experienced chronic childhood trauma and disadvantage.</p> <p>F70. Despite youth crime rates falling in Tasmania and across Australia, a large and increasing number of Tasmanian children and young people are involved in the youth justice system.</p> <p>F71. Drug diversion programs and family violence services would assist in reducing intergenerational contact with the criminal justice system.</p>
The use of evidence-based strategies to reduce youth contact with the justice system and recidivism	<p>F72. In Tasmania there are some prevention and early intervention services in place to support disengaged young people.</p> <p>F73. Evidence suggests coordinated wrap-around services (e.g., accommodation, education, health and mental health, and alcohol and drug) support disengaged young people to minimise contact with the youth justice system.</p> <p>F74. Approximately two-thirds of children and young people in detention in Tasmania are unsentenced.</p> <p>F75. It was noted that young people in Tasmania are often refused bail because of accommodation issues that are outside their control.</p> <p>F76. All other jurisdictions have a bail support program for children and young people.</p> <p>F77. Aboriginal children are over-represented in Tasmania's youth justice system.</p> <p>F78. There are limited targeted intervention and diversion programs for Tasmanian Aboriginal children and young people in the youth justice system.</p> <p>F79. As recommended by the Commission of Inquiry¹, the Youth Justice Blueprint 2024-2034 outlines significant work to be done in prevention, early intervention and diversion for Tasmanian Aboriginal children and young people, through programs designed and delivered by Aboriginal community-controlled organisations.</p> <p>F80. Effective throughcare support should be available to assist all young people transitioning into and from detention, and throughcare</p>

¹ [Commission of Inquiry into the Tasmanian Government's Responses to Child Sexual Abuse](#)

Youth Detention	
Area	Finding
	<p>should be incorporated into the development and implementation of a therapeutic, trauma informed model of care for detention.</p> <p>F81. Children and young people entering the State's youth detention facility undergo a Tier 1 assessment by a registered on-site nurse, with access to external speech pathologist services.</p>
The provision of, and participation in, services for youth in detention and leaving detention (health, housing and legal services)	<p>F82. There is a lack of mental health and alcohol and drug services (including inpatient facilities) for Tasmanian children and young people.</p>
Training and support initiatives for youth detention staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism	<p>F83. A number of safety and security interventions are being employed to assist Ashley Youth Detention Centre staff with their duties.</p> <p>F84. As the therapeutic model is implemented in the Ashley Youth Detention centre additional levels of staff training will be required.</p> <p>F85. The Ashley Youth Detention Centre staff face unique challenges in a difficult environment.</p> <p>F86. A number of Ashley Youth Detention Centre staff have been stood down for prolonged periods pending finalisation of investigations.</p> <p>F87. Ashley Youth Detention Centre staff that have been stood down pending investigation had reported a lack of regular communication and support by the Department.</p> <p>F88. Insufficient staffing at Ashley Youth Detention Centre leads to increased lockdowns which is detrimental to detainees and staff.</p>
Innovations and improvements to the management and delivery of youth detention services that may be applied in Tasmania, including to future detention centre design	<p>F89. The Tasmanian Government has committed \$50 million to the development of the new Tasmanian Youth Justice Facility in Pontville.</p> <p>F90. The new detention facility is expected to be smaller than Ashley Youth Detention Centre and more focussed on rehabilitation of young people who have been sentenced.</p>
Any other incidental matters	<p>F91. The legislated advocacy role of the Commissioner for Children and Young People is important in providing a voice to children and young people in detention.</p> <p>F92. For the 18 months to August 2023, the most common advocacy requests to the Commissioner for Children and Young People from Ashley Youth Detention Centre detainees were for the use of restrictive practices and isolation.</p> <p>F93. There is a need for a more comprehensive data set on the well-being for children in the youth justice system.</p> <p>F94. The Office of the Custodial Inspector provides an important monitoring of compliance function for the Ashley Youth Detention Centre.</p>

Youth Detention	
Area	Finding
	<p>F95. The Youth Custodial Reports into Health Care and Wellbeing contain important recommendations for the relevant Department to implement.</p> <p>F96. The Office of the Custodial Inspector notes the use of restrictive practices and lack of out of room hours for detainees remains an issue.</p> <p>F97. Insufficient staff resourcing at Ashley Youth Detention Centre is a main contributor to the continued use of restrictive practices.</p> <p>F98. The OPCAT National Preventive Mechanism will provide better oversight of detention of youth in police watch houses.</p> <p>F99. There are evidence-based arguments for raising the minimum age of criminal responsibility.</p> <p>F100. The Tasmanian Government is committed to raising the minimum age of criminal responsibility to 14 years by July 2029.</p> <p>F101. The Tasmanian Government is committed to raising the minimum age of detention to 16 years by July 2029.</p> <p>F102. Tasmania Legal Aid is the primary provider of criminal law services to adults and young persons.</p> <p>F103. Tasmania Legal Aid is currently receiving inadequate funding to meet the increased demand on its services.</p>

Summary of Recommendations

The Committee made 46 recommendations – 34 recommendations for adult imprisonment matters and 12 recommendations for youth detention matters:

Adult Imprisonment	
Area	Recommendation
Background	R1. Fully implement the Tasmanian Custodial Inspector's reports' recommendations.
Factors influencing increases in Tasmania's prisoner population and associated costs	R2. Request the Sentencing Advisory Council to provide a report to Government on options for phasing out short sentences of incarceration and replacement with community interventions. R3. Expansion of existing sentencing options consistent with the recommendations from the Sentencing Advisory Council of Tasmania.
The use of Evidence-based Strategies to Reduce Contact with the Justice System and Recidivism	R4. Identify and invest in targeted early intervention and diversionary programs in the adult justice system. R5. Review and reform current rehabilitation programs and support in the adult justice and corrections system. R6. Consider adopting successful initiatives from the South Australian Department for Correctional Services '20by26' recidivism reduction program. R7. Expand and increase funding for specialist alcohol or drug services for those within and exiting the prison system. R8. Ensure all prisoners upon entry are fully assessed for literacy, numeracy, digital and employability skills. R9. Ensure all prisoners have access to vocational and education programs according to their identified needs.
The Provision of, and Participation in, Services for People in Prison and Leaving Prison (Health, Housing and Legal Services)	R10. Recommendations from the 2019 Prisoner Mental Health Care Taskforce Report and the 2017 Custodial Inspector's Care and Wellbeing Inspection Report relating to mental health treatment and support for prisoners be acted upon immediately. R11. Fund the mental health services within the prison system to meet the recommendations made by the Professor Ogloff report and the business case approved in 2021. R12. Ensure Tasmanian Prison Service's intake processes uniformly screen for cognitive impairment. R13. Provide evidence-based treatment and therapy programs to meet the needs of adult prisoners with cognitive impairment. R14. Fund and implement throughcare and post prison release services for all exiting prisoners. R15. Significantly increase funding for post release support programs, including at least doubling the funding, capacity and reach of the Beyond the Wire and Prisoner Rapid Rehousing Program to ensure proportional state-wide coverage. R16. Implement a program similar to the SA Bail Accommodation Support Program in Tasmania. R17. Prioritise resourcing of research, strategies and initiatives that are focussed on specific issues contributing to the disproportionate

Adult Imprisonment	
Area	Recommendation
	<p>rate of Tasmanian Aboriginal people coming into contact with the justice system.</p> <p>R18. In partnership with the Tasmanian Aboriginal community, develop and fund a model of culturally appropriate support services for Tasmanian Aboriginal prisoners.</p>
<p>Training and support initiatives for corrective service staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism</p>	<p>R19. Ensure ongoing effective recruitment and retention of correctional staff to fully address persistent understaffing.</p> <p>R20. Review the adequacy of the Tasmanian Prison Service training unit restructure.</p> <p>R21. Improve and expand mental health and wellbeing support to Corrections Officers.</p> <p>R22. Improve training and development of managers and other staff who regularly deal with staff applying for workers compensation.</p> <p>R23. Develop and provide information resources for correctional staff to understand the workers compensation claim and return to work process.</p> <p>R24. Implement welfare checks and referrals to appropriate support services for those accessing workers compensation, where appropriate.</p> <p>R25. Ensure that all staff receive adequate mental health training and know how to identify symptoms of complex psychological conditions, such as post-traumatic stress disorder or depression.</p> <p>R26. Incorporate Aboriginal cultural awareness training for all Tasmanian Prison Service staff.</p>
<p>Innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania, including to future prison/detention centre design</p>	<p>R27. Prepare an updated long-term strategic plan for Corrections that includes commitment to substantial investment in restorative justice initiatives and programs.</p>
<p>Any other incidental matters</p>	<p>R28. Ensure political narratives are evidence-based in relation to justice and correction matters.</p> <p>R29. Resource the Office of the Custodial Inspectorate to the level identified as necessary to meet its legislated role and responsibilities.</p> <p>R30. The Office of the Custodial Inspector and the National Preventative Mechanism be resourced independently from the Department of Justice.</p> <p>R31. Fully fund the model developed for the Tasmanian National Preventative Mechanism to undertake its legislated roles and function.</p> <p>R32. Establish a mechanism for regular public reporting of the progress against the implementation of the Custodial Inspectorate recommendations.</p> <p>R33. Implement LGBTIQ+ awareness and policy training for all Tasmanian Prison Service staff.</p>

Adult Imprisonment	
Area	Recommendation
	R34. Fully develop, support and resource prisoner employment opportunities including prison-based industries and trade qualifications.

Youth Detention	
Area	Recommendation
The use of evidence-based strategies to reduce youth contact with the justice system and recidivism	<p>R35. Increase investment in coordinated wrap-around services to support disengaged young people to minimise contact with the youth justice system.</p> <p>R36. Establish a bail support program for Tasmanian children and young people.</p> <p>R37. Facilitate and fund effective throughcare support to assist all young people transitioning into and from detention.</p> <p>R38. Provide additional speech pathology services to support children and young people at Ashley Youth Detention Centre.</p> <p>R39. Significantly increase the funding for mental health and alcohol and drug services (including inpatient facilities) for Tasmanian children and young people.</p>
Training and support initiatives for youth detention staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism	<p>R40. Provide Ashley Youth Detention Centre staff with a level of training appropriate to implement the therapeutic model.</p> <p>R41. Ensure regular communication with Ashley Youth Detention Centre staff that are absent from the workforce.</p> <p>R42. Increase recruitment to ensure Ashley Youth Detention Centre can be fully staffed and lockdowns minimised.</p>
Any other incidental matters	<p>R43. Develop a more comprehensive data set on the well-being for children in the youth justice system.</p> <p>R44. Prioritise the implementation of the Youth Custodial Reports into Health Care and Wellbeing recommendations.</p> <p>R45. Progress the commitment to raising the minimum age of criminal responsibility to 14 years by July 2029.</p> <p>R46. Ensure Tasmania Legal Aid is adequately funded to provide representation to those within the justice system.</p>

Conduct of Review

On 27 October 2022, the Committee resolved to commence an inquiry process into Tasmanian adult imprisonment and youth detention matters: subsequently, the Committee presented to the Council a Special Report on a Resolution to Commence Inquiry in accordance with Sessional Order 5(14).

On 10 February 2023, the Committee released a media advisory² calling for submissions from the public and advertised in Tasmania's three main daily newspapers on Saturday, 18 February 2023. Submissions were scheduled to close Friday, 31 March 2023 but the Committee resolved to extend the closing date to 21 April 2023 to accommodate further submissions. A total of 67 submissions (inclusive of two confidential submissions) were received and additional correspondence addressing the terms of reference was also included in the Committee's deliberations. Copies of these are available on the Inquiry website.³

On 26 April 2023, the Committee made a site visit of the Risdon Prison Complex (Risdon Maximum Security Prison, Ron Barwick Medium Security Prison, and Mary Hutchinson Women's Prison) and the Wilfred Lopes Centre for Forensic Mental Health. On 10 May 2023, the Committee visited the Launceston Remand Centre and the Ashley Youth Detention Centre.

The Committee resolved to hear evidence from selected witnesses over five days: four in Hobart (Committee Room 2, Parliament House) and one in Launceston (Ground Floor Meeting Room, Henty House).

Tuesday, 20 June 2023 (Hobart)

Submission #42

Mr Anthony Bull

Bethlehem House (Submission #36)

Ms Heather Kent (Chief Executive Officer)

Mr Stephen Shreeve (Executive Manager)

Holyoake Tasmania (Submission #48)

Ms Sarah Charlton (Chief Executive Officer)

The Salvation Army (Submission #53)

Mr Ben Moroney (State Manager, Homelessness and Housing)

Tasmanian Aboriginal Centre (Submission #59)

Ms Sara Maynard (SEWB Coordinator)

Ms Sarah Wilcox-Standing

Forensic Mental Health Service – Tasmania (Submission #46)

Dr Sonny Atherton (Statewide Specialty Director)

² See [Media Advisory 10 February 2023](#)

³ See https://www.parliament.tas.gov.au/committees/legislative-council/sessional-committees/govadminb/inquiries/govadminb_tasmanian20adult20imprisonment20and20youth20detention20matters/submissions/submissions

Wednesday, 21 June 2023 (Hobart)

TasOPCAT Network (Submission #18)

Dr Val Kitchener (Convenor)

Submission #3

Mr Michael Hill

Submission #8

Mr Dean Maddock

Submission #30

Professor Robert White

Community Legal Centres Tasmania and JusTas (Submission #63)⁴

Mr Ben Bartl (Policy Officer – Community Legal Centres Tasmania)

Mr Don McRae (Chief Executive Officer - JusTas)

Tuesday, 4 July 2023 (Launceston)

Tasmanian Legal Aid (Submission #33)

Ms Kristen Wylie (Director)

Ms Kirsten Abercromby (Associate Director Crime)

Submission #23

Mr Ivan Dean AM APM

Tasmanian Aboriginal Legal Service (Submission #66)

Ms Hannah Phillips (Principal Lawyer)

Ms Lea-Anne Carter (Community Engagement and Program Manager)

Thursday, 13 July 2023 (Hobart)

Health and Community Services Union (Submission #40)

Mr Lucas Digney (Assistant State Secretary)

United Workers Union (Submission #67)

Ms Rhiannon Salter (Senior Organiser)

Mr Philip Pregnell JP (Delegate)

Speech Pathology Australia (Submission #19)

Ms Mary Woodward (Senior Adviser Justice)

Submission #26

Ms Rosie Martin (Speech Pathologist and Criminologist)

Institute of Public Affairs⁵

Mr Daniel Wild (Deputy Executive Director)

Ms Mia Schlicht (Research Analyst)

⁴ Combined submission with JusTas

⁵ Submission accepted as correspondence by the Committee

Attorney-General (Submission #28)

Hon Elise Archer MP

Attorney-General

Minister for Corrections and Rehabilitation

Departmental Representatives

Ms Ginna Webster (Secretary, Department of Justice)

Mr Rod Wise (Deputy Secretary, Corrective Services)

Mr Ian Thomas (Director of Prisons)

Mr Colin Shepherd (Acting Director, Strategic Infrastructure Projects)

Tasmanian Government (Submission #27)

Hon Roger Jaensch MP

Minister for Education, Children and Youth

Departmental Representative

Ms Jenny Burgess (Acting Secretary, Department for Education Children and Youth)

Thursday, 13 August 2023 (Hobart)

Office of the Custodial Inspector (Submission # 10)

Mr Richard Connock (Custodial Inspector)

Prisoners Legal Service Tasmania (Submission # 17)

Mr Greg Barns (Chair)

Australian Lawyers Alliance (Submission # 65)

Ms Rowena MacDonald (Tasmanian President)

Justice Reform Initiative (Submission # 44)

Mr Robert Tickner AO (Chair)

Dr Mindy Sotiri (Executive Director)

Mr Patrick Burton (Campaign Coordinator)

TasCOSS (Submission # 58)

Ms Adrienne Picone (Chief Executive Officer)

Ms Meg Tait (Policy Officer)

Office of the Commissioner for Children and Young People (Submission # 43)

Ms Leanne McLean (Commissioner for Children and Young People)

Ms Isabelle Crompton (Director)

Submission # 41

Mr Brett Smith APM

On 13 July 2023, the Committee visited the Hobart Reception Centre.

Between 4 and 5 October 2023, Members of the Committee travelled to Adelaide, South Australia hosted by the South Australian Department of Correctional Services (SA DCS). Noting South Australia had made commendable inroads into both setting, reaching and maintaining reduced adult prisoner recidivism targets as part of its '10by20'

initiative⁶ and continuing through with the ‘20by26’ program,⁷ the Committee were interested in exploring the following initiatives with SA DCS:

- expanded and enhanced community-based sentencing options for Electronic Monitoring and Intensive Support Services for people on Home Detention
- multi-disciplinary teams delivering best practice services across custody and community
- support for the Women’s Action Plan
- linking people to a job before release from custody, and providing intensive community support for 12 months post-release to maintain employment
- delivery of improved offence-focussed rehabilitation programs
- the introduction of the Partnership Framework 2021-2025, and
- a range of programs under the umbrella of ‘Closing the Gap’ supporting South Australian Aboriginal people connected to correctional management.

With the prorogation of Parliament and dissolution of the House of Assembly on 14 February 2024, in accordance with long standing practice and convention, Committee activity ceased.

Upon re-establishment of the full Committee on 18 June 2024, the Committee resolved that the Inquiry be re-established with a sub-committee of the remaining original members: Ms Rattray, Ms Armitage and Ms Webb and that the sub-committee be authorised to receive all evidence and papers received by the then Committee on this matter in the previous Tasmanian Parliaments. A Special Report to this effect was tabled in the Legislative Council on 19 June 2024.⁸

⁶ See ‘10by20 – Reducing reoffending’, SA Department for Correctional Services, <https://www.corrections.sa.gov.au/about/our-research/10-by-20-reducing-reoffending>

⁷ See ‘20by26 – Reducing Reoffending 20 per cent by 2026’, SA Department for Correctional Services, https://www.corrections.sa.gov.au/_data/assets/pdf_file/0009/878904/20by26-Brochure.pdf

⁸ See Special Report - Re-establishment of Sub-Committee into the Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters, https://www.parliament.tas.gov.au/_data/assets/pdf_file/0032/82949/GAB-Legislative-Council-Sessional-Committee-Special-Report-Adult-Imprisonment-and-Youth-Detention-Matters-19-June-2024-FINAL.pdf

Background

On 20 July 1910, as Home Secretary, Sir Winston Churchill gave this speech to the House of Commons:

We must not forget that when every material improvement has been effected in prisons, when the temperature has been rightly adjusted, when the proper food to maintain health has been given, when the doctors, chaplains and prison visitors have come and gone, the convict stands deprived of everything that a free man calls life. We must not forget that all these improvements, which are sometimes salves to our consciences, do not change that position.

The mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country. A calm and dispassionate recognition of the rights of the accused against the state, and even of convicted criminals against the state, a constant heart-searching by all charged with the duty of punishment, a desire and eagerness to rehabilitate in the world of industry all those who have paid their dues in the hard coinage of punishment, tireless efforts towards the discovery of curative and regenerating processes, and an unfaltering faith that there is a treasure, if you can only find it, in the heart of every man. These are the symbols which in the treatment of crime and criminals mark and measure the stored-up strength of a nation, and are the sign and proof of the living virtue in it.

More concisely, Nelson Mandela is quoted as stating:

*It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.*⁹

The Committee notes under the *Corrections Act 1997*, section 4 states the powers conferred by that Act are to be exercised with proper regard to the following principles:

- the community is entitled to an appropriate level of protection from illegal behaviour by people subject to this Act
- people who are subject to this Act retain their normal rights and responsibilities as citizens, except as these are limited in accordance with law
- services and procedures should be fair, equitable and have due regard to personal dignity and individuality, as far as is consistent with the need for appropriate levels of security and control
- individuals are capable of change, and
- people subject to this Act continue to be members of the community and should be assisted to become socially responsible. Whilst their liberty is restricted to various degrees, demonstrated social responsibility should lead to less intrusive control and intervention.¹⁰

⁹ The Nelson Mandela Rules, United Nations Office on Drugs and Crime, https://www.unodc.org/documents/nigeria/Nelson_Mandela_Rules.pdf

¹⁰ See section 4, *Corrections Act 1997*, <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-051#GS4@EN> [Accessed 4 September 2023]

At the time of this Report, the Committee notes there are five Tasmanian adult correctional facilities:¹¹

Prison	Commentary
Risdon Prison Complex (RPC)	<ul style="list-style-type: none"> Opened in 2006 and comprising distinct maximum and medium-security precincts and the new Southern Remand Centre (SRC). It can hold around 455 male inmates, with up to 103 in maximum units, 196 in medium units, and a capacity of 156 in the SRC.
Mary Hutchinson Women's Prison	<ul style="list-style-type: none"> The only custodial facility exclusively for women, it can hold 63 inmates. It was opened in 2006 but utilises some of the infrastructure of the earlier Risdon Women's Prison which opened in 1963. It includes the Vanessa Goodwin units which are minimum-security self-contained units within the facility's secure perimeter and the Mother and Baby Unit.
Ron Barwick Prison (RBP)	<ul style="list-style-type: none"> Capable of holding 299 male largely minimum-security inmates, the RBP utilises the infrastructure of the original maximum-security Risdon Prison, built in 1960, with a more relaxed regime. The facility, which first operated in 2007, includes the pre-release O'Hara Independent Living Units, commissioned in 2013, which can accommodate 32 men in low security conditions outside the walls of the main facility.
Hobart Reception Prison	<ul style="list-style-type: none"> A five-level reception prison, opened in 1999, adjacent to the Hobart Magistrates Court and catering for newly received male and female inmates. It can accommodate 36 and has another 10 separate watch-house cells that are managed on behalf of Tasmania Police.
Launceston Reception Centre	<ul style="list-style-type: none"> Opened in 1977, the Launceston Reception Centre has a capacity of 26 and a separate 6-bed watch-house. Like the Hobart Reception Centre, it can accommodate male and female inmates and is connected to the adjacent Magistrates Court. The LRC is set to close once the new Northern Correctional Facility is built in the State's north and becomes operational.¹²

The Committee noted that as at 2 September 2024, 'the Government will not proceed with the previously planned new Northern Correctional Facility and will instead prioritise the modernisation of existing facilities, expanding rehabilitation and reintegration programs, and updating operational systems to better serve the community'.¹³

¹¹ See Tasmanian Government submission (#27), p.5

¹² This is now not the case: see Media Release 'Corrections focus to improve community safety', Hon Madeleine Ogilvie MP (Minister for Corrections and Rehabilitation) (2 September 2024), <https://www.premier.tas.gov.au/latest-news/2024/august/corrections-focus-to-improve-community-safety>. [Accessed 29 October 2024]

¹³ See Media Release 'Corrections focus to improve community safety', Hon Madeleine Ogilvie MP (Minister for Corrections and Rehabilitation) (2 September 2024), <https://www.premier.tas.gov.au/latest-news/2024/august/corrections-focus-to-improve-community-safety>. [Accessed 29 October 2024]

Past Scrutiny of Tasmanian Adult Imprisonment and Youth Detention

Over the past 50 years, parliamentary inquiries, Tasmanian ministerial reviews, Auditor-General performance audits and Custodial Inspector reports have found aspects of the Tasmanian adult imprisonment and youth detention system wanting.

The Committee noted on 25 June 1976, the Neilson Labor Government commissioned South Australian Acting Judge Roy Grubb to conduct the *Prisons Administration Inquiry 1977*, the outcome of which became known as *The Grubb Report*.¹⁴ The inquiry was commissioned to inquire into the administration of prisons in Tasmania and what actions could be taken to improve conditions for prison officers and prisoners. The decision to commission the inquiry was precipitated by allegations of rape in the maximum-security prison, as well as disturbances, media panic, pressure from the opposition and a public debate about the management of prisons.¹⁵ Judge Grubb interviewed 200 inmates, as well as taking oral and written statements from prison management, representatives of the Tasmanian Prison Officers Association, and some prison officers.¹⁶

In the Grubb Report, Judge Grubb noted amongst other findings the then Risdon Prison design and siting was disastrous, the Launceston Gaol being unsuitable, antiquated and wholly inadequate,¹⁷ and regarded by him as the greatest scandal which emerged during the course of his Inquiry:

*Frankly, I was appalled, during the first week of the Inquiry and then again in August to sit face to face with a sixteen year old boy, committed to the maximum security of the Risdon Prison for a period of twelve months. Later, I talked to two seventeen year olds in the same Prison. In my view, this is a monstrous situation. Immediate steps must be taken to prevent boys of this age being committed to Risdon Prison. Quite apart from what it does to them and quite apart from whatever debt they may owe to society, it creates the most impossibly difficult situation for the Controller, the Governor and all the Prison Officers. It must not be tolerated.*¹⁸

Judge Grubb supported the Kilderry Prison Farm (Hayes) as an excellent facility but highlighted some issues with it being an institution under the *Public Institutions Act 1935*¹⁹ and it was pointless for dealing with people convicted of the offence of public drunkenness (and this should be dealt with through established detoxification centres or similar).

Prison Officers' absenteeism was a topic of concern for the Parliamentary Standing Committee of Public Accounts on three successive occasions:

- the Committee of the 1983 report was informed that there was 'an average of 6.6 officers on sick leave every day of the year'²⁰

¹⁴ Prisons Administration Inquiry (No.5 of 1977), Parliament of Tasmania

¹⁵ See A 'Pink Palace'? *Risdon Prison, 1960 – 2004*, Evans, C., Department of Justice (2004), p.45

¹⁶ See A 'Pink Palace'? *Risdon Prison, 1960 – 2004*, Evans, C., Department of Justice (2004), p.57

¹⁷ See Prisons Administration Inquiry (No.5 of 1977), Parliament of Tasmania, p.4-5

¹⁸ See Prisons Administration Inquiry (No.5 of 1977), Parliament of Tasmania, p.10

¹⁹ By doing so allowed magistrates to commit persons directly to that institution without reference to any Prison Authority and amongst other considerations no medical or other treatment being offered to the new inmate, Prisons Administration Inquiry (No.5 of 1977), Parliament of Tasmania, p.16

²⁰ See Tasmanian [Parliamentary Standing Committee of Public Accounts Report No. 46 of 1983 – Prison Officers Absenteeism](#), p.3

- a new system of administering sick leave came into effect in 1986 had made some inroads in reducing the abuse of the then current sick leave regulations,²¹ and
- increasing staffing levels appeared to reduce the previous average sick leave of prison officers from 15 days to 7.4 days in 1989-90.²²

In 1999, the Legislative Council Select Committee tabled the *Correctional Services and Sentencing in Tasmania Report*. Again, that Committee reported the ‘overall conditions at the Maximum Security Prison at Risdon are worse than in any other prison visited by members of the Select Committee in Victoria, the ACT, New South Wales, Queensland and South Australia’ and noted ‘the only institution in our society with which this facility could be closely compared is a zoo’. That Committee noted:

The majority of prisoners are kept at the Risdon Maximum Security Prison. As conditions in most parts of the prison range from inferior to appalling, there is a compelling need either to upgrade or replace them.

*The grossly inadequate facilities impose unnecessary strains on staff and prisoners alike. Unless replaced it is likely that tensions will erupt into a continuation of the damaging incidents at the Prison which have recurred with troubling regularity in recent months.*²³

Amongst other recommendations, that Committee recommended the ‘Hayes Prison Farm be closed and disposed of’ and ‘that two new prisons should be constructed: one should be in Southern Tasmania and the other in the north at a location which makes it reasonably accessible to relatives of prisoners from the North and North West Coast centres.’²⁴ Of the Launceston Remand Centre, the Committee stated this was a ‘horrendously bad building’, and along with the Burnie Police Cells, should be re-developed and substantially upgraded. Neither could be considered to be suitable or adequate for the purposes for which they were currently used.²⁵

In December 2002, the Tasmanian Auditor-General completed a performance audit relating to the Community Corrections Service’s management of Community Service Orders (CSOs).²⁶ The Auditor-General made 18 recommendations with 8 of these focused at improving the management and implementation of individual CSOs.²⁷ This was followed by the Tasmanian Audit Office in 2007 who reported most recommendations had been completed or progressed.²⁸

In 2007, the Auditor-General examined the economy, effectiveness and risk assessment inherent in the creation of the 2001 business case for the development of the then new prisons

²¹ See Tasmanian [Parliamentary Standing Committee of Public Accounts Report No.16 of 1987 – Prison Officers Absenteeism](#)

²² See Tasmanian [Parliamentary Standing Committee of Public Accounts Report No.24 of 1990 – ... Prison Officers Absenteeism ...](#), p.5-8

²³ Legislative Council Select Committee, *Correctional Services and Sentencing in Tasmania*, https://www.parliament.tas.gov.au/data/assets/pdf_file/0023/66623/correct.pdf, p.5.

²⁴ Legislative Council Select Committee, *Correctional Services and Sentencing in Tasmania*, p.6

²⁵ Legislative Council Select Committee, *Correctional Services and Sentencing in Tasmania*, p.36

²⁶ A non-custodial sentencing options available to courts that require offenders to perform unpaid work or other activity in the community under the direction of a probation officer or supervisor.

²⁷ Auditor-General Special Report No.44, *Managing Community Service Orders* (December 2002),

<https://www.audit.tas.gov.au/publication/managing-community-service-orders/>

²⁸ Auditor-General Special Report No. 66, *Follow-up Audits* (June 2007), <https://www.audit.tas.gov.au/publication/follow-up-audits/>, p.48-56

constructed at Risdon (completed 2006). The recommendations out of this Report were primarily geared at assisting future Governments to properly evaluate capital projects.²⁹

On 12 October 2010, the Hon Nick McKim MP (Minister for Corrections and Consumer Protection), delivered a Ministerial Statement to the Tasmanian House of Assembly in which he announced an independent Inquiry would be undertaken into security issues at the Risdon Prison Complex. An ex-Commissioner of the Australian Federal Police and barrister, Mick Palmer AO APM was appointed to undertake the Inquiry and made 70 findings and 39 recommendations. The Report's interview observations contained in Annex 4 of the report included themes that are topical now as they were over a decade ago, some of which are highlighted as follows:

- the lack of rehabilitation/programs/education was the major issue which goes to the core of many problems within the prison system including management, case management and health issues
- training for prison officers was rudimentary
- education was often interrupted due to staffing issues
- many prisoners spoke of their despair upon release due to lack of money, lack of accommodation, no understanding of Centrelink obligations, no trade and no opportunity of employment, and
- prisoners in Risdon Prison spoke of frustration with extended periods of lockdowns and the irregularity of morning unlock, lunch time unlock with the times varying from day to day.³⁰

The report also found 'any closure of the Hayes Prison Farm will reduce the placement options for prisoners and this is a continuing difficulty for the (Tasmanian Prison Service) TPS'.³¹

The latest Auditor-General Report tabled in November 2019 found the TPS use of resources was problematic:

Our conclusion is TPS has not been running an efficient service and this has possibly had an adverse effect on CO³² and NCO³³ well-being. TPS does not have a strong approach to modelling of future inmate numbers and associated staffing to ensure it has sufficient resources to run its prisons safely and securely. The reasons for this conclusion are relatively complex and longstanding. The modelling used for predicting inmate numbers has relied on a backward view and has not been predictive enough. This has led to TPS struggling to cope with changes in Tasmanian Government (Government) policy and sentencing, which significantly increased the numbers of inmates from 2013-14 to

²⁹ Auditor-General Special Report No.68, Risdon Prison: Business Case (June 2007), <https://www.audit.tas.gov.au/publication/risdon-prison-business-case/>, p.2

³⁰ Risdon Prison Complex Inquiry, Mick Palmer AO APM, Department of Justice (Corrective Services), https://www.justice.tas.gov.au/_data/assets/pdf_file/0005/250097/Final_Version_Risdon_Prison_Complex_Inquiry.pdf, p.150-70

³¹ Risdon Prison Complex Inquiry, Mick Palmer AO APM, Department of Justice (Corrective Services), p.27

³² Commissioned officer

³³ Non-commissioned officer

2017-18. In short, TPS did not have enough COs to effectively and efficiently run the prison service.³⁴

Featured later in this Report, since the enactment of the *Custodial Inspector Act 2016*, the Custodial Inspector's primary focus is 'on systemic issues relating to the management, control and security of the State's prisons and youth detention centre and the care and welfare of prisoners and detainees'.³⁵ Across a number of that Office's reports, consistent themes continue to dominate the adult imprisonment and youth detention arena:

- staff shortages heavily impact out of cell hours and cause lockdowns mostly in the Risdon Prison Complex³⁶
- TPS is over-stretched at almost every point due to the continual increase in prisoner numbers and existing infrastructure constraints: this creates system pressures in many areas including education and programs, employment for prisoners and preparation for their release³⁷
- single or double cells that have been converted to multiple occupancy cells considerably reduce the accommodation and living standards for prisoners in terms of privacy, mobility, mental health and storage/security of private possessions³⁸
- as raised in the 2017 Care and Wellbeing Inspection report, prisoners' access to dental care was a continuing issue³⁹
- as at the end of 30 June 2022 (as highlighted in the 2018 Rehabilitation and Reintegration inspection report) the prisoner pay scale had not been reviewed for over 11 years⁴⁰
- as at the end of 30 June 2022, ongoing concerns included:
 - TPS continued to deal with increasing prisoner numbers which creates a high demand for prisoner services and prisoner health care
 - ageing infrastructure at Ron Barwick Prison and Launceston Reception Prison in particular
 - the lack of drug and alcohol treatment programs across the prison service
 - insufficient and inadequate assistance being provided to prisoners pre and post release
 - very few applications for section 42 leave (under the *Corrections Act 1997*) for rehabilitation and reintegration purposes being approved, and
 - generally, prisoner requests to attend funerals for significant family members or relationships continued to be refused with an over-reliance on external service providers to facilitate funeral attendance by means of video facilities rather than escorting prisoners to funerals.⁴¹

³⁴ Report of the Auditor-General No.3 of 2019-20, Tasmanian Prison Service; Use of Resources (November 2019), <https://www.audit.tas.gov.au/publication/tasmania-prison-service/>, p.3

³⁵ See *About Us*, Office of the Custodial Inspector Tasmania, https://www.custodialinspector.tas.gov.au/about_us

³⁶ Lockdowns Review 2021, Office of the Custodial Inspector Tasmania, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0009/615852/Lockdowns-Review-2021.pdf, p.9

³⁷ Rehabilitation and Reintegration Inspection Report - Adult Custodial Services 2018, Office of the Custodial Inspector Tasmania, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0017/583100/Rehabilitation-and-Reintegration-Inspection-Report-2018-Adult-Custodial-Services-in-Tasmania.pdf, p.3

³⁸ Capacity Utilisation Review 2021, Office of the Custodial Inspector 2021, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0010/640387/Capacity-Utilisation-Review-2021.pdf, p.14-15

³⁹ Custodial Inspector Annual Report 2022, Office of the Custodial Inspector, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0004/682096/2021-22-Custodial-Inspector-Annual-Report.PDF, p.20

⁴⁰ Custodial Inspector Annual Report 2022, Office of the Custodial Inspector, p.20

⁴¹ Custodial Inspector Annual Report 2022, Office of the Custodial Inspector, p.21

- the Ashley Youth Detention Centre (AYDC) had an excessive number of workers compensation claims and at the time of the August 2019 inspection, there were 12 active claims for a headcount of approximately 63 employees⁴²
- the move to a therapeutic model at AYDC required additional resources which was posing a staff resource issue.^{43 44}

The Committee noted that with respect to the Custodial Inspector's Adult Wellbeing Inspection Report 2024,⁴⁵ Mr Richard Connock was satisfied that the Department of Justice had commenced implementing a number of recommendations that came out of that report including (but not limited to):

- introduction of pay increases for people in custody (10 per cent) and a reduction in canteen prices (6 per cent)
- better engagement of the Tasmanian Aboriginal Legal Service, and
- an increase in clothing provided upon reception.

In that Report, the Custodial Inspector highlighted a number of ongoing issues:

- the lack of cultural support for Aboriginal people in custody
- the ongoing safety of LGBTQIA+ inmates
- poor quality footwear issued to inmates, and
- ongoing problems with prison laundry.⁴⁶

At the time of this Report, the Committee noted the Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings heard confronting evidence during its hearings from 18 to 26 August 2022 in relation to AYDC.^{47 48} The Commission's final report was submitted to the Governor of Tasmania on 31 August 2023.⁴⁹

⁴² Resources and Systems Inspection Report - Inspection of Youth Custodial Services in Tasmania 2019, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0008/603845/Inspection-of-Youth-Custodial-Services-in-Resources-and-Systems-Inspection-Report.pdf, p.3

⁴³ Resources and Systems Inspection Report - Inspection of Youth Custodial Services in Tasmania 2019, p.3

⁴⁴ Recent reports from the Custodial Inspector not fully considered by the Committee due to time constraints include: Adult Health Care Inspection Report 2023, Youth Health Care Inspection Report 2023, Youth Wellbeing Inspection Report 2023, and Inhuman Treatment in Dry Cells – Review Report 2024 – see https://www.custodialinspector.tas.gov.au/inspection_reports

⁴⁵ See Adult Wellbeing Inspection Report 2024, Office of the Custodial Inspector Tasmania, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0010/793990/Adult-Wellbeing-Inspection-Report-2024.pdf

⁴⁶ See Office of the Custodial Inspector Media release – Improvements in prison service welcomed – 23 December 2024, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0004/794002/Adult-Wellbeing-Report-2024-23-December-2024.pdf

⁴⁷ See Commission of Inquiry Media release – Ashley Youth Detention Centre hearings – 17 August 2022, https://www.commissionofinquiry.tas.gov.au/_data/assets/pdf_file/0009/673551/Commission-of-Inquiry-Media-Release-Ashley-Youth-Detention-Centre-hearings-17-August-2022.pdf

⁴⁸ See <https://www.commissionofinquiry.tas.gov.au/Document-Library/Hearings-transcripts>

⁴⁹ See Commission of Inquiry into the Tasmanian Government's Response to Child Sexual Abuse in Institutional Settings Full Report, https://www.commissionofinquiry.tas.gov.au/_data/assets/file/0011/724439/COI_Full-Report.pdf

Comparative Statistics

Adult Imprisonment Data

Based on the Commonwealth Report on Government Services 2025 – Justice,⁵⁰ the Committee noted Tasmania had mixed results against a range of indicators in the justice and corrective services space:

- Tasmania was above the national average for the percentage of adult offenders released from prison who returned to corrective services within two years of release and this trend had increased from 2014-15 to 2023-24 period:
 - from 39.9 per cent to 51.3 per cent of adults released from prison who returned to prison with a new sentence within two years (Fig. 4), and
 - from 50.0 per cent to 60.2 per cent of adults released from prison who returned to corrective services with a new correctional sanction within two years (Fig. 5).
- The total crude imprisonment rate per 100,000 adults had increased from 116.7 in 2014-15 to 166.58 in 2023-24 (Fig. 6).
- Noting Tasmania had a relatively small Aboriginal population, the age standardised imprisonment rate per 100,000 adults was 4.5 times greater than for the non-indigenous population (720.4 versus 161.2, 2023-24).
- The total crude community corrections orders rate per 100,000 adults had decreased from 494.5 in 2014-15 to 417.9 in 2023-24 (Fig. 7).
- Nationally in 2023-24, 25.70 per cent of eligible prisoners participated in accredited education and training courses, a slight increase from the previous lowest point over the past decade. Tasmania improved trend with an increase from 16.9 per cent (2014-15) to 21.7 per cent (2023-24) (Fig. 8).
- Tasmania had improved from being the lowest prisoner employment rate in Australia (60.7 per cent, 2021-22) to 69.0 per cent (2023-24) compared to the national average of 79.1 per cent (2023-24) (Fig. 10).
- The average time out of cells in secure environments was the lowest in Australia, with Tasmania recording 7.5 hours per prisoner per day against the national average of 9.0 hours per prisoner per day (2023-24) and this had been decreasing over the past 10 years (Fig. 11).
- In 2023-24, for orders discharged over the financial year the proportion of imposed hours unpaid community work acquitted remained steady at 78.4 per cent (Fig. 12).
- Prison design capacity utilisation for Tasmania increased from 78.4 per cent to 85.5 per cent across all prisons (open and secure) for the ten-year period 2014-15 to 2023-24, peaking at 95.1 per cent in the 2017-18 period (Fig. 13):
 - in 2023-24, the prison design capacity utilisation was 71.3 per cent for open prisons and 86.1 per cent for secure prisons.
- The rate of prisoner assaults (against another prisoner or member of staff) per 100 prisoners varied over the ten-year period 2014-15 to 2023-24:
 - prisoner on prisoner serious assault decreased from 2.14 to 1.43
 - prisoner on prisoner assault increased from 8.55 to 18.77
 - prisoner on officer serious assault remained relatively low at 0.13, and
 - prisoner on officer assault increased from 1.71 to 2.61 (Fig. 14).

⁵⁰ Report on Government Services 2025 – Justice (Part C), Productivity Commission on behalf of the Steering Committee for the Review of Government Services Provision <https://www.pc.gov.au/ongoing/report-on-government-services/2025/justice>

- Nationally in 2023-24, recurrent expenditure (in 2023-24 dollars) comprising net operating expenditure and capital costs was \$435.83 per prisoner per day (\$441.96 in 2022-23); Tasmania was \$599.36 (\$650.05 in 2022-23) (Fig. 15)
- Nationally in 2023-24, excluding capital costs, the real net operating expenditure was \$319 per prisoner per day. This represents a 20.0 per cent increase in real net expenditure per prisoner per day since 2014-15 (\$265). In 2023-24, the same expenditure for Tasmania was \$472 per prisoner per day: an increase of 17.0 per cent over the same period (\$403, 2014-15) (Fig 16).⁵¹
- The completion of Tasmanian community corrections orders decreased over the period 2014-15 to 2023-24 from 87.6 per cent to 70.8 per cent and no longer higher than the national average (72.9 per cent to 76.9 per cent, 2014-15 to 2023-24) (Fig. 17).

Appendix A contains relevant extracts from the Report on Government Services 2025 – Justice Report in chart form for Tasmania and national averages, where applicable.

Youth Detention Data

The Committee noted in relation to the Tasmanian data, it was consistently subject to small numbers of young people⁵² in detention, and thus emphasised that trend information should be interpreted with caution. Based on the Commonwealth Report on Government Services 2025 – Youth Justice Services,⁵³ the Committee noted the Tasmanian experience as measured against a range of indicators in the youth justice space between 2014-15 and 2023-24:

- The average daily number of young people (aged 10-17 years) who were supervised in the community and in AYDC fluctuated between 65 and 121 over the period (average 92 young people), and peaked during the 2017-18 to 2019-20 period (Fig. 21).
- The number of permanently funded beds in AYDC remained at 24 with the Centre utilisation rate⁵⁴ fluctuating between one third to two thirds capacity (average 48.2 per cent) (Fig. 22).
- Whilst the detention rate of Indigenous young people (per 10,000) was consistently higher than their non-Indigenous cohort, the actual average daily number was consistently lower throughout the period (average of 3 young Indigenous persons to over 7 non-Indigenous young persons) (Fig. 23).
- Similarly, over the period the average daily number of young people subject to community-based supervision was 25 young Indigenous persons to 55 non-Indigenous young persons (Fig. 24).
- Based on the rate per 10,000 young people of their particular age cohort, the rates of young people either in community supervision or at AYDC in 2023-24 were as follows:⁵⁵

⁵⁶

⁵¹ All costs in 2023-24 dollars

⁵² Defined as being aged between 10 and 17 years old

⁵³ Report on Government Services 2025 – Youth Justice Services (Part F Section 17), Productivity Commission on behalf of the Steering Committee for the Review of Government Services Provision, <https://www.pc.gov.au/ongoing/report-on-government-services/2025/community-services/youth-justice>

⁵⁴ Based on the total average nightly population

⁵⁵ From 2021-22, Tasmania formalised a small-number suppression policy which was adopted in 2019-20. As Tasmanian data are subject to small numbers of young people in detention, trend information should be interpreted with caution.

⁵⁶ Rates are calculated from the number of young people on an average day and estimated resident population at 31 December.

	Community Based Supervision		Detention	
	Tasmania	Australia	Tasmania	Australia
10–13 years old	5.0	3.6	1.9	4
14–17 years old	46	47.6	58.7	46

- The real recurrent expenditure on youth justice services increased from \$21.7M to \$34.7M per annum (inclusive of detention-based, community-based and group conferencing services).⁵⁷ The ratio was nearly two-thirds/one third split between detention-based and community-based with less than half a per cent going towards group conferencing in 2023-24) (Fig 25).
- The cost per young person subject to community-based supervision had increased considerably over the period but below the national average: in 2023-24, the cost per average day per young person in Tasmania was \$221.74 versus the national average of \$380.63 (Fig. 26).
- The cost per young person subject to detention-based supervision has increased over the period and well over the national average: in 2023-24, the cost per average day per young person in Tasmania was \$4,346 versus the national average of \$3,320 (Fig. 27).
- Noting the small numbers, the number of young people released from sentenced supervision who returned to sentenced supervision within 12 months over the period has been 50.0 per cent, less than the national average of 56.8 per cent (Fig. 28).

[Appendix B](#) contains relevant extracts from the Report on Government Services 2025 – Youth Justice Services Report in chart form for Tasmania and national average, where applicable.

⁵⁷ In 2023-24 dollars

Committee Findings

- F1. Over the past 50 years, many reports have found aspects of the Tasmanian adult imprisonment and youth detention system to be deficient and made recommendations for improvement and reform.
- F2. A number of the 2011 Palmer Report observations in relation to the management of the Risdon Prison Complex remain unresolved including:
 - a. inmate lack of access to rehabilitation/programs/education
 - b. rudimentary training for corrections officers
 - c. lack of support for ex-prisoners upon release, and
 - d. the continuation of regular periods of lockdowns.
- F3. Since the role commenced in January 2017, the Tasmanian Custodial Inspector has produced a number of reports identifying long-standing issues which continue to impact the Tasmanian adult imprisonment and youth detention system.
- F4. Tasmanian adult imprisonment statistics over the past decade indicate increasing recidivism, poorer prisoner outcomes, and increasing costs.
- F5. Tasmanian youth detention data shows recidivism rates are high and the detention-based supervision costs are higher than the national average.
- F6. Imprisonment is generally more expensive than alternative approaches to justice and corrections.

Committee Recommendations

- R1. Fully implement the Tasmanian Custodial Inspector's reports' recommendations.

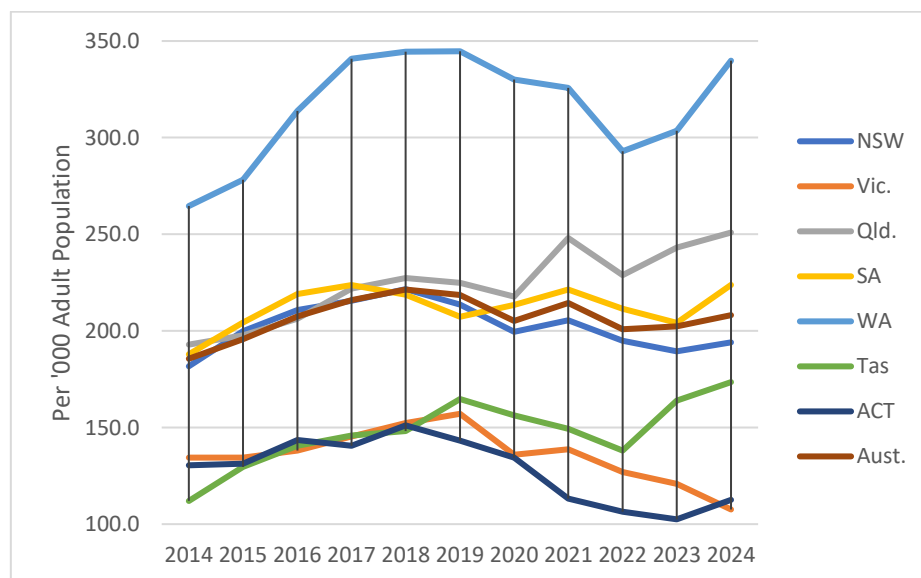
Evidence – Adult Imprisonment in Tasmania

Factors influencing increases in Tasmania’s prisoner population and associated costs

As at 30 June 2024, based on the Australian Bureau of Statistics Prisoners in Australia data series, Tasmanian data included:

- from 30 June 2023 to 30 June 2024, total prisoners increased by 7 per cent (50) to 801. The largest numerical changes by most serious offence/charge were:
 - acts intended to cause injury, up 31 prisoners to 238
 - offences against justice,⁵⁸ up 14 prisoners to 77
- after accounting for population growth, the imprisonment rate increased by 6 per cent, from 164 to 174 prisoners per 100,000 adult population
- male prisoners increased 5 per cent (36) to 738
- female prisoners increased by 30 per cent (14) to 61
- Aboriginal and Torres Strait Islander prisoners increased by 15 per cent (25) to 194
- sentenced prisoners increased by 4 per cent (19) to 471, and
- unsentenced prisoners increased 13 per cent (84) to 329.⁵⁹

Whilst increasing over the period 2014 to 2024, the Tasmanian crude imprisonment rate per 100,000 adult population has been comparatively less than other mainland states and territories:⁶⁰



1 Extract from ABS Prisoners in Australia Imprisonment Rate, States and Territories, 1994–2024 Table 19

⁵⁸ Include subvert the course of justice, resist or hinder police officer or justice official, and offences against justice procedures: see 142 Offences against justice procedures, Australian and New Zealand Standard Offence Classification (ANZSOC),

<https://www.abs.gov.au/statistics/classifications/australian-and-new-zealand-standard-offence-classification-anzsoc/2023/14/142>

⁵⁹ See Prisoners in Australia Data Series, ABS, <https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release#key-statistics> (released 19 December 2024).

⁶⁰ For ease of comparison, this table excludes NT due to the imprisonment rate skew compared to other states and territories (i.e., average imprisonment rate for the 10-year period ending 2023 was 939.9, over 4.5 times the national average)

The Productivity Commission in its research paper ‘Australia’s Prison Dilemma’ stated that there were two main reasons as to why are more people in Australian prisons:

- *Changes in the nature and reporting of crime: the level of imprisonment has changed due to changes in the level and mix of crime. There has been an increase in some types of serious crime, such as sexual assault and drug trafficking. But there has also been a decrease in other types of serious crime such as homicide and robbery. There is also evidence of increased reporting of crime, which raises the level of imprisonment. For example, in the past, there appears to have been under-reporting of some serious crimes, such as domestic violence and sexual assault, due to social stigma and cultural norms.*
- *Changes in criminal justice policy: for example, in a number of states and territories, policies have made bail harder to access and remand the default position for a wide range of offences. Also, many jurisdictions have introduced prison-based mandatory sentencing. These policy changes mean that, for a given rate of crime, more people will spend more time in prison.⁶¹*

In their submission to the Inquiry, the Tasmanian Government stated the following:

The management of custodial facilities always attracts a high level of public interest and scrutiny – as it should.

... the Department of Justice acknowledges that there are always aspects of the operation of correctional facilities that can – and should – improve, and it will continue to strive for that continuous improvement in all areas of its performance.

Imprisonment should clearly be used as a last resort, and where people have been sent to a correctional facility – either under sentence or remanded awaiting trial – the Department of Justice and the Tasmania Prison Service (TPS) are very conscious to manage those people in accordance with the guidelines set out in section 4 of the Corrections Act 1997. These guidelines provide a very sound basis for the operation of the TPS, including that ‘individuals are capable of change’ - a principle at the heart of the need to provide opportunities for rehabilitation to offenders.⁶²

At the public hearings, the Committee heard from Ms Mia Schlicht (Research Analyst, Institute of Public Affairs) in respect to Tasmania’s adult incarceration rate from 2015:

Since 2015, Tasmania has been the third fastest-growing incarcerator of all Australian states and territories. The incarceration rate increased by 18 per cent while, comparatively, the Australian average rate increased by 5 per cent. Therefore, Tasmania’s incarceration rate grew more than three times that of the national average rate.

⁶¹ See Productivity Commission 2021, *Australia’s Prison Dilemma*, Research paper, Canberra, <https://www.pc.gov.au/research/completed/prison-dilemma/prison-dilemma.pdf>, p.3

⁶² See Tasmanian Government submission (#27), https://www.parliament.tas.gov.au/data/assets/pdf_file/0027/69831/27-Tasmanian-Government.pdf, p.5

Tasmania also spends the most per prisoner per day of all the states. The cost of housing one prisoner for one day is currently \$560, which amounts to over \$200,000 annually. This is \$50,000 more than the national average. Spending on Tasmanian prisons totalled \$101 million in the year ending 2022.

Tasmanian prisons are at a critical turning point, as they are at 88 per cent of their designed capacity. Without reform, new prisons will need to be built to hold the growing prison population, at a significant cost to taxpayers.⁶³

The Australian Lawyers Association submission identified a number of structural barriers that contributed to recidivism: socio-economic factors, indigeneity and imprisonment:

The ALA has long advocated for reforms that address structural barriers leading to and the social cost of imprisonment as an ineffective solution to offending behaviour. Research suggests that complex factors play into recidivism rates including:

- *Mental illness*
- *Housing - limited appropriate, safe and affordable accommodation options*
- *Employment - difficulty securing employment with a history of incarceration*
- *Financial - current rates of welfare payment are inadequate*
- *Accessing and navigating the wider service sector including NDIS, AOD and Mental Health*
- *Structural and systemic racism across key institutions*
- *Managing community stigma and stereotypes*

...

The ALA contends that conditions that affect people's lives and health (including housing, employment, and educational opportunities) are shaped by the distribution of power and resources which greatly overlap with identified social determinants of incarceration, disproportionately impacting Aboriginal and Torres Strait Islander peoples.

...

Research suggests that the use of imprisonment, rather than probation, increases the likelihood of recidivism in the first three years following release by approximately 19 per cent. Conversely, facilities that incorporate "cognitive-behavioural programs rooted in social learning theory" are the most effective at aiding in resettlement.

The ALA notes that individuals are imprisoned, they are removed from mainstream society and without the structure in their lives that comes with being part of a system that includes responsibilities around employment, family, stability and routines. The difficulty in reintegrating is compounded by the stigma of being an ex-prisoner. This observation is supported by data which shows that 11 per cent of jobseekers in 2011 were ex-prisoners.⁶⁴

The Tasmanian Legal Aid (TLA) submission shared its views on factors influencing the increasing Tasmanian prison population:

⁶³ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.29

⁶⁴ See [Australian Lawyers Alliance \(Submission #65\)](#), p.6-9

There are a range of factors which have combined to contribute to Tasmania's increasing prison population. The most important of these factors can be summarised as follows:

- 1. The increasing use of imprisonment as a sentencing option;*
- 2. The increasing length of average sentences;*
- 3. The sharp rise in unsentenced prisoners;*
- 4. A trend towards more serious offending as a proportion of all offending;*
- 5. Systemic delays.*

Many of these factors are common across other Australian jurisdictions. In some Australian States, high conviction rates contribute to the increasing number of people in prison.

However, in Tasmania, conviction rates in the Magistrates Court are very low by national standards and have continued to decrease.⁶⁵

In relation to the increasing use of imprisonment by the Tasmanian Courts, the TLA submission stated:

Between 2014 and 2020 there has been a 41.8 per cent increase in prison population in Tasmania ...

Across the same time period, there has been a 110.9 per cent increase in the number of Aboriginal people in prison.

Between 2014 and 2020 the use of imprisonment in Supreme Court sentences fell from 89.8 per cent to 78.8 per cent of all sentences. However, this trend has been driven by the decreased use of suspended sentences rather than terms involving actual imprisonment. In the same time period, the use of actual imprisonment increased from 31.9 per cent to 39.7 per cent of sentences. The use of fully suspended sentences decreased markedly from 38.1 per cent of sentences to 23.4 per cent. Similarly, partly suspended sentences have decreased across the same period by 5 per cent. The use of immediate terms of imprisonment have increased sharply in the Magistrates Court from 3.5 per cent of sentences in 2014 to 8.2 per cent of sentences in 2020.

It is difficult to untangle the possible causes of this increased reliance on actual terms of imprisonment, and there are a complex range of factors which contribute. Some of the important factors include:

- A legislative focus on punitive punishments in sentencing;*
- The creation of new indictable family violence offences;*
- Increasing judicial recognition of the seriousness of some offending types (dangerous driving, family violence, sex offences in particular);*
- Increasing rates of unsentenced prisoners leading to 'time served' sentences of imprisonment;*

⁶⁵ See Tasmania Legal Aid (Submission #33), https://www.parliament.tas.gov.au/data/assets/pdf_file/0032/69836/33.-Tasmania-Legal-Aid.pdf, p.1-2

- *High and increasing rates of recidivism – prisoners with known prior imprisonment rose from 60 per cent to 67 per cent between 2012 and 2022, significantly higher than the national average;*
- *Social causes including the lack of support services which make noncustodial sentences more difficult to justify – Courts often look to engagement with support services as evidence of rehabilitation or reduced future risk. Unless those services are available to address the drivers of offending, rates of imprisonment are likely to increase.⁶⁶*

The TLA submission also commented on the increasing rate of unsentenced prisoners in Tasmania:

Between 2012 and 2022 there was an 80 per cent increase in the number of unsentenced prisoners in Tasmania ...

The increasing and high rate of unsentenced prisoners will only contribute to an increasing prison population where unsentenced prisoners are later found not guilty, have their charges dismissed, or do not receive a term of imprisonment. If unsentenced prisoners end up with a sentence of imprisonment greater than the length of their period on remand, then there can be no influence on total prison population – it simply shifts the period of imprisonment to the period prior to sentence. The quality of data that exists in this area could be improved to see what affect this phenomenon is causing to prison population increase.

It has been TLA's experience that many of our clients have been remanded because of a lack of access to housing and social support. This cohort often receive terms of imprisonment equal to their time in prison prior to sentencing which may have been avoided if they were not remanded in custody. Court backlogs and systemic delays contribute to an increase in the number of unsentenced prisoners because of the time it can take to reach their case.⁶⁷

At the public hearings the Committee heard from Hon Elise Archer MP (Attorney-General) and Mr Rod Wise (Deputy Secretary, Corrective Services) in relation to the apparent increase of the Tasmanian adult prison population in 2022-23:

CHAIR - ... *The Committee heard this morning that Tasmania has had an 18 per cent increase in prison population compared to 5 per cent nationally. That would obviously be of concern to you and the people here, certainly to Committee members. Do you have a comment around that?*

Ms ARCHER - *We don't have any strong evidence as to why. There's lots of anecdotal evidence as to why it might be, but I personally think it is a number of different things. I think what we are seeing now is that the prison population declined during COVID-19. For obvious reasons everybody was off the streets, and nothing or very little was happening in that space. I think since then we've seen probably a significant increase.*

⁶⁶ See Tasmania Legal Aid (Submission #33), https://www.parliament.tas.gov.au/data/assets/pdf_file/0032/69836/33.-Tasmania-Legal-Aid.pdf, p.2-3

⁶⁷ See Tasmania Legal Aid (Submission #33), https://www.parliament.tas.gov.au/data/assets/pdf_file/0032/69836/33.-Tasmania-Legal-Aid.pdf, p.3-4

Rod and I were, last week, in Brisbane for the Corrections Ministers' meeting. Everyone has the same problems in recruiting staff, needing a lot of staff. Our increase in crime is a lot greater in some areas.

What I have tried to do over the years, as the relevant Minister, is introduce alternative sentencing options. Imagine if we didn't have home detention? It would be even worse than at the moment with the prison population the way it is. It is concerning and it's serious crime. As Ian [Thomas, Director of Prisons] would be able to attest, our highest proportion of inmates are in our maximum classification-rated area. We have more than enough space in the minimum area.

The types of offenders is of concern. What we need to do is try to divert them away from the criminal justice system. There's no silver bullet to that. That is what we need to do in conjunction with working with police. We have a lot of youth crime, unfortunately. I met with the THA⁶⁸ this week and they have a significant concern around the increase in youth crime in bottle shops. Having said that, the police said that it's about 24 youths who are known to them who are recommitting. We need to be able to divert youths away from the criminal justice system. That's not my area. There is an increase in the severity of the types of crime and the attitude of offenders. It is really quite dangerous and violent crime that we are seeing.

CHAIR - *Anything to add to that, Rod, given that you have been to and listened to what other states are coping with? Are there any lessons learnt?*

Mr WISE - *I'm not sure if there are lessons to be learnt, but it is worthwhile going back to our submission about imprisonment rates. The imprisonment rates of the larger jurisdictions are significantly greater than Tasmania's has been. During the COVID-19 period, the drop in those numbers in those states, New South Wales and Victoria in particular, has been sizeable. They haven't gone back up to where they were pre-COVID-19.*

Tasmania's numbers during COVID-19 remained relatively stable and it has grown since then. You're right in saying that the rest of the system has grown at a much slower rate than Tasmania, but they also had a lot more people pro rata in prison to start with. We are starting from a slightly different base.

CHAIR - *The figures don't necessarily tell the story?*

Mr WISE - *Not the whole story, that's right. Our imprisonment rate has, no doubt, gone up because our numbers have gone up, but they're still much lower than places like New South Wales, for example, and most other jurisdictions.*⁶⁹

⁶⁸ Tasmanian Hospitality Association

⁶⁹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.38-39

Committee Findings

- F7. Over the 12-month period to 30 June 2024, the Tasmanian adult prison system had increased by 7 per cent to 801 inmates, with unsentenced prisoner numbers making over 40 per cent of the total adult prisoner population.
- F8. In 2024, the Tasmanian crude imprisonment rate was 166.58 per 100,000 adult population compared to 202.9, the average for all Australian jurisdictions.
- F9. Between 2014 to 2024, Tasmania's crude imprisonment rate had increased by 55 per cent compared to the national average of 12 per cent.
- F10. A complex range of factors contribute to the increase of both imprisonment and recidivism rates in Tasmania, including but not limited to:
- changes in nature and reporting in crime
 - changes in government criminal justice policy
 - increasing use of imprisonment as a sentencing option and average length of sentence
 - increasing in unsentenced prisoners
 - social disadvantage and inadequate support services
 - levels of mental ill health and alcohol and drug related issues, and
 - structural and systemic racism.

Length of Prison Sentences

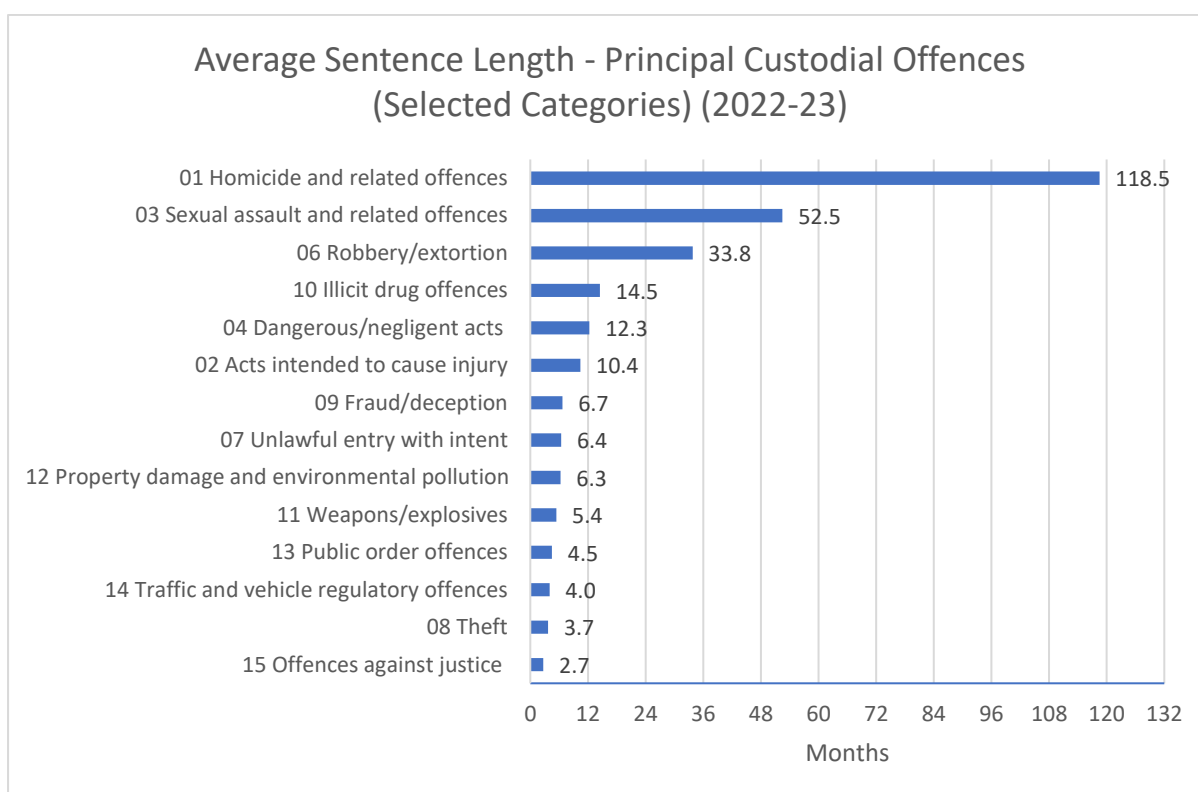
The ABS Criminal Courts, Australia⁷⁰ series shows that for the year 2020-21 to 2022-2023, of all the Tasmanian defendants before the courts that were finalised and with a guilty outcome, around 10 per cent per year were sentenced to custody in a correctional institution:

Principal Sentence		2022-23		2021-22		2020-21	
		Total Orders	per cent of total sentences	Total Orders	per cent of total sentences	Total Orders	per cent of total sentences
Custodial Orders	Custody in a correctional institution	825	10.2 per cent	820	10.2 per cent	896	10.4 per cent
	Custody in the community	105	1.3 per cent	149	1.9 per cent	154	1.8 per cent
	Fully suspended sentence	937	11.6 per cent	940	11.7 per cent	899	10.4 per cent
	Sub-Total	1,867	23.0 per cent	1,910	23.7 per cent	1,951	22.6 per cent
Non-custodial Orders	Community supervision/work orders	288	3.6 per cent	570	7.1 per cent	613	7.1 per cent
	Fines	4,162	51.4 per cent	4,202	52.2 per cent	4,598	53.3 per cent
	Other	1,785	22.0 per cent	1,373	17.0 per cent	1,415	16.4 per cent

⁷⁰ See Criminal Courts in Australia Data Series, ABS, <https://www.abs.gov.au/statistics/people/crime-and-justice/criminal-courts-australia/latest-release#states-and-territories> (released 15 March 2024).

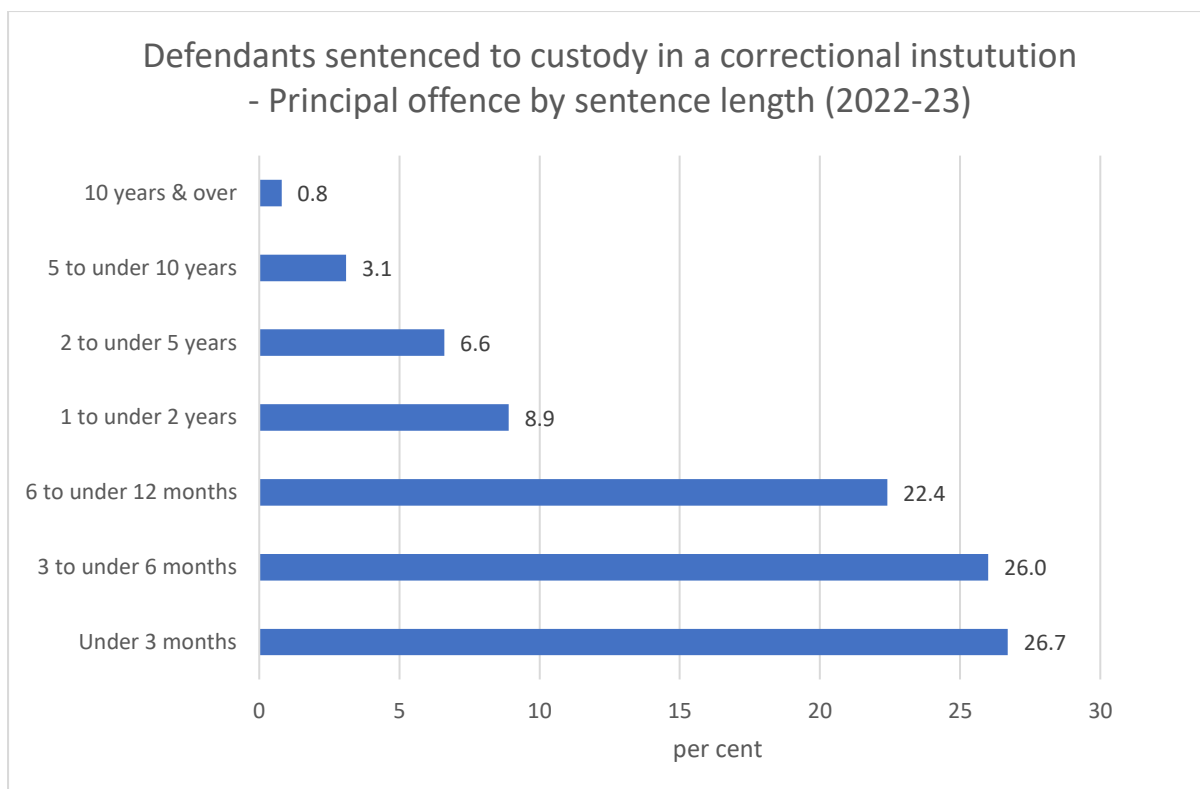
Principal Sentence		2022-23		2021-22		2020-21	
		Total Orders	per cent of total sentences	Total Orders	per cent of total sentences	Total Orders	per cent of total sentences
	Sub-Total	6,140	75.8 per cent	6,140	76.2 per cent	6,627	76.9 per cent
	Total	8,102	100.0 per cent	8,053	100.0 per cent	8,623	100.0 per cent

Of those Tasmanian defendants found guilty and sentenced to custody in a correctional institution, over 52 per cent received a sentence of six months or under:



2 Extract from ABS Criminal Courts Defendants sentenced to custody in a correctional institution – All Courts, Principal offence by sentence length, States and territories, 2022–23 (Table 66)

For the 2022-23 period, against all principal offences (excluding homicide and related offences), the average sentence length for Tasmanian defendants was nearly 12 months, with the highest average sentence length being 52.5 months for sexual assaults and related offences, and the lowest average sentence length being 2.7 months for offences against justice. Fourteen homicide sentences averaged 9.8 years:



3 Extract from ABS *Criminal Courts Defendants sentenced to custody in a correctional institution – All Courts, Principal offence by sentence length, States and territories, 2022–23* (Table 66)

As highlighted in Mr Michael Hill’s submission,⁷¹ section 3 (Purpose of Act) of the *Sentencing Act 1997*⁷² provides among other considerations that (emphasis added):

*(b) promote the **protection of the community** as a primary consideration in sentencing offenders; and ...*

...

(e) help prevent crime and promote respect for the law by allowing courts to –
(i) impose sentences aimed at deterring offenders and other persons from committing offences; and

*(ii) **impose sentences aimed at the rehabilitation of offenders**; and ...*

...

(h) recognise the interests of victims of offences.

The submission to the Inquiry from the Prisoners Legal Services Tasmania noted:⁷³

A 2019 report by the UK Ministry of Justice found that short prison sentences, and in case defined as custodial sentences of under 12 months without supervision on release, are “associated with high levels of reoffending than sentences served in the community”, such as suspended sentences and community orders. The study found that the reoffending

⁷¹ See Michael Hill (Submission #3), https://www.parliament.tas.gov.au/data/assets/pdf_file/0031/69808/3.-Michael-Hill.pdf, p.5

⁷² See *Sentencing Act 1997* (Tas), <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-059#GS3@EN>

⁷³ See Prisoners Legal Service Tasmania (Submission #17), https://www.parliament.tas.gov.au/data/assets/pdf_file/0026/69821/17.-Prisoners-Legal-Service-Tasmania.pdf

rate within one year of serving a short-term custodial sentences of less than 12 months was higher than if a community-based court order had been imposed.

These findings are consistent with findings over 20 years ago by a New South Wales parliamentary committee. That committee found that if all prisoners who had received sentences of six months or less were given non-custodial orders, the number of new prisoners received in New South Wales prisons would drop by almost half, the New South Wales prison population would be reduced by 10 per cent and there would be savings of between \$33 million and \$47 million per year in the recurrent cost of housing prisoners.

At the public hearings, the Committee heard from Mr Greg Barns SC (Chair, Prisoners Legal Service Tasmania) and Ms Rowena MacDonald (Tasmanian President, Australian Lawyers Alliance) on the issue of short prison sentences:

Mr BARNES - *The other issue I want to address and I think the IPA address this, we think that prison sentences of six months or under should be abolished. The problem with prison sentences of six months or under is that they serve no purpose in terms of rehabilitation or reducing recidivism. They simply mean that if a person is employed, probably they will lose their job, their families are dislocated, they get no support in the prison system because they're not there for a long enough time and there is no evidence that they reduce recidivism ...*

This is not the only jurisdiction where the issue has arisen. In Western Australia of all places, in 1995, prison sentences of three months or less were abolished and the threshold was increased to six months in 2003. In Scotland, as we have said, there is now a presumption against short sentences being given by the courts and it is intended to encourage greater use of community sentences, to help break the cycle.⁷⁴

...

Ms WEBB - *... You mentioned Western Australia having moved down that path already, initially in 1995, and increasing the terms to six months or less being abolished subsequent to that. Do we have any Australian-based research that tells us what the impact of those changes have been in Western Australia?*

Mr BARNES - *I will take that on notice and get back to you. What I can say is the overlay, of course, in Western Australia are high rates of Indigenous incarceration. It is a difficult model to compare.*

Also, at the other end of the scale, what they have is a lot of mandatory sentences at a higher level, so people get more than six months in order to get that mandatory sentence. But we will have a look at that. We will also have a look at what is happening in Scotland with the presumption against short sentences, which gives some flexibility to courts, but basically, don't jail someone for a short period of time, it is a waste of time.

Ms WEBB - *In Western Australia, does having a higher degree of mandatory sentencing in different spaces lead to perverse outcomes from looking to put in place no short*

⁷⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.17-18

sentences? Is that likely to drive perverse outcomes by prompting governments of the day to pursue mandatory sentences that are longer? Can you comment on the risk there?

Mr BARNS - *Correct. We are fundamentally opposed to mandatory sentencing because it offends the rule of law in a range of respects and that is a risk.*

In Western Australia, mandatory sentencing - most of it implemented by Christian Porter when he was the Western Australian AG - is out of control and, of course, impacts on Indigenous communities.

...

Ms WEBB - *If we were to contemplate in Tasmania going down a pathway of abolishing shorter sentences and having them dealt with as community sentences instead, just as a matter of course, what do you see as the greatest barriers to that being put in place in Tasmania?*

Mr BARNS - *Resource and supervision. You would have to resource community corrections.*

Ms WEBB - *Is there the opportunity for a fairly overt shift of resources from the prison environment, knowing there will be less people going into prison to community sentencing?*

Mr BARNS - *You save money doing it. The problem with imprisonment is that it costs \$300 a day per prisoner.*

...

Mr BARNS - *Community corrections are around \$130-\$140 a day, so there are savings in doing it.*

The problem with short sentences, for example, take a person who is on their third drink-driving charge. Obviously, they have an alcohol problem. They are at risk of getting one, two or three months. No addressing of the alcohol issue. I know Michael Hill has proposed, in addition to a drug court and a mental health court, a drink-driving court, which is a great idea because what you could do is divert that person. People think that is soft, it is actually a lot harder. To be in a therapeutic justice setting, rather than getting two months, is a lot harder. You get two months, some guys go, 'I will just take the two months and then I come out, don't have to do all of these courses and supervision'. It is actually a lot harder. That is how you replace it with a greater emphasis on therapeutic jurisprudence diversions in courts.

Secondly, your resource shift. Also, you need the right people. One of our concerns at the moment is increasingly punitive culture in Community Corrections. We have seen people come back into prison for relatively minor matters.

We have given an example here of a guy we worked with where she got him an ABN and he had this little cartage business. He had drug-driving where he was on the back of a motorbike, and they breached him. When I tried to argue it with the Parole Board, I got an arrogant response. In fact, we have heard the feedback we get from Community Corrections people when we talk to this, they say that Prisoners Legal Service has no role

in this. Well, we do actually. Everybody is entitled to representation. I do not know if they are coming in to speak with you, but we are very concerned about the increasingly punitive culture and the risk aversion and breaching people for minor matters. Breaching people for serious offending is different ...

Ms WEBB - *Can I clarify that with you? Is this a change in approach you are observing and, if so, when does that date from?*

Mr BARNES - *Yes, probably in the last 18 months or so. I do not know if it is a change in personnel but we have got nowhere in talking.*⁷⁵

In responding to a question on notice in relation to the abolition of short sentences in Western Australia, Mr Barnes offered the following reference:⁷⁶

*Western Australia abolished sentences of three months or less in 1995 and in 2003 increased the threshold to six months. It is still the only Australian jurisdiction to have done so. There is insufficient data on whether sentence creep has been prevalent following the abolition.*⁷⁷

At the public hearings, Mr Don McRae (Chief Executive Officer, JusTas) and Mr Ben Bartl (Policy Officer, Community Legal Centres Tasmania) highlighted some of the issues associated with certain short sentences that potentially could be better dealt with in another forum:

CHAIR - *... My last question is around the suggestions through the submissions that those short sentences have no value. I'd appreciate some feedback or an opinion. It was suggested today that if you get rid of three months they'll make it four months. Can you walk me through what your thoughts are there?*

Mr McCRAE - *It is not so much the magistrates. Many of the magistrates are much more progressive than we give them credit for. ...*

...

Mr McCRAE - *... The Scottish judicial system has eliminated sentences for under 12 months.*

CHAIR - *So has Western Australia.*

Mr McCRAE - *It's progressive because there are better ways to engage people in some measure to focus on their offences. I see a lot of people in Risdon Prison who are there for family violence issues. They incarcerate with a lot of angry other men who get misogynistic narratives around the yard and they just end up hating people a lot more than they did before, feeling wronged and feeling that somebody else is to blame. That doesn't apply any correctional approach to those individuals.*

⁷⁵ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.26-27

⁷⁶ Email to Committee from Mr Greg Barnes SC dated 28 August 2023

⁷⁷ Committee for Economic Development in Australia (2022) 'Double jeopardy: The economic and social costs of keeping women behind bars', p.54, <https://www.ceda.com.au/ResearchAndPolicies/Research/Institutions/Double-jeopardy-The-economic-and-social-costs-of-k>

I spent a couple of years developing a program called Start Today Again, which applies supports to those people to understand what their family violence is and how to provide a toolkit to respond to it and get better relationships, because they come out and find another relationship and they get back into that and it just does not work. It makes people bitter not better.

Mr BARTL - ... one of the most common short sentences is for drink driving. It is people who have come before the courts time and again, clearly with an alcohol problem and the magistrate just thinks, 'Well, I need to do something so I will send them to a short sentence. Three months'. One of the solutions is court-mandated diversion but excludes alcohol. At the moment, court-mandated diversion can only be given to someone who is taking illicit drugs, not alcohol. It is definitely a reform that we think should be introduced, so that anyone with a drug addiction is able to access court-mandated diversion.

...

Mc McCRAE - It is really important to appreciate that if somebody goes in for a short sentence, yes, the courts and the community might be happy that has occurred, but if you look at the activity that has caused in that person's life, they end up losing their job, lose their house, lose all their connections -

...

Mr McCRAE - And get a record which applies a whole suite of different barriers for that person. Getting back out again, especially in this housing environment, it is kind of a bigger cost to the taxpayer than it would be by applying some sort of community order.⁷⁸

Mr Hill provided the Committee with his views on the effectiveness of three-month sentence options:

Mr HILL - Pretty useless, three months. Going back to those days when I was first appointed, you know, seven days for this - how ridiculous is that, quite frankly? I think three months, from the point of view of marking the disapproval of the conduct, is fine. You know what will happen, of course: you will get lots of four-month sentences. Some judicial people may not see it as a move that solves any problem other than lifting the tariff. That would be a risk. Other than that, I can certainly see an argument for getting rid of short sentences.

Whether it's three months, whether it's six months like Western Australia did it, it is up to the legislators. But I do think the short sharp sentences don't work. They don't work, they don't serve much purpose, except you get someone off the streets for three months. That is about all you do achieve.

Mr WILLIE - The penalty can be higher, too. A few years ago I had a constituent who had a drink-driving sentence. He lost his job, he lost his house, as well as the short sentence, which is -

Mr HILL - Yes, the repercussions are horrendous, aren't they? I hope it wasn't me. But three months is not uncommon, or wasn't uncommon, for drink-driving offences because

⁷⁸ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.61-62

*magistrates thought - well, I should not speak for the others, but the general feeling was that if you are going to give someone anything, you give them three months. That was the feeling, I think, not based on any real principle, unfortunately.*⁷⁹

...

Ms ARMITAGE - *Going back to your three months, don't you think three months is too short?*

Mr HILL - *Well, it is not too short, it's just that it doesn't achieve much.*⁸⁰

At the public hearings, Ms Hannah Phillips (Principal Lawyer, Tasmanian Aboriginal Legal Service) informed the Committee of whether short sentences had a place in the Tasmanian justice system:

CHAIR - *... Do you have a view around those short sentences?*

Ms PHILLIPS - *I don't think that prison is a good option in almost all circumstances, but I also think that if the prison worked effectively with the supports that it would offer, then you could do education in a very short period. I do not think, and I know that there's been a push for this, but suspended sentences work and short sentences are better than long ones.*

Someone who goes into custody for a long time, the impact that has on somebody, being away from family, community, the corrupting influences of prison, the impacts of lockdown - it just cannot be underestimated the impact that's having on our clients. Being essentially in a cage for hours and hours on end with significant mental health issues, past trauma - that is going to make someone a thousand times worse and then, once they get out, the community are going to be more at risk.

*At the end of the day, everyone who is in custody is a person, and if you actually saw what was happening on a day-to-day basis in those cells, you would be alarmed. People not having toilet paper, people not being fed properly with dietary requirements, not getting access to health quickly. I had a client the other day who was bitten by another person in prison. It took about three days of him jumping up and down to say that he needed to be tested for hepatitis. Imagine sitting in a cell not knowing whether you've been given hepatitis and not getting the appropriate health care and not being able to do anything about it.*⁸¹

At the time of this Report, the Committee noted that the Sentencing Amendment (Alcohol Treatment Order) Bill 2024 (No.7 of 2024) has progressed through the Tasmanian Parliament. The Bill provides that a court may make a treatment order pursuant to Part 3A of the *Sentencing Act 1977*, where the offender has a demonstrable history of alcohol dependence, where the offending is linked to alcohol dependence, subject to the existing limitations on the making of drug treatment orders.⁸²

⁷⁹ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.26

⁸⁰ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.27-28

⁸¹ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.33-34

⁸² See in general Sentencing Amendment (Alcohol Treatment Order) Bill 2024 (7 of 2024), <https://www.parliament.tas.gov.au/bills/bills2024/sentencing-amendment-alcohol-treatment-order-bill-2024-7-of-2024>

Committee Findings

- F11. There is an impact on a person's family circumstances and/or work-life with a short sentence.
- F12. Short sentences do not allow for rehabilitation and other programs to be taken up by adult prisoners.
- F13. Supervising people under community corrections costs significantly less than incarceration.
- F14. There are other jurisdictions where short sentences have been abolished.

Committee Recommendations

- R2. Request the Sentencing Advisory Council to provide a report to Government on options for phasing out short sentences of incarceration and replacement with community interventions.

Sentencing Options

The then Attorney-General's submission outlined a broad range of alternative sentencing options, including expanding the Court Mandated Diversion (CMD) Program and introducing deferred sentencing, Home Detention and Electronic Monitoring (HDEM), and High-Risk Offender Orders (HRO Orders):

The Court Mandated Diversion (CMD) program deals with offenders whose risk of re-offending is addressed by treating their substance abuse issues in the community as an alternative to imprisonment. Most offenders on the CMD program have long histories of criminal activity and abuse of multiple substances. They have generally been exposed to a variety of sentencing options already, which have previously been unsuccessful.

CMD has assisted numerous offenders, who would otherwise have been sent to prison, to address their substance use issues. I attend many CMD graduations and am continually impressed at the turnaround after an offender's participation in this often 'last resort' program.

Funding of \$1.348 million has previously been provided for the expansion of the CMD Program to cater for increased demand as a result of Drug Treatment Orders, now also being available for matters before the Supreme Court. As a result, I have increased the CMD participant cap from 80 participants to 120.

Home detention is an order that involves the detention of an offender in a specified residence, during specified times, for the duration of the sentence under supervision, and subject to conditions. I am confident this new, alternative sentencing option strikes the right balance between rehabilitation of offenders and community protection. It also obviously keeps offenders out of prison.

*Community Corrections will continue to be resourced to provide expanded sentencing options, to reduce the pressures on our custodial facilities, and to ensure that offenders can address the issues that contributed to their offending behaviour while being safely managed in the community. This will support offenders to 'give back' to the community and assist them to develop key life-skills and pro-social behaviours.*⁸³

The Committee noted that the *Sentencing Amendment (Alcohol Treatment Order) Act 2024* received the Royal Assent on 30 August 2024: this amended the *Sentencing Act 1997* to provide that a court may make a treatment order pursuant to Part 3A of that Act where the offender has a demonstrable history of alcohol dependence, where the offending is linked to alcohol dependence, subject to the existing limitations on the making of drug treatment orders.⁸⁴

At the public hearings, Ms Kristen Wylie (Director, Tasmanian Legal Aid) spoke about the need for more sentencing options:

*Now on to sentencing tools - we would like to see as many tools as possible when people are being sentenced. The greater the sentencing options, the more a sentence can be tailored to the unique circumstances of the person. This avoids the criminogenic impact of prison, particularly for young people. Ideally, the sentencing tools would continue to include suspended sentences, broad eligibility options for drug treatment orders, and ideally the expansion of these types of orders for things like alcohol, gambling and mental illness.*⁸⁵

At the public hearings, Ms Abercromby (Tasmanian Legal Service) spoke to the utility of suspended (or deferred) sentencing:

Mr VALENTINE - *Some time ago now we had the debate in the Chamber about suspended sentences. It was taken out as an option. You mentioned this in your submission.*

Do you have comments on suspended sentences and why they're so useful? Your submission says the use of imprisonment in Supreme Court sentences fell from 89.8 per cent to 78.8 per cent. You say the trend has been driven by the decreased use of suspended sentences. Over the page you say you want to see suspended sentences retained. Clearly, you still think that they are a useful tool.

Ms ABERCOMBY - *Absolutely, yes. ...*

...

Ms ABERCOMBY - *I suspect the explanation for the reduction in the use of them is that CMD, the drug treatment order program, used not to be an option available for the Supreme Court, it could only be a Magistrates Court sentencing option. That's now changed. The Supreme Court can now avail itself of such an option.*

⁸³ See Hon Elise Archer MP, Attorney-General ([Submission #28](#)), p.3

⁸⁴ See in general *Sentencing Amendment (Alcohol Treatment Order) Act 2024*, <https://www.legislation.tas.gov.au/view/whole/html/asmade/act-2024-008>

⁸⁵ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.4

Deferred sentences have been introduced, which operate somewhat similarly to a suspended sentence in that they hang like a sword of Damocles proverbially over someone's head. Suspended sentences as a tool are immeasurably valuable. They provide a warning to someone. It can be explained in such simple terms as 'you now have a jail term: this is a jail sentence for all intents and purposes'. Courts have recognised that it is a jail term, whether you serve it or not. Having a suspended sentence hanging like a sword of Damocles over someone's head can provide an incredibly valuable motivating factor for someone to reform and rehabilitate.

Those suspended sentences can also be linked to conditions. They are automatically linked to the condition that you not commit another offence punishable by imprisonment within a certain period of time. They can be linked to a probationary order that you successfully complete a probationary order. They can be linked to a defendant completing community service orders, commonly known as work hours. They might have 120 work hours. If they only do 119, then Community Corrections has the option to breach them, not just on that community service order, but on the suspended sentence. That's a very brief snapshot as to why it is an incredibly important tool.⁸⁶

Committee Findings

F15. Suspended sentencing options can provide an important alternative to incarceration.

Committee Recommendations

R3. Expansion of existing sentencing options consistent with the recommendations from the Sentencing Advisory Council of Tasmania.

Abolition of Short Prison Sentences

The Prisoners Legal Service Tasmania submission discussed the notion of abolishing short prison sentences:

Short prison sentences can be defined as prison sentences of six months or under. They are regularly imposed by the Magistrates Court and the Supreme Court in the context of drug offending, fraud, driving offences and assaults.

The difficulty with short prison sentences is that they serve no purpose in terms of rehabilitation or reduction in recidivism, but they cause social dislocation and are expensive to administer. There has been a good deal of work undertaken in other jurisdictions in relation to short prison sentences, including some jurisdictions abolishing them.

⁸⁶ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.17

In 1995, Western Australia abolished prison sentences for three months or less and in 2003 increased the threshold to six months.⁸⁷

There has been discussion in the United Kingdom in relation to the abolition of short prison sentences.

A 2019 report by the UK Ministry of Justice found that short prison sentences, and in case defined as custodial sentences of under 12 months without supervision on release, are “associated with high levels of reoffending than sentences served in the community”, such as suspended sentences and community orders. The study found that the reoffending rate within one year of serving a short term custodial sentences of less than 12 months was higher than if a community based court order had been imposed.⁸⁸

These findings are consistent with findings over 20 years ago by a New South Wales parliamentary committee. That committee found that if all prisoners who had received sentences of six months or less were given non-custodial orders, the number of new prisoners received in New South Wales prisons would drop by almost half, the New South Wales prison population would be reduced by 10 per cent and there would be savings of between \$33 million and \$47 million per year in the recurrent cost of housing prisoners.⁸⁹

In Scotland, there has been a presumption against short sentences known as PASS which was initiated in 2019. The Scottish system assumes that “short custodial sentences are less effective than community sentences at reducing reoffending.”

The presumption against short prison sentences in Scotland is now set at 12 months and “is intended to encourage greater use of community sentences and help break cycles of reoffending.”⁹⁰

We are strongly of the view that short prison sentences should be abolished in Tasmania. We have worked over many years with individuals who serve short terms of imprisonment. The impact on the community is disproportionate to any benefits, if any, that may be obtained from a shortened prison sentence.

In particular, we note prisoners who serve short prison sentences are more likely to lose employment, and their families are dislocated as a result. Prisoners serving short prison sentences do not receive any form of rehabilitation within the prison system and even if they did have access to rehabilitation programs, as we have noted above, the disrupted state of rehabilitation services means that any rehabilitation tools are ineffective.

There is little or no point there is not deterrent factor in sending people to prison for short terms of imprisonment. If short terms of imprisonment were abolished, we would

⁸⁷ Sentencing Legislation Amendment and Repeal Act 2003 (WA) s33(3), https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a6505.html

⁸⁸ G Eaton and A Mews (Ministry of Justice), *The impact of short custodial sentences, community orders and suspended sentence orders on reoffending*, Ministry of Justice Analytical series 2019

⁸⁹ 9 B Lind and A Eyland, *The impact of abolishing short prison sentences*, New South Wales Bureau of Crime and Justice Bulletin No.73, September 2002, NSW Bureau of Crime Statistics and Research.

⁹⁰ Government of Scotland, *Extended presumption against short sentences: monitoring information – January-December 2020*

see a reduction in the prison population of somewhere between 10 and 20 per cent consistent with the figure that New South Wales cited in 2001.⁹¹

Committee Findings

- F16. Data indicates the abolition of short-term imprisonment would significantly reduce prisoner numbers.
- F17. Most short sentences in Tasmania are given to the offences of fraud and deception, offences against justice, theft, and traffic and vehicle regulatory offences.
- F18. Short sentences could be replaced with adequately funded alternative forms of sentencing options.

Diverting Non-Violent Offenders from Prison

At the public hearings, Mr Daniel Wild (Deputy Executive Director – Institute of Public Affairs) and Ms Mia Schlicht (Research Analyst – Institute of Public Affairs) spoke to the notion of diverting non-violent offenders from prison:

Ms SCHLICHT - ... Of those imprisoned in Tasmania, 37 per cent have been incarcerated for non-violent offences. Non-violent offenders have done the wrong thing and they must be punished. But prisons are the most serious form of punishment and their use should be reserved for isolating violent and sexual offenders who are a danger to the community, rather than non-violent offenders the community is merely angry at.

Accommodating the large number of non-violent offenders means diverting prison resources away from violent offenders. If non-violent offenders were proportionately punished through alternatives to prison, serious violent and sexual offenders could be sentenced for longer terms and community safety outcomes could be improved, with considerable savings to Tasmanian taxpayers.

Over the past decade, US states such as Texas and Georgia have seen considerable success by implementing such reforms. Alternatives to prison include financial sanctions, technological incarceration, restitution orders and offender employment programs.

In Tasmania, one in six businesses cannot find the workers they need. Diverting non-violent offenders from prison and allowing them to fill these worker shortages would enhance their prospects of rehabilitation: promote community safety, improve the economy through increased productivity and reduce Government spending and debt. The program would function similar to community-based orders: however, offenders would be paid award wages and work full time. Rather than being a burden on taxpayers, these non-violent offenders should be working, paying tax and helping to address the inflation-inducing labour shortage.

Removing non-violent offenders from Tasmanian prisons would result in savings of approximately \$47 million per year. It would also improve community safety outcomes by

⁹¹ See [Prisoners Legal Service Tasmania Submission \(#17\)](#), paras 42-52

allowing more violent criminals to be incarcerated for longer and would prevent non-violent offenders from entering the prison system and potentially exiting as more volatile and violent individuals ...

CHAIR - *Saving \$47 million by removing non-violent offenders seems like a pretty useful way forward. What's the classification around violent and non-violent? Could you give us some understanding of what that looks like?*

Ms SCHLICHT - *Our distinction between non-violent and violent follows that of the Australian Bureau of Statistics and how they classify violent and non-violent criminals. The main distinctions between the two is that violent offences are often committed against another individual, whereas non-violent offences are usually committed against Government and organisations in general.*

CHAIR - *It might be Centrelink fraud or something like that.*

Ms SCHLICHT - *The physical safety threat is different between the two because it's not against an individual per se.*

...

Mr WILD - *... There is a grey area. There is a clear delineation between violent and non-violent. In between, you mentioned driving under the influence: there's also people who steal cars, which is not technically an offence against a person but clearly people are rightly scared of people who do that. If it's an isolated one-off incident then people who are engaged in that behaviour probably shouldn't go to jail. If it's a pattern of repeated behaviour then jail sometimes is the way to go because it demonstrates a propensity to break the law and to not learn lessons. In that case it can suggest that that particular individual is likely to escalate their behaviour into the violent domain, which is why people in the community often get scared by carjackings. It's not that they're scared of their car being stolen - they're scared of the fact that that person has a disregard for the law and might escalate their behaviour. ... If you demonstrated problematic behaviours then sometimes jail is the necessary response.*

Ms WEBB - *You've made suggestions in the correspondence you sent us regarding alternatives to prison. Do you recognise or support the idea of options such as the drug court option, which we call here court-mandated diversion options, where people have to engage in an extended program of activities and requirements to stay out of prison but still serve a sentence in that sense through engaging in the programs? Is there opportunity to expand the use of those programs to areas that aren't covered at the moment?*

Ms SCHLICHT - *When looking at alternatives to prison, there's definitely a need to address the actual cause of the offending. With these non-violent offenders, because they don't necessarily pose a risk to the community's safety, our research shows their incarceration isn't useful to the community. In saying that, under alternative orders, things like home electronic monitoring programs and drug orders which address the causes of their offending should be employed. That will obviously incur some costs, but these will be a lot less than the cost of incarcerating them.*

Mr WILD - *On the issue of drugs, if someone is doing serious drug offences like importing quantities of drugs and getting them onto the streets, that's probably different to someone who is a lower-order drug offender. Without knowing the specific details of the proposal you have, I would say that the commercial quantities of drug use and importation and dealing is a fairly serious offence, whereas there are probably lower grades of drug offence that might be dealt with in different ways.*

...

Ms ARMITAGE - *I have been looking at your website and I notice, with regard to Victorian prisons - and prisons are prisons, whether it is in Victoria or Tasmania, you say non-violent offenders should still be punished for their crimes but in ways that ease the burden in our court. For example, someone steals someone's car, takes it, burns it, it is going to be pretty upsetting for the person who owns the car. You do not believe they should go to the court, or how should they be dealt with? They have been non-violent.*

Obviously, they may be violent if someone approaches them. We hear instances all the time of someone pulling a knife, stabbing someone purely because it's a fear factor and they've tried to escape. Still punished for their crimes, but in ways that eases the burden on the courts. Can you explain how you can punish them for their crimes and take the burden off the courts, but still allow them into the community?

Ms SCHLICHT - *... Non-violent offenders have broken the law and there needs to be a consequence for that because the victims also need some form of justice. Our research shows that incapacitating an individual and limiting their freedoms does not always see justice for the victims. A lot of the time, for example in fraud offences, where a victim has lost thousands or millions of dollars, seeing a fraud offender incarcerated does not see them seek any compensation for what has happened to them. Under our proposals, for example for a fraud offender, if they were subject to a home monitoring condition where they were still required to work, they could actually pay back the victim for the monetary loss that they received.*

Ms ARMITAGE - *I am wondering about easing the burden on the court. Will they still go to court?*

Ms SCHLICHT - *Yes.*

Ms ARMITAGE - *How are you going to ease the burden if you are not going to set them before a court and give them a punishment?*

Mr WILD - *When we said courts, we probably should have been broader in saying the criminal justice system more generally is what we are looking at. An example of that would be if you are reducing overall expenditure on incarcerating non-violent offenders, some of that money can be put into putting more cops on the beat, which we know is the best deterrent to violent crime. We know that if you want to reduce violent crime, you're better off investing in police rather than having longer prison sentences. You might want to have longer prison sentences from a justice perspective, but we know that does not deter the behaviour. The probability of getting caught is the best deterrent to violent behaviour occurring.*

*What we are probably getting into there is the criminal justice system more broadly. We want the resources dedicated towards those who are a genuine threat to community safety. That is one example.*⁹²

In relation to the potential saving of \$47 million to the Tasmanian community, the Committee heard from Ms Schlicht and Mr Wild:

Mr WILLIE - *I am interested in the \$47 million you are saying would be saved. In the Government submission, they have provided some figures on the different people being held within the criminal justice system at the moment. They are claiming that the vast majority of Tasmania's custodial population is made up of people who have harmed other people, who have been convicted or charged with weapons offences, have breached family violence orders, commercial drug traffickers, violent offenders who have breached their parole or bail conditions, of those with the most serious offence of fraud or drug, or traffic offence. That 68 per cent had at least one previous instance of incarceration and 31 per cent had been incarcerated five or more previous times. I am just interested in how you calculated that \$47 million figure and how many people out of the prison number you are counting in that saving?*

Ms SCHLICHT - *How we got to that number was 37 per cent of the Tasmanian prison offenders are of the non-violent classification, as provided by the Australian Bureau of Statistics. As Daniel alluded to before, some of those are repeat offenders and perhaps incarceration is the best mode of keeping the community safe. But how we got to the \$47 million number was that it costs over \$200,000 to incarcerate one offender for one year, so 37 per cent of the overall figure gets us to \$47 million.*

Mr WILLIE - *It seems like the Australian Bureau of Statistics does not offer the granular sort of data that the Government is providing in terms of repeat offences for fraud and other things like that.*

Ms SCHLICHT - *That is probably correct. That's where policy would need to be reformed to look at the individual circumstance. If they are a repeat offender and they are showing that they have no intention of abiding by the law, then that will obviously vary and they probably should be sentenced to ensure community safety.*

Mr WILLIE - *The savings are probably much lower.*

Ms SCHLICHT - *Yes. Probably up to \$47 million, then.*

Mr WILD - *... it is based on what is said in the ABS and gives you sort of an overview of the potential magnitude of savings there. I think you mentioned at the start, a majority were -*

...

⁹² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.29-32

Mr WILD - That would not be inconsistent with what we have said. On our numbers, 63 per cent would be violent or sexual offences, which I think is broadly consistent with what you put there.⁹³

Home Detention

At the public hearings, Mr McCrae (Chief Executive Officer, JusTas) talked in brief in relation to challenges associated with home detention:

Mr McCRAE - Home detention relies on you having a home. That is the biggest hurdle for anybody who wishes to do that and a lot of the people who would, if they walked out full-time, they could go back to their families or go back to the places where they lived before. Yes, that is problematic and with some applicants: they are not allowed to go back there because of people they are mixing with.⁹⁴

Mr Anthony Bull commented that home detention would only be a successful alternative to prison if it was properly resourced:

Mr BULL - ... We are just replacing the cell in Risdon for the cell in Claremont. That is ridiculous. If you have a young fellow or an old fellow or whatever that has no money because he doesn't know how to work, or he has a drug habit - all of the stuff that goes on in lower-class society, all of those struggle points - and what do you do? Lock him in a lounge room. You have to have the support so that you can progress as a person.⁹⁵

As part of the Committee's familiarisation with South Australia's '20by26' program, representatives of the SA Department of Correctional Services shared the following in relation to their supervised home detention initiative:

- home detention allowed offenders and prisoners to live in the community under strict supervision at a nominated location: i.e., the offender could not leave that address without approval.
- whilst on home detention the monitored individual could leave their home to attend the following:
 - paid employment
 - study course and programs
 - medical appointments, or
 - other purposes approved by a case manager
- conditions imposed on the individual could include:
 - banning of drug use being banned – medically prescribed drugs being permitted
 - alcohol not being consumed
 - not entering licensed premises
 - gambling is not permitted, and
 - possessing a firearm is banned.

⁹³ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.33-34

⁹⁴ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.62

⁹⁵ See Transcript of Evidence [Public Hearings – 20 June 2023](#), p.10

In addition, the Committee was informed in SA there were two avenues for home detention: released order home detention (ROHD) and court ordered home detention (COHD):

- In relation to ROHD, eligible prisoners must have a set period of imprisonment and not be sentenced for any of the following:
 - a homicide offence
 - an offence of a sexual nature, or
 - Commonwealth terrorist offences
- those eligible for ROHD are subject to a suitability check including (but not limited to):
 - the prisoner's behaviour
 - community safety
 - drug or alcohol test results
 - the length of sentence and sentencing remarks made by the Court
 - suitability of proposed address and structured day activity (e.g., employment)
 - confidential intelligence information
 - submissions from SA Police and/or victims of crime
- Under a COHD, the Court can sentence an offender to Home Detention instead of imprisonment:
 - the offender must be assessed by the Court suitable to serve the sentence on Home Detention
 - the offender must live at a residence approved by the Court. The nominated residence will be reviewed for suitability including location and who else lives at the property.
 - the offender may be brought into prison if suspected of breaching a condition of their COHD.

In general, the Committee were informed the SA experience indicated:

- women offenders and prisoners were participating at a greater rate in Home Detention –
 - around 25 per cent female participation on ROHD, and
 - around 15 per cent female participation on COHD
- there was a home detention and support package for Aboriginal people on bail in the order of \$220 a day/prisoner.

Committee Findings

F19. Properly resourced and supervised home detention allows prisoners and offenders to live and participate more fully in the community.

Eight Measures to Improve Justice – Both Young and Adults

Emeritus Professor White's submission outlined eight measures to improve justice:⁹⁶

Justice Reinvestment – invest in the community rather than in prisons	This has at least two aspects to it. First, invest in communities that need more housing, welfare assistance, educational support, and employment opportunities. Second, put money into helping specific individuals and groups of individuals who could use this support.
Restorative Justice – put repairing harm at the centre of justice processes.	A criminal justice system that puts repairing harm at its centre translates into activities and programs that treat offenders as active, not passive. Such an approach also opens the door to responses to harm/crime that advantage victims and communities
Therapeutic Jurisprudence – address underlying problems and co-morbidities	Courts and community corrections, in conjunction with community partners and collaborators, can make a difference by changing the conditions that underpin much repeat offending, especially in regard to substance use and mental illness.
Trauma-Informed Approaches – recognise and respond to grief and pain	Most offenders are victims of physical and sexual assault, and many also suffer from intergenerational grief related to government policies and practices (e.g., Indigenous communities and stolen generations). Interventions to incorporate trauma-informed care.
Mentoring – link people to those they respect and will emulate	For juvenile and adults, individual change often comes from being with someone you respect, whether this is an elder, friend, sportsperson, or teacher. Mentors can provide support and be excellent role-models.
Raise the Age of Criminal Responsibility – keep people out of criminal justice	One of the biggest predictors of future imprisonment is age of first imprisonment. To keep prison numbers down, keep children and young people out of prison in the first place – alternatives are possible and desirable.
Systems of Accountability – monitoring standard operating procedures & practices.	Resources need to be put into the monitoring of and responses to system operations, whether this be through official visitor programs, OPCAT and/or the Ombudsman. There needs to be a Human Rights Act as well as robust whistle-blower protection legislation and policy
Victim Engagement – mechanisms for active participation and meeting needs	Victim voices need to be heard in the criminal justice system, not just in relation to direct court proceedings but in relation to increasing offender understanding and empathy. Victim participation need not contradict or undermine offender rights and future pathways.

The use of Evidence-based Strategies to Reduce Contact with the Justice System and Recidivism

The Tasmanian Government submission outlined the TPS's approaches to addressing inmates' offending behaviours across a number of fronts.⁹⁷

⁹⁶ See [Emeritus Professor White \(Submission #30\)](#), p.2

⁹⁷ See Tasmanian Government ([Submission #27](#)), p.24-28

It was the Government's view that criminogenic programs that adhere to the principles that underpin the Risk-Need-Responsivity Model of Offender Rehabilitation (RNR), result in reductions of re-offending. That is, the RNR approach used in Tasmania (and worldwide) dictates that treatment should target those presenting with highest levels of re-offending risk and focus on addressing the risk factors (needs) associated with their criminal behaviour. In addition, any intervention should be modified for responsivity factors (treatment-related barriers, e.g., cognition, mental health or literacy).⁹⁸

In addition, another complementary model that underpinned the offender rehabilitation work at the TPS is the Good Lives Model. The Government stated '... this is a strengths-based approach that promotes positive interventions and interactions that drive desistance and promote self-efficacy in the inmate'.

Along with other submissions, the Australian Lawyers Alliance advocated for better practices in reducing recidivism:

The ALA also recognises the need for more social support to be provided to ex-prisoners upon their release to reduce recidivism and that positive reintegration outcomes are more likely where programs are holistic and continue in and outside prison, addressing the specifically social and physical needs of offenders.

Furthermore, we note the importance of social support programs across government and its agencies including in health, education, prison administration and law enforcement, in addition to other community services...

The ALA believes that to reduce recidivism rates, programs must be implemented to empower communities in developing a relevant knowledge base about the causes of, and potential solutions for, recidivism; informed by the specific circumstances of the local community.

We believe that individual responsibility for crime and empowered change can be simultaneously accomplished through innovative, rehabilitative programs that harness creativity. Such programs provide therapeutic benefits that allow prisoners to explore their capabilities, talents and knowledge; leading to future employment opportunities.⁹⁹

At the public hearings, the Committee heard from Dr Mindy Sotiri (Executive Director, Justice Reform Initiative) in relation to what the research showed about recidivism rates in general:

Dr SOTIRI - *I guess there are a number of different factors in the research which talk about why recidivism rates are so high. One is because of the experience of prison itself.*

Unfortunately, around Australia, despite the best intentions of prison administrators, what we do know is that the experience of imprisonment is dehumanising: it's

⁹⁸ See Tasmanian Government ([Submission #27](#)), p.24

⁹⁹ See [Australian Lawyers Alliance \(Submission #65\)](#), p.13-14

disconnecting in terms of identity. People often go to prison and they are stripped of their identity in terms of their position in the community and their employment.

People lose a whole lot of stuff aside from their liberty. We know the loss of liberty is the punishment, but we know the experience of imprisonment is punishment in many other ways.

When that happens to any individual, people become very institutionalised, they become very used to being in prison. They know what the rules are in prison, they know how to be in prison and often their identity becomes partly tied up with being in prison.

That is not an identity that works in the community. I should have introduced my background, but I worked in post-release for 20 years and did my doctorate looking at what is the purpose of imprisonment and why do we put people in prison. During that time, working with people coming out of prison in New South Wales, what was very clear is that people come out of prison feeling very ashamed, feeling very isolated, often without housing, often with no employment - all of the things that we have been sort of keeping track of how people been presenting. They experience a number of losses.

This is in no way to minimise the crimes people have committed, but just to provide that context. To finish up on this, when people leave prison and they do not have access to housing, to employment and to an identity outside of the justice system, whether that is through a family connection or through a great relationship with a case worker or through a sporting association - it can happen in a number of different ways, but if people do not have any of that and the reality is in Australia, and certainly in Tasmania, most people leaving prison walk out with less than what they had when they walked into prison - then it is very, very difficult and, in my experience, almost miraculous when people manage to build a life in the community on their own. I know when we are thinking about change and making change, all of us in terms of big changes that any of us have tried to make in our lives - whether that is ending a relationship or stopping smoking or whatever that might be - most of us require some sort of support or somebody in our corner to make those changes.

At the moment, people walk out of prison often with nobody in their corner and yet, we expect them to make all of those changes, move away from alcohol and other drugs, move away from the communities that often have created that pathway into the justice system. The thrust of the submission and of our report and of what the Justice Reform Initiative is saying is if we invest in those kinds of evidence-based alternatives, programs and services that are in the community and we know work, then we are going to see significant reductions in crime.¹⁰⁰

At the public hearings, Ms Adrienne Picone (Chief Executive Officer, TasCOSS) made the following statement about what TasCOSS sought in relation to recidivism reduction in Tasmania:

¹⁰⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.33-34

Ms PICONE - ... Prison policy, and criminal justice policy more broadly, involves a difficult balancing exercise of several objectives. The incarceration of people who have harmed us is presented in the current framework as an option which both prevents us from harm by protecting us from individuals we see as dangerous, but also helps us to guard against future harm by acting as a disincentive to engage in crime, both in an individual and community sense. Prison also seeks to rehabilitate those who have harmed us, through providing prison-based and post-release supports, as well as programs structured around elements of external accountability, such as parole, to ensure people are accessing the treatment they need.

We are concerned, however, that the current prison model in Tasmania is not achieving these aims. Recent reports highlight the high recidivism rates in Tasmania, suggesting those who have been to prison are returning to the community, only to offend again. Research also shows that not only is prison not working as a deterrent, it may actually be causing crime, particularly for young people. Research also shows us people in prison are overwhelmingly experiencing other forms of disadvantage. Rates of homelessness, alcohol and substance dependency, significant mental health issues and trauma are all high within the prison population. Aboriginal children and adults are still over-represented within the justice and prison systems. Children who have spent time in out-of-home care, or who have parents who are incarcerated or have spent time in prison, are also more likely to end up within the criminal justice system. We know those in prison aren't receiving the treatment or support they need to change their behaviours and keep away from crime post-release, so now is the time to embrace the changes. We need to keep Tasmanian families safe, connected and supported. As the peak body representing community service organisations - many of them working to support Tasmanians involved in, or at risk of being involved in the criminal legal system - TasCOSS strongly supports a shift away from costly punitive models towards greater community-based supports. This includes programs and incentives to work with Tasmanians at several crucial points through the system.

Firstly, it's about working proactively with children and their families or guardians to make sure they're getting the support they need to access and engage in education and post-social activities. Secondly, to address issues underlying criminal offending at the earliest opportunity, for children and adults, with an expansion of diversionary and non-prosecutorial options to respond to crime. Thirdly, to embrace therapeutic models of justice with the expansion of programs such as the drug court and the mental health list; the implementation of alternative court models such as community courts; and expanded services to support children and adults within the criminal justice system - including bail support services and culturally safe services for Aboriginal people and their families. Finally, to consider alternative prison models to promote better integration of offenders into the community post-release, and provide effective therapeutic services to ensure those in prison can address their physical and mental health needs, and better prepare for their life post-release.¹⁰¹

The Men's Resources Tasmania submission added their view to the State justice system to consider adopting a more restorative approach to people entering the justice system:

¹⁰¹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.42-43

Using evidence-based strategies to reduce contact with the justice system, requires the Justice system to want to take a restorative approach, and a desire to see those who leave prison as better people than when they entered. There will no doubt always be a small minority of people who will never be rehabilitated, and who will require long imprisonment to maintain safety of the community, however this is not the case for the majority.

There are many evidence-based approaches available from around the world, that use restorative approaches. The Justice Reform Initiative and previous reports in this policy area highlight many such initiatives. The issue requires Governments to make difficult decisions and to work to address concerns that will inevitably be raised by broader community.

It is our experience based on recent activity working to develop a coaching and mentoring program with men recently released, or transitioning from prison, that when real support is provided, many want to, and can do better in their own lives and for their families.¹⁰²

The Committee noted South Australia had made commendable inroads into both setting, reaching and maintaining reduced adult prisoner recidivism targets as part of its ‘10by20’ initiative¹⁰³ and continuing through with the ‘20by26’ program¹⁰⁴. In particular, the Committee were informed about the following initiatives with SA DCS:

- expanded and enhanced community-based sentencing options for Electronic Monitoring and Intensive Support Services for people on Home Detention
- multi-disciplinary teams delivering best practice services across custody and community
- support for the Women’s Action Plan
- linking people to a job before release from custody, and providing intensive community support for 12 months post-release to maintain employment
- delivery of improved offence-focussed rehabilitation programs
- the introduction of the Partnership Framework 2021-2025, and
- a range of programs under the umbrella of ‘Closing the Gap’ supporting South Australian Aboriginal people connected to correctional management.

Recidivism Risk Assessments and Risk Assessment Tools

The Tasmanian Government’s submission suggested that there were eight established risk factors for generalised recidivism:¹⁰⁵

¹⁰² See [Men’s Resources Tasmania \(Submission #52\)](#), p.3

¹⁰³ See ‘10by20 – Reducing reoffending’, SA Department for Correctional Services, <https://www.corrections.sa.gov.au/about/our-research/10-by-20-reducing-reoffending>

¹⁰⁴ See ‘20by26 – Reducing Reoffending 20 per cent by 2026’, SA Department for Correctional Services, https://www.corrections.sa.gov.au/_data/assets/pdf_file/0009/878904/20by26-Brochure.pdf

¹⁰⁵ See Tasmanian Government ([Submission #27](#)), p.25

Big Four (highly predictive of risk of reoffending)	Moderate Four (moderately predictive of risk of reoffending)
<ul style="list-style-type: none"> • History of criminal behaviour • Criminal and/or antisocial attitudes • The presence of criminal/antisocial associations • Antisocial personality and cognitions 	<ul style="list-style-type: none"> • Substance use • Family circumstances • Employment/education • Use of leisure time

To this end, the TPS utilises a number of risk assessment tools to determine the risk of recidivism with its inmates:

Static 99R	Intended to position sexual offenders in terms of their relative degree of risk for sexual recidivism based on commonly available demographic and criminal history information that has been found to correlate with sexual recidivism in adult male sex offenders. Static-99R has moderate accuracy in ranking offenders according to their relative risk for sexual recidivism, and is widely accepted by the scientific community and by applied evaluators.
Violence Risk Scale	A dynamic 26-item actuarial instrument comprised of six static and 20 dynamic items empirically or theoretically linked to violence and general recidivism. The tool is designed to assess changes in the level of risk pre- and post-treatment intervention.
Violence Risk Scale: Sex Offences	A dynamic 24-item actuarial instrument comprised of seven static and 17 dynamic items empirically or theoretically linked to sexual recidivism. The tool is designed to assess changes in the level of risk pre- and post-treatment intervention and is structured around three factors: sexual deviance, criminality and treatment responsiveness.

Both the violence and sex offending tools contain alcohol and other drug use as an assessed risk factor for re-offending.

The Tasmanian Government submission stated:

While risk assessments represent best practice, it should be acknowledged that they have limitations. Although they consistently demonstrate that they improve the accuracy of risk prediction (over clinical opinion alone), an individual's future risk cannot be predicted with total certainty. This risk assessment is dynamic and is based on an inmate's current circumstances and the available information.

In addition, they do not reduce recidivism on their own. They need to be combined with effective interventions which target criminogenic need (criminogenic treatment programs) and comprehensive case planning.

Criminogenic Treatment Programs

From the Tasmanian Government submission, TPS and Community Corrections employed four major criminogenic treatment programs:¹⁰⁶

¹⁰⁶ See Tasmanian Government ([Submission #27](#)), p.26-27

Violence Prevention Program	An evidence-based treatment program which targets both instrumental and expressive forms of violence. The program utilises a range of treatment methods shown to be effective in reducing recidivism, including offence mapping, relapse prevention planning, problem solving, safety planning, emotional regulation techniques and cognitive behavioural restructuring methods. Throughout the program, relapse prevention and safety planning are taught and self-management plans are developed. By the end of the program participants should be able to recognise what internal factors contribute to their offending behaviour, what external situations act as high-risk for them, and have alternative strategies in place to manage effective decision making.
New Directions Treatment Program	<p>Draws its theoretical underpinnings from cognitive behavioural therapy, the RNR Model, the Good Lives Model and the Self-Regulation Model. This means that there is a significant emphasis throughout treatment on participants gaining insight and understanding into their individual cognitive, emotional and behavioural responses to environmental factors, particularly those linked to their offending behaviour. In conjunction with this, participants have the opportunity to practise skills to improve their capacity to self-regulate and meet their needs adaptively.</p> <p>This program is currently delivered in Ron Barwick Prison to inmates with sexual offences who are identified as high to moderate risk with substantial needs. Those closest to parole eligibility dates are prioritised.</p> <p>Community Corrections is currently working to recruit a specialist practitioner to develop, procure and deliver sex offender programs and interventions in the community, and it is anticipated that this officer will work closely with TPS staff in ensuring throughcare engagement is a priority consideration in any strategies implemented.</p>
Family Violence Offender Intervention Program	An evidence-based treatment program which targets all aspects of abusive behaviours which are considered family violence. The program utilises a range of treatment methods shown to be effective in reducing recidivism, including offence mapping, relapse prevention planning, problem solving, safety planning, mood management techniques and the use of cognitive behavioural methods. Towards the end of the program relapse prevention and safety planning is taught and self-management plans are developed. By the end of the program the offender should be able to recognise what contributes to their offending behaviour and have alternative strategies in place to deal with high-risk situations. This program is currently delivered in the Risdon Prison Complex to inmates with family violence offences who are identified as high to moderate risk with substantial needs. Those closest to parole eligibility dates are prioritised.
Dialectical Behaviour Therapy (DBT)	A comprehensive, evidence-based program that has been shown to be effective in treating many psychological problems such as mood disorders and substance abuse problems. It is a form of cognitive-behavioural therapy that aims to balance acceptance-oriented skills and change-oriented skills. DBT cover four modules: mindfulness, distress tolerance, emotional regulation and interpersonal effectiveness. Participants in the program attend a weekly skills development group session, engage in individual therapy, and complete weekly homework tasks. It is a rolling, year-round program with flexible commencement and completion dates. This program is currently delivered in the Mary Hutchinson Women's Prison to women who have identified emotional regulation needs and who are rated Medium or Minimum

	placement. Plans are currently in place to explore how the program can be delivered to inmates in the Maximum rated units.
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Other Inmate Assessments

The Tasmanian Government submission stated the following:

Cognitive assessments are undertaken by staff at the TPS predominately in the disability area. These can include IQ testing, functional capacity assessments, and a screener for Acquired Brain Injuries called the Care and Needs Scale.

Functional literacy assessments are undertaken by both Libraries Tasmania and TasTAFE. These assessments provide a baseline understanding to assist in the one-to-one literacy tutoring of inmates. Increasing literacy skills has many benefits, such as assisting inmates to reintegrate back into the community by improving their employability, to participate in criminogenic group programs, and to parent more effectively. Literacy gains impact positively on self-efficacy.¹⁰⁷

Committee Findings

- F20. Noting the persistently high adult recidivism rate it is clear that the current rehabilitation programs and supports are inadequate.
- F21. The provision of more effective social support and positive reintegration initiatives would likely reduce recidivism.
- F22. People in prison commonly experience other forms of disadvantage including homelessness, alcohol and substance dependency, low literacy levels, significant mental health issues and trauma.
- F23. South Australia has had success in reducing the adult recidivism rate through its ‘10by20’ and ‘20by26’ programs.

Committee Recommendations

- R4. Identify and invest in targeted early intervention and diversionary programs in the adult justice system.
- R5. Review and reform current rehabilitation programs and support in the adult justice and corrections system.
- R6. Consider adopting successful initiatives from the South Australian Department for Correctional Services ‘20by26’ recidivism reduction program.

Alcohol and Other Drug (AOD) Treatment

The Tasmanian Government submission noted ‘... individual counselling significantly improves the impact of cognitive behavioural therapy (CBT) group-based rehabilitation programs on recidivism outcomes among the general custodial population. This finding is

¹⁰⁷ See Tasmanian Government ([Submission #27](#)), p.26

applicable to AOD programs and the TPS has two AOD counsellors to provide this service to the inmate population ...¹⁰⁸

The Tasmanian Government submission further noted:

AOD needs are assessed by the AOD counsellors via an initial intake assessment to establish health needs, a pathway for continued service provision and counselling requirements. Between 12 and six months out from parole/release, inmates will be able to access monthly appointments. From six months to two months from parole/release inmates will be seen on a fortnightly basis. From two months until release, appointments will increase to weekly sessions with the view to support their transition into the community.

*Clinical judgment will be applied to cases where an individual may require a higher frequency of service provision - such as where the inmate has low cognitive ability, and additional rapport building required. Where this is required, all appointment scheduling will be at the discretion of the individual AOD counsellor on an individual and as-needs basis.*¹⁰⁹

The Government submission also stated the following:

As well as program interventions the TPS employs two full time dedicated drug and alcohol counsellors to provide one on one counselling and intervention.

*The TPS ensures that throughcare arrangements are in place for inmates receiving support for drug and alcohol addiction. Community Corrections employs an Alcohol and Drug Counsellor and Educator to provide direct client counselling as well as support to staff working with those managing drug and alcohol dependence issues. This position works closely with the Court Mandated Diversion program and provides an additional layer of throughcare support for those managing the transition to the community.*¹¹⁰

At the public hearings the Committee heard from Ms Sarah Charlton (Chief Executive Officer, Holyoake Tas Inc.) about the services they provide to exiting prisoners and individuals from the court mandated diversion program:

CHAIR - ... *In your submission, you did talk about the factors influencing an increase in Tasmania's prison population and associated costs. Are you happy to expand a little bit about the cost of the work that you do, compared to the cost that we know is for someone who is in the justice system, as in, is in prison?*

Ms CHARLTON - *That Statement was based on funding we have for four different programs and I was able to work out how many hours it takes for an average. I am talking mainly about two different programs. One is the Gottawanna program, which is a core program for people who themselves have an addictive behaviour and are seeking support. Then, there is the Recovery program, which is a more intensive and longer*

¹⁰⁸ See Tasmanian Government ([Submission #27](#)), p.27

¹⁰⁹ See Tasmanian Government ([Submission #27](#)), p.27

¹¹⁰ See Tasmanian Government ([Submission #27](#)), p.31

program to sort of back up this program for people who need longer support in relapse prevention. They are the two different programs.

The Gottawanna program, on average, is supposed to take about 12 weeks, but people vary with it. We have people coming to us for years sometimes: they might come every six months, if they are having a hard time, they might come back. It varies. I have taken the average cost per person going through the Gottawanna program and that is where I got that figure from; and the same with relapse program because we have a budget and we were quite easily able to work out how much it costs per person, per year. Which is significantly cheaper, as you can see. I used the cost of \$122,000 to keep a person in prison: that is a ballpark figure I was able to glean, but it might be more than that, I do not know.

...

Ms CHARLTON - *I just gleaned that from different reports I have read, and I think it is about an average. We keep people out of prison all the time. I could tell you all sorts of stories: I could be here all day telling you stories about people who have been on the brink of going into prison with their fifth driving under the influence (DUI) or under the influence of alcohol or drugs. We had one bloke, he had everything packed, he put the dog into boarding, he had eaten all his food, he had rented his house out because he knew he was going in. He took a letter from us to show how he had really changed his behaviour and they said, 'Okay, you keep doing this and you can stay out'.*

That is just one story. I have so many more I could tell you about people who are sent to us, often by the Magistrates Court - sometimes through the CMD program. Well, that has only limited space, limited funding. It is always full, so what the magistrates have been doing with us for a fair while now is they just bypass that and send them straight to us. It is cheaper and it is better, and we always say yes. So, we have a lot clients coming to us with the magistrate saying, 'I will give you one more chance. If you can show me you have made meaningful behavioural change, I will rethink what I am going to do with you.'

Endless stories like this. They do not always stay out forever, but a lot of them do. To me, it is a complete no-brainer that we put money in that area to keep people out of prison so we can keep families together. We can keep children with their fathers and their mothers - mostly their fathers - there are more men in prison than there are women. They can keep employment, so they might be able to keep their house, so their family do not become homeless because there is no-one else to pay the bills. I could go on forever.¹¹¹

Ms Charlton (Holyoake) also discussed the challenges of funding programs:

Ms ARMITAGE - *Do you have much of a waiting list for people, or have you got enough funding to see all the people you need to see? How long would someone have to wait for, say, the Gottawanna program?*

Ms CHARLTON - *I'll just talk about in prison. The waiting list is months, because we only have x amount of funding to go in there. We've currently got a waiting list, we've*

¹¹¹ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.25-26

been told there's a hundred-plus people who they want us to see. In prison, it's a very big waiting list. They're always full.

Ms ARMITAGE - *And the CMD ones, would there be much of a waiting list for that?*

Ms CHARLTON - *We try to prioritise those, because -*

Ms ARMITAGE - *Keeps them out of prison?*

Ms CHARLTON - *Keeps them out of prison, and also often they have dates that they have to report back to the court or to the parole board or whatever, so we have to make sure that we work with them in that time frame.*

Ms ARMITAGE - *So it comes down to funding, really?*

Ms CHARLTON - *Totally. It's all about money, that's why I'm here.*

Ms ARMITAGE - *If you had more money, you could put more people on to go and do more work?*

Ms CHARLTON - *Yes. The second program I was talking about, the recovery program, we've just lost the funding for that... It was only ever for one year: it was some of that spare money that Primary Health Tasmania has, and at the end of the financial year they go for a mad scramble and say 'Oh, quick, quick! We need to spend this money!' So of course, I put my hand up for this money. It's gone gangbusters. We've got so many clients now, and more coming, and now the funding's cut.*

...

Ms ARMITAGE - *They're trying to find someone to reapply to get some more money to keep it going?*

...

Ms CHARLTON - *It was about \$100,000, that's all. I mean, it could have been \$200,000: it could have been \$500,000.*

...

Ms CHARLTON - *It was for 12 months, but I asked for an extension. Because of COVID-19, we couldn't get to those clients in the first six months. We knew they were there, but we weren't allowed in. We couldn't get into the prison for other reasons; they had an asbestos scare. We couldn't get in to get the clients, so I asked for an extension of time - not money, just time. That ceases in a couple of weeks. Now I've got all these clients, and I'm thinking, 'Bloody hell, what am I going to do? How am I going to keep them?'*

Ms ARMITAGE - *Because they have an expectation it will continue?*

Ms CHARLTON - *Yes. And this is an age-old problem with funding: you get a bit of funding, you do a great job, you raise the expectations of your clients -*

...

Ms CHARLTON - *Then they cut you off at the knees, and you think, we could save millions of State money.*¹¹²

In addition, Ms Charlton (Holyoake) spoke to the funding model that underpinned Holyoake's programs:

Ms WEBB - *... You have described already for us a couple of instances in which you've acquired funding for programs or had access to funding for programs but then those programs have to end because the funding source ends. I want to understand what proportion of your funding might come directly, say, from the justice system or the corrections system. When you deliver programs in the prison, does that come from the justice or corrections system?*

Ms CHARLTON - *No. We don't get any money from the justice system.*

Ms WEBB - *It comes from your generalised funding, which is through the Department of Health?*

Ms CHARLTON - *Yes.*

Ms WEBB - *Primarily at a State level?*

Ms CHARLTON - *Yes, and at a Federal level.*

...

Ms CHARLTON - *... they are all tagged to a program. Each small bucket of funding is tagged to a particular program.*

Ms WEBB - *The Gottawanna program - what funding source is there for that program?*

Ms CHARLTON - *We get some from the State and we also get some general money from the Federal Government as well.*

Ms WEBB - *For the Gottawanna program, you deliver that in the prison and you deliver it in the community as well -*

Ms CHARLTON - *Yes.*

Ms WEBB - *and then is it just a decision for you or for Holyoake in terms of how you divvy up the funding so, therefore, what you can allocate into the system in the prison and what you can allocate to your community delivery?*

Ms CHARLTON - *Yes. The funding agreement basically states it's to provide a service to people who have an addictive behaviour, and their families. It doesn't specify the prison.*

...

Ms CHARLTON - *We don't get any money from Corrections at all.*

¹¹² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.27-28

Ms WEBB - *This is what I'm coming to understand - we rely on particular programs delivered by various organisations in the community and perhaps also within the State system as well, but they're not funded out of Corrections in an aligned way or a dedicated way. So, you may have to decide to pull that program out of the prison at some point if you felt you needed to reallocate that a different way.*¹¹³

Messrs Ben Bartl, Policy Officer, Community Legal Centres Tasmania and Don McCrae, CEO, JusTas spoke about the Apsley Alcohol and Drug Treatment Unit¹¹⁴ that was suspended in February 2020:

Ms WEBB - *... Clearly, from the data you have included and also other evidence we have received, there is a dire lack of services provided in that area [alcohol and other drugs], both within prison and then on exit when people are still needing that support. Are there particular aspects of those services within the prison and on exit that you think are urgently needing to be rejigged to be provided at a much higher level?*

Mr BARTL - *The data shows that the Apsley model is the best model. International research shows that people who are engaging the Apsley model are the least likely to return to prison. Obviously, it is quite time-intensive and it costs a lot. And, to be fair to the Government, the Apsley model in Tasmania is one of the few models in Australia. The Apsley model is not found in every jurisdiction in Australia. So, hats off to the State Government for having introduced that.*

Ms WEBB - *Can I clarify on that, who delivers that within the prison? Is it internally?*

Mr BARTL - *Yes, by the Department of Justice. It is a gold standard and it should be rolled out more if it can be. The data we provided showed that about a third of people who are being referred are not receiving that model. So, ideally, it should be rolled out so that everyone who needs access to it does.*

Ms WEBB - *... Have they re-established the Apsley model since COVID-19? I presume it is COVID-19 that ceased it in 2020.*

Mr McCRAE - *I think it ceased slightly before COVID-19. I'm not aware that it has been up and running. I agree with Ben. It's a fabulous idea.*

What we have to consider when we look at drugs and alcohol as a problematic issue in and around incarceration is that the prison itself is not immune from illicit drugs and alcohol. You would only have to read ,, about the wastewater testing that came out of Risdon Prison and the prevalence of non-prescription and prescription drugs that were not being prescribed in that prison.

If we look at it through that lens, we realise there is an inherent problem in there and people are still self-medicating. It is still a form of currency, there is contraband entering

¹¹³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.32-33

¹¹⁴ See Risdon Prison opens Apsley Alcohol and Drug Treatment Unit, The Mercury (13 July 2015), <https://www.themercury.com.au/news/tasmania/risdon-prison-opens-apsley-alcohol-and-drug-treatment-unit/news-story/abd7346c0c60830d951b28cf99bfe1e0>

that prison because they are not all making it on-site. The difficulty is if we don't recognise that and we do not apply the right sort of therapeutic supports, we're going to get people and we do get people who come out of Risdon Prison Complex with a habit.

...

Mr McCRAE - *The problem with that is that those people recognise they have a habit and very often buprenorphine is a very prevalent trafficked drug in there. So, people come out on a drug that could be applied through the pharmacotherapy replacement program. It isn't because most people aren't on it in prison, and yet they are.*

I've had examples of somebody coming out of prison who waited 285 days to get on the pharmacotherapy program because he was on the waiting list. And he didn't make it because he was self-medicating with ice on the outside. That obviously leads to problematic use and problematic engagement with criminogenic entities, and he eventually went back to prison. He has done that two or three times and it hasn't worked for him. We've tried to say, look, if you're going to do that, get yourself onto the program prior to leaving prison and -

...

Mr McCRAE - *So your addiction is being managed, not being self-managed which is highly problematic.*

Ms WEBB - *It does look like this Apsley program was winding down prior to COVID-19 because the numbers in 2019-20 were quite low too. You've mentioned in your submission that there was an announcement from the Minister for Corrections in 2021 that it was being transferred to Ron Barwick Prison and was going to have expanded places. To your knowledge, hasn't that occurred? ...*

Mr McCRAE - *Not to my knowledge, but there's other more enlightened people who could probably answer those questions for you. I know that the individual drug and alcohol counselling is still there but it's not in the individual unit that Apsley was set up to be. The unit was very good. I had been in and visited a couple of times and the people who went through it. It was absolutely fantastic. A lot of people got a lot of benefit out of it.*

The difficulty was, when you come out of general population into the Apsley unit, you can apply that therapeutic approach. Then once you've finished the course, you're back into prison. A much better way to do that would be to have that as part of a step-down, so you go through the Apsley unit, you go to the O'Hara units. This depends on a whole number of different issues. But you're making steps towards your rehabilitation and reintegration that way, rather than, I used to say, excuse me, but I used to say it was like taking a pig out of the pig sty, cleaning all the crap off it and setting it back into the pig sty. It doesn't always work. There are better ways to do it. But again, it's about resourcing, it's about capacity to do what needs to be done.

Ms WEBB - *You mentioned the one-on-one counselling that can occur, but it sounds like that's probably got quite a waitlist too. Is that your understanding that a lot of people might go through?*

Mr McCRAE - Especially for people who are doing the shorter sentence. It is really difficult for them to get any meaningful case management or supports to enter into any programs, to have any therapeutic lens to look at their issues. These are the ones that are circulating and, certainly, we've seen the increase in the recidivism rate for younger guys especially. They are probably the people who need more supports. The older, wiser heads, the 40s onwards, seem to get it, they seem to realise that prison is not a great place to be. You've got to be young and strong and 10 foot tall and bulletproof to be able to survive. Whereas the older heads go, 'No, I don't want any part of this any more'. The younger guys are probably the ones who are more difficult to turn around and probably the ones who would need the greater level of supports applied to them to make success of it.¹¹⁵

Committee Findings

- F24. There are inadequate dedicated alcohol or drug services for those within and exiting the Tasmanian prison system, including insufficient funding to fully deliver the Gottawanna program.
- F25. The Apsley Alcohol and Drug Treatment unit introduced in 2015 was an evidence based and well-regarded program, however it appears to have been discontinued.

Committee Recommendations

- R7. Expand and increase funding for specialist alcohol or drug services for those within and exiting the prison system.

Vocational Education and Training

The Australian Lawyers Alliance submission noted the importance of vocational education training (VET) being made available to prisoners:

Also, we draw attention to the importance of vocational education training (VET) in facilitating prisoner education, encouraging future employment and accompanying prisoners on a path towards becoming contributing members of society and decreasing the likelihood of reoffending.

VET provides prisoners with workplace experiences, employment stability and increased community trust and safety by building rapport, giving prisoners access to a greater range of services they might not otherwise appreciate are available to them or have access to them.³⁵ Such services take a preventative approach to recidivism by equipping prisoners with the necessary resources to be able to cultivate new habits, experiences and understanding of the skills necessary to evolve away from the criminal justice system.¹¹⁶

The Connect⁴² submission outlined the exemplary prison education practice in the United Kingdom:

¹¹⁵ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.66-68

¹¹⁶ See [Australian Lawyers Alliance \(Submission #65\)](#), p.13-14

Leading reform in prison education is the UK's Coates Review strategy of "putting education at the heart of the prison regime" by cascading accountability for access to quality education [language, literacy, numeracy, employability and digital skills] LLNED, VET and Higher Education programs at all levels of prison management. This approach resulted in (among other aspects):

- *Each prisoner having:*
 - *an individual personal learning plan (with progress reports available in digital form);*
 - *access to quality programs offered by highly qualified and trained staff*
- *Each prison:*
 - *uses a consistent and rigorous assessment mechanism*
 - *all staff (management, custodial, teaching, support) having access to appropriate professional development to ensure delivery of high-quality education programs and services*
 - *develops a framework of incentives to encourage attendance and progression in education*
 - *provides learning support for those with multiple learning needs*
- *Prison management:*
 - *is accountable for the achieving prescribed education performance measures.*

With a focus on reducing offending patterns of individuals, the Coates review specified the importance of quality education programs targeted to supporting the language literacy, numeracy, employability and digital skills of offenders in custody. This is reinforced with a consistent performance measures, consistent assessment and review processes, skilled staffing well prepared to work in incarcerated settings and defined accountabilities for the conduct and review of these programs.¹¹⁷

In relation to vocational education the Tasmanian Government submission noted:

The TPS has a Service Level Agreement with TasTAFE to deliver an annual schedule of VET courses to assist inmates in gaining meaningful employment on release from custody. A variety of courses are delivered across all facilities.¹¹⁸

On 16 October 2020, Hon Elise Archer MP (then Attorney-General, and Minister for Corrections and Rehabilitation) and then Minister for Education, Hon Jeremy Rockliff MP made the following media statement:

Tasmanian prisoners will be provided with more training pathways from the time they enter prison to when they leave and beyond through a strengthened partnership between the Tasmania Prison Service and TasTAFE.

The agreement, which came into effect on 1 October, establishes a new prison education model, with a TasTAFE Campus incorporated into the Risdon Prison site.¹¹⁹

¹¹⁷ See [Connect42 \(Submission #56\)](#), p.10

¹¹⁸ See Tasmanian Government ([Submission #27](#)), p.27-28

¹¹⁹ See Tasmanian Government Media Release 'Partnership to deliver integrated training for prisoners' (15 October 2020), https://www.premier.tas.gov.au/site_resources_2015/additional_releases/partnership_to_deliver_integrated_training_for_prisoners

With respect to prisoner access to TasTAFE programs, Mr Ian Wilkinson (Case Manager, Salvation Army's Beyond the Wire program) was quoted by the ABC:

Mr Wilkinson said across the 21 TasTAFE-operated courses offered in the state's prisons, there were opportunities to develop basic computer skills and digital skills.

But he said the majority of courses were concentrated in Ron Barwick, a minimum-security prison, and Mary Hutchinson.

"The idea would be in maximum or medium if they show good compliance, good behaviour, as you progress through your prison sentence, you go up the road to Ron Barwick, then you can access the education process," he said.

"So people may not actually get access to these while they're in their sentence."

Mr Wilkinson said the issue was compounded by inmates spending more time locked in their cells because of staff shortages, limiting access to the programs.¹²⁰

Inmate Literacy and Library Services

The Tasmanian Government submission noted the TPS and Libraries Tasmania have partnership agreements in place to provide a library service that meets the learning and literacy needs of inmates. The Adult Literacy Service was aimed at improving functional literacy skills via one-to-one tutoring, and literacy and numeracy support.¹²¹

This current literacy pilot being delivered by Libraries Tasmania involves an expansion of the current Adult Literacy Service in the facility. This project aims to offer more inmates the opportunity to improve their functional literacy skills. Specifically, the project aims to:

- *improve inmates' literacy skills;*
- *obtain better data on literacy levels to allow a more targeted approach to addressing literacy deficits;*
- *increase the number of inmates engaging in the literacy program;*
- *improve delivery to facilities with lesser access to education;*
- *provide options for inmates to engage in literacy practices between tutoring sessions; and*
- *promote reading and use of the library in custodial facility.*

This project will extend the one-to-one tutoring offered to inmates and will focus on facilities that would benefit from more education offerings, such as the Southern Remand Centre, the Mary Hutchinson Women's Prison and the Risdon Prison Complex. Resources for this project include two well-established programs specifically designed for adults with low literacy:

¹²⁰ See ABC News, 'Former inmates struggling to reintegrate into society due to minimal experience with digital technology', Bec Pridham (14 November 2022), <https://www.abc.net.au/news/2022-11-14/former-prisoner-struggling-with-the-use-of-technology/101641072>

¹²¹ See Tasmanian Government ([Submission #27](#)), p.28

- *Turning Pages* was developed in the UK specifically for the custodial environment. It is designed as a program that can be delivered by peers; and
- *MultiLit* is a well-regarded Australian company with two programs suitable for tutoring adults one-to-one (lower level and higher level).

The pilot will monitor and evaluate how these two different programs perform. Inmates will undergo an Australian Core Skills Framework (ACSF) or alternative literacy needs assessment upon entry of the pilot and then again, every 6 months. This involves an interview with the learner which includes identifying and/or reviewing learner goals. Delivery will be a combination of face-to-face and online tutoring via Zoom and involve engagement strategies such as resume writing, structured literacy programming, reading challenges and technology to build digital literacy skills.

At the public hearings, the Committee heard from Mr Ben Moroney (State Manager Homelessness and Housing, The Salvation Army) in relation to exiting prisoners' literacy rates and the efficacy of training in the Tasmanian prison system:

Mr WILLIE - *I am interested in Recommendation 5 [from your submission] around education and training opportunities. I am interested in the clients you work with, their literacy rates and whether they tell you stories about disengaging from school. Since COVID-19 we've seen less attendance in schools. We've seen record high suspension rates and as a former teacher I've seen kids on that pathway where they started disengaging from school. I'm interested in whether we can go further downstream and whether you have any comments on the school system?*

Mr MORONEY - *Not really; we don't work in that space a lot but I can see what you're saying. Literacy is a big barrier and that impacts on people's capacity to do training as well. It's something we need to recognise and support people around fairly early, and we don't have the expertise to do the education so we need to make sure we can engage with services that do. It's definitely a problem and it has got worse, I believe, since COVID-19 because there are all these ways that you can not show up and you can do it online.*

Mr WILLIE - *What are the school attainment levels like in your clients? Do you look at those sorts of things?*

Mr MORONEY - *... I'd say it's anecdotally low in general.*

Mr WILLIE - *It has been a disengagement from school, red flags through the school system but then you are picking up the pieces as adults?*

Mr MORONEY - *Yes and it comes with that youth detention as well. It is a flow-on effect. It begins fairly early, with early childhood trauma. As a teacher, I am sure you would know, if you have a child with any behaviour issues it is really hard to keep them in a classroom with 30 people because they don't behave in a way that is conducive to people learning. The kids who need the help with it most struggle because they've got challenging behaviours and the resources and time to put in to supporting them is just not there at times. I know there is a lot of work going on and trauma-informed practice has*

developed a lot in the last number of years. People are aware of what trauma is and how we need to keep people safe before we can educate them.

Mr WILLIE - *In terms of the prison system ... there is TAFE available and there are literacy courses for trying to pick up the pieces from the school system. Is that adequate in the prison system?*

Mr MORONEY - *It's good but that's also dependent on behaviour. The same kind of issue may be a problem. You kind of need to earn your right to go into programs, I believe. Some of them you are recommended for, depending on what your offending history is. Family violence might be the FVOIP - Family Violence Offender Intervention Program. My understanding is you need to have a level of behaviour or have earned the right to join in on those programs. I don't know why, it could be just because they wouldn't work without it, or there is just not enough in there, but that's probably a question that Justice needs to answer.*

Mr WILLIE - *Not enough prisoners are accessing those programs because it's based around behaviour?*

Mr MORONEY - *That might be part of it because it is a barrier.*

Mr WILLIE - *Should there be a more blanket approach where all prisoners are being given those opportunities, not dependent on behaviour?*

Mr MORONEY - *There might need to be a more sophisticated or diverse way of providing the programs. The programs are very good, but the way they are delivered may need to be looked at. I don't know how that could be done because there are obviously technology issues that you would need to address and access to things that are safe and whatever.*

...

Mr MORONEY - *... but there might be other ways that they could look into it. That is certainly a question that Justice could respond to.*

Mr WILLIE - *The other thing that came up ... was that short-term prison sentences make it difficult for any sort of program to be implemented in full. Have you got any comments around that and what could be done?*

...

Mr WILLIE - *It was said to us on the site tours that there are people bouncing in and out the whole time. The community is not getting a rest because the behaviour is not stopping in the community. They come back into prison, they are only there for a few months and then they are gone again and it is just this cycle.*

Mr MORONEY - *I can only really comment around our clients but that's where we would step in and do that work with them. If they are coming in and out of prison, if they exit and they enter our program, then we could organise those supports. I can get that's a problem because there needs to be time to do the program. It could be a six-month program, it could be a 12-month program. I don't know. Your sentencing may align with*

how much support you can have and if you are not in there long enough then what is the point?

Mr WILLIE - *Some more case management with what you are doing...*

Mr MORONEY - *I think that is where we need to know that and then we can step in and see what we can do to provide that support because people still need it, especially if they are going back in and out.*¹²²

At the public hearings, Ms Lea-Anne Carter (Community Engagement and Program Manager and Ms Phillips, Principal Lawyer (Tasmanian Aboriginal Legal Service) spoke about the impact of low literacy levels and the need for support for Aboriginal prisoners:

Ms HOWLETT - *Are you aware of the literacy levels in the Indigenous population in Risdon?*

Ms CARTER - *We've been attending a few of the men's expos down there and have had pretty good opportunity. A lot of the fellas in there have massive literacy issues. That affects the opportunity to enter different programs and training. I know they have bridging programs but if you don't have the basic literacy skills, it makes it extremely difficult, particularly when clients get legal papers.*

Ms PHILLIPS - *They're complex.*

Ms CARTER - *They're complex. A few clients have got the high-risk offenders paperwork and have no idea.*

Ms PHILLIPS - *It takes a few days to get advice. It is difficult. Even just being able to get a client to sign an affidavit or a bail application, it goes into the ether. You don't know whether someone's going to be able to read it to them. You have delays trying to get appointments with your clients. You have 10 blokes in the yard yarning behind them so you'll hear 10 different things. It's really complicated and you hear family members who are contacting you saying that your client is distressed because they don't know what's happening with their bail application and you just can't resolve it on the spot.*¹²³

Committee Findings

F26. Whilst there is a partnership between Tasmanian Prison Service and TasTAFE, access to programs/courses is limited, including by short sentences, staff shortages, lockdowns and other factors.

¹²² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.50-52

¹²³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.32-33

Committee Recommendations

- R8. Ensure all prisoners upon entry are fully assessed for literacy, numeracy, digital and employability skills.
- R9. Ensure all prisoners have access to vocational and education programs according to their identified needs.

Reducing Family Violence Recidivism – the Alexis Family Violence Response Model

The Salvation Army submission¹²⁴ highlighted the importance of having a targeted approach for high-risk victim-survivors and recidivist perpetrators of family violence - the Alexis Family Violence Response Model:

Currently, the overpopulation of prisons is evidently not reducing the trajectory of risk that family and domestic violence perpetrators pose on women and children and in turn, the community. Offenders imprisoned for the use of family and domestic violence are moved around regularly due to prison overpopulation, and because wait lists for programs to address their behaviour are extensive. This means that we are not addressing the reasons why perpetrators are offending. The use of family and domestic violence is poorly legislated, therefore perpetrators who are incarcerated for an acute act of violence are not being held to account for their cumulative use of violence prior to incarceration, which reduces the level of accountability and responsibility on that perpetrator.

More efforts in programs tailored to a prosocial lifestyle will promote the responsibility of a perpetrator's actions. An increase of pathway options for priority groups are welcomed, with specific regard to Aboriginal and Torres Strait Islander communities, people with disabilities and women and children.

The Salvation Army points the Tasmanian Government to the Alexis Program that The Salvation Army runs in Victoria as an example of best practice in reducing family and domestic violence recidivism.

Alexis Family Violence Response Model was initially co-designed by The Salvation Army and Victoria Police with significant consultation and input from the Bayside Peninsula Integrated FV Partnership agencies. The Salvation Army currently works with police units to deliver the Alexis model in the three Victorian Police Divisions.

The Alexis model is a targeted approach for high-risk victim-survivors and recidivist perpetrators of family violence, that is, families that have had three or more police attendances for family violence in the preceding 12 months or where police assessed a possible likelihood of further violence. It creates a multi-disciplinary integrated response team by embedding a specialist key worker with family violence expert knowledge within a targeted police family violence unit. Through the Alexis Program, the specialist key worker aims to:

¹²⁴ See [The Salvation Army \(Submission #53\)](#), p. 12-13

- *strengthen integration between police and services*
- *reduce the incidences of police attendance where there is a history of recidivism*
- *prevent escalation of risk to women and children by intervening early, and*
- *promote successful and ongoing engagement in mainstream services.*

*An evaluation of the Alexis model by RMIT University in 2017 found that it resulted in an 85 per cent reduction in police callouts in the 12 months following exit from the program. This success can be attributed in part to the program's role in providing case coordination support and service integration for families. The Salvation Army acknowledges that the Alexis Program is not the only program of its kind. We recommend that funding be provided for more of these programs to be rolled out across Tasmania.*¹²⁵

Peace Education Program

Helen Hussey's submission to the Inquiry summarised the Peace Education Program at Bethlehem House that she facilitates. In relation to patronage, the submission notes:

- the program is held in over 600 prisons world-wide
- over 300,000 participants, including more than 100,000 participants in 755 correctional facilities
- is cross cultural and well received by Drug and Alcohol spaces in Kathrine and (elsewhere in) the Northern Territory
- in the Melbourne Remand Centre (Victoria), the Program is used in groups, in-house television, or on secure tablets for individuals. It is inexpensive and with little training can be used by existing staff or motivated fellow prisoners, and
- is otherwise free of charge.¹²⁶

The US based Program founders, the Prem Rawat Foundation, summarises the Program as follows:

The Peace Education Program is an innovative series of video-based workshops that help people discover their own inner strength and personal peace.

The program gives participants the opportunity to focus and reflect on their humanity, and their inner resources such as choice, hope and dignity. Rather than describing or defining personal peace, the program empowers individuals to reach their own understanding. Everyone can benefit. The program has proven effective in a variety of settings including community centers, schools, universities, healthcare settings, senior centers, homeless shelters, drug rehabilitation facilities, and correctional facilities.

*The Prem Rawat Foundation (PRF) provides access to the course materials to organizations and volunteers free of charge, making the Peace Education Program available to diverse populations in more than 80 countries and in 40 languages.*¹²⁷

¹²⁵ See also 'A follow-up evaluation of a coordinated police-social services response to recidivist family violence', Gemma Hamilton, Lisa Harris and Sarah Cook, *Journal of Criminology* (Vol.56 Issue 4), 15 May 2023, <https://journals.sagepub.com/doi/10.1177/26338076231174667?icid=int.sj-abstract.citing-articles.11>

¹²⁶ See [Helen Hussey \(Submission #31\)](#)

¹²⁷ See [Peace Education Program](#), The Prem Rawat Foundation, <https://tprf.org/peace-education-program/>

Ms Hussey further stated that:

*I have had many meetings with Ian Thomas, Director of Prisons, about co-facilitating a 10-week trial Program in the Women's Prison for some time. Covid and various staff changes have put this on hold. ... I am hopeful of this commencing when practicable.*¹²⁸

Ms Hussey also advocated the Program for corrective service staff related training to increase individual wellbeing, professionalism and reduced absenteeism:

In USA the program is used for helping staff members to start with appreciation, and valuing of their own lives.

*When they feel and acknowledge their own strengths, they form a personal base, which can be an anchor, to return to, in the very stressful situations they find themselves each day. They then begin to understand a more humanitarian approach to themselves and criminal justice. As staff members become aware of the positive changes in inmates, it affects the way they interact with them, which assists in providing a more positive prison environment.*¹²⁹

¹²⁸ See [Helen Hussey \(Submission #31\)](#), p.1

¹²⁹ See [Helen Hussey \(Submission #31\)](#), p.2.

The Provision of, and Participation in, Services for People in Prison and Leaving Prison (Health, Housing and Legal Services)

At the public hearings, Hon Elise Archer MP (then Attorney-General, and Minister for Corrections and Rehabilitation), spoke to the lack of housing availability for those prisoners transitioning out and having left the prison system:

We'd obviously like to add more houses to what's available for inmates on release. One thing I'm working on is providing a triage system so we can have transitional housing. We currently have a form of transitional housing with the O'Hara Cottages. They're used for inmates who are preparing for release; they are working and often they go out and work in the community and they come back. There is less security involved. It's more like being able to look after themselves and getting them prepared for reintegration back into the community. We have a limited number of cottages on site. If we expand, we can expand offsite with the appropriate inmates.¹³⁰

The Tasmanian Government submission stated that physical health services provided within the TPS were by the Correctional Primary Health Service (CPHS):

The TPS supports provision of health services through ensuring a safe and secure environment exists for CPHS staff to work in and inmates live in, and that inmates are able to access CPHS appointments and information as required.

The TPS works closely with the CPHS to ensure streamlined service delivery and to ensure that any barriers that may exist in health care provision are removed in a timely manner. For example, TPS Senior Managers have a monthly meeting with Senior CPHS staff to review arrangements and work through any issues that arise.

Where medical services are unable to be facilitated in house by CPHS the TPS is responsible for transporting and maintaining custody of individuals in local hospitals.¹³¹

The Men's Resources of Tasmania submission suggested that the Tasmanian Government audit service providers with a view of ensuring more positive outcomes for those leaving the prison:

Many respondents report that there is simply a lack of services to Tasmanians generally, and therefore supports for prisoners at release are all but non-existent, and where are available, can take months to access.

The Government should consider an audit of organisations offering these services, and ensure that there is more collaboration toward positive outcomes. A competitive funding process works against the best outcomes for these sorts of services as organisations are forced to compete for funding, and therefore incentivised not to collaborate and drive towards the most effective outcomes.

¹³⁰ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.40

¹³¹ See Tasmanian Government ([Submission #27](#)), p.29

*Many costs of health and wellbeing, transition, housing and legal services are wasted due to barriers put up by the correctional system. Security and correction can still be maintained at high levels with far less obstruction of access to the services being offered.*¹³²

Mental Health Support for Inmates and Remandees

According to the Australian Institute of Health and Welfare Report 2022:

- more than a half (51 per cent) of prison entrants reported being told they had a mental health condition at some stage in their lives
- female prison entrants (63 per cent) were more likely than male prison entrants (49 per cent) to report a mental health condition at some stage in their lives, and
- non-Indigenous prison entrants (60 per cent) were more likely to report a mental health condition than First Nations prison entrants (42 per cent).¹³³

The Tasmanian Government submission spoke to the mental health and welfare supports that were in place within the Risdon Prison Complex:

On initial reception to custody, inmates and remandees are reviewed by a Registered Nurse for triage purposes, and separately by a correctional officer. The health reviews screen for current medication needs, specific diagnoses, any mental health concerns, or cognitive impairment concerns, as well as any risk of suicide or self-harming behaviour [SASH]. Referrals are generated at this point to relevant service providers for follow-up, and in preparation for their medical officer appointment which is scheduled within four weeks of incarceration for non-urgent matters. The correctional screening tool 'Tier 1' assesses basic psycho-social coping and logistics with which the individual may need immediate support.

Following on from that initial assessment work, the TPS's Intervention and Reintegration Services department has a number of core teams which provide dedicated support services to support inmates and detainees as they enter the custodial system, during their incarceration, and in providing through-care to the community on release.

The Therapeutic Services Unit (TSU) is a team of counsellors and psychologists who perform a number core business actions. The primary focus of the team is suicide and self-harm risk assessment of inmates and detainees, as well as crisis response counselling to assist with coping and adjustment to the custodial environment. The TSU team also works in partnership with the CPHS's¹³⁴ psychiatric team to identify and support inmates who are experiencing or at risk of developing a major mental illness.

The TSU has a dedicated Disability Counsellor who works to identify and support inmates who have a diagnosis, or suspected diagnosis, of cognitive impairment or acquired brain injury. This can lead to referrals to the NDIS program for through-care

¹³² See [Men's Resources of Tasmania \(Submission #52\)](#), p.4

¹³³ See [The Health of People in Australia's Prisons 2022](#), AIHW, <https://www.aihw.gov.au/reports/prisoners/the-health-of-people-in-australias-prisons-2022/contents/mental-health-and-self-harm/mental-health-condition>

¹³⁴ Correctional Primary Health Service

support post-release. The TSU also has two Alcohol and Other Drug [AOD] counsellors who provide specific AOD focused counselling to sentenced inmates, and brief intervention support to remandees. The team also provides regular training to correctional officers and other non-uniformed staff members regarding suicide and self-harm policies and procedures, common mental illnesses and personality disorders found in the custodial population, and working with neuro-diverse presentations. The TSU has a staff member who supports inmates in Division 7 at Ron Barwick Prison which, as previously noted, accommodates elderly or very unwell inmates.

Mental health support is provided in collaboration with the CPHS Psychiatric and General Medical staff. Two multi-disciplinary meetings take place each week, one internal to the TPS to support correctional staff managing inmates who are experiencing mental illness or SASH related behaviour in their unit, and a broader community meeting which includes Wilfred Lopes Centre clinical staff, TPS Therapeutic Services Staff, CPHS Psychiatric Clinic staff, Forensic Mental Health Services, Community Mental Health Services, and Court Liaison Officers. This is to ensure those coming into custody, or who are being released, are able to be captured and through-care organised in a timely manner.

Referrals to the Wilfred Lopes Centre are undertaken by the CPHS Psychiatric Clinic Psychiatrist.

Dedicated spaces within the custodial facility allow for the TPS to assist inmates to have access to support staff, protection needs, and other safety considerations in the following ways:

- *the Mersey Needs Assessment Unit is a 15-bed unit which accommodates inmates who are identified as being at risk of, or experiencing, major mental illness, cognitive impairment or ABI,¹³⁵ vulnerabilities, suicide and self-harm risk, and those requiring further observation prior to transitioning into mainstream environments.*
- *in addition, there is a 4-bed Crisis Support Unit which accommodates people identified as being at imminent risk of self-harm or suicide. Placement in and out of this unit is through the Risk Intervention Team program which is a collaboration between CPHS Psychiatric Liaison Nurse, Correctional Supervisors, and Therapeutic Services.*
- *the SRC¹³⁶ has four safe cells which can accommodate remanded inmates who need additional support in coping and adjusting to custody, or who may be at increased risk of self-harming behaviour in the initial phase of their incarceration.*
- *both reception prisons, the HRP and LRP,¹³⁷ have dedicated cells to accommodate inmates who are at risk on entering the custodial environment.*
- *the MHWP¹³⁸ also has a safe cell for managing at risk female inmates and remandees.*

¹³⁵ Acquired Brain Injury

¹³⁶ Southern Remand Centre

¹³⁷ Hobart Reception Prison and Launceston Reception Prison

¹³⁸ Mary Hutchinson Women's Prison

Each facility also has double-up cells which can be used to support inmates through the presence of their peers and by providing companionship.

The TPS also has its own Chaplaincy service which provides holistic spiritual support to inmates as required. This team conducts regular supportive contacts, and religious services. Chaplains also play a significant part in working with the inmates in Division 7 of Ron Barwick Prison regarding end-of-life care.¹³⁹

At the public hearings, the Committee heard from Dr Sonny Atherton (Statewide Speciality Director, Forensic Mental Health Service) about some of the challenges and limitations of the mental health support available for adult inmates under TPS care:

Dr ATHERTON - *As I have outlined in my submission, prisoners experience a higher rate of mental illness. I am speaking specifically in relation to mental health service provision in prison. Prisoners experience a higher rate of mental illness compared with their community counterparts. I think that is widely acknowledged. There is a national survey which indicates that the rate is about 40 per cent. There have been other studies that have indicated that it is upwards of 60 per cent of prisoners who have a mental disorder.*

In many cases, those patients, if living in a community, would have access to significant resources, including the public mental health system. There is a significantly higher rate of serious mental illness in prison: [rates of] schizophrenia and major depression are significantly higher than in the community. Many of our prisoners with those disorders, if they were in the community, would be managed by community mental health services or managed by the public mental health system.

It is no secret that this patient group is quite a stigmatised patient group and also quite a disadvantaged patient group. There is significant comorbidity with substance use. It is not uncommon that we find such patients coming into prison having fallen out of follow-up with their community mental health supports. Often, they can be several months out of treatment and they come into prison often in a fairly unwell state. Once a mentally unwell person comes into prison, they are at additional disadvantages in comparison to other prisoners.

Prison, obviously, can be a quite a stressful environment, more so if you have a serious mental illness. But unlike some other States, Tasmania does not have a dedicated area in our prison for people with mental illness.

Many prisoners, if they are unwell, will also be too unwell to engage with their legal proceedings and that can cause delay in progressing their legal matter and can also, in some cases, lead to perpetual adjournments and prolonged incarceration, even for relatively minor offending when the person cannot instruct their lawyer.

Prisoners can be referred to the Wilfred Lopes Centre for treatment if they need -
...

¹³⁹ See Tasmanian Government ([Submission #27](#)), p.30-31

Dr ATHERTON - ... if they are acutely unwell, but there are limited beds at the Wilfred Lopes Centre and often there is a waiting list.

CHAIR - Can you remind us how many beds there are?

Dr ATHERTON - There were 20 beds all up but that is a mixture of acute and rehabilitation beds. In the acute side, we have eight beds. The patients that I am talking about here will need acute treatment. Those eight beds are not all available to admit people from prison and at any one time we may or may not have a vacancy. It is not uncommon to have three or four or five patients on the waiting list in prison. While they are in prison, because of the risks and behaviours associated with their mental illness, they may find themselves being managed in quite restrictive circumstances in prison while awaiting a bed or alternatively, they may be released into the community. Then, we encounter difficulties coordinating their transition of care from prison to the community where they will need ongoing mental health follow-up.

It is a well-established principle in the provision of health care to prisoners that a person in prison should not be disadvantaged by their legal status, that they should have appropriate access to health care regardless of the fact that they are in prison. This has now been reflected in a number of international human rights instruments and policy statements. This forms the basis of the principle of equality of care for prisoners. That principle has been included as the first principle adopted in the National Statement of Principles for Forensic Mental Health, which was endorsed by all Australian health ministers in 2006.

It is fair to say that most other jurisdictions now have taken significant steps in the development of prison mental health service capacities. Compared to other States and territories, Tasmania remains severely under-resourced and underdeveloped, and that has been highlighted now in a number of reports. I have mentioned a few of those in my submission but in particular, the Committee may be aware of the Custodial Inspector's report from 2017-18.¹⁴⁰

...

Dr ATHERTON - That is the prison task force report as well.¹⁴¹ The Custodial Inspector's report in particular was undertaken by Professor Jim Ogloff and he would be, I would say, probably the most respected forensic psychologist in Australia and one of the most respected forensic psychologists in the world.

CHAIR - Can we ask you about the conversations or discussions that you have had with Government around meeting that taskforce recommendation and the Custodial Inspector's report recommendation?

Dr ATHERTON - On the basis of those reports, we made a business-case submission for the development of a prison mental health service. This was before I came to the service

¹⁴⁰ See 2017 Custodial Inspector's Care and Wellbeing Inspection Report, Office of the Custodial Inspector, https://www.custodialinspector.tas.gov.au/data/assets/pdf_file/0020/451613/FINAL-TPS-Care-and-Wellbeing-Inspection-Report-Appendices-30-October-2018-PDF.PDF

¹⁴¹ See Prisoner Mental Health Care Taskforce – Final Report (March 2019), Analysis and Policy Observatory, <https://apo.org.au/sites/default/files/resource-files/2020-10/apo-nid308995.pdf>

in 2021. The development of a service would have supported approximately 14 full-time equivalent staff. That business case was approved and signed, acknowledging the findings of these reports and the significant service gaps in Tasmania, but unfortunately it was not then funded. We now find ourselves in the position of having unmet taskforce recommendations and other recommendations like the Coroner's recommendations, but really no meaningful increase in resources. The resourcing level is not significantly improved from 2016 when the serious events which led to the prison task force occurred.

Ms WEBB - *You mentioned the Coroner's report there, because of a death in custody of some description.*

Dr ATHERTON - *I don't have a copy of it with me, but this was the coronial inquiry into the murder of a woman in North Hobart by a person who was mentally ill in prison and was recently released from prison.*

...

Dr ATHERTON - *You may be aware that there is a statewide mental health service reform underway in Tasmania. The Forensic Mental Health Service has not, to date, been included in that reform, for unclear reasons.*

...

Dr ATHERTON - *What I would like to emphasise today is that we now find ourselves, to my knowledge, as the only service or the only State in Australia that has not developed an integrated prison mental health service. Even the Northern Territory and Canberra, the ACT, have developed prison mental health services.*

The level of services that we provide is grossly inadequate, in my view, to meet the current and, also concerningly for me, the future needs of prisoners in Tasmania, being mindful that there are plans to expand the prison estate. What I would like emphasise is that we advocate for supporting, in developing our capacities to meet the needs of prisoners, which is a very stigmatised patient group and, I am often told, are not necessarily the most popular patient group and difficult to advocate for.¹⁴²

Dr Atherton informed the Committee about the lack of funding support then currently available for the Tasmanian prison mental health service:

Dr ATHERTON - *Under our case list, we currently have just over 100 patients. We have a psychiatrist working in a 0.8 FTE role, who has oversight of that list. That is an unfunded position.*

...

Ms WEBB - *An unfunded position, so therefore it is a vulnerable position that is not necessarily guaranteed to be there next year or the year after.*

Dr ATHERTON - *In theory, but I think it would be untenable not to have that person there.*

...

Dr ATHERTON - *We want to ensure that we are meeting the needs of prisoners. In the interim, while we are still advocating for funding support to develop a prison mental*

¹⁴² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.66-69

health service, we have mobilised some ad hoc resources to help provide some additional support there, but again those are ad hoc resources diverted from elsewhere in the service that is also under-resourced.

Ms WEBB - *Can I ask then about the business case that you put forward, which was approved but then never funded and the 14 FTE there that was part of that business case? Would that then deliver the basics to meet the requirements that were in those recommendations from the various reports? Or would that be an adequate level of service then, if that were to be funded, as described in the business case?*

Dr ATHERTON - *Coming from where we are now -*

...

Dr ATHERTON - *it would be 15 times the amount of resource. It would be a significant improvement from where we are now. I think it would be in line with modelling in other States and would bring us in line with the modelling in other States around the number of FTEs that we should have for the prison population that we have. The Sainsbury model, which is used to benchmark FTE in prisons is roughly 20 FTEs per thousand prisoners. So, if we have 740 prisoners, then 14 to 15 FTE is on that mark.*

Mr VALENTINE - *And you have how many?*

Dr ATHERTON - *We have one nurse, who is the primary interface for mental health care and they also participate in something called the RIT process, which you might have heard about it today, the Risk Intervention Team. They have a range of functions, but one of those functions is a team that sits under the Tasmania Prison Service but consists of a correctional or primary health nurse and a member from the Therapeutic Services Unit, which sits under TPS. Their job includes reviewing the risk of self-harm and suicide that a patient might pose in prison and to review management recommendations now. Much of the time of that one psychiatric liaison nurse who we have in the prison, who sits under the Correctional Primary Health Service - not the Forensic Mental Health Service - is taken up in those RIT reviews rather than seeing patients.¹⁴³*

At the public hearings, the Committee asked Dr Atherton as to whether there had been any consultation with Forensic Mental Health Service in relation to the redevelopments at the Risdon Prison Complex or a future correctional facility:

Ms WEBB - *There has been significant redevelopment at the Risdon Prison Complex and we have discussion in train around a northern correctional facility. Has there been engagement in either of those processes with Forensic Mental Health Services about the inclusion of a dedicated area in prison suitable for prisoners with mental health issues who are not going to be meeting the criteria for Wilfred Lopes but need that dedicated area? You pointed out that we are lacking that. Has there ever been discussion that we should be including it as we are redeveloping or developing new facilities?*

Dr ATHERTON - *In my time here I have not been directly consulted on that. Our organisational structure is that above the Forensic Mental Health Service there is an*

¹⁴³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.69-70

operational grouping called the Forensic Health Service and under the Forensic Health Service sit two services: the Correctional Primary Health Service, which essentially provides GP level health care to prisoners across Tasmania and the Forensic Mental Health Service.

I raised this recently with my group manager and there was some mention that on the back of the task force recommendations there were recommendations that came out that incident around the development of dedicated areas in prison. It sounded as though there were some discussions but they did not translate into any dedicated mental health area of the kind that would meet the task force recommendations.

Ms WEBB - *Are you aware of what the barriers to developing that sort of area would be? Is it simply that it does not fit anywhere readily with currently the expense of redeveloping a new area for that?*

Dr ATHERTON - *I think it is probably a combination of those things, but I am not entirely sure. From my point of view, if we are developing a new prison then there should be the opportunity to consider how we would provide areas which might optimise the provision of health care to prisoners.*

CHAIR - *You pointed the Committee in your recommendations to the ACT Correctional Mental Health Service and you have obviously visited it, you have shared that, and you said that particular equivalent of care for prisoners could readily be scaled to the Tasmanian context. Can you give us a bit more of an outline of how you see that supports that statement?*

Dr ATHERTON - *We have had a look at Canberra's or the ACT's model for prisoner mental health. They are a similar sized or slightly smaller prison than ours, so, a natural comparison for us. When we visited their service last year, they currently have, on any given day, around eight staff on the ground. They have essentially a case management-type model, which is something that is similar to what you would see in the community. If you were a mental health patient in the community then you would be managed by a mental health service and be allocated a case manager. It would be the task of that case manager to work with you to help you towards your treatment goals and review your mental state and provide support in between psychiatric appointments. Currently in Tasmania, we have really no model that supports that type of approach. Between psychiatric appointments, there was no model really for maintaining contact with the patient. We had one nurse -*

...

Mr VALENTINE - *I cannot understand that. A 12-hour shift you are talking about here?*

Dr ATHERTON - *Yes.*

Mr VALENTINE - *How does that work? I mean, a person cannot work 12 hours a day every day? Is that what they are doing? That one individual? Or is this more than one individual that is delivering the service, if I could put that way, like part-time? How does it work?*

Dr ATHERTON - I cannot speak specifically about the structure of their workday. There are certain hours of the day where there is access to prisoners when the prisoners are out of their cells. Then, I understand that part of the function that those nurses provide is a crisis response type function. If there are immediate concerns about a prisoner, then they would participate in the assessment of that and also the intake of prisoners coming near reception into prison will be screened at the point of reception.¹⁴⁴

At the public hearings, the then Attorney-General informed the Committee as to the responsibility for the provision of health services within Tasmanian Prisons:

Ms WEBB - ... we heard at an earlier hearing day from Dr Atherton from the Forensic Mental Health Service, who raised some concerns about the level of mental health support available in the prison service. He spoke to us about the established principle of equality of care that people who are incarcerated should be able to expect the same quality of care that people in the general community do. He pointed out that is not the case in Tasmania. He said this:

It is fair to say most other jurisdictions have now taken significant steps to develop prison mental health service capacities. Compared to other states and territories, Tasmania remains severely under-resourced and underdeveloped. And that has been highlighted now in a number of reports.

He pointed to the report by Professor Jim Ogloff, for the Custodial Inspector and others. He talked to us about the fact that a business case submission was made before 2021, based on the need to improve these services. It was approved and signed off but was not then funded.

The business case was a proposal to have 14 full-time equivalent staff, which would have brought us up to an equivalent level of service to other states and jurisdictions. So, signed off, never funded, which means the resourcing level has not significantly improved since 2016 when the very serious events occurred that prompted reviews being done.

I am interested in a response as to why a business case would have been accepted and approved but then not funded. And your response to why we would still be so severely under-resourced and underdeveloped.

Ms ARCHER - It would be the Department of Health because correctional health services that provide all of those services within the prison environment for us is run by the Department of Health. That's not something that comes out of our budget. It is the Health budget.

Ms WEBB - As responsibility for all other aspects of corrections services is yours, what is your response to that sort of comment?

Ms ARCHER - Earlier I said there is an obvious increase in mental health conditions, reflected in the community as well; with that, I would like to see more mental health

¹⁴⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.72-74

services available for inmates. I think it is obvious that this is probably an area that is lacking, ... We continue to work with the Department of Health and are very much reliant on the Department of Health for those services.

Ms WEBB - *Can you talk me through, though, because it is your patch that those services are being delivered in, the impact of not providing adequate mental health services? It is a significant impact on the staff who are working in that space and the other inmates you are responsible for the care of.*

Ms ARCHER - *I can tell you it is very frustrating at times.*

Ms WEBB - *I am interested to understand the mechanism of the advocacy that goes on from Justice and Corrections into the Health space.*

Ms ARCHER - *A lot. I think it is always fair to say we will always work across departments as best as possible, and it can be very frustrating as a Minister when it isn't entirely your patch. I am responsible, obviously, for an area, but there's only so much we can do in terms of that service when we do not have total control over the provision of that service or, indeed, the budget for that service. We do the best we can in communicating with other agencies.*

Ms WEBB - *When you were creating the strategic plan for Corrections, and the new one that you have provided that has been available in the public domain for a little while for 2023 onwards, are you developing that strategic plan on the assumption that mental health services will remain severely underfunded and underdeveloped?*

Ms ARCHER - *Of course not. We don't do anything to set it up to fail. The Department Secretary, Ian and Rod, all continue to communicate with their colleagues across agencies and do the best they can to ensure that we can deliver on our strategic plan with the cooperation of other services that are required because we can't do it alone. We can't provide that service alone because it is not, as I have said, part of the service that we can totally provide.*

In fact, the relationship with Health is the best it has been, certainly since I came into this portfolio in September 2017. I have seen a huge change because we have put in a lot of effort into that relationship on-site. But it can always improve and it can always be better. I know it can because I get individual letters from family members of inmates advising me of certain situations where there have been failures in health care or health provision on-site. I communicate those situations directly to prison management through Ginna, Rod or directly to Ian to try to deal with matters on a case-by-case basis, and to ensure that those matters don't continue to arise. But it is not a perfect system. We will continue to work on it.

Ms WEBB - *Naturally, but when you are putting together this strategic plan, you have to do it on an assumption of particular services being available or not available. Have you developed this plan on the assumption that health and mental health services will be delivered at a level they are at currently into the future, or that they will improve?*

...

Ms WEBSTER - *I think initially and certainly ongoing there was involvement from all those stakeholders around the development of the corrections strategic plan. I don't think we specifically had a thought in mind that we would be delivering at a current or a lower level of any service delivery. But what we would do is work with those stakeholders to ensure we are able to deliver on what is in the strategic plan. I would say that if that means further agitation around increased services for mental health, then that is something that Rod or I would take up at our more strategic level. I know that Ian does at an operational level.*

Ms WEBB - *In terms of that statement from Dr Atherton that Tasmania remains severely under-resourced and underdeveloped in terms of mental health services within our prison system, is that something that is surprising to you? Or is it something you are aware of and continuing to work on?*

Ms ARCHER - *Continuing to work on.*¹⁴⁵

At the public hearings, the Committee heard from Ms Heather Kent, CEO, and Mr Stephen Shreeve, Executive Manager (Bethlehem House) in relation to the difficulties assisting parolees with mental health issues:

Ms WEBB - *You spoke about working with Holyoake on alcohol and drug issues, I assume. In terms of other health services and mental health services, are those areas that you find it difficult to access supports for the men who are living with you?*

Mr SHREEVE - *Mental health is challenging, because there is not a lot available and, once again, we don't have a huge amount of funding to be able to support that, so we are looking for services that can provide that service for free.*

...

Ms KENT - *Again, we were talking about that only this morning. With the new Bethlehem House, the first floor of that has been structurally designed to be able to best accommodate men with mental health challenges by having particular security doors that are in place, not used day to day but available, and a different layout to the rooms. In order for us to utilise that as a focused wing for those with higher level mental health challenges, we need this specialist support to be able to work in that area.*

*A submission did go through to the recent State Government's Budget and we weren't successful. While we have some disappointment about that, our sense is that with proximity of the Peacock Unit in Mt Stuart, and the more recent announcement of establishment in time of the St Johns Park site, that will assist in those areas; but there is so much need.*¹⁴⁶

The Committee noted Dr Don Hempton's submission which highlighted the importance of accommodating people with neurodivergent traits within the Tasmanian justice system: such

¹⁴⁵ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.47-49

¹⁴⁶ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.23

behavioural traits he argued may (inadvertently) increase the incidence of the affected person coming into the justice system.¹⁴⁷

This was complemented by the Brain Injury Association of Tasmania submission which concluded with the following statement:

People with cognitive impairment are over-represented in the criminal justice system in Tasmania. In order to better respond to the psychological and physical needs of people in contact with the criminal justice system, and break cycles of re-offending, the system must recognise and respond to the congruence of cognitive impairment and criminal offending.

At a practical level, that means:

- *Developing intake processes that uniformly screen for cognitive impairment.*
- *Legislating a therapeutic court that is adequately designed and funded to meet the needs of all people with a disability and/or psycho-social disorders.*
- *Enabling the ongoing delivery of evidence-based programs such as the JustACE¹⁴⁸ program to meet the needs of adult defendants/offenders with cognitive impairment treatments and therapies within the prison environment.*
- *Improving education for professionals in law and criminal justice on the indicators and consequences of cognitive impairment.¹⁴⁹*

Committee Findings

- F27. Prisoners experience a higher rate of mental illness compared to the general community.
- F28. Tasmania remains severely under-resourced and underdeveloped in terms of mental health services within the prison system.
- F29. Recommendations from 2019 Prisoner Mental Health Care Taskforce Report and the 2017 Custodial Inspector's Care and Wellbeing Inspection Report relating to mental health treatment and support for prisoners, remain unimplemented.
- F30. Delivering effective mental health services within Tasmanian Prison Services is impacted by the funding disconnect between the Departments of Corrections and Health.
- F31. People with cognitive impairment are over-represented in the Tasmanian criminal justice system.
- F32. Other jurisdictions provide a more optimal provision of mental and health care to prisoners.

¹⁴⁷ See in general Dr Don Hempton (Submission #5), https://www.parliament.tas.gov.au/data/assets/pdf_file/0032/69809/5.-Dr-Don-Hempton.pdf

¹⁴⁸ See in general JustACE Program, Brain Injury Association of Tasmania, <https://www.biat.org.au/our-programs/justace-program>

¹⁴⁹ See Brain Injury Association of Tasmania (Submission #45), p.13

Committee Recommendations

- R10. Recommendations from the 2019 Prisoner Mental Health Care Taskforce Report and the 2017 Custodial Inspector's Care and Wellbeing Inspection Report relating to mental health treatment and support for prisoners be acted upon immediately.
- R11. Fund the mental health services within the prison system to meet the recommendations made by the Professor Ogloff report and the business case approved in 2021.
- R12. Ensure Tasmanian Prison Service's intake processes uniformly screen for cognitive impairment.
- R13. Provide evidence-based treatment and therapy programs to meet the needs of adult prisoners with cognitive impairment.

Speech Therapy for Inmates

At the public hearings, Ms Mary Woodward (Senior Adviser, Justice – Speech Pathology Australia) and Ms Rosie Martin (Speech Pathologist and Criminologist) spoke about the importance of timely speech pathology intervention and the positive correlation in reducing offending behaviours in the community:

***Ms WOODWARD** - ... Speech pathologists are the university-trained allied health profession with a specialism in assessing and supporting communication and swallowing needs.*

It's important to start by noting that by having communication needs, particularly if they are not recognised and supported, can affect all aspects of an individual's life, including social, emotional and behavioural development, engagement in education, training, employment and participation in so-called talk therapies. While most people with communication needs will not commit crimes, it's now well established that there is a high prevalence of oral and written communication needs in the populations most at risk of contact with the justice system and, therefore, those in contact with the justice system.

Australian research has demonstrated a positive correlation between the severity of an individual's communication needs and the severity of their offending behaviour. Often these needs haven't been previously identified or supported before entering the justice system. Research in the United Kingdom has found that people with unmapped communication needs are at a greater risk of recidivism. The same research team also found that young adults with a diagnosed language disorder who had previously received support for their communication needs were actually less likely to have contact with the police than their age-matched peers.

Communication is fundamental to the forming and maintenance of positive relationships, engagement in vocational and educational opportunities, and successful participation in talk-based therapeutic or criminogenic programs, which are all recognised as being important and improving an individual's future life, including reducing the likelihood of reoffending.

It's our position that by identifying and supporting an individual's communication needs, you can have a positive impact on all aspects of their life, including reducing the risk of future contact with the justice system. Recent health economic modelling, which I'm happy to discuss if you wish, has illustrated the potential cost savings of providing timely, adequate and effective speech pathology intervention for children, young people and adults, who might be at risk of, or are already in contact with the justice system. Ideally children and their families would have access to speech pathology from early childhood. For some, their needs may not be recognised until later, or they may persist in requiring ongoing speech pathology input, including while under community or custodial orders.

Our position is that best practice is for speech pathology to be delivered at three levels, or three tiers, which is a model similar to the response to intervention framework that you may be familiar with in the education or public health spaces.

The first tier would be considered to be the provision of universal interventions, so population-level input such as building the capacity of the workforce who are working with the individuals; modifying other intervention programs, taking into account the communication needs of the individuals accessing them; changing at a systemic level policies and practices so that they are more easily understood and accessible.

The second tier is targeted interventions. When groups of individuals who require more support are identified they might, for example, receive group therapy to help develop their skills.

The final tier, which should really only be required for a small number of individuals, would be the individualised intervention, such as one-to-one speech pathology assessment and therapy. We believe that speech pathologists should be employed to work within the multidisciplinary workforce of any service supporting children, young people and adults who are at risk of or already in contact with the justice system. ...

...

Ms MARTIN - *... I would underscore everything Mary said and just underscore even further that critical piece about early intervention and linking that to the topic we're discussing today. Early intervention is the most dignified form of crime prevention. If we provide the needs that children have to become pro-social and supply the needs that their families have to support those children to become pro-social and to become their best selves with opportunities provided to them, there is no need to go into crime. The very big picture is about our social structure and providing those needs at an early level. What we understand about child development is that pro-social capacity is actually built into the developing child. I would really underscore that.*

In our workforce, Mary talked about building capacity in the workforce. One of the key things in building capacity is about the understanding of the transformational moment, those moments of connection and reflection that happen with children and their families as services and supports are being delivered. We heard the correctional officers speaking prior to this, but in those moments of correctional officer support as well, to understand that a moment of connection is, itself, a transformational moment. Pro-social change happens through a collection and an ongoing accrual of these transformational moments.

I think that is really important. Surrounding that is a lot of opportunity for self-reflection in all workers.

Listening to the panel of people you had before you just a moment ago, I heard a lot about training but I did not hear much about reflection. I think that is a really big piece because we don't change behaviour completely and totally through training; we need reflection on that training. It seems to me there is an absence of reflection time and reflection built in as part of that process.¹⁵⁰

Ms Woodward spoke to the concept of the use of speech pathology intermediaries in the Tasmanian justice and corrections management system:

Mr VALENTINE - ... Basically, in the Speech Pathology Australia submission you say:

'Despite positive evaluations of such schemes, no jurisdiction yet provides intermediaries for all people with disability, regardless of their age, diagnosis, location or whether they are the complainant, witness, accused'.

Can you explain the importance of providing such schemes?

Ms WOODWARD - An intermediary scheme is very different to the work of a speech pathologist as a clinician. Different jurisdictions do operate with slight differences, but typically and currently an intermediary scheme is afforded to complainants in child sexual assault matters. An intermediary would be requested to provide an assessment of that individual's communication strengths and weaknesses as they pertain to their interactions with the justice system. The intermediary would then provide advice to the police or to the courts around how they might be questioned or the modifications that might be necessary in order for that person to give their best available evidence, the most coherent, complete and accurate evidence.

Intermediaries in Australia really came about because of some recommendations from the Royal Commission into Institutional Child Sexual Assault Matters. As such, the recommendations were for the treatment of evidence of predominantly child complainants in sexual assault matters. Those jurisdictions that have an intermediary scheme, whether that is in a pilot stage as it is in Tasmania, or in some of the other jurisdictions in a permanent program, there are restrictions on eligibility. Rosie is actually one of the intermediaries in Tasmania, so she can speak to that in terms of her experience. We would certainly suggest that intermediators need to be available for anybody of any age and in any location and in any offence type, not just child sexual assault matters. And, crucially, any party in the matter.

We're talking today about the communication needs of people who are in the justice system. Those people would have gone through police interviews, trials, et cetera, without there being any recognition or modifications to how things were conducted to take into account their communication needs. They wouldn't have had an opportunity to realise their human rights in terms of effective participation through the legal processes. We

¹⁵⁰ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.15-16

certainly think the schemes that exist are a great start but eligibility and, therefore, funding needs to be extended so that anybody who has those needs can access the support they need in order to exercise their rights in the justice program.

...

Ms MARTIN - ... These are complex situations. That is what we are really wanting to get at in the justice space. People who have come into situations where they have committed a crime or are in touch with the criminal justice system, they are disadvantaged in these things. But these are skills that can be taught.¹⁵¹

At the public hearings, the Committee heard from the Hon Elise Archer MP (the then Attorney-General), Ms Webster and Mr Thomas in relation to the utilisation of speech therapists and pathologists within the Tasmanian prison population:

Ms ARCHER - ... Way back, when I was in opposition, I had a policy that if I got elected into Government, I would fund a certain thing Rosie Martin was involved in, and that came to fruition. One of the very first things I did was actually fund one of the initial courses that Rosie provided. Was it Chatter Matters? That was highly successful, and over the years we've put more funding into her courses, and also the nature of the courses that are provided within our prison environment.

Mr VALENTINE - To the inmates, or to staff?

Ms ARCHER - To the inmates. There is a high level of illiteracy and innumeracy across the board in adults in Tasmania. In our prison environment, we can't educate them unless we tackle that issue first for a lot of them. That's been a strong focus of mine, where I'd like to, in future budgets, increase funding because we know it works. We know the success Rosie has had in turning lives around, literally, and getting the confidence of inmates to actually change their lives.

From that perspective through to the idea of speech pathology to assist with correctional officer training, I think that's a great idea. I welcome all good ideas that will assist rehabilitation across the board. We know from our discussion this morning that correctional officers are the ones who can have the one-on-one contact and can really change things, and we don't want them to be involved in the physical de-escalation of incidents, necessarily.

I'm aware, from discussing this issue with the trainees, they are already taught de-escalation techniques with words. But if that can actually be improved with further training, then I'd be all for looking at that for a future budget ...

Ms WEBSTER - ... I think Rosie may have been referring to the Queensland model where Queensland employ their own health service. Some years ago, over 20 years ago, the Tasmania Prison Service used to do the same. In about 2000, we moved to Health delivering those services.

...

¹⁵¹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.16-19

Ms WEBSTER - *I was just going to add, one of the advantages of Health delivering those services is the critical mass of numbers they have with nurses, speech pathologists and those other professionals. If someone is away on leave or unwell, the capacity to be able to bring someone in to cover that position is greater when you have a larger number of people. Health are really good at delivering health services and the prison service are really good at delivering prison services.*

...

Ms WEBSTER - *..., so I think that's the key. If we were able to employ, say, a speech pathologist, we might employ one, but when that person goes on leave or is unwell, trying to find someone to cover for that would be really difficult.*

Ms ARCHER - *We'd have to look at it as a model similar to what we have with the five therapeutic staff coming onboard, so that you actually have a unit within the prison to deliver a service like that. It's not unachievable in terms of speech pathology.*

Mr VALENTINE - *She talked about assessing people who might have a disability and how speech pathology can assist their capacity to express what they want to express properly.*

If they could be understood, that might make a total difference to the way the service deals with them going forward.

Ms ARCHER - *I think there are probably numerous cases where Rosie has seen that first-hand and has been able to change someone's life by taking them on in the literacy program. ...*¹⁵²

The Committee heard from Mr Thomas regarding the current process of assessing people coming into the prison:

Mr THOMAS - *Everybody is assessed on entry for every aspect of their needs, including their health needs, both mental and physical, and that includes a disability assessment. If there's a clearly identified need that we can address now - that might be some of the more common disabilities we see, such as hearing, we have practices in place to do that. We can address those quite successfully. For some of the more unusual or difficult ones, we will look, through Health, to engage the appropriate services.*

With the work we've been doing with Rosie's team, we have on a number of occasions and will continue to do so, referred people to Rosie if they've self-identified, or we've identified, that they could benefit from engaging with a speech pathologist. That's been on a one-to-one sessional basis, in addition to the group programs that Rosie provides.

I would also like to add that the latest arrangement we have with Rosie includes a delivery of awareness to staff of what her program brings to prisons. She engages with our recruits. That is an ongoing program with our correctional staff as well. They're getting quite a level of awareness of what Rosie's organisation brings to the table

¹⁵² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.49-51

regarding opportunities for prisoners to rehabilitate and how that aligns with the role of a correctional officer.

Mr VALENTINE - *What does that look like, in terms of the amount of time someone like Rosie would spend with recruits? Is that a significant period of time? Is it 10 minutes? Give us some understanding as to how critical that is.*

Mr THOMAS - *It's a one-off session but it's two to three hours long, so it's a significant period spent with them, talking to them about the intent behind the relationship with Rosie's organisation, Connect 42, what they provide for prisoners and how that can link to the work correctional staff do. It gives them a greater insight into what Rosie's team is providing as part of the rehabilitation journey for prisoners. It gives them the opportunity to engage and also ask questions, get a greater understanding of how it can assist them. That can be something as simple as, as a correctional officer, 'I've got awareness of that, I can make a referral, or I might seek to engage them to provide some assistance to one of my caseload.'¹⁵³*

Committee Findings

F33. There is a correlation between the severity of an individual's communication needs and the severity of their offending behaviour, and unmapped communication needs lead to a greater risk of recidivism.

Support for Those Living with a Disability

The Tasmanian Government submission covered the introduction of Justice Liaison Officers within the TPS and Community Corrections for assisting inmates to navigate the National Disability Insurance Scheme (NDIS):

The National Disability Insurance Agency has appointed a number of Justice Liaison Officers, including one for Tasmania. Both the TPS and Community Corrections have worked actively to support the engagement of this position into the existing case management processes, to streamline assessment and referrals to the service.

For instance, Community Corrections has made space available for the Justice Liaison Officer in various offices across the state. This officer has become a key point of contact for Probation Officers to access on a regular basis, increasing the visibility of the NDIS and breaking down some of the barriers to accessing support through that service.

The Justice Liaison Officer is also provided space to work from TPS facilities. This provides access to inmates prior to release to commence engagement with the NDIS that is then supported in continuity of care and engagement for those released to orders supervised by Community Corrections.

¹⁵³ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.49-52

*This and other initiatives of collaborative partnership with both government and non-government services that Corrective Services has established helps to drive stronger collaboration in ensuring holistic support for people in custody and those subject to community-based orders.*¹⁵⁴

In contrast, the submission from Brain Injury Association of Tasmania stated:

There are significant issues of rights and accessibility for people with cognitive related disabilities involved in the justice system in Tasmania including:

- *NDIS service gaps, including difficulty navigating the application process (especially for people with cognitive impairment); and a lack of support for people with cognitive impairment who do not meet the threshold for eligibility.*
- ...
- *Many individuals not knowing that they have a disability due to the severity, multiplicity and complexity of disability experienced by people with cognitive impairment. A lack of screening and assessment of cognitive impairment and its causes compounds this, resulting in poor identification of people with cognitive impairment and a lack of reliable data on the number of people with cognitive impairment involved in the justice system in Tasmania.*
- *Service silos result in people with cognitive impairment and other disabilities not receiving continuity of support and 'falling between the cracks' of supports and services. This is compounded by the lack of throughcare support for people with disabilities, who are significantly disadvantaged by the challenges of navigating services when returning to the community.*¹⁵⁵

Legal Services for Inmates and Remandees

The Tasmanian Government submission outlined the provision of legal services throughout the TPS:

The TPS strongly supports inmates and remandees to have timely access to legal practitioners.

The TPS runs a professional visits process where legal representatives are able to book in to meet with inmates and remandees face to face to seek instructions and discuss matters related to cases.

Risdon Prison currently offers a total of 235 professional/legal Zoom/face-to-face visits per week and 429 phone call time slots per week for professional/legal calls.

The SRC, which opened in July 2022, is a state of the art, purpose-built facility designed specifically to hold remandees prior to sentencing. Thus, it is important that this group receives easy access to legal representatives to assist in preparing their cases.

¹⁵⁴ See Tasmanian Government ([Submission #27](#)), p.33

¹⁵⁵ See BIAT ([Submission #45](#)), p.16

The opening of the SRC has improved legal representatives' access to their clients, with increased telephone, in-person, Zoom and videoconferencing services offered to all remandees in the facility.

The SRC offers all remandees telephone access to professional and legal services from 8:45 am to 4:00 pm daily; in-person visits for all services in the Risdon Prison Complex (RPC) Visitors Centre in line with the RPC Visits Schedule; Zoom visits on Mondays and Thursdays; and access to four video link rooms, which can be used for professional and court contact with remandees.

In addition to this increased access, every cell in the SRC has a telephone which can be used by the remandee throughout the day to make contact with their legal representatives (as well as family and other contacts). This unrestricted access is providing significantly increased access to legal representatives (particularly those who may be in court during the day) to remandees.

The SRC also has a legal resources centre which remandees can access which has access to various legal resources to help prepare their case including offline access to relevant legislation.

The Videoconferencing Upgrade (VCU) Project continues to provide increased capabilities for courts and professional contact with inmates, with additional fixed video links installed across all TPS facilities in June 2022. All the physical upgrade work within the TPS as part of the VCU Project is now complete, with updates to the scheduling and booking system now underway.

A number of these video links are already in use in the Hobart Reception Prison, Launceston Reception Prison, Ron Barwick Prison, Mary Hutchinson Women's Prison and the Risdon Prison Complex Maximum- and Minimum-Security precincts.

In addition to the SRC's four active video link rooms, an additional two fixed videoconferencing end points for courts and professional visits are in the process of being installed in the Risdon Prison Complex Maximum Derwent units' interview room, and the Huon/Mersey interview room.

TPS senior managers regularly meet with a legal stakeholder's reference group which includes the Registrar of the Supreme Court, Administrator of the Magistrates Court, Director of Legal Aid Tasmania, President of the Law Society and Chair of the Prisoners Legal Service.

Through these meetings any barriers to legal access or issues relevant to legal matters are able to be raised and resolved.

The TPS also supports external stakeholders providing legal advice and supports to inmates and remandees. For example, the Prisoners Legal Service recently received funding from the Government to run a Preventative Lawyering Program which is soon to commence. This program will work with inmates in the last few months prior to their release to provide them with a 'legal health check' to ensure that inmates are able to be

released unencumbered with outstanding legal matters such as warrants, unpaid fines, and outstanding court matters.

The aim of the program is to reduce the risk of inmates having to deal with legal matters as soon as they are released and risk being returned to custody.¹⁵⁶

The Knowmore submission made comment on the provision of legal assistance and support to survivors of child sexual abuse in prison:

The links between adverse childhood experiences such as child sexual abuse and criminal offending in adulthood are well-known. For example, during the Royal Commission [into Institutional Responses to Child Sexual Abuse] (Royal Commission), over 10 per cent of survivors who came forward to disclose their experiences of abuse were in prison at the time of their private session.

Knowmore provides legal assistance and advice to survivors in several Tasmanian prisons. In our experience, prisons are often a site of further trauma for survivors and many survivors face significant barriers accessing the support they need to begin their healing journey and to access justice for what happened to them as children. Problems include:

- *barriers in prison to disclosing an experience of child sexual abuse*
- *a lack of appropriate supports in prison for managing and healing from complex trauma, including barriers to external services accessing the prison environment to provide support and a lack of face-to-face counselling options*
- *a lack of trauma-informed practices in prison*
- *a lack of cultural awareness in prison regarding the experiences of Aboriginal and/or Torres Strait Islander survivors*
- *privacy and confidentiality concerns, including barriers in the prison environment to obtaining and confidentially storing records relating to experiences of child sexual abuse and concerns that telephone counselling sessions will be recorded*
- *legal and practical barriers in prison to pursuing compensation or redress for child sexual abuse*
- *a lack of appropriate supports to assist survivors to manage the transition upon release from prison.*

To overcome these problems, Knowmore strongly supports the increased availability and resourcing of trauma-informed and culturally safe support services for survivors in Tasmanian prisons. Survivors in prison should be able to access the same therapeutic treatment services and legal support as other survivors. These services should reflect the Royal Commission's vision for a responsive service system ... and action should be taken to ensure that barriers to support services accessing Tasmania's prisons are greatly reduced.

...

To improve the healing and support available to survivors, the Royal Commission outlined its vision for a responsive service system, a cohesive system that:

¹⁵⁶ See Tasmanian Government ([Submission #27](#)), p.35-36

- addresses all aspects of survivors' wellbeing in a holistic way
- is based on the principles of:
 - trauma-informed practice and an understanding of child sexual abuse
 - collaboration (services work together to help survivors find the right service at the right time)
 - availability (services are available to survivors at the right place and time, throughout their lives and for as long as they need)
 - accessibility (services are affordable or free and accessible to all survivors)
 - acceptability (services consider the diversity of survivors and respond to their lived, social and cultural contexts)
 - high quality (services are based on evidence about what works, delivered by trained and informed workers and regularly evaluated)
- is inclusive of Aboriginal and Torres Strait Islander healing approaches.¹⁵⁷

At the public hearings, Mr Barns spoke to the recently introduced preventative lawyering program commenced in Tasmania:

Mr BARNES - We are very excited by that. ... [The Attorney-General] gave us \$80,000 for this project. ... The way it works is this and it does go to recidivism. We will talk to prisoners who are on their way out, three to six months before, and we will say, 'What matters do you have that are outstanding?' Often what happens is that the prisoner will have, for example, a family violence order or a restraining order in place. They have either lost a copy of it or they do not know the terms of it. We had one the other week where in fact the partner was ringing the prisoner and they were exchanging phone calls. We said to the prisoner, you can't do this under the order, don't do it. What happens is they get out and they go and visit and then, of course, the police get called and they are back inside.

The other issue is outstanding warrants. We have one this week where this guy has three matters that have not been dealt with for some reason - driving matters - we will go to court with him, get them cleaned up, get him time served so he can come out without warrants. The third area is fines and along with Anglicare, we are working on getting agreements with monetary penalties, so if a certain amount is paid off, they can get their licence back.

Preventive lawyering is like we go and get a health check from our GP. This is a legal check and the idea is to try to make sure these triggers for offending, when they come out, are diminished. One of the things we have found is the language of court documents - family violence orders, restraining orders - is such that given the high rates of illiteracy, a lot of prisoners do not know what is in it. They say, 'I didn't know I couldn't do that, I didn't know I couldn't do this', so that is an issue we eventually will take up with the courts ...¹⁵⁸

¹⁵⁷ See [knowmore \(Submission #55\)](#), p.3-4

¹⁵⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.25

Committee Findings

- F34. The increased availability and resourcing of trauma-informed and culturally safe legal and support services within prison would assist inmates, including those with adverse childhood experiences.

Support for Inmates on Reintegration

The Tasmanian Government submission outlined how the TPS Planning and Reintegration team supported inmates in their transition back to the community:

The Planning and Reintegration (P&R) team's primary goal is to assist inmates to improve their lives and to decrease their risk of re-offending by obtaining skills and accessing services. The team largely works one on one with inmates serving a sentence of greater than 6 months - addressing areas of concern regarding their offending behaviour through assessments, sentence planning, and identifying requirements for their release. This team also supports inmates to stay connected to their families in challenging circumstances through the use of family engagement workers.

For those inmates who transition to community-based orders, Community Corrections delivers a similar suite of criminogenic programs. Programs focus on addressing alcohol and drug addiction, aggression and family violence related issues. For those who have completed a program in custody, there is an opportunity to re-engage with the program material and apply key learnings in the community setting if subject to post release orders.¹⁵⁹

The Tasmanian Government submission also outlined four specific areas of targeted intervention: additional drug and alcohol supports, throughcare support and interventions, post-release partnerships, and support for those living with a disability.

Throughcare Support and Interventions

The Tasmanian Government submission identified how the TPS supported inmates leaving custody:

Inmates are unable to access Medicare while in custody. This means that they are unable to work in consultation with a General Practitioner to develop a Mental Health Care Plan until they are released to the community. Engaging a GP can be difficult for some inmates upon release, as their circumstances generally dictate that they need to find a bulk billing practice, and they may not have an existing relationship with a doctor. Work is often required to locate a practice in their local area that is open to accepting new patients, which can result in delays to inmates accessing appropriate assistance on release - at a time of increased vulnerability. The TPS works to locate services and establish therapeutic relationships between inmates and services where possible, where these are not able to be established Community Corrections (where applicable) will work with the offender to support them to engage with a relevant service.

¹⁵⁹ See Tasmanian Government ([Submission #27](#)), p.31

Forensic Mental Health Services suitability criteria often mean that a number of inmates and offenders are unable to be accepted as clients. Community Corrections has established a partnership with Forensic Mental Health Services, which has seen probation officers engaged in case consultations and regular training from a senior forensic psychiatrist. This assists officers in developing and delivering case management planning, but is not a genuine substitute for an offender's engagement with a clinical professional in the field.

As well as seeking supports for inmates from external stakeholders on their exit from custody, the TPS also works with external stakeholders to deliver drug and alcohol intervention supports within the custodial environment. Support from external stakeholders allows specialist programs to be delivered to inmates and also provides greater links to community support networks that inmates can rely on upon their release.¹⁶⁰

The Tasmanian Government submission also stated the following:

The TPS also works with external stakeholders to deliver drug and alcohol intervention supports within the facility. Support from external stakeholders allows specialist programs to be delivered to inmates and also provides greater links to community support networks that inmates can rely on upon their release.

With a view to continuity of support for those exiting custody onto community-based orders, the TPS and Community Corrections have established a range of partnerships with external service providers that ensure a referral for a person can continue to be actioned throughout their engagement with each of the services. Two examples of success include:

- the Sexual Assault Support Service engages victims of sexual assault whilst in custody, and continues this care once they have been released on supervision orders. This ensures that victims have continuity of care in managing issues related to their abuse.*
- Holyoake provides a group program, Gottawanna, which runs across a number of sessions with multiple entry and exit pathways into engagement. The same facilitators deliver this program and provide one on one counselling in both the community and custodial settings. Inmates and offenders who commence either the program or counselling while engaged with either Community Corrections or the TPS, are afforded the opportunity to continue the engagement if they transition between services.*

When an inmate seeks to commence or continue working with an external service provider during their incarceration, their Planning Officer will make contact with the service to ascertain whether it will be possible to provide support during their incarceration. Where this is not possible, contact will be made again closer to the individual's release. Optimally this will include a Zoom or phone call from the service

¹⁶⁰ See Tasmanian Government ([Submission #27](#)), p.32-33

provider to the inmate, to ensure a warm handover occurs. Where appropriate, an appointment will be made for the inmate to attend upon release.

Planning Officers do preliminary work with individuals which begins to develop the inmate's understanding of their risks and needs, and informs the detailed referral/handover that Planning Officers are able to provide to external service providers. This includes information about the individual's needs, challenges, and strengths.

The exchange of information noted above is grounded in strong cross-sector professional relationships. Among the services frequently contacted are Alcohol and Drug Services, Youth & Family Community Connections, Holyoake, the Salvation Army Bridge Program, and Missiondale Residential Rehabilitation. Collaboration between Planning Officers is instrumental in the exchange of contacts and information regarding external services, which in turn, leads to better through-care for inmates being released to the community.¹⁶¹

At the public hearings, Ms Heather Kent, CEO, and Mr Stephen Shreeve, Executive Manager (Bethlehem House) discussed throughcare for exiting prisoners:

Mr SHREEVE - ... *We have a case manager at the moment who came to us from Risdon. She has fitted in like a hand in a glove. She understands the cohort, she understands what we are trying to achieve.*

Ms WEBB - *Do you mean as a corrections officer, she has now come to you, or she was an inmate?*

Mr SHREEVE - *Not as a corrections officer but more like a case management activity at Risdon before they are released. I can see how it would work really well if we had a similar case management to what we have at Bethlehem House, situated at Risdon, so that before someone is released, they start to get that activity and that goal-setting and goal-achieving.*

Then, once people leave there and perhaps come to Beth House as a parolee, there is a continuation of that case management approach. I see huge value in that, and I would be confident to say there would be a far better success for people leaving prison.

Ms KENT - *That is the throughcare model that we are talking about. At the moment, it only starts to take place in that initial Zoom interview, which is shortly before release. There is no capacity, at the moment, for greater involvement in the time while they are in prison.*

Ms WEBB - *Can I just clarify too, though, that there are elements of case management occurring within the prison, prior to release? Are you suggesting, though, that if there was more coordination across the two models that are used, then that would be an effective way to ensure a more seamless transition?*

¹⁶¹ See Tasmanian Government ([Submission #27](#)), p.32

Mr SHREEVE - Absolutely.¹⁶²

The Committee also heard from Ms Kent and Mr Shreeve on the challenges of finding and funding services for their clients:

Mr VALENTINE - ... [In] your submission ... you talk about visiting specialists are commonplace. I am interested to know whether there are shortages of qualified services in this space. What services do you find hard to access for these people that you are looking after?

Mr SHREEVE - ... In terms of counselling, drug and alcohol counselling, that is funded through a grant from the Tasmanian Community Fund (TCF) so I guess the issue for us is

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Ms WEBB - That is a time-limited fund, then.

Mr SHREEVE - It finishes at the end of June [2023].

Mr VALENTINE - But do you have problems getting hold of the specialists to come and do the work?

Mr SHREEVE - It is partly that; but it is also funding because we have a fairly limited funding model and approach. It's a matter of trying to get the best value from the funding that we have. We need to put food on the table, and heating, and all that sort of stuff as well.

Ms KENT - We are not funded for those elements; they are additional grants that we need to compete for. If I could highlight the employability program, it is everything from those whom we assist with literacy and numeracy - ... Connect 42. That's a great program and we were funded for a period of time to have that, but of course the funding ceases and they are in demand amongst so many other people. Resume writing is another area where many of these men have not needed to write a resume for a great period of time. It is getting that sort of specialist support that people do not immediately think of, but it is the boots on the ground that is going to make a difference for getting their next career.¹⁶³

The Committee also heard from Ms Charlton (Holyoake) in relation to case management transition of exiting prisoners:

Ms WEBB - ... Is there a transition where people who are exiting prison and maybe if they contact your program in that context can then tie in to either continue the program or move to, say, the recovery program once they have exited?

Ms CHARLTON - It is not managed by anyone: in fact, the case management in the prison is rubbish. It is absolute rubbish. We have good communication with Community Corrections but in terms of prison case managers - I assume they have case managers in

¹⁶² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.18-19

¹⁶³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.19-20

there, but I don't know because we have never met one - it is rubbish and this is one thing that I say, there needs to be a transition. We need to have a wraparound service, we need to have -

...

Ms CHARLTON - *Continuity, we provide continuity in terms of throughcare program, but we do that on our own. The prison system sucks, really, to be perfectly honest. I'm sure you have heard that before, it is rubbish and the communication with the outside world is really bad and that's where people fall through these gaps.*

Ms WEBB - *Can you describe something that you would like to see in place in terms of what could work well to have that transition be a more planned and seamless one?*

Ms CHARLTON - *Every prisoner exiting prison should have a plan and someone - we don't do case management: we just do what we do - someone should be managing that. I don't know who, someone should be saying, here's Jim, he's due for release, what do we need to do to stop him coming back into prison? Oh, he needs somewhere to live. He may or may not need a GP - probably does because he probably got a bupe [buprenorphine] habit that he got in prison. We need to maybe try to put him on some kind of employment system where someone could find him a job. We need to try to make him independent so he is not going to just go and sleep on the Domain, fall back in with all of his druggy friends and go back into prison because he has just robbed the BP station because he needs more ice. That happens. We see that happen all of the time. As we said earlier, we are setting people up to fail. We need to make sure that someone is ticking these boxes to make sure that Jim does not go out with three days' worth of his antipsychotics.¹⁶⁴*

Mr Patrick Burton (Advocacy and Campaign Coordinator, Justice Reform Initiative) also provided comment on some of the issues faced by detainees leaving on a Friday, public holiday or similar:

Mr BURTON - *One thing that Mindy summed up very eloquently is the issues about people coming out of prison. I've had to deal with these as an advocate and as a practitioner for many years, but something that we're going to be talking about later on today is when people are sentenced, they are sentenced to a term of maybe two or three years in prison. We don't take into account when their sentence expires. It might happen to be on a Friday. It might happen to be on a public holiday and they come out. The law deems that they come out on that particular day. These sorts of things aren't thought about but they are being addressed.*

I was talking to a colleague in Scotland the other day. They've introduced legislation to the Parliament over there to make sure that when people come out, they come out on a day where they have support.¹⁶⁵

¹⁶⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.36-37

¹⁶⁵ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.35

The Tasmanian Government submission stated:

The TPS has a team of case managers who plan an integrated and coordinated approach to services that help offenders address their offending behaviour. This case planning involves developing a sentence plan that provides a meaningful guideline to progressing through the custodial system by addressing identified risk and need.

Case planning has a strong emphasis on providing offenders with a range of skills and supports that enable them to reintegrate back into the community, thereby minimising their likelihood of reoffending.

This includes identifying and meeting their social and welfare needs as well as assisting them in acquiring useful educational and employment skills and qualifications. A core focus is the provision of basic numeracy, literacy and education services to inmates.¹⁶⁶

The Salvation Army submission expressed the following:

It is The Salvation Army's experience that sustainable change can be achieved when intensive case management delivers flexible support to ex-offenders when it is required. Appropriate supported housing, for instance, cannot be delivered without significant lead time, pre-release applications, and financial arrangements. An effective co-case management model includes corrective service delivery of criminogenic treatments for identified needs and external agencies providing support or treatment of non-criminogenic factors, for example, to address low self-esteem, literacy, accommodation, and other social needs.¹⁶⁷

At the public hearings, Mr Tony Bull suggested that case planning for exiting prisoners was not entirely successful:

Mr VALENTINE - *You talked about homelessness when exiting prison. Clearly, that is really important. Is it because if they are homeless they are going to reconnect with their old networks?*

Mr BULL - *You have no choice. You have to understand they are going into prison in 1983 and coming out in 2003. To you, it is still 1983. Getting out of jail is one of the most euphoric feelings you have ever felt in your life. To be honest, the last thing you think about, of all of the things that you thought about while you were in prison. It is elation at its max. Then, if you have nowhere to live, no money in your pocket, you have no choice but to go back to the very life that you left.*

Mr VALENTINE - *The services that are being offered at the moment -*

Mr BULL - *There aren't any.*

Mr VALENTINE - *The likes of Beyond the Wire and those sorts of services.*

¹⁶⁶ See Tasmanian Government ([Submission #27](#)), p.27-28

¹⁶⁷ See [The Salvation Army \(Submission #53\)](#), p.11

Mr BULL - You can only do so much for so much.

Mr VALENTINE - Not enough services?

Mr BULL - None at all. You've got people who have done life sentences and coming out being homeless. I mean, seriously? The system, that has to be all organised and sorted out before you get out, not when you get out, because it is not going to happen. That is something that we used to do and I used to do as a program support worker. I used to initiate and encourage these things and help. There is none of that now.¹⁶⁸

At the public hearings, Mr Don McCrae (Chief Executive Officer, JusTas) addressed the complex issue of reintegrating ex-detainees back into the community:

Mr McCRAE - ... It really does have to start with education. It has to break that intergenerational cycle of crime which is so entrenched in some areas with some families. How we do that is very difficult. We need to apply a lens that gets tough on the causes of crime.

For so long we have had a narrative to get tough on crime. It really doesn't work. We've seen from many jurisdictions around the western world where if they apply some interventions, some therapeutic jurisprudence, some opportunities for grief counselling, for trauma counselling, for working in a trauma-informed care practice we can start addressing some of the issues. Looking at education is certainly a big factor in why people are missing out.

The responses are significant and they are complex and they are all intertwined. If we can apply any sort of lens today it is about opportunities for improvement, and there are many. There's a number JusTas has been involved with in 'Breaking the Cycle', since Lisa Singh did it back in 2009-2010, and have been involved in every iteration. Every year, every iteration of that strategic plan suggests the same things. The inspectorate reports suggest the same things. We might be chipping away at some things but we are not addressing the root cause, we are not applying the opportunities for significant rehabilitation.

We are not addressing the issues for reintegration, which again are compounded by the lack of affordable housing for people to exit into. Part of our report responds to that and suggests that the opportunities for getting out of prison are very few. That's why over 50 per cent of the population in Risdon Prison will exit prison today or this year into homelessness of one form or another, and 56 per cent of those people will go back to prison.

CHAIR - We have heard from some of the providers around the fact that they just don't have the spaces available to take those who are exiting prison. Therefore, they can't meet parole requirements, therefore, they don't have the support services and it continues to go on. That is exactly what you're seeing?

¹⁶⁸ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.10

Mr McCRAE - That is exactly what we are seeing. I think there are providers who find it difficult to work with a cohort of remarkably challenging and complex individuals as well. The narrative across the community is that there is a significant risk in working with people who are exiting prison. You only have to walk around the expo they have every year at Ron Barwick Prison and talk to 200-plus individuals there and find out that they are just like everybody else in the street, but their issues haven't been addressed.

There are issues of trying to self-medicate to numb themselves from the pain of significant childhood trauma. It is prevalent throughout the prison system. Certainly, we are seeing that with kids going through Ashley Detention Centre. While these things remain unaddressed, those inherent root causes will still remain and people will still come out to get back into prison, to self-medicate, to apply other forms of treatment that are less palatable to our community.

We do have a shortage of specialist treatment services and specialist accommodation services that support people coming out of prison. ...

With parole, it is a capacity for people to be directed back into the community and supported back into the community, that reintegration to be supported by the supervision and compliance support from the parole board and parole officers. But also, with therapeutic and integration services that support those people's recovery and support those people back into accessing services.¹⁶⁹

Committee Findings

- F35. There is inadequate throughcare and post prison services for exiting prisoners due to insufficient resourcing and accessibility of services.
- F36. Comprehensive case planning on exiting prison is vital to ensure that prisoners can meet parole conditions and reduce recidivism.

Committee Recommendations

- R14. Fund and implement throughcare and post prison release services for all exiting prisoners.

Transitional Medical and Mental Health Support

At the public hearings, Dr Atherton informed the Committee of the challenges faced by Tasmanian inmates in relation to accessing transitional medical support within the TPS system:

Mr WILLIE - We've talked a lot about reintegration today. You've made a recommendation around funding for planning and supporting engagement with community-based health care. I'm interested in how that works at the moment and I guess

¹⁶⁹ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.56-57

there were people with mental health needs exiting the prison probably with minimal support. You've had one high-profile case that you've talked about, but there's probably a lot of others where it all goes wrong - is it that lack of support?

Dr ATHERTON - *The first thing to say there is that it's difficult, in my understanding, for remandees to access transitional support. We have worked very hard at trying to improve the transition out of prison and we have one nurse whose core tasks - again, this is ad hoc resource –*

Mr WILLIE - *There's only one nurse?*

Dr ATHERTON - *Yes. We have a nurse who is there to give extra support to that transitional stuff - arranging GPs, helping coordinate transfer of care to mental health services in the community, and that's incredibly resource-intensive. It takes her a long time to coordinate transfers. There are other parts of the system that are also in development and we are interfacing with those and the general adult service in the community. We know that when prisoners leave prison, it's a risky time. There's a high risk of relapse to substance use. If they're not, there's a high chance of a prisoner falling out of engagement with their ongoing support or not engaging with their ongoing support. As a psychiatrist put it to me the other day, when people leave prison, there's a great risk that they'll just fall off the cliff.*

...

Mr WILLIE - *We've also heard stories today of prisoners exiting the prison system with only three days' worth of, say, antipsychotic medication. Why does that occur?*

Dr ATHERTON - *I'm not entirely sure of the reason of why that occurs. I assume that the prison will have a process or a protocol around how much medication they provide on discharge with the expectation that the person will then seek an ongoing prescription in the community or be able to get to a pharmacy.*

Mr WILLIE - *But given the challenge to access a GP or any medical practitioner in this current environment, it's not a realistic expectation that they'll be able to do that within three days and get another script.*

Dr ATHERTON - *You're right, it's one of those things about - are we giving our patients the best chance of success when they leave and it's very difficult -*

Mr VALENTINE - *Is there a safety issue? Is that why they don't give them more than three days? Do they definitely need to see a GP and to give them more than three days' worth is an issue of some description? Do you have any insight into that?*

Dr ATHERTON - *I'm not sure of all the factors that are at play there. There will be some patients who you don't want to send home with a large supply of medication and I'm sure there will be cost issues and other things that come into that as well.*

The patients who are of most concern to us have serious mental illness. Many of those will be on depot antipsychotic medications and they stay in the system for two weeks and

longer, and it's about making sure that they link in to their support so that they can maintain their ongoing treatment.

Mr WILLIE - Where I was heading with my questioning is, it seems like a small resource to connect prisoners exiting the system to community-based mental health support. Potentially, it's a cost saving, isn't it? It would reduce the recidivism rate if they've got support in the community potentially and it would pay for itself.

...

Dr ATHERTON - The relationship between offending and mental illness is complex, so I want to be cautious about making any comments specifically about that. There is a high risk of somebody relapsing to substance use and not engaging with treatment on release and then needing a more resource-intensive intervention which could have otherwise had been avoided. So, if a person leaves prison, relapses to substance use, does not get their next depot injection and becomes unwell, they will then, ultimately, either need hospitalisation or they will be back in prison, or both.

Mr WILLIE - Both expensive options and more crime in the community.¹⁷⁰

The Committee heard from Mr Moroney (State Manager Homelessness and Housing, The Salvation Army) as to how the Beyond the Wire program assisted with the exiting prisoner continuing medication gap:

Mr VALENTINE - With people exiting their incarceration system, we've had it pointed out before about only coming out with three days of a particular medication. From your experience, do you see that happening, and how do you help overcome that particular issue and problem?

Mr MORONEY - Yes, that's a major factor. It's been a problem for a long time, I believe. In terms of how we address it, we're lucky that we've got some funding from the Hobart City Council for a Hobart GP where our clients can go get a script and the cost is covered. It doesn't necessarily cover the cost of medication but we also have a prescription through our Doorways Program where we can support people to purchase medications. We can certainly get people in to get that support but that can take some time, too. By the time that we get that happening, they may have already had some issues because they haven't been taking the medication that they need.

Mr VALENTINE - So, it's getting access to GPs to actually get those scripts?

Mr MORONEY - There is only one in Hobart that we can get somebody into and that's because we have this funding of \$20,000 per year, which is a new program and which is fantastic, but –

Mr VALENTINE - Timely?

Mr MORONEY - Yes, it's fairly good. It might take a day or two to get in. It's better than going through the regular GP system and there may be other barriers around that, too,

¹⁷⁰ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.70-72

but it's resource intensive. We don't fund a position to do that - we do it off the side of our desk.

The team makes the appointment and supports people to get in there, so we're doing this without –

CHAIR - *Having a specialised person to undertake the role?*

Mr MORONEY - *Yes. It's additional work that people are doing when they're already pushed to their limits just because housing and homelessness is so hard at the moment. It's challenging. You can't get people housed that easily, so they keep coming back because they need help.*¹⁷¹

At the public hearings, the Committee heard from the then Attorney-General and Mr Ian Thomas (Director of Prisons, Corrective Services) in relation to some of the challenges in dealing with inmates ongoing post-release medical requirements:

Mr WILLIE - *... We've heard stories of people exiting the prison with only three days left on their antipsychotic medication, for example. It's not really setting people up for success.*

...

Mr THOMAS - *Our relationship regarding provision of health is with Correctional Primary Health Services. The process with anybody coming into custody starts from day one and continues to their last day in custody. As part of their preparation for release, appropriate referrals are made, in this case to their health provider in the community. It's difficult to talk about specific circumstances but the intent and process is there to allow a seamless process to be put in place for people when moving through the judicial system and back into the community.*

Unfortunately, one of the challenges we face is the ability to get that individual engaged post-release. Sadly, one of the advantages of imprisonment is they are a captive audience, so we are able to control their movement more and get a better level of engagement.

Often when they go into the community, particularly if there are no ongoing conditions and their sentence is finished, they are very much on their own reconnaissance. Even if we are able to put into place those things you talked about, it will still rely on the individual engaging. That remains a challenge.

Ms ARCHER - *The other issue I have encountered from knowing individual circumstances of inmates is that some of them might have been incarcerated for quite some time and don't have a GP. As Ian said, the health services provided within the prison environment is Correctional Primary Health Services, which is run by the Department of Health. We have to work very closely with them and in partnership with them on all issues concerning their health. We have also seen an increase in mental health conditions, in the community across the board. It's no different in a prison environment. That extra layer can complicate what happens to them on their release. I*

¹⁷¹ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.49-50

think what Ian is saying is once they are released from the prison environment, as far as TPS is concerned, they don't have the ability to control what that individual does, so the preparation phase is so much more important for some to try to provide additional supports. It's challenging. Some people in the community do not have access to a GP. We have a GP shortage, as you know. That is a difficult issue for inmates as well on their release.

Mr WILLIE - *It is not a realistic expectation for somebody leaving the prison to only have three days on an important medication for their own wellbeing, and potentially not to reoffend, to then connect with a GP service.*

Ms ARCHER - *If that is the case with an individual, then we would want to hear about that so something can be done for their medication so that it won't be an ongoing complication for anyone. I agree with you - three days' medication can possibly just set them up to fail.*

Ms WEBB - *Could you clarify, then, that there isn't a rule in place that says people can only be released with three days' worth of particular sorts of medications, say, for major mental health disorders?*

Ms ARCHER - *I don't think so. In most cases you would want them to have more of a supply than three days. I think what you are saying is that the actual circumstance -*

Ms WEBB - *Yes, I am just trying to clarify if there is a rule, because the way it was described to us, it appeared that it is not just a one-off incident. We are relaying here that it seems to be a general situation that people are released with only three days' worth and then have to find the GP and get it filled.*

Mr THOMAS - *That is certainly not to my knowledge. Obviously, there is the doctor-patient confidentiality about the type of medication they are on and their individual treatment plan, but my clear understanding is there is no expectation that somebody is released with a limited amount of medication. The approach would be, and is, that they take with them whatever medication they are on to continue that treatment, and then the referral will be made to the relevant GP or whoever it is in the community who is picking that up.*

Ms WEBB - *Where does that decision lie for the amount of medication that is being provided for the person as they exit the prison? Where does that decision-making occur?*

Ms ARCHER - *That was in correctional health services, so the Department of Health, but they are on-site, and that service, a continuing service, or permanent service, is provided within the prison.*¹⁷²

At the public hearings, Mr Don McRae (Bethlehem House) informed the Committee of his success in finding limited private funding to assist with medication needs for those leaving prison:

¹⁷² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.40-42

CHAIR - We also know that three days of medication is provided. I don't know if you have tried to get into a GP of late but I am doubtful that you would get one in three days.

Mr McCRAE - I went to the Hobart Airport [Corporation] and they gave us \$15,000 funding to apply to a GP service I worked with. I had three GPs who would utilise that money to work with the people who are getting out of prison for that exact reason. People need their medication.

Obviously, some of the medications they are on, they have to be on them. They cannot just come off them cold turkey. For other reasons, if it is mandated in your parole orders that you have to get a mental health care plan, that is fine. I've worked with somebody who had 30 days to have a mental health care plan implemented. But that's difficult when you haven't got the money to pay \$70 to \$80 for a consult and you can't get in to see somebody and get onto their books in the first place. So, we have to use creative means to do that and, strangely enough, the Hobart Airport stumped up \$15,000 to do that. What happens when that money runs out? I don't know.¹⁷³

At the public hearings, the Committee heard from Ms Sara Maynard (Tasmanian Aboriginal Centre) about their clients' experience in relation to post-release medical support:

Ms WEBB - Legal services aside, has the TAC ever had funding to do a corrections-related or justice-related support program? Has it ever been part of the mix, or a youth justice or youth detention-related support program? Have you ever had funding in that space?

Ms MAYNARD - There have been specific amounts of funding, small amounts of funding, and we did a lot more than what our funding requirements were. And to be honest with you, we are still doing that now. I supported an Aboriginal person last week who was released from Risdon Prison and we arranged to collect that person, get that person in to see our AOD coordinator. I organised an appointment for that person for the GP that afternoon because they were released without medication.

CHAIR - Not even three days' worth? That is what we've heard, three days of medication.

Ms MAYNARD - No, absolutely nothing because that person was in court that day and then, in short, was granted bail the next day. You have Risdon Prison, Prison Health, you have a lack of staff and resources and no-one is communicating with each other. I know that that Aboriginal person is not going to get the support that they need. I can sit there and put my hands under my backside and say, 'Well, you know, it's not my problem' or I go, 'I know that there is going to be a bit of a communication breakdown, people are not talking to each other, lack of services, lack of support, I had better do something.'

As a service, we do all sorts of different things: ensuring that the person is collected because they cannot just pick up their phone, call us and say they need help; getting in contact with Prison Health to say, 'Are you able to get in contact with the Aboriginal

¹⁷³ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.57-58

Health Service for medication so we can sort some things out for this individual?'; getting in contact with our health service to make sure that we can get an appointment for that community member who has got mental health issues and I know is not going to be released with medication; making sure that person is collected, that they come in and get the support of our AOD coordinator and our health service to get the medication that they require, as well as lots of other different things I am sure you could imagine.¹⁷⁴

Committee Findings

F37. Exiting prisoners are commonly released with limited supply of prescribed medication. However, difficulty accessing General Practitioners can lead to interrupted treatment.

Funding of Post Release Programs

At the public hearings, the Committee heard from Ms Heather Kent, CEO, and Mr Stephen Shreeve, Executive Manager (Bethlehem House) in relation to the lack of guaranteed funding available from the Tasmanian Government to underpin the assistance provided by Bethlehem House to parolees or court mandated diversion individuals:

***Ms WEBB** - ... You mentioned that elements are not funded and you then have to go seeking grant funding, which is often time limited so there's no security or ongoing assurances that those programs will be available to you. In terms of, say, the nine parolees that you have at any given time, what Government funding do you receive to provide the assistance to those men who are living with you? And is it different to the broader assistance you receive for all the men that live with you at Bethlehem House?*

***Ms KENT** - It's universal.*

***Ms WEBB** - So it's not justice-related funding that comes to Bethlehem House for providing this service?*

***Ms KENT** - No.*

***Ms WEBB** - Even though there's an agreement that there'll be nine spots for parolees in the service?*

***Ms KENT** - Correct.*

***Ms WEBB** - So, not only is the service not funded, but none of the parts of the case management model that you reach out to receive support from externally is funded either? There's no guarantee that can continue?*

***Ms KENT** - Correct, it's all through Homes Tasmania.*

¹⁷⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.57

Ms WEBB - And was it that Bethlehem House and Vinnies, through Bethlehem House, proposed to the Government that there would be this allocation of nine beds for parolees within Bethlehem House, or was that something the Government approached Vinnies and Bethlehem House about?

Ms KENT - I'd have to say that was before either Mr Shreeve's or my time. I know that over many years there has been a strong resolve to do what we can to support those who are exiting the justice system. I couldn't say who initiated that conversation.

Ms WEBB - But at the moment it's fortunate, from a State Government point of view, that Bethlehem House is there providing the services, because there's nothing set in stone, in terms of funding, that means it can exist or continue.

Ms KENT - Yes, correct.

...

Ms WEBB - As well as the parolees and the people who are exiting prison, you also have referrals from the courts for people on court mandated diversion programs. Do you allocate certain spots for that area as well, or is that just as you have spaces to fit them?

Mr SHREEVE - It's considered part of the nine.

Ms WEBB - So the nine covers not just parolees exiting prison, but court-mandated -

Ms KENT - That's right.

Ms WEBB - Presumably then, referrals from both those sources far outweigh the nine spots that you have?

...

Ms KENT - Magistrate Marron was in contact early in the new year to talk about what is our capacity to enlarge that further. We're open and wanting to do that, but we simply have to manage the overall dynamics of Bethlehem House.

CHAIR - Will that at all change with the new facility coming online?

Ms KENT - The real numbers don't increase it all that much. We're at 66 at the moment, we're only going to 73.

Ms WEBB - Can I just check, then, that there's also no funding that would be attached to those referrals coming through the court-mandated diversion program, either?

Ms KENT - No.

Ms WEBB - So, again, it just looking to utilise the facilities provided by your generalised funding, without targeting it.

Ms KENT - Free of charge. Yes.

Mr SHREEVE - I might just add the success rate for court-mandated diversion (CMD) residents is very low.

Ms WEBB - Would you like to reflect on that for us?

Mr SHREEVE - It almost seems, compared to other parolees, in the CMD programs, the type of people that end up on that often fail and end up back in prison or whatever. They can still fail, but we find a better success rate with the other parolees in the house and going through the case management model and applying that to their lives and having success.

Ms WEBB - You still use the case management model with the CMD folk who come through your system? Would it be your observation that the factors that might contribute to a higher failure rate there being they are at the stage of dealing with drug and alcohol issues, mental health issues and circumstantial issues in their lives quite actively, whereas a parolee has had a period in jail and may be not dealing with those things as actively?

Mr SHREEVE - I am not quite sure what the mindset is and what they are doing.

Mr VALENTINE - There is not a single point of failure?

Ms KENT - There's not. It is multidimensional, and it highlights that the current system is simply not equipped to be able to intervene effectively at that point, whereas there is a variety of other models that show how that could be better achieved.¹⁷⁵

Ms Charlton (Holyoake) also spoke to challenges funding the specialists required to support Holyoake's programs:

Mr VALENTINE - I'm interested in the specialists that you draw on to be able to undertake your programs. Is there a shortage? If you did expand your programs, would you have issues getting a hold of the specialists required?

Ms CHARLTON - If we got this money back that I was just talking about, I've got all the staff I need. I've just terminated a staff member, because that funding won't be there. He was only contracted year by year, because that's how you have to do it, you can only contract people -

...

Ms CHARLTON - I have amazing people, and they're so skilled, and I'm so picky, because we have such a high standard to uphold. We're not just alcohol workers. Not that I am being derogatory about alcohol workers; my staff are psychotherapists. They work right back to your childhood and unpack why you are drinking five bottles of wine a night. ...

Mr VALENTINE - If you increased the number that you are dealing with, are you going to be able to get the number of psychotherapists you need to do the job?

¹⁷⁵ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.20-23

Ms CHARLTON - I will, but I will have to go far and wide. The last two I hired to meet the standard I require, one was from New Zealand and the other one was from Darwin. They are out there, I can get them, yes.

...

Mr VALENTINE - What is the demand for the services like? You can only do so much with the funding you have, but do you have any handle on unmet needs?

Ms CHARLTON - Yes. One of our programs, which is for the families of people affected by someone else's alcohol or drug use, that ranges from three to five weeks waiting list. As I said, in the prison it can be months.¹⁷⁶

Committee Findings

F38. There is insufficient Tasmanian Government funding for post release support programs.

Committee Recommendations

R15. Significantly increase funding for post release support programs, including at least doubling the funding, capacity and reach of the Beyond the Wire and Prisoner Rapid Rehousing Program to ensure proportional state-wide coverage..

TPS Rehabilitation Agenda

The Tasmanian Government Submission covered the rehabilitation initiatives to be progressed under the Corrections Strategic Plan:

*Reducing reoffending is a critical goal, not just for the Corrections system but for the Tasmanian community. There are many things that the Corrections Strategic Plan will set out which are aimed at improving inmates' capacity to desist from crime. These include commitments to adopt more trauma-informed practices within our custodial facilities, to a range of projects and interventions targeting high risk or special needs groups ...*¹⁷⁷

These are summarised in the following table:¹⁷⁸

Disability	Increasingly, the links between disability and contact with the criminal justice system are being discerned and understood. Better prevalence data is, however, a must, and work with the NDIA and other organisations is imperative. Work to address responsivity issues in the delivery of programs and services will be key in the coming years.
Closing the Gap	Tasmania has committed to Outcomes 10 and 11 of the National Agreement on Closing the Gap – the targets of which are a reduction of at least 15 per cent in the imprisonment rate of Aboriginal and Torres

¹⁷⁶ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.28-29

¹⁷⁷ See Tasmanian Government ([Submission #27](#)), p.41-43

¹⁷⁸ See Tasmanian Government ([Submission #27](#)), p.41-43

	<p>Strait Islander adults, and a 30 per cent reduction in the detention rate of Aboriginal young people (aged 10-17), by 2031.</p> <p>In order to achieve this, and consistent with the Closing the Gap commitments, the Department is keen to develop a framework with the Tasmanian Aboriginal community to reduce current rates of incarceration, and to directly involve Aboriginal people in assisting the justice system to develop programs and interventions targeted at Aboriginal inmates and offenders.</p>
Specialised High Risk Behavioural Units	<p>Over time, the TPS will seek to implement modified and enhanced therapeutic community models to replace the RPC's behavioural units (i.e., Tamar and Franklin) that currently house inmates with complex, challenging and violent behaviours.</p> <p>The overarching aim of the units would be to enhance engagement with complex inmates, improve staff safety and reduce the incidence of violence within the custodial facility. Inmates will be provided with daily activity and intervention tailored to the inmates risks and needs identified in upon assessment and induction into the unit. The premise of a therapeutic community model would be to create a 'living-learning' situation in which everything that happens in the units, between staff and inmates is used as a learning opportunity.</p> <p>Management of the units would include multidisciplinary teams including officers, counsellors and psychologists as well as health staff who all work together daily in the units. Staff would be identified as having specific skillsets in working with challenging behaviours and require ongoing specialised training in behavioural management as well as intensive supervision support.</p>
Remand Inmates	<p>In response to the burgeoning numbers of remandees, it has become more crucial that the TPS puts in place an enhanced suite of programs and interventions that are able to be accessed by unconvicted inmates. While these cannot be criminogenic programs, and there are practical difficulties associated with delivering programs where the participants' length of stay is uncertain, some programs – and in particular family violence programs, values-based programs, and some short-term education and psycho-educational courses - can be effectively delivered to this cohort.</p>
Youth Offenders	<p>The TPS recognises that with the new Youth Justice Blueprint's focus on therapeutic approaches, there are opportunities to carry over some of those approaches to young people imprisoned in the adult system. Many younger inmates between the ages of 18 and 25 could benefit from a changed approach, and developmentally require a different type and level of support to older offenders. There are opportunities to leverage off Youth Justice expertise and work intensively with this cohort to help them engage in supports and individualised programs.</p>
Family Violence Offenders	<p>Dedicated family violence teams within the TPS and Community Corrections could provide more widespread (and some targeted) interventions to family violence offenders. This could be a combination of group and individual work. Currently family violence offenders in the community are supervised by Probation Officers and, if eligible, are referred for group program. The dosage of program is not always sufficient enough to target the needs to the individual. Having specialised teams would ensure that continuity of care from group</p>

	program to individual case management would occur and that 'dosage' was achieved.
Housing	<p>Consideration of further housing opportunities; including establishment of integrated housing program such as Integrated Housing Exit Program (IHEP) available in South Australia. This program offers accommodation and support to young people with a history of offending.</p> <p>NSW has established residential and transitional centres for men and women. Miruma, was opened on the grounds of a correctional complex in NSW and provides a residential community based diversionary program for females with co-occurring disorders. Balunda-a is the male equivalent. Victoria and Queensland have similar schemes.</p> <p>Housing is a critical part of an offenders success leaving custody, not having access to a place to stay, or returning to pro-criminal support systems make it difficult for an offender to sustain any changes they may have made. Having accommodation available that supports their transition into the community and assists them to re-establish themselves is essential for reducing recidivism.</p>
Throughcare	An integrated model of throughcare that offers targeted, individualised transitional support to offenders to manage their journey through the justice system is key to successful outcomes being achieved through the criminal justice system. More resourcing in this space could be used to strengthen community/service relationships.

Housing

The Justice Reform Initiative submission quoted the following with respect to an evidence-based case study that compared criminal justice outcomes from those exiting prison into public housing against those going into homelessness services or receiving private rental assistance:

[The Housing Post-Release Evaluation (Australia)] evaluation included an interrupted time-series analysis and matched comparison analysis of 623 people who received public housing after leaving prison and 612 people who received rental assistance only. It found that public housing improves criminal justice outcomes when compared to rental assistance only.

It found that public housing 'flattens the curve' and sees reductions in predicted police incidents (down 8.9 per cent per year), custody time (down 11.2 per cent per year) and justice system costs (down \$4,996 initially, then a further \$2,040 per year). The evaluation found that there was a net-benefit in dollar terms of housing people on release from prison in public housing (between \$5,200 and \$35,000) relative to homelessness services or private rental assistance.^{179 180}

Similarly, the TASCOS submission noted the strong link between homelessness and crime:

¹⁷⁹ See Justice Reform Initiative ([Submission #44](#)), p.46

¹⁸⁰ Martin, C., Reeve, R., McCausland, R., Baldry, E., Burton, P., White, R. & Thomas, S. (2021) Exiting prison with complex support needs: the role of housing assistance, AHURI Final Report No. 361, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/final-reports/361>

There are particularly strong links between imprisonment and homelessness. Homelessness can include sleeping rough or residing in unstable housing (such as improvised dwellings or tents), as well as living in supported accommodation or temporary lodging, or staying temporarily with other households. Data shows that those entering prison are significantly more likely to be homeless than the general community, with a recent survey showing 33 per cent of those entering prison reported being homeless in the four weeks immediately before being imprisoned.¹⁸¹

Homelessness is also an issue which disproportionately impacts young people, as noted by the [Sentencing Advisory Council] SAC in a recent report in which they highlighted links between young people's experience of homelessness and their involvement in the criminal justice system.¹⁸² Many young people in Tasmania and throughout Australia are committing offences out of necessity, or for reasons associated with unstable housing or poverty. This is reflected in statistics on the types of offences committed by young people, which show property offences (in particular, stealing) are offences for which young people are commonly charged.¹⁸³

Homelessness is also a factor considered by the courts in deciding whether a young person should be released on bail or remanded into custody, and a lack of secure accommodation or other community support can significantly impact a child's ability to successfully engage with or complete a supervised order.¹⁸⁴

With more Tasmanians than ever experiencing homelessness – and as a result, potentially more Tasmanians at risk of being involved in the criminal justice system - we believe it is crucial for the Government to implement strategies to address the current housing crisis as part of the framework of community support Tasmanians need to stay safe and prevent involvement in the criminal justice system.¹⁸⁵

The Tasmanian Government submission explained what efforts were being explored to improve access to housing for people returning to the community following a period of imprisonment. The initiatives covered included: Beyond the Wire, Prisoner Rapid Rehousing Program, Housing Connect, and other housing options.¹⁸⁶

Housing Options for Exiting Prisoners

The Tasmanian Government submission stated that as part of its funding commitment, the Government continues to provide funding for accommodation through the Prisoner Rapid Rehousing Program. This initiative provides those exiting the TPS with transitional accommodation. Tenants are provided with support through Beyond the Wire to transition back into the community, to access and maintain stable accommodation, and to address issues which may contribute to reoffending.

¹⁸¹ Australian Institute of Health and Wellbeing (2018), 'The Health of Australia's Prisoners', p.22

¹⁸² Sentencing Advisory Council (2021), 'Sentencing Young Offenders', p.16

¹⁸³ Sentencing Advisory Council (2021), 'Sentencing Young Offenders', p.7-9

¹⁸⁴ Sentencing Advisory Council (2021), 'Sentencing Young Offenders', p.16

¹⁸⁵ See TASCOS (Submission #60), p.10-11

¹⁸⁶ See Tasmanian Government (Submission #27), p.33-35

This program has resulted from a collaboration between a number of non-government organisations to provide state-wide access to the services provided by each organisation (Anglicare Tasmania, CatholicCare, Colony 47, Hobart City Mission and Salvation Army Tasmania).¹⁸⁷

The Tasmanian Government submission outlined those ex-inmates leaving custody and requiring housing assistance also continue to receive support through Housing Connect, a one stop shop for all Tasmanians in need of housing assistance.

Specifically, all inmates may now request a housing needs assessment through Housing Connect up to 30 weeks before their estimated release date.

*Inmates coming towards their release dates receive support from TPS Interventions and Reintegration Services staff to assist them to make appointments and applications to the relevant housing providers prior to their release.*¹⁸⁸

The Tasmanian Government submission stated that Corrective Services has actively worked to take advantage of a range of alternative housing pathways to support inmates on release:

- *Community Corrections has established a partnership with Homes Tasmania whereby specialist housing is provided to those offenders who are deemed significant and high risk. This pathway is offered through the established Specialist Assistance Support Team, a team mostly dedicated to supporting people living with a disability to find appropriate accommodation to meet their needs. The benefit of a specialist, targeted pathway ensures that an individual's specific risk factors and needs are considered in the search for appropriate accommodation options.*
- *Bethlehem House has played a crucial role in supporting some inmates exiting custody through offering a place to stay and coordinated support. Bethlehem House provides short-, medium- and long-term accommodation for men, with a number of beds that can be used for inmates on exiting the custodial environment as well as those on other types of community-based orders.*
- *Shelters such as Hobart Women's Shelter can take women on release from custody. There are no dedicated beds to support inmates on their return to the community, but these services can provide a valuable transition pathway for a number of women and their families.*
- *Alcohol and Drug Services can take inmates into detoxification units upon release, however positions are limited.*¹⁸⁹

At the public hearings, Ms MacDonald (Tasmanian President, Australian Lawyers Alliance) provided the Committee with an example of a prisoner unable to be released primarily due to access to accommodation:

We have another client who has been eligible for parole for some time. He is so keen to get back out there. He has done everything he can, everything available to him to

¹⁸⁷ See Tasmanian Government ([Submission #27](#)), p.34

¹⁸⁸ See Tasmanian Government ([Submission #27](#)), p.34

¹⁸⁹ See Tasmanian Government ([Submission #27](#)), p.34-35

*rehabilitate while he is in there. He is just waiting. He does not have anywhere to go. He is in there for months beyond when he could have been out because he doesn't have an address.*¹⁹⁰

From the Community Legal Centres Tasmania and JusTas submission, the following was provided with respect to the link between homelessness and prison:

The Australian Institute of Health and Welfare (AIHW) has found that more than half of persons exiting prison in Australia (54 per cent) expected to be homeless upon release from prison, with 44 per cent planning to sleep in short term or emergency accommodation, 2 per cent planning to sleep rough, and 8 per cent not knowing where they would sleep.

That more than half of all persons exiting prison expect to be homeless is concerning given that government departments are aware months, if not years in advance, of when someone is expected to exit prison. However, the failure to provide stable accommodation to persons exiting prison amounts to a policy failing when it is recognised that stable housing has a positive influence on post-release behaviour. ...

... The provision of public housing to persons exiting prison results in a safer community. It also reduces criminal justice costs with the report finding that 'in dollar terms, housing an ex-prisoner in a public housing tenancy generates, after five years, a net benefit of between \$5,200 and \$35,000 relative to the cost of providing them with assistance in private rental and/or homelessness services'. In summary, the [Exiting prison with complex support needs: the role of housing assistance] Report concluded that:

the evidence strongly supports the need for much greater provision of social housing to people exiting prison, particularly for those with complex support needs. Relatively secure, affordable public housing is a steady 'hook for change' that a person exiting prison can hold onto as they make changes in their circumstances, and in themselves, to desist from offending. It is also a stable base from which to receive and engage with support services.

*Despite decades of research highlighting the link between stable accommodation and post-release behaviour, there continues to be a lack of housing options for persons exiting prison.*¹⁹¹

At the public hearings, Messrs Bartl and McCrae also spoke to the issue of a person exiting prison into homelessness:

Mr BARTL ... *the data shows that over the last three years, fewer than 10 people have been exited into public or community housing and none last year. This is truly shocking given that about 4,500 people over those three years have exited prison.*

¹⁹⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.28

¹⁹¹ See Community Legal Centres Tasmania and JusTAS ([Submission #63](#)), p.8-9

In how we go about it, to begin with, we need to work out how many people are exiting prison into homelessness. I don't believe the Government has that data. Perhaps that's the first step, the Government needs to be collecting data on how many houses we need.

Mr WILLIE - *That wouldn't be just for exiting prison at the end of a sentence, it would be for parole too.*

Mr McCRAE - *One of the things we can focus on and however many houses we build over the next 10 years is also going to be blue-sky dreaming. It's never going to be enough. The type of housing we've traditionally seen people look at is the one-bedroom units in a big cluster. That's kind of a prison environment without supports...*

...

Mr McCRAE - *It's highly problematic because people get into strife when they're left to their own devices. A lot of the people we are seeing coming out of prison haven't got things sorted enough to be able to live independently in the community and make a tenancy a success and get on with their neighbours. There are opportunities, through the parole system, through cluster accommodation that has supports around it. I am working at Bethlehem House at the moment. I'd like to declare that conflict of interest, but that sort of environment enables people to grow and meet the challenges that have seen them go back into prison rather than just hit those same complex issues and hit the revolving door back inside.*

...

Mr McCRAE - *An RMIT research that happened a few years ago suggests over 50 per cent of the population around Australia were exiting into homelessness. We have no reason to believe that has changed*¹⁹²

At the public hearings, the Committee heard from Ms Heather Kent (CEO) and Mr Stephen Shreeve (Executive Manager) of Bethlehem House in relation to the transition housing provided to parolees:

Mr SHREEVE - *... I would like to point out from our submission that one of the key differences and a point of difference in our service is our case management model. It is not part of the submission and you won't be able to read that, but it is our point of difference. We get men in and, at day two, we start by setting some goals. It is very different to what you might get in another service. We sit down with them and we say, 'What do you want to achieve in life?' Out of that comes a lot of things. It could be not just literacy, not just a home or a job, but it might be reconnecting with family. It is quite a different approach, and our success rate has been quite good. I can't give you exact numbers but it is around 60 per cent or a bit more where people leave and move into stable accommodation. And it is not just that; it's about getting a job as well, and reconnecting with family and those sorts of things.*

Ms KENT - *... Witnessing what happens at Bethlehem House and that full wraparound support that is designed to get people moving back into the community in a productive way - we see many models that are showing great effect, whether they're the Denmark model that Martyn Goddard commented on or you'll see that we've highlighted a*

¹⁹² See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.62-64

particular approach that's been effective in Texas, which is very new and different, created by Jerry Madden.

Even in other Australian States, there are different approaches to achieving rehabilitation and restorative justice in a way that still accepts that communities still have expectations around safety and retribution, and that there are different ways of approaching this.

CHAIR - ... in the work that you do at Bethlehem House, you talk about 70 men experiencing life on the street if there wasn't this service. Is it the fact that you don't have enough resources to cater for more than 70? ...

Mr SHREEVE - We currently have capability for 66 men. We've got the Warwick Street address. We've also got what was the old Waratah Hotel, which currently houses 24 men, and you're no doubt well aware that there's a new building being built on Harrington Street just behind the old Waratah Hotel, which will house 50. By 1 January, we will be able to house 74 men.

I might just touch on what we currently do that's impacting the justice system. At the moment, we do take parolees into the existing agreement of Bethlehem House, and we have a limit of nine parolees. That number was fixed some time ago, basically because we want to keep the equilibrium within the house. If we have a house full of parolees, that creates a different environment and dynamic, and it can potentially cause issues for the other people who haven't been through the prison system.

We currently have nine. We get a referral from the prison. We assess them on paper, we will then do a Zoom interview with that parolee and determine whether they are appropriate for the house to keep that equilibrium. We do currently take parolees. Those fellows get to experience the benefits of the case management model. We work with them: it could be to work through the ongoing justice commitments that they have; it could also be reconnecting the family, dealing with drugs - whatever their goals are in life.

... if we had another facility, that number could increase. It's not going to be the same as some of these alternative models that have been spoken about, but it's certainly helping the system.

...

Ms WEBB - ... You do mention, in your submission, that there are situations where parolees are forced to complete their sentence instead of applying for early release because there is nowhere, presumably, to offer them support. Are there other services offering similar support or somewhere for parolees to go, particularly, say, in the north or north-west of the State, that you are aware of?

Ms KENT - That is such a salient point. Beyond the Wire does provide a very effective case management system. Again, they are advocating for throughcare - that early connection while incarcerated. They do not have the properties in order to provide that wraparound service...

Ms WEBB - *In terms of the sort of model it might be - you mentioned that you have limited the parolee number to nine. You have an equilibrium then because you provide services to people coming from other entry points into your service. Do you think there is a benefit in having that sort of mixed model, or should there be more targeted models that are for parolees only, for example?*

Mr SHREEVE - *I think there is fantastic benefit in a mixed model. The parolees get to experience, in one sense, a different group of people. I think that helps with an integration. It helps to normalise their environment. If it was only parolees, that would be a different dynamic. It would probably require a different skill set in terms of the management of those people and probably different security, although we have reasonable security at Bethlehem House at the moment.*

Ms WEBB - *Is it that we don't have men's shelters in the north and north-west who could do a mixed model like Bethlehem House is doing in the south? That it's a situation where you simply don't have men's shelters in those areas?*

Ms KENT - *Correct. Absolutely.*

...

Ms KENT - *... With our Warwick Street, the existing Bethlehem House site, we began looking some time ago at the future use of that. We met with various parties about the options such as a halfway house, mixed, a mental health-focused facility. In those discussions, it became very clear that a mixed style of environment is going to lead to better outcomes. That is the focus that we would like to take. I would also highlight that we are sitting here talking only about men and their experience upon leaving the justice system.*

What about women? You might be familiar with the Argyle Street base for Vinnies in Hobart, which is where we have our retail store and above that is our southern regional office. We put forward a proposal to Homes Tasmania and received notification late last week about partial funding for redeveloping that as a site for women. It will be a site for women over 55, but that site is accessed through Church Street, which is about 200 metres or so from the old Bethlehem House site. It's a difficult building; it is a historical building and it has been added onto in so many different ways - but we're looking at those two sites to provide the equivalent degree of support to women. Then, women who are leaving on parole or who may, ideally, not even have been incarcerated but would be living a homeless life and may be tempted to move into the area of criminal activity - we would like to see that option for women as well.¹⁹³

Ms Kent and Mr Shreeve informed the Committee about the Bethlehem House in-reach support service for parolees:

Mr VALENTINE - *I am interested in the case study model and how you are dealing with parolees and the like. Does any of that involve connecting with service providers out there in the community to help -*

¹⁹³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.13-15

Ms KENT - It is about 80 per cent of it.

Mr VALENTINE - ... Has there been any attempt to find employment for folk are coming out of prison and might be from the north or the north-west, so that you can connect them to work and indeed, a home, which is a fundamental issue?

...

Ms KENT - We have those case managers: we also have support workers. The case managers are mapping out, according to the individual's goals, the various steps along the pathway. The support workers work with those residents and assist in connecting. Holyoake, which is about to present, that is a large part of that connection, but the tentacles spread broadly.¹⁹⁴

At the public hearings, the Committee heard from the then Attorney-General in relation to exiting inmates housing options:

Ms WEBB - ... We have heard from information obtained through an RTI from other witnesses that in the last year no one exiting prison has been housed in social housing. I noticed in the Government submission it said:

All inmates may now request a housing needs assessment through Housing Connect up to 30 weeks before estimated release date.

The housing wait list for Priority 1 in Housing Connect is 80 weeks or thereabouts now. Clearly, 30 weeks is not going to get you near the top of the list when you are released. Is this a failed pathway? What more needs to be done to ensure people exiting prison can exit into -

Ms ARCHER - We need more houses and that is what we are building.

Ms WEBB - Sure, but in the short term what you have is people being exited into homelessness. What more have you been looking at to address that situation?

Ms ARCHER - As I said, what we can see from the construction of what essentially replaces the Bethlehem House model is that type of transitional arrangement is our best option in the short term because we all know the challenges with housing. There is a shortage and we need to build more and we certainly need to build more in our social and affordable housing and within our own service built by Government. The short term is providing those transitional types of arrangements where they don't have family connections.

Where we do provide a service within prison - again, it is a course run by Rosie Martin's organisation - it is to reconnect families and relationships, and repair relationships. That may sound like I am going off point but I have witnessed it first-hand; it is life-changing, particularly for our female prisoners when they can reconnect with family members.

¹⁹⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.15-16

*Hopefully, that also means on release they have somewhere to go in terms of their short-term housing options, as well as being supported by family. Often that means reconnecting with their parents. There may have been drug issues in the past. That may be why they lost their children, which is a really common example I come across. Repairing those relationships goes a long way to helping with that housing issue.*¹⁹⁵

Beyond the Wire

The Tasmanian Government submission stated the following:

In March 2022, the Department of Justice and the Salvation Army finalised a new agreement for the delivery of a Specialist Throughcare Reintegration Program – Beyond the Wire.

Beyond the Wire offers a multi-partner throughcare service for high and complex needs individuals who are exiting custody and who have chronic accommodation and support needs.

This cohort is likely to have a history of prior convictions and relapse, often returning to custody following release into the community without appropriate accommodation and specialist support.

Beyond the Wire provides those exiting custody with access to case management, service coordination and planning commencing pre-release.

Through this program, the Salvation Army offers pre and post release support for people at risk of homelessness exiting the Justice system. This will include supported lease arrangements through properties on a dedicated portfolio (under the Prisoner Rapid Rehousing Program), as well as support in furnishing the property. Salvation Army workers will undertake case management and practical support with inmates following their release.

*From its initial commencement in January 2018 to 30 December 2022, 155 participants were accepted onto the program.*¹⁹⁶

At the public hearings, the Committee heard from Mr Ben Moroney (State Manager Homelessness and Housing, The Salvation Army) in relation to the Beyond the Wire program:

Our submission focuses on our program Beyond the Wire. It's one of the many service models delivered by The Salvation Army that work to address homelessness and the unique housing and support needs among a specific cohort. Run by The Salvation Army with funding support from the Department of Justice, Beyond the Wire has been highly successful in reducing recidivism rates among participants. An annual report of the Beyond the Wire program conducted in 2020 revealed that just 10 per cent of

¹⁹⁵ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.53-54

¹⁹⁶ See Tasmanian Government ([Submission #27](#)), p.33-34

ex-offenders in the program returned to prison. This is in stark contrast to the 47.1 per cent of Tasmanian prisoners who, during the same period, returned to prison. It's a big difference. Access to sustainable housing is one of the most important determinative factors for recidivism. We know that homelessness is the strongest predictor of recidivism and that as many as 35 per cent of prisoners reported being homeless prior to going to prison.

The current housing affordability crisis across Australia is contributing to the homelessness rate. Stable and affordable rental housing is nearly impossible for people leaving prison to access. Private rental is not affordable, breaks in rental history and just the general prejudices that prisoners can face tend to lock the group out of the rental market. Social housing options are also very limited and the wait list is really high, as we all know. We know that people with multiple and complex needs are overrepresented in prisons. The high concentrations of disadvantages inside prisons mean that a large proportion of people exiting prison require intensive one-on-one support to successfully reintegrate into society.

The high rates of disadvantage among prisoner populations also helps to explain the lack of safe and affordable housing options. So many people leaving prison cannot get their lives back on track once they exit and end up reoffending. Part of that is they haven't got somewhere to stay. If we are going to reduce recidivism, we need to offer people safe and affordable places to live and give them the support they need to stabilise their lives, address their reasons for offending in the first place and be able to work towards a better future.

In summary, the overarching principles of our submission are that intensive case management, participation in adequate services, access to affordable and stable accommodation are some of the most important determinant factors for recidivism. The work of Beyond the Wire highlights that effective pathways out of the prison can be provided that not only address housing and support needs of people exiting the prison system but can substantially contribute to a significant reduction in recidivism and therefore victims of crime. It breaks the cycle of crime and incarceration. When investing in the efforts to reduce Tasmania's prison population, it is important to ensure safety of victims of crime and invest in measures that ensure victims/survivors are not re-traumatised by the engagement with the Criminal Justice System ...¹⁹⁷

Mr Moroney advised the Committee in relation to the Beyond the Wire program funding model and overall reach within Tasmania:

Ms WEBB - ... You say in your submission and in your opening Statement that the Beyond the Wire program is partially funded by the Justice department but partially through Salvos itself. I am interested in what proportion is your self-funding versus funding from Justice. I'm also interested in the reach of the program. Is it statewide? I would like to understand, in terms of people exiting prison, how many are being picked up in that program and supported and how many are going beyond that, not with unmet need potentially?

¹⁹⁷ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.39-40

Mr MORONEY - It is sort of 80/20 split - 80 per cent of the funding comes from the Department of Justice, so Corrections, and 20 per cent from the Salvos. It is almost a state-wide program. We have two case managers in the south and another one in the north-west. We don't have a presence in Launceston in the north, which is significant given it is the second-biggest population base in Tasmania. We would really like to have somebody working in that space.

...

Mr MORONEY - ... we are in ongoing dialogue with the Department of Justice around what else we could do, because the program works. Our caseloads are capped at about 15, so times that by three, 45, and the current wait list for inmates that have been assessed as eligible is around 120, 130, so you do the numbers. We could double it and we could still meet the need. In the current model that we have, we work alongside Centacare Evolve. They have 12 properties that the Department of Justice fund so we house our clients there. They are all full. It is transitional housing. As you are aware, transitional housing could be three months but it could be two years, depending on how we can support people.

Ms WEBB - These are the rapid rehousing properties that are allocated to this program?

Mr MORONEY - Yes. If we had more housing, that would have far better outcomes. That's the goal.

Ms WEBB - Given that there are only 12 properties allocated for that, the people supporting in the program don't all have a property allocated for them. So, you are also looking for accommodation in the private rental market or through other avenues?

Mr MORONEY - Yes, community housing providers. A lot of it is about advocating, which is what you do in a lot of homelessness housing services. 'Look, I have this person. This is what their needs are.' As Sarah touched on, you come up with a case plan at the initial commencement of engagement and then that is usually our goal. It could be the end goal. We do support them around a lot of other issues because we are trying to reintegrate people into society. They have been in an institution. ...

We engage them with employment services because that is another big barrier. You need to be able to pay your rent moving forward and MAX Employment is the agency we do work with. It would be good to develop a program to help support people learn those skills because a lot of it is referrals and care team meetings and working through those issues.

The main thing is we don't have a presence state-wide. That's really frustrating. It is such a successful program. You look at the statistics: 47 per cent of people who don't go into this program end up back in prison in two years. It's only 10 per cent [for those who] do. It is always a bit of a shock when I find out about it, because it is a shame. It is disappointing because it doesn't happen very often.

...

Ms WEBB - ... You mentioned 100-plus on a wait list essentially to come onto the program. Are they still in prison waiting for parole or that sort of thing? Where does that wait list sit?

Mr MORONEY - Yes, in general that's how that would happen because we would go and meet with them. They would be reassessed by the reintegration team, the case management team -

Ms WEBB - Internal case management team?

Mr MORONEY - Yes, within the prison system. They would go, this is somebody that is eligible. Sometimes they may be out on parole, I believe, but generally they would still be waiting to be exited.¹⁹⁸

In responding to a question on notice in relation to the breakdown of funding for the Beyond the Wire program, The Salvation Army provided the following:¹⁹⁹

Total budget for the Beyond the Wire program in Tasmania for 2022-2023 was \$382,812. The Department of Justice contributed \$282,564 for the year 2022-2023. The Salvation Army contributed \$100,248 in mission support funding for the year 2022-2023.

The Committee heard from Mr Moroney in relation to data sharing challenges between the parties:

Ms WEBB - Could you describe the interactions that you have? You have this case-management approach that you are applying outside the prison system and there's the internal case-management system. What's the correlation and co-ordination between the two like?

Mr MORONEY - It's as good as it can be. We're an NGO and it's the government. There's safety issues in terms of the information-sharing. We work very closely with the prison system. They do what they can but there's also a limit. It's an ongoing dialogue that we have: how can we get this information as quickly as we can, because as soon as we know, then we can start working with that person to support them. Sometimes someone gets exited before we even have a chance to develop that case plan. We may have been working with them and then they get paroled and we don't know about it until the very end when it's like 'Oh, I'm out', so you have to take it from there.

Ms WEBB - So, there's a fairly patchy interaction in that sense, it sounds like?

Mr MORONEY - It can be. Everyone's got good intentions and tries really hard to collaborate but at times there are resourcing issues from both sides potentially.

Ms WEBB - That's what I'm trying to tease out. Not reflecting on how well people try to make it work together at the moment, but ideally there could be a more strategic and co-ordinated connection between these two systems - internal to the prison and external to the prison?

¹⁹⁸ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.40-42

¹⁹⁹ Letter to Chair from The Salvation Army dated 3 July 2023

Mr MORONEY - Absolutely, yes.²⁰⁰

The Committee heard from Mr Moroney in relation to some of the challenges faced in informing the Tasmanian community of the benefits of the Beyond the Wire program:

Mr WILLIE - ... How do you see changing that conversation amongst the community where potentially we're talking about being smarter on crime, reducing recidivism, those sorts of things, because that's going to be key for the political system to respond?

Mr MORONEY - ... It costs close to \$150,000 a year for someone to be in prison. That doesn't make any sense. If they've done their sentence, they've rehabilitated and they're ready to return to society then we need to get them in a house. We need to support them and make sure that any issues that we have we can support them to address. This stuff isn't that difficult. It can be complex, it can be sophisticated, but it's a team approach so Beyond the Wire may lead that as case managers but we will support people to do whatever it is they need to do to actually have a house - a housing-first approach. You get the house and then you sort out everything else alongside that. That's what people need. It makes no sense for someone to go back to prison and for the Tasmanian Government and taxpayers to pay \$150,000 just because this person committed a crime because they needed somewhere to live. That doesn't make any sense. The program funding for us is three case workers, so you're talking about \$300,000 to \$400,000 and we're actually housing 12 people so if you do the maths, times that \$150,000 by 12, that statistically works out, it's saving a lot of money.

...

Ms WEBB – They [Government] are the funders, so quite frankly, they should be well aware of the value since they are the ones that cancelled the REO program²⁰¹ in the first place and then had to put Beyond the Wire back in place without the housing associated that they used to have associated with it.

Mr MORONEY - Yes, but the housing needs to be drawn back in. That is the biggest barrier.

...

Ms WEBB - It is an interesting case in point - not to speak to the politics of it - but just the mechanics of it. The REO program was dedicated funding to provide this sort of support plus definitely housing, too, that was allocated housing. Then, the assumption was that that kind of program could be ended and people exiting prison could be supported within mainstream services and social programs and our mainstream support services. Then they had to reverse that decision because it clearly wasn't meeting the needs of people exiting prison.

Mr MORONEY - The housing crisis. I think that is across the board, housing and homelessness. This was the system when they designed it and it was probably adequate but now the numbers are so high that it does not work. But yes, there needs to be housing that is dedicated, it needs to be quarantined. Whatever percentage of social housing they think is appropriate, that's what the people need.²⁰²

²⁰⁰ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.42-43

²⁰¹ Reintegration for Ex-Offenders

²⁰² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.43

The Committee heard from Mr Moroney in relation to whether there were any more successful exiting prisoners housing collaborations in other jurisdictions:

Ms WEBB - *Are you aware of a situation in another jurisdiction, I think it is in Victoria, where justice-related services that are required, say, for people exiting prison, can be sourced and funded from other service systems, whether it is the health system or the housing system or whatever, and it is more quarantined, it is more assumed to be available for people who are exiting the justice system? Are you aware of that working under a better model in other jurisdictions like Victoria?*

Mr MORONEY - *Yes. There is a fair bit of work in that space around the court system and the justice system collaborating. I know the Salvos have got a new program around housing people specifically exiting that. I don't know it intimately, but I am aware of a few other programs that are working better, or well.*

Ms WEBB - *I'm interested because in your submission you also speak about the Alexis Program, again from Victoria. That sounded like a successful program you were advocating for consideration of something potentially similar here in this State. That relates specifically to the area of family and domestic violence, I think. Is it a model that would be readily transferrable to Tasmania, or do you think there's some other considerations that would have to sit around it?*

Mr MORONEY - *I think it would sit really well within the Safe at Home system. I've got a background working in the family violence space, so having the integrated service system that we have that here in Tasmania would work really well. Whoever leads, it could be police-led with other services integrating, but that works really well in Tasmania. Everyone gets in a room and talks about what needs people have and what risks there are and what work we need to do with offenders to make them accountable and what we need to do to support victims to be safer. So, yes, that would be quite easy, or I don't think it would be very difficult to integrate in Tasmania.²⁰³*

The Committee heard from Mr Moroney in relation to the importance of exiting prisoners' access to finances:

Mr VALENTINE - *On page 11, 3.4, [in your submission] you say:*

It's The Salvation Army's experience that sustainable change can be achieved when intensive care management delivers flexible support to ex-offenders when it's required. Appropriate supportive housing, for instance, cannot be delivered without significant lead time, pre-release applications and financial arrangements.

Can you drill down a little bit and talk about the barrier that having insufficient financial arrangements actually causes? Can you paint a picture for us for what the person exiting the system and then coming into your care, if I can put it that way, is experiencing when it comes to finances and how to get themselves back on track?

²⁰³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.46-47

Mr MORONEY - They are starting afresh. They are not connected to anything so it could be Centrelink where we need to actually go and work through that process -

...

Mr VALENTINE - So, if they don't have a house or an address they can't get Centrelink payments, is that part of it?

Mr MORONEY - Yes, those sorts of things and even their literacy level. There is supporting people to do that work. It is hard work. It's a really simple concept but it takes a lot of resourcing to do that. It may be one appointment or it could be multiple like 'Centrelink are Centrelink and they do what they want', so you have to play their games.

Mr VALENTINE - Do you have conversations with them and let them know that these are real barriers to -

Mr MORONEY - We do yes. They are aware of it but it does take time to still navigate -

...

Mr MORONEY - It is that digital disconnect that I spoke about before. We need to get that happening. It could be getting birth certificates, driver's licence, all of that stuff that we all take for granted, it is in our pocket or it is somewhere, but they don't have any of that sometimes. So, we need to start afresh and go 'what do you need?' That's part of the case plan that we developed from the beginning.

Mr VALENTINE - That's why it is successful.

Mr MORONEY - Yes.²⁰⁴

In a response to questions on notice from the Committee in relation to Beyond the Wire program, The Salvation Army provided the following response:²⁰⁵

Question	Response
The number of clients supported for past three years	Between January 01/01/2020 and 01/01/2023, 198 clients have been assisted through the BTW program.
The breakdown of male/female clients for past three years	Of the 198 people supported by the BTW program between 01/01/2020 and 01/01/2023, 171 identified as male, and 27 identified as female.
Details on the length of sentence served by clients of Beyond the Wire (i.e., have they typically served short or long sentences)	It is not possible to provide an exact number as this information is not recorded by The Salvation Army. However, a rough indication from program staff is that client sentences break down to approximately: <ul style="list-style-type: none"> • 10 per cent long sentences (15-25 years) • 30 per cent medium sentences (5-14 years) • 60 per cent short sentences (1-4 years).

²⁰⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.47-48

²⁰⁵ Letter to Chair from The Salvation Army dated 3 July 2023

Bail Accommodation

The Committee noted that as part of its familiarisation visit to Adelaide, the Department for Correctional Services ran a Bail Accommodation Support Program (BASP) in partnership with AnglicareSA. Since 2017, the Arches provides short term accommodation for alleged offenders on bail who lack accommodation as an alternative to being remanded in custody. Participation in the BASP is voluntary and is determined by the Magistrate.

The BASP is designed to replicate community living and is close to transport links, essential services and court precincts. Residents are accommodated in one of 30 self-contained accommodation units in a purpose-built facility in Port Adelaide. Support is provided to residents to maintain links to family, employment and other services whilst transitioning to long term accommodation.

Residents are expected to meet their court-imposed bail conditions and follow strict house rules.

The Committee notes, from the Parole Board of Tasmania's 2023-24 annual report, that 73 of the total 253 applications for parole were adjourned because appropriate accommodation was not available: this was comparable to 71 being deferred for the same reason in 2022-23 and 73 in both 2021-22 and 2020-21.²⁰⁶

Committee Findings

- F39. Access to public housing for those exiting prison, rather than homelessness services or receiving private rental assistance, reduces recidivism.
- F40. The Beyond the Wire program is successful in reducing recidivism amongst participants, however it is only funded to support a fraction of those assessed as eligible.
- F41. An unacceptably high proportion of prisoners eligible for parole remain in prison unnecessarily due to a lack of suitable accommodation options.
- F42. The SA Bail Accommodation Support Program provides short term accommodation for alleged offenders on bail who lack accommodation as an alternative to being remanded in custody.

Committee Recommendations

- R16. Implement a program similar to the SA Bail Accommodation Support Program in Tasmania.

Tasmanian Aboriginal People in the Tasmanian Adult Justice System

At the public hearings the Committee heard from Ms Sara Maynard and Ms Sarah Wilcox Standing (Tasmanian Aboriginal Centre (TAC)) reflected on issues affecting Tasmanian Aboriginal people in contact with the justice system:

²⁰⁶ See 'Parolees kept in prison due to lack of housing', R Inglis, The Mercury (24 November 2025)

Ms MAYNARD - ... it is a combination of issues but also, we know that we've got a homelessness issue in this State - a crisis. It's been going on well before Airbnb came along. In my role at the Aboriginal Centre, I've been supporting Aboriginal people in Risdon Prison for about 18 years now. That's one thing that I can actually speak to. You can ask me anything in regards to that. A common issue that we find and I personally find in my role is Aboriginal people cannot leave Risdon Prison because there is no safe place for them to go. A good example of this is probably one person that I've been supporting recently who has been unable to be bailed because they've had no suitable place to bail because Bethlehem House is at full capacity, we've got a housing crisis and there's no shelter accommodation or no other programs to support people who (1) wish to apply for parole and (2) who have got no supportive family to be able to reside with.

I would say that a big issue for a lot of people in Risdon Prison, and specifically Aboriginal people in Risdon Prison, that would contribute to people ending up in Risdon Prison and staying in Risdon Prison is the homelessness issue and the lack of supports and programs to support people. We've got to keep in mind that we've got a lot of people in this State with low literacy, I think it's about 52 per cent, so you've got quite a number of people in Risdon Prison for whom, when they do actually get out, there is a lack of support in regards to reintegration. That can be simple conversations to apply for Centrelink [benefits], to get a birth certificate or to get an identification card or to look for employment. That is a massive barrier, let alone education and other kinds of opportunities.

CHAIR - Your centre, the TAC, would have some support services in place but you obviously still rely heavily on other services out in the community to support the people who are Indigenous that you work with?

Ms MAYNARD - We are actually not funded to support Aboriginal people in Risdon Prison: however, it is a small group of us at the Tasmanian Aboriginal Centre who do that off the side of our desk, which means that we work a lot more hours. No, we are not funded to do that work and we are doing that work with quite a few service providers; we have great contacts within Centrelink, with Bethlehem House, with other shelter programs, Relationships Australia. However, it is not a culturally appropriate service. Bethlehem House only has a certain amount of beds; there are only limited things that they are able to do.

CHAIR - ... can you quantify the unmet need for services for those you know that you represent?

Ms MAYNARD - It is really hard to put that into an answer because every Aboriginal person that is in Risdon Prison that is being released from prison or trying to apply for parole or bail, all of their needs are individual and they all vary. They are very different. But I can tell you they are quite complex and they are never simple. When we have a State Government that does not meet the needs of Aboriginal people, that has a huge impact on those very individuals in Risdon Prison who we are trying to prevent from going back into Risdon Prison and afford them the opportunity to live amongst all of us and have access to the same things that we all do that are severely disadvantaged. I also might add that Risdon Prison resources are minimal as well. We all know that there are

*staffing issues at Risdon Prison and we know that there are a lot of lockdowns. That also impacts a lot of people in Risdon Prison and it also contributes to people's ongoing trauma.*²⁰⁷

Ms Maynard (TAC) informed the Committee in relation to funding issues and what the TAC has to offer to Aboriginal people in Tasmania:

Ms WEBB - *I am interested to understand a little more about the services that you provide that aren't funded at the moment. We've got the Closing the Gap's two outcomes that are relevant to reducing the number, the overrepresentation of Aboriginal people in prison. Our State Government has signed up to Closing the Gap activities and outcomes, so has there been discussion between the TAC and the State Government about funding of specific services to assist with addressing outcome 10 and outcome 11 in the Closing the Gap?*

Ms MAYNARD - *I am sure you can appreciate that it is early days and it is a lot of willingness from our end, but we can't force the Government to do things. We are having conversations, but there is not much action from the other party.*

Ms WEBB - *Do you have a proposal that you put to the State Government, in terms of what a service or program or initiative might look like to be funded, to do the work? It sounds like you are doing that, to some extent, unfunded at the moment. Presumably you must have had a model that you have put forward.*

Ms MAYNARD - *We have been having conversations with the Government for probably - so many years now. We have had specific conversations around alternatives to prison programs. We used to run a successful program on lungtalanana.²⁰⁸ Unfortunately, that was not funded. Yes, we have had conversations, we are aware that the State Government had signed up to the Closing the Gap initiatives, but there hasn't been much action from their part, it is a bit slow-going. We have provided alternative models to keeping Aboriginal people out of prison, various hearings, various conversations and representations to government for years and years. We have a lot of answers. We know how to support Aboriginal people and we don't want to see Aboriginal people in Risdon Prison. It is how it is resourced from the Government and how it is resourced to us at the Tasmanian Aboriginal Centre.*

Are all of you aware about all of the services the Tasmanian Aboriginal Centre provides and offers? Are you all familiar? Because sometimes people get a bit confused.

...

Ms MAYNARD - *We have been around for 50 years and we are a statewide community grassroots Aboriginal organisation. We have offices across the State. We are based here in nipaluna, just up in Elizabeth Street, in Launceston and pataway, which is Burnie. We have an outreach health service at tulinakali, which is Devonport, and one out here at kutalayna, which is Bridgewater. We have an Aboriginal children's centre. Because we are a one-stop shop, we have programs such as the social and emotional wellbeing*

²⁰⁷ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.54-55

²⁰⁸ Clark Island, Tasmania

program, the Strong in Country program; we are about to start a suicide prevention program. We have in-house doctors, nurses, a visiting paediatrician, a visiting psychiatrist, in-house counsellors, nurses, Aboriginal health practitioners, a child and family program, a language program. I am sure you all know about our successful palawa kipli Aboriginal food business. We have a land management program. We do so many different things that we have everyone contacting us, and even though it is not our role, we still continue to try to do the very best we can to support Aboriginal people. They are some of the things that we do.

Ms WEBB - *In terms of that then, in potentially making a case to be able to have a funded program directed at providing support to Aboriginal people who are in prison or exiting prison, both those things, would fit well within your service mix.*

Ms MAYNARD - *Absolutely, because just to take you back, we used to have our legal service funding. Unfortunately, the Commonwealth Government decided to give that to another service provider in Victoria in 2015. We had legal field officers and in-house lawyers within our service. If you had a mum coming in in regards to whether it is family violence or relationship breakdown or needing support, she would be in seeing the doctor and she would be able to come in and have access to a lawyer straightaway. We used to have a successful legal service program. Unfortunately, the funding was given to Victoria for all sorts of different reasons.*

CHAIR - *It never came back?*

Ms MAYNARD - *No, and we did have conversations with the Commonwealth Government and we have had conversations here with the State Attorney-General about the legal service funding being returned because we are the most fit organisation and community representative to have the funding to be able to support Aboriginal people in a holistic manner and holistic way, and that is what Aboriginal people need. That is what Aboriginal people are not getting at the moment.*

In regards to your question, Meg, we would be fit to be able to provide all sorts of different supports because we are doing it anyway. We would be able to do it in a far better and improved way if we had access to that funding.

Ms WEBB - *Legal services aside, has the TAC ever had funding to do a corrections-related or justice-related support program? Has it ever been part of the mix, or a youth justice or youth detention-related support program? Have you ever had funding in that space?*

Ms MAYNARD - *There have been specific amounts of funding, small amounts of funding, and we did a lot more than what our funding requirements were...*²⁰⁹

The Committee heard from Ms Maynard (TAC) in relation to the relationships of other external providers of exiting prisoners' services with TAC:

²⁰⁹ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.56-57

Ms WEBB - ... I just had a question noted to ask about the programs that we have heard about that are funded to provide support when people exit prison - I am thinking about the Salvation Army's Beyond the Wire program and the program that Bethlehem House runs for some people as well, which is sort of case management programs to assist - is there any relationship between those mainstream programs and the TAC? Do they reach out to the TAC if a client coming into those programs is Aboriginal? Do they collaborate or reach out or bring you into the mix of supports that are provided?

Ms MAYNARD - We are really lucky that we've got a couple of people that are based at Risdon Prison that know the Aboriginal community - that aren't Aboriginal, but they have been there for a very long time - and we've got those long-term relationships and mutual respect for each other where we will support Aboriginal people the best way possible. Bethlehem House's Don McCrae is amazing. If he has got an Aboriginal person that has made contact, he will give us a call because he knows that we can provide support that those guys can't and we work really well together. However, they've only got limited beds and they've only got limited staff and resources. That is an issue.

Beyond the Wire has another issue in the sense of not having the resources and capacity, so it is not the willingness from either of those programs specifically, it is the fact that they don't actually have the resources and they can only take a certain amount of people on their case load. If you are in Risdon Prison and you need support because you've got no family outside, and you are trying to get on to the case load of Beyond the Wire program, and they can't take you, you are just going to be sitting in Risdon Prison. The waiting list is like our housing waiting list, so there are waiting lists everywhere across the board. We work really well with a lot of mainstream service providers and they recognise the amazing work that the TAC does and importance of connection to the Aboriginal community. There are no real issues there, it is just that they are under-resourced; and if they are under-resourced, they are limited in what they can do.

Mr VALENTINE - Even if they were resourced, are those programs culturally specific enough?

Ms MAYNARD - No. We do the work anyway. They are kind of, I guess, just an added layer of support, for example. There is no specific Aboriginal housing provider. So, if I am trying to look for emergency accommodation or trying to support a person being able to be housed at Bethlehem House, there is no Aboriginal emergency accommodation. I have got to work with Bethlehem House. If they have got no capacity, they can't take that person.

CHAIR - The Centre doesn't have any housing, sublease or anything for housing through the Centre?

Ms MAYNARD - No, we don't. So, the State Government has a variety of homes allocated for Aboriginal people and we work with Homes Tasmania, to try to get Aboriginal people housed - whether it is emergency accommodation, crisis, family, family violence stuff, people being released from Risdon Prison - but no, we don't have allocated homes. So, if there was an Aboriginal person being released from Risdon Prison and they

*needed to access housing, I would call all of the housing providers and try to support that person.*²¹⁰

At the public hearings, the Committee heard from Mr Wise (Deputy Secretary, Corrective Services) in relation to TPS and its capacity to establish partnerships with Aboriginal community-controlled organisations:

Ms WEBB - ... *I have one question on Aboriginal cultural workers because we have not touched on that area. In the strategic plan, under area 4, in Closing the Gap. We know we have committed to Closing the Gap and the significant work yet to be done there. Under the 'What we will do now' part of the strategic plan, it talks about developing and implementing a framework. That's fine. Under 'Measures for success', it talks about 'establishing strong partnerships with Aboriginal community-controlled organisations'.*

What is happening there? We have heard there are no funded Aboriginal cultural workers within the prison system. It would seem, if we are genuinely aiming to close the gap in the time frames we are aware of, that would be a pretty essential component to fund those sorts of positions. It is not in the strategic plan. Is there no intention to fund that?

...

Mr WISE - *It is an issue for us, clearly, and we have plans to engage with an Aboriginal organisation to provide us with some staff to work on the ground in the TPS in the next six months or so.*

Ms WEBB - *Will they be funded positions?*

...

Mr WISE - *We will be funding a community organisation to provide those staff. It is very difficult for Government in some respects to attract appropriate Aboriginal staff into environments where they might be working one out or two out, and those sorts of things. In order to provide a safe cultural environment for those staff to work, we will be engaging with a community organisation to provide them.*

...

Ms WEBB - *What is the time line expected on that?*

Mr WISE - *We are hoping to have that within three months. It might drag out to six but hopefully it is within three months.*²¹¹

At the public hearings, Ms Maynard (Tasmanian Aboriginal Centre) informed the Committee of her views in relation to the applicability of other alternative to prison models for Aboriginal people from different Australian jurisdictions:

Ms MAYNARD - *Every community across the country is unique and different, so what would work in the Northern Territory would not work here and vice versa. I guess there are various different models that we could use. The first model would be keeping Aboriginal people out of Risdon Prison. What does that look like and how can that be*

²¹⁰ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.61-62

²¹¹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.54

*achieved? Alternative programs are far more successful. If you have grown up in poverty, you have a lack of education, you do not have a roof over your head, you have watched your family go in and out of Risdon Prison, you are so socially disadvantaged. What hope do you have? You are obviously on a clear path to go to Risdon Prison. It is cheaper to look at alternative programs than to send people to Risdon Prison and Risdon Prison does not educate people, Risdon Prison does not give life skills to people, Risdon Prison takes people's dignity away and it is interim housing. Then people get back out and they go back in again, and it costs the State Government a lot of money and there is no change.*²¹²

At the public hearings, Dr Sotiri commented on the Aboriginal place-based programs in Tasmania:

Mr VALENTINE - ... *We have a significant number of Aboriginal people in custody, ...*

I am interested to know, with the experience that you have, what the programs that they should be participating in look like, as opposed to other cohorts. What is so different about them and what can we do to improve those programs?

...

Dr SOTIRI - ... *there are a number of First Nations-led organisations in Tasmania who are doing amazing work in this area. The place-based approaches that do have an evidence base are often framed in terms of this idea of justice reinvestment, regardless of whether or not there has been any reinvestment as yet in Australia in terms of that concept, but they are led by the community. There is a lot of community control. By that I mean, a lot of the time when governments fund programs, there are quite strict criteria about what can and cannot happen on that program. A lot of the time, a post-release program will say you can only work with people who have come out of prison who have done sentences of more than six months or have drug and alcohol issues or that fit into whatever these categories are.*

What works in terms of the First Nations' programs that we outline is there is a lot more flexibility in terms of how the support is provided and where that is directed. There is an acknowledgment the community is the best place to determine what that support looks like in their community. That is one of the key differences. There is a flexibility in the kind of support provided. The other thing about place-based approach is there is a focus on the specific cultural needs of that particular community.

Mr VALENTINE - ... *I was trying to get those points of difference between how you would deal with other cohorts compared to First Nations people. Is it fair to say though that with the other cohorts of people, exactly the same focus should be occurring? Is it community-based as opposed to trying to do things in an incarceration context?*

Dr SOTIRI - *Absolutely. What we can see, especially for Aboriginal and Torres Strait Islander people in Australia, is we have historically built these kinds of systems where people are managed in prisons rather than having access to the resources and supports that are required in the community. Again, what the evidence shows is if those supports*

²¹² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.64

*are provided in the community, then people tend not to go back to prison. It is getting the policy settings right, but yes, absolutely, the principle in terms of what court looks like, being community-led and community-based, is the same as Aboriginal and non-Aboriginal communities, but there are some additional elements.*²¹³

At the public hearings, the Committee heard from Ms Carter in relation to including provisions in the Tasmanian *Bail Act 1994*²¹⁴ that would require the bail authority to consider issues relating to a person's Aboriginality:

Ms WEBB - *In your submission you talked about the Bail Act and the fact that Tasmania's Bail Act doesn't include standalone provisions that require bail authorities to consider issues relating to a person's Aboriginality. Is that something that's unusual in terms of other jurisdictions? Do other states have that in their bail acts?*

Ms CARTER - *Yes. Victoria is a good example of it - section 3A of the Victorian Bail Act.*²¹⁵ *There's a few other states that have it as well but the Vic one I know pretty well. The Act talks about identifying particular groups that are vulnerable and taking that into consideration when making bail decisions. Aboriginal people are clearly listed as a vulnerable cohort. Section 3A of the Bail Act in Victoria very clearly spells out that Aboriginality. Once someone identifies as Aboriginal, that is a consideration, much like housing, much like, 'Hey, I've got a job to go to' or 'I've got three kids at home and I'm breastfeeding', or all those situations that we know come up. Aboriginality is also a vulnerable factor that has to be taken into account both in police bail that's provided as well as court.*²¹⁶

At the public hearings, Ms Lee-Anne Carter (Community Engagement and Program Manager – Tasmanian Aboriginal Legal Service) spoke to the lack of cultural support for Aboriginal people in the Tasmanian prison system:

Ms CARTER - *... One thing I would like to stress is that there is one Aboriginal employee in Tasmanian prisons. To give you a background, I have relocated from Victoria. I have worked in the justice area for about 26 years. The last 11 years I have worked at the Victorian Aboriginal Legal Service as the statewide manager, and have enormous experience in dealing with custody matters, welfare matters, deaths in custody - I was part of the Justice Conclave for the Veronica Nelson matter with the Coroner's Court.*

My experience is pretty vast, as an Aboriginal person who has also experienced family going through the system. I have a very good understanding. The fact that Tasmania has one Aboriginal staff member - and that is our staff member - absolutely floors me. It is astounding. What's really surprising is that Tasmania hasn't had very many deaths in custody. I would argue that it is not a matter of if, it is a matter of when. I don't want to

²¹³ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.38-39

²¹⁴ See *Bail Act 1994*, <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-1994-009>

²¹⁵ Section 3A (Determination in relation to an Aboriginal person) - *Bail Act 1977* (Vic): In making a determination under this Act in relation to an Aboriginal person, a bail decision maker must take into account (in addition to any other requirements of this Act) any issues that arise due to the person's Aboriginality, including— (a) the person's cultural background, including the person's ties to extended family or place; and (b) any other relevant cultural issue or obligation. See <https://www.legislation.vic.gov.au/in-force/acts/bail-act-1977/150>

²¹⁶ See Transcript of Evidence [Public Hearings - 4 July 2023](#), p.44

see this State covering its butt after the event because the lack of cultural supports within this prison is disgusting. They are absolutely disgusting. They're not there. And it is not because the prison does not want them there: it is because they don't have the funding to have the programs and the staff on the ground. And when they have previously, it has failed. It has failed because it hasn't been properly resourced, hasn't been properly funded and they don't have the cultural support within the prison, within the infrastructure, which they themselves have recognised.

That was part of that lack of cultural supports I was talking about. There is a lack of supports for someone going to court. One of the very big things that got noticed, particularly in some of the recent coronial matters in Victoria and other states, is the lack of cultural support while someone is attending court. Getting legal representation or bail is absolutely crucial to their health and wellbeing as they are going through that system. When it's not, we see what the tail end of that is. It results in deaths in custody and it results in the recidivism we see consistently throughout.²¹⁷

...

Ms HOWLETT - *Lea-Anne, you mentioned there's one staff member for the whole of Tasmania: where are they located?*

Ms CARTER - *Risdon, predominantly within Ron Barwick, within the medium section there. If you've ever walked through prisons, quite often you'll get bailed up, or have half a dozen people hit you up and say, 'Hey, I need this and this'. It's very difficult for that one staff member. To put that staff member in context, we got funded to run a reintegration program looking at formal training and employment. When they leave prison, the problem is the program is pretty moot when you have so many issues before that. There's mental health, drug and alcohol, someone who isn't prepared to go into training or to any formal education or employment when they leave.*

Ms PHILLIPS - *They don't have anywhere to live.*

Ms CARTER - *They're more focused on their housing, they're not so focused on wanting to get a job, able to get a job, or can't get a job if they have got nowhere to live or no stable accommodation.*

That one staff member is in Risdon. With the new remand centre opened up, there are more prisoners needing support. That can be as simple as helping them make sure their family members are on their contact list, navigating their way through the prison, or knowing who is a safe person to speak to get that cultural support when they need it.²¹⁸

Mses Carter and Phillips spoke to the Committee about the preferred number of staff members to look after Aboriginal prisoners needs:

Ms WEBB - *... Have you got a measure by which you can assess what should that staffing cohort look like in Tasmania? Given our prison populations and given the*

²¹⁷ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.28-29

²¹⁸ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.32

proportion of people who are incarcerated who are Aboriginal, what should we be looking at here as best practice if we were to have that appropriately staffed?

Ms CARTER - *Absolutely best practice would be to have a staff member in each of the areas, at least. At the Southern Remand Centre, I'd be looking at a few staff members, whereas your population, say, within Mary Hutchinson with the new women's area is much smaller, but Aboriginal staff should be available in each of the areas within a prison.*

Obviously, with remand, because there's a lot more going on, someone's just come out of court or they've got a new court date or are not quite sure who their lawyer was, or they need something followed up and things like that. Because they are between that remand and a sentencing they are exceptionally vulnerable as well because, as we know, remand prisoners are not entitled to supports during that period. You can't undertake programs for any rehabilitation, so you could be sitting on remand for a period of time and then all of a sudden you're released, but there's no support. You haven't sorted out your housing; you haven't been able to organise your medication or something like that, and then you're out in the streets.

Ms PHILLIPS - *Could I just make a point here too to say that there are people every single day who are released with conditional orders that they do programs. They live in rural or remote areas, they don't have any transport, and you've got a captive audience whilst you have them in prison, and you've got someone who could have done any type of program whilst they're in there, and all of a sudden, they're released with all of these huge conditions that they can't comply with because of things outside of their control that could have been done beforehand.*²¹⁹

At the hearings, the Committee heard from Ms Sara Maynard (SEWB Coordinator, Tasmanian Aboriginal Centre) in relation to the possibility of having Aboriginal support people within the Risdon Prison Complex:

Ms MAYNARD - *I believe that if Tasmanian Aboriginal Centre received the funding and therefore had the resources, a member of our staff could be physically based at the prison and we could have an integrative kind of program where we can provide individual support to Aboriginal people. So, you have got an Aboriginal person who is 100 metres away from the Aboriginal person working at Risdon Prison and can provide the supports that are required as well as connect that person with the coordinated care that they require. There are many Aboriginal people in Risdon Prison that have got the TAC on their phone account and we speak to Aboriginal people all the time. I have taken a couple of calls today from people needing the support that they need.*²²⁰

At the public hearings, Ms Carter (Tasmanian Aboriginal Learning Service) spoke to the matter of having a wider community representation on the Tasmanian Parole Board:

²¹⁹ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.33

²²⁰ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.59

Mr VALENTINE - You mentioned the absence of dedicated Aboriginal community members on the Tasmania Parole Board. How important is that? Do you want to expand on that?

Ms CARTER - It is something that we have previously raised. You can't have a decision-making board that is making decisions for people that may not have the full understanding of the impact of what those conditions would have on them, both in their community and culturally. For example, you see so often curfews put on people when they don't need to have a curfew. A curfew prohibits someone from going away on the weekend, to be on Country or to go muttonbirding in March or April, to engage in cultural activities: they're stuck at home.

...

Ms CARTER - ... I have so many clients who feel that the system is so stacked against them, why even bother. They don't even understand the process sometimes. And they are not allowed to have a lawyer present. It is really important to make sure there are people who are making decisions who understand their true impact, particularly with conditions.

Mr VALENTINE - Are you saying there should be a lawyer allowed to go along to these things? Or is that general for normal parole procedures?

Ms CARTER - I don't necessarily think it needs to be a lawyer, but someone who can advocate, a support person. We were talking about the bail support program earlier. We will have a client to whom we'll say, 'Contact drug and alcohol and make an appointment', and they do and they can't get an appointment because they struggle to advocate for themselves. Having someone to advocate - you call and get an appointment within five minutes. Why is that different?

...

Ms CARTER - I think it is also around communication. In my experience and in my direct knowledge, a lot of times when people have been asked questions or they have been assessed for something, they don't always put their best foot forward. It is not unusual that I have sat with many people when they have been questioned by Youth Justice or by someone else and they have said -

...

Ms CARTER - ... They have been asked, 'What programs have you done?' or 'Why didn't that work?' Having someone there, I would prompt them and say, 'No, you had sorry business,²²¹ remember you missed court because you had sorry business', or 'Didn't you do one of those programs?' So, having someone that can actually -

Mr VALENTINE - Understand.

Ms CARTER - Yes. 'But I didn't think that was important'.

CHAIR - Prompt you.

²²¹ 'Sorry Business' is a term commonly used within Aboriginal and Torres Strait Islander communities to refer to the grieving process and cultural protocols associated with the death of a community member: see in general Grief Australia 'Working with Aboriginal or Torres Strait Islander Grief and Bereavement', [https://www.grief.org.au/Common/Uploaded per cent20files/Reconciliation per cent20Action per cent20Plan/ATSI per cent20Grief per cent20and per cent20Bereavement Professional per cent20Resource.pdf](https://www.grief.org.au/Common/Uploaded%20files/Reconciliation%20Action%20Plan/ATSI%20Grief%20and%20Bereavement%20Professional%20Resource.pdf) and Headspace, 'Remembering a young person: Memorials and important events in Aboriginal and Torres Strait Islander communities', <https://headspace.org.au/assets/School-Support/Remembering-a-young-person-Memorials-and-important-events-in-Aboriginal-and-Torres-Strait-Islander-communities-web.pdf>

Ms CARTER - Yes, and having that support person there. But I think having Aboriginal representation on the parole board, ... , is key because it can give a cultural perspective.

Mr VALENTINE - Especially when you have got so many people that are Aboriginals that are in the system.

Ms CARTER - Correct. Having someone sitting on there or a few different people from different communities sitting on there will make someone feel much more culturally safe and confident when they are going forward.²²²

Committee Findings

- F43. Aboriginal and Torres Strait Islander persons are over-represented in the Tasmanian adult prison system.
- F44. There is a lack of culturally appropriate support services for Tasmanian Aboriginal people in prison.
- F45. Having community representatives from diverse backgrounds, including Tasmanian Aboriginal people, on the parole board may make individuals feel more culturally safe.

Committee Recommendations

- R17. Prioritise resourcing of research, strategies and initiatives that are focussed on specific issues contributing to the disproportionate rate of Tasmanian Aboriginal people coming into contact with the justice system.
- R18. In partnership with the Tasmanian Aboriginal community, develop and fund a model of culturally appropriate support services for Tasmanian Aboriginal prisoners.

Training and support initiatives for corrective service staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism

Increased Recruitment of Corrections Staff

The Hon Elise Archer MP (then Attorney-General, and Minister for Corrections and Rehabilitation) submission stated:

Staffing levels across the Corrections portfolio have greatly increased over the previous two years. It is these valuable staff members who deliver the services that rehabilitate and support offenders in Tasmania.

²²² See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.42-43

Correctional Officer recruitment processes have been occurring at an increased rate, even despite the challenges posed by the COVID-19 pandemic.

Boosting Correctional Officer numbers was a key focus of mine during 2022, with four recruit schools and two bridging courses held throughout the year - the most recruit schools ever conducted in a calendar year. This will continue to be a focus in 2023 as we continue to do all that we can to attract more Correctional Officers into the Tasmanian Prison Service (TPS) in a competitive market, as part of our ongoing recruitment to ensure the safety of staff, inmates and the community.²²³

At the public hearings, the Committee heard from Ms Salter (UWU Senior Organiser) in relation to the union's concerns on TPS recruitment:

Ms ARMITAGE - ... You also mention in your submission that recruitment processes are a sham. Can you expand on that comment?

Ms SALTER - There's been a lot of work done on how to upgrade how they select for people. There's a scoring system. Our understanding is that the scoring levels are reduced in order to get enough candidates...

Ms ARMITAGE – So, it's a lack of candidates, as opposed to being something wrong with the recruitment process and then ongoing training?

Ms SALTER - Yes. Partially it's a lowering of the requirement thresholds for the scoring that you have to go through to be selected.²²⁴

At the public hearings, the Committee heard from the then Attorney-General, and Messrs Wise and Thomas in relation to the training of Correctional Services staff:

Mr WILLIE - ... we heard from workforce representatives that training has become an issue. The induction training has gone from 13 weeks to 10 weeks. Some units are being missed that were previously included, and the training they described was done on an ad hoc basis. What is being done to ensure all correctional officers and prison staff are getting adequate training?

...

Ms ARCHER - The length of the training, I believe, is the same as other states, from speaking with colleagues last week. I have tasked Rod [Wise] with the intensive recruitment strategy of trying to get more correctional staff. As I have told the Committee before, we will have as many training courses as possible in one year, as we did last year. I might get Rod [Wise] to address the length and why we have shortened that.

...

Mr WISE - The recruit training is not dissimilar to other jurisdictions. Indeed, some of the jurisdictions have less time invested in their recruit training and then follow up later in the piece, so it's a reasonably equivalent set of training modules that staff here do.

²²³ See Hon Elise Archer MP, Attorney-General ([Submission #28](#)), p.1

²²⁴ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.5

As far as ongoing training is concerned, we set aside a day each week to assist correctional officers in some of their mandatory and non-mandatory training. There is a commitment from the TPS to get as much training through our staff as possible, but we do recognise that for some people who are seeking promotion, we haven't done as much as we should have, so that is a focus. Indeed, in the strategic plan it's one of the things we are aiming to do over the next few years, to improve the training we give to prospective managers.

Mr WILLIE - *What's currently available in terms of training around rehabilitation of offenders?*

Mr WISE - *Most of that work is done by non-correctional staff, non-custodial staff, but case management is a significant part of the correctional officer's role, and how correctional officers feed into the therapeutic intent of the TPS is a big part of what they are expected to do.*

...

Mr WILLIE - *Correctional officers, though, spend so much time with the inmates. Isn't there an opportunity to increase their training around stopping offending? Case management is part of it?*

Ms ARCHER - *Absolutely. That's our increased focus now. Rod [Wise] said, and we do admit, particularly during COVID-19, it was difficult to provide that. So, the focus has to be on additional training. You're right, they are the ones on the front line, if you like, in developing those relationships and speaking to our new recruits. That is a really good focus of theirs when they're starting out. They realise that even if they can change just one life, that's a fantastic result for them. It's not lost on them, the significant role they play in changing lives. So, I would agree with you.*

...

Ms ARMITAGE - *Still on recruitment, a concern was raised this morning, basically saying that the scoring has been reduced in order to get officers due to a lack of applicants. Is it the case that there is a lack of applicants for positions, and that it's becoming easier to become a prison officer because the scoring is reduced? ...*

Ms ARCHER - *Before I get Ian [Thomas] to explain some of those issues, over the last few years what I discovered was the threshold was a little bit too high. We were seeing a lot of applicants and a lot of applicants not getting past the first post.*

Ms ARMITAGE - *Good applicants?*

Ms ARCHER - *I remember having a discussion with Ian [Thomas] and asking if we could review how this is all done. That was done, but I don't believe it has become too easy. As to the number of applicants we now get, we're in competition with a lot of other different areas. Members can recall from Budget Estimates that all of us have encountered -*

Ms ARMITAGE - *Are we having problems getting applicants?*

Ms ARCHER - ...We'd like to see more. We're competing with the police service, we're competing with other states, we're all trying to poach each other's staff. In Tasmania we try to appeal on a lifestyle basis. We've had some success in that regard...

Mr WISE - Yes, we're getting a reasonable number of applicants but it does link in, we've found not surprisingly, to the advertising campaign we put out. We are getting a reasonable number through -

Ms ARMITAGE - Male and female?

Mr WISE - Male and female.

Ms ARCHER - In one course we had more females complete - the first time ever.

Mr WISE - We're certainly not lowering the standard. What we are doing is spending more time with those who might be on the borderline. In the past, we might have said they don't reach that threshold and are not suitable. Now we're saying, 'there are some things that we might be concerned about but we'll put you through an additional process where you'll be interviewed by senior staff and they'll make a decision on whether you attain that threshold or not'.

...

Mr THOMAS - There are multiple parts to the process. There's the initial written application. There are key elements we look for in that. That gets them a score. They then go through an online psychometric test, which gets them another score. They then come to the assessment day, which gets them another score. The assessment day is broken into three parts. All of these add up to a cumulative score.

We have a threshold which says if they're above that then they've met every requirement we are looking for and they can go forward to the recruit school, subject to things like police checks and medicals. As Rod [Wise] alluded to, if there are people on the borderline, who may have excelled in key parts but are just under on others then we will circle back on those other parts. People, including myself, come together and review them and consider, whether there is enough to tell us, with the right development and opportunities, that they can reach the level that we're looking for in that key area? Obviously, if they're not reaching the required level in all areas, then we don't put them through. There is the danger that you have someone who is really good at a certain aspect of being a correctional officer but they just have not portrayed it well on that given day, so we want to give everyone an opportunity. They then go into a 10-week training school. We are still continuing to train and develop.

...

Mr THOMAS - It is ongoing throughout the whole 10 weeks. They are on a probation period for 12 months. Even when they've finished their recruitment, they have another nine months of probationary period when they need to continue to demonstrate that they're meeting the requirements.

Ms ARCHER - It is important to say it is onsite. There's a component where they go into the prison environment. That's obviously invaluable training.

...

Ms ARCHER - There's a classroom component and a lot of them probably don't like that side of it as much, from speaking to them. It's a necessity that they do that portion of the training as well, so it's a really well-balanced training course.

Ms ARMITAGE - What sort of proportion would not make it through the 10 weeks?

...

Mr THOMAS - It's very small numbers. Often, it's none at all, everybody gets through. When we start a recruitment campaign, we will typically get 300 to 400 applications. Out of that we'll get somewhere between 15 and 18 recruits. The process really narrows it down to those people who are absolutely suitable to be correctional officers, based on the process. We find that that has tended to make sure that the people sitting in that classroom for 10 weeks are suitable to be there. They've invested a lot of time in getting there. We don't lose many. Sometimes they decide it's not for them, or there are ongoing assessment processes that the Attorney-General alludes to that determines that this is not for them and they're not for us.

...

Ms WEBB - In relation to the training, I notice in the strategic planning second action area, you'll be building and implementing a corrections people strategy. I presume that touches on this area. There's no time line there. Could you give us a time line for when that'll be completed and implemented?

Ms ARCHER - You'll see there's short-term, medium-term and longer-term goals within the strategic plan. That's quite deliberate. In corrections, there are things you can achieve in a relatively short space of time, medium space of time, and then long-term goals. I think that would be something that's being worked on currently. ...

Ms WEBB - To be clear, it is not under the long-term goals. It is under the 'What we will do now'. I am interested in the time line particularly.

Mr WISE - We are working through an implementation plan now and that obviously is one of the things we are seeking to deliver in the next two years.

Ms WEBB - Does that include the review of the training policy?

Mr WISE - Yes.

Ms WEBB - That was, obviously, a recommendation, that the training policy be reviewed, and there has been some waiting for that to occur. When we heard from other witnesses earlier this morning, they were mentioning that that had not yet been done. So, the expectation is that review is occurring imminently and will be part of the corrections people strategy?

Mr WISE - That's right.²²⁵

²²⁵ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.42-46

The Committee noted that the UWU submission²²⁶ highlighted a number of recommendations stemming from the Office of the Custodial Inspector's 2019 Resources and Systems Inspection Report²²⁷ and the Tasmanian Auditor-General's performance audit of the Tasmanian Prison system in November 2019:²²⁸ the combined recommendations covered future and current staff resourcing matters including improved policies, procedures and processes.

Committee Findings

F46. In 2022 and 2023, there was a concerted effort to increase the recruitment of Correctional Officers in the Tasmanian Prison Service.

Committee Recommendations

R19. Ensure ongoing effective recruitment and retention of correctional staff to address persistent understaffing.

Training of New Recruits and Existing Correctional Officers

The Tasmanian Government Submission highlighted improvements in relation to new recruit training for Correctional Officers:

The course delivered to new recruits runs over a 10-week period and is comprehensive in its coverage of both the theory and practical skills required by Correctional Officers. The course is adjusted as needed over time to ensure it remains contemporary and incorporates new policy, procedures and practices.

...

*New recruits who complete the recruit school are given the option to be supported to earn a Certificate III in Correctional Practice through on the job assessment over the 12 months following their graduation. This includes regular face to face training and assessment sessions with the training and development unit. There is no mandatory requirement for new recruits to complete the Certificate III, other than they must complete the recruit training school which makes up a component of that certificate.*²²⁹

The Submission listed the units covered in the recruit training that support individual well-being, professionalism, resilience and reduced absenteeism:

- Introduction of MATES (peer support) and Employee Assistance Program
- Expected behaviours – which incorporates the TPS and Department of Justice values

²²⁶ See in general UWU ([Submission #67](#))

²²⁷ [Resources and Systems Inspection Report 2019](#), Office of the Custodial Inspector, https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0009/588276/Inspection-of-Adult-Custodial-Services-in-Tasmania-2019-Resources-and-Systems-Inspection-Report_Redacted.pdf

²²⁸ Tasmanian Prison Services: Use of Resources, Report of the Auditor-General No. 3 (2019-20), <https://www.audit.tas.gov.au/wp-content/uploads/Full-Report-Tasmania-Prison-Service-use-of-resourcesd.pdf>

²²⁹ See Tasmanian Government ([Submission #27](#)), p.36-37

- Role of a Correctional Officer
- Workplace behaviour, including code of conduct
- Pro-social modelling
- Professional boundaries in corrections
- First Aid and CPR
- Roles of the Integrity Commission, Ombudsman, Custodial Inspector
- Change Management
- Resilience – Vicarious Trauma
- Stress Management
- Injury Management
- WHS – Prisoners and staff
- Wellbeing Unit²³⁰

Of note, the Australian Lawyers Association submission highlighted the following in relation to new recruit training:

Notably, the training requirements for correctional staff are more stringent in Norway with officers taking 2-3 years to become qualified prison officers given that the training involves becoming a personal support, mentor and role model who will spend time nurturing friendships that will motivate and encourage prisoners onto a new path.²³¹

The United Worker Union submission summarised the TPS correctional staff training as follows:

Correctional staff require regular and appropriate training to ensure they are properly equipped to perform their duties in a rapidly changing environment. In order to be qualified as correctional officers, applicants must have completed prerequisite entry level training and complete further induction training once employed by the TPS.

Initial induction training performed when correctional officers initially commence in their roles is usually comprehensive. Correctional officers must complete advanced qualifications to be eligible to apply for career advancement at the Supervisor level (for example, Certificate III in Correctional Practice (Custodial Specialisation) or Certificate IV in Correctional Practice. There are also Diplomas and Advanced Diplomas for Correctional Administration or Correctional Management).

Although corrections staff receive some limited training on how to deal with stressful situations, staff rarely receive formal or accredited training related to looking after their own mental health and building resilience to handle stressful situations over prolonged periods.^{232 233}

The Tasmanian Government Submission stated that the TPS operated a professional Training and Development Unit which provided both training to new recruits as well as ongoing and refresher training to all staff of the TPS:

The Training Unit has recently undergone a restructure, with additional resources provided by the Department, allowing the unit to be able to better deliver effective training to staff. In addition to its trainers who are attached to the unit, trainers regularly

²³⁰ See Tasmanian Government (Submission #27), p.37

²³¹ See Australian Lawyers Association (Submission #65), p.17

²³² Australian Industry Standards, Corrections Industry Outlook 2021,

https://www.austroliaindustrystandards.org.au/wp-content/uploads/2021/06/20210609_CSC_IO.pdf, p.7

²³³ See UWU (Submission #67), p.24

draw on existing staff within the TPS who are subject matter experts to assist in training on specific topics as required.

This unit restructure places the training unit in a strong position to provide increasingly robust training moving forward. There are currently vacancies across a number of the substantive positions which are in the process of being filled.²³⁴

At the public hearings, the Committee heard from Ms Rhiannon Salter (Senior Organiser Tasmania – United Workers Union) and Mr Philip Pregnell JP (Delegate – Health and Community Services Union) in relation to ongoing union concerns on TPS staff training:

***Ms SALTER** - ... We had an industrial dispute that began in 2020 regarding basic training for correctional officers. Over the years, the training has been reduced from a 13-week course to a 10-week course. They have trimmed the amount of time and some of the programs that are included in that. In 2020 the source of the dispute was the location of the training. Through COVID-19 there was some rearrangement of the training facilities for staff. They became offices in order to cope with the social distancing requirements and some of the changes that were made to anticipate what was going to be needed if COVID-19 was throughout the prison system.*

There was also a staffing crisis. They desperately needed to recruit new people, but it takes a while for a correctional officer to be confident and to be able to do their job effectively. It takes experience. The craft of being a correctional officer is communication and the ability to interact with inmates and prisoners in a way that assists them to navigate the system and to navigate what they need to do.

The training in 2020 was rearranged to suit the location. It did not meet the RTO²³⁵ requirements for the Australian Skills Quality Authority (ASQA). When we were going through the dispute with the training and what we were concerned about, we were told this was the way it was supposed to be.

TPS delivers their training in partnership with TasTAFE. There is a memorandum of understanding which outlines who is responsible for what, who needs to deliver what and which people are qualified and authorised to deliver those particular units in the Custodial Certificate III. At that time, the MOU²³⁶ was out of date. Our members had raised the concern through their work that, 'we know this is coming up, we need to do this'. It is essential for that training to be legal and to qualified standards as through ASQA. We were told that was incorrect, there was misrepresentations from some of the people we worked with. We went through meetings with the director, the training managers, all the way through to Government representatives. We made our concerns known. Those recruits were told that they should not talk to their union, that they should beware of what the other staff members were going to say to them about their training.

A few months later, once they had started and once we identified pieces of their training that were missing - there were some really key correctional practice and correctional

²³⁴ See Tasmanian Government ([Submission #27](#)), p.36

²³⁵ Registered Training Organisation

²³⁶ Memorandum of understanding

techniques that they were not aware of, things that ensured their safety and the safety of prisoners through some of the movements that they do. Really key things.

In 2021, we requested they conduct an independent inquiry into what happened because we could see something was wrong. There were either some performance issues or some deliberate misinformation provided. That report has been handed down. I won't speak to the content. You should request that from the Department of Justice.

...

Ms SALTER - *The Department of Justice has the report. It outlines the problems. The whole thing could have been avoided. Our members had said this is an issue, this is a legislative requirement, not because they wanted to make trouble but because they care about the standards. They care about TPS delivering training. Training in the practice is everything in the environment. It is not the jails or the buildings that are going to change people's lives - it is the people who work with them.*

Ms ARMITAGE - *In your submission you say training is rarely approved or provided, even if it is part of a performance development plan. When you say 'approved' - it's the TAFE and training - is it not what should be required? Could you expand on this when you're saying training is rarely approved?*

Mr PREGNELL - *What we are saying there is if you have a performance review of a correctional officer and you identify, yes, this person could be a supervisor and could work their way up the ranks over the next few years; let's get them some training on how to be a supervisor, how to manage staff, and how to look after staff. That has been identified but there is no training available for that to happen.*

...

Mr PREGNELL - *It is not provided. People who get to a certain level may do a diploma of management, but if you go into a supervisor's role, there is no training on how to be a supervisor. You are put in that role and told to do the job. That can be from staff management to inmate management as well, where you have to do disciplinary reports and the like, and also the safety and security of the unit you are in charge of. That training is not provided.*

Ms ARMITAGE - *People are just moved around without actually being trained to move up positions? Is that what you are saying?*

Ms SALTER - *I can clarify some of this as well. The follow-on from that dispute meant that there was a resourcing issue in that unit. There has been some work done to it and we are continuing to work with them.*

For the different levels of correctional officer, you have probationary who go through their 10-week recruit training and then a year of probation with their learning. They should be supervised and mentored as much as possible. Generally, with level one, two and three, you are perfecting your craft; you are just doing mandatory training like control and restraint, CPR, all of those really necessary skills that are refreshed on an annual or biannual basis.

Once you approach your fourth year, there is the first-class correctional officer. There is specific training and assessment which assesses your capacity for, and knowledge of, those advanced practices. That training hasn't been run, I think, in nearly two years. The course exists. It's a requirement to progress to the next level, but it has not been run. That advanced training which supports that experienced work of officers is just not being run. It's regularly put off. Last I heard, it was going to be November last year [2022].

In our last negotiations, we made some changes to the classification structure. We put in some progression requirements, including specialised supervisor training, which is required for professionalism and for quality of work. That course has never been developed. It's been four years. They have some outlines but there's been nothing put forward. It's simply not a priority.

Then when you progress to the higher levels of superintendent and chief superintendent, and general managers who are in charge of workplaces which have nearly 150 people, it is complex, challenging work. We see that there is no regular training provided. There's not a standardised practice.

The things that are missing, in our view, are knowledge of workplace health and safety, knowledge of psychological issues for correctional officers, and how to best engage in a trauma-informed way, not just with prisoners but also with staff, and how to sensitively have those conversations. There's also a lack of general knowledge about some of the basic things, about public sector rights and responsibilities, and how their awards and agreements work, which are necessary for any employment relationship.²³⁷

The Tasmanian Government Submission stated that the TPS also provided regular refresher training to all staff:

Correctional staff undertake various mandatory face to face training on an annual basis including units such as control and restraint, breathing apparatus, fire, CPR/first aid and manual handling.

In addition to face-to-face training, all TPS staff undertake mandatory annual e-learning which covers topics including professional behaviour, values, crime scene preservation, suicide and self-harm (SASH) and trauma informed practice.

Courses such as mental health first aid are also offered to all staff on a regular basis. All of these training functions support staff in their well-being, professionalism and resilience, and help the TPS to provide a professional service to the community.²³⁸

At the public hearings, Mr Pregnell and Ms Salter informed the Committee in relation to the union's concerns around TPS staff opportunities for ongoing and refresher training:

Ms WEBB - ... do the annual refreshers that need to occur over specific topic areas occur on a regular and appropriate schedule? Or are they not being delivered?

²³⁷ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.2-4

²³⁸ See Tasmanian Government ([Submission #27](#)), p.37

Mr PREGNELL - *Ad hoc, I suppose. A lot of that is online training. Unfortunately, staff officers aren't placed off position to do that online training. Therefore, they've been instructed to do that while they're trying to provide safety and security to their units.*

Ms WEBB - *In the course of their work?*

Mr PREGNELL - *In the course of their work, which is inappropriate, where you're sitting at a counter trying to do that while you've got prisoners going up to the counter, or you are watching what's happening in there. We have pushed hard for those people to be placed offline so that they can do that training. What we are seeing is the compulsory training like our CPR²³⁹, first aid and the like, is happening but it is being cancelled a lot to try to get the prison open because of short staffing. We are seeing that the majority of our staff, under their new rosters that were implemented, don't actually have training days within their roster that they had previously. That's an issue that we pushed when they changed the rosters and they didn't take online.*

Ms WEBB - *So, in some cases, because of the staff shortages, there would be a choice between 'staff can undertake training' or 'there can be lockdowns'. There can't be both?*

Mr PREGNELL - *Yes, that's correct.*

Ms SALTER - *They are in a much better position than they were in 2020-21 where, I think nearly 85 per cent of people's mandatory training - for the preservation of life and the use of custodial tools, were out of date at that time. Now, it is a lot better. But the regular cancellations are of concern and it took, at that time, one of our health and safety representatives issuing them with an improvement notice to increase the compliance with training in order for them to meet that deadline. She gave them 12 months to meet that deadline and it was a scramble at the end.*

At the public hearings, Mr Pregnell and Ms Salter informed the Committee in relation to the union's concerns around TPS staff opportunities in respect to Aboriginal culture and rehabilitation of inmates training:

Mr WILLIE - *... I'm interested in what elements of training involve rehabilitation. We have heard from some other stakeholders like the Tasmanian Aboriginal community saying that cultural awareness training is inadequate. I heard you mention that trauma-informed practice would be important. I saw in your submission, Lucas, that wellbeing training was a recommendation. Apart from training not happening and happening on an ad hoc basis, where is training deficient in terms of rehabilitation of inmates?*

Mr PREGNELL - *Through the first 10 weeks of training, we do some cultural awareness training. Unfortunately, a couple of our schools over the previous years, instead of using somewhere like the TAC to give that culture for our First Nations people training, they got somebody from the migrant centre to come and talk and they did that as their cultural training, which is extremely disappointing. There is no ongoing training in that field at*

²³⁹ Cardio pulmonary resuscitation

all. In regard to therapeutical training and so forth, there is no training as such. Some of the correctional officers have done the mental health first aid training, but not everyone.

Knowing that, even for our own colleagues, we have not got that training to look after our own colleagues and how to make that call, 'Are you okay?'. What we are seeing is the amount of suicides, like in the paper. We have other stories of people where we are lucky that they are still with us, we really are, because that training is not provided. It's not provided with management either, how to make that conversation, I suppose, is the big thing and how we make conversation.

If you look at a correctional officer, they are a person the prisoners see 24/7. Even during lockdowns we are the ones who have to go up and open the hatch, feed them. We are the ones who have to get them out if it is an urgent medical, we are the ones who have to go up and provide them with whatever they need. We build that relationship with them so that we can try to have those conversations. But we are not skilled fully in that ability.

Therapeutic programs and so forth can be seen but only when we are unlocked. Some of our areas would be lucky to be unlocked probably three half-days a week at the moment. The rest of the time they are sitting in a cell, maybe with a colleague if they are doubled up, so they are not getting out and having the ability to be taken to those programs and to see those people that they need to see.

Mr WILLIE - *What I am hearing is that training seems to be more focused on control of the prison environment, work health and safety matters, and there isn't that much of an element in terms of trying to stop offending behaviour. It sounds like that is the greatest opportunity, if you are with them so frequently.*

Ms SALTER - *My current observation - and my knowledge of the exact units in the course is not complete, is that there would be some elements of that in the basic course. There's a couple of ongoing units that are e-learning-based, there are some ad hoc trauma-informed things that happen. They might have a whole section where they will train everybody, usually in the response to a report or some other inquiry. That is usually something that is a recommendation and they will roll that out across the system but not regularly use that training. It's the bare bones, it is the basics that are delivered but nothing that is going to lift and transform and make the practice of being a correctional officer go to the next level, which I think we would all agree is necessary in this situation.*

At the public hearings, Mr Digney informed the Committee in relation to the union's concerns around the funding of TPS staff training:

Mr WILLIE - *In terms of the funding, I would assume that training isn't a really expensive element of the whole overall justice system. With some small investments we can get some significant improvements. Is that a fair statement to make?*

Mr DIGNEY - *I think that is a very fair statement to make. What we see - and we share similar experiences in the youth justice space that we see in the prison space, is a real ad hoc approach to training and just taking the opportunity to do it when operational matters allow training to be undertaken. You see reduced inductions, you see ad hoc*

approaches to mandatory training, where a small investment with a structured training program for all of those employees would deliver measurable beneficial outcomes to not only them but to the service they work in, and to the prisoners and detainees that they are charged for caring for. That is a really simple fix for the Government to make and one that they could make without a substantial resource injection ²⁴⁰

Committee Findings

- F47. The Tasmanian Prison Service training unit has undergone a restructure.
F48. Ongoing concerns were raised with regards to the adequacy of Tasmanian Prison Service training.

Committee Recommendations

- R20. Review the adequacy of the Tasmanian Prison Service training unit restructure.

Wellbeing Support Unit

Noting at times the challenging nature of the work environment, the Tasmanian Government submission provided the following in relation to supporting staff well-being:

The Department of Justice established a dedicated and stand-alone Wellbeing Support Unit on 16 September 2021 to provide a range of online and face-to-face services. Services provided by the unit include physical and wellbeing health checks, functional health checks, mental health wellness checks, incident support, case management services and education and training programs.

The Wellbeing Support Unit uses the resources offered by My Pulse, a program developed specifically for the Department of Police, Fire and Emergency Management with the difference being that the Department of Justice in-sources case management, coaching and counselling services.

The Wellbeing Support Unit builds on the Department's skills and capability to manage staff wellbeing, and provide staff with an in-house, direct contact to assist individuals with strategies and support to manage their wellbeing. Whilst individual information is confidential, the Department now has access to timely and accurate data about staff wellbeing, which in turn can be used to build mitigation strategies, and prevent escalation.

The unit employs a team of specialists with skills in psychology and case management. The team has been fully staffed since 21 February 2022. The team is located in a separate facility within the Bellerive Quay, to enable staff to access services confidentially and offsite, if needed. The location is accessible for clients and is also viewed as the best option for TPS staff working at Risdon and Hobart.

²⁴⁰ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.5-7

Accessing the Wellbeing Support Unit is confidential and optional for staff and from October 2021 to December 2022 the unit has received 84 individual referrals from staff within Corrective Services (including Community Corrections staff). The unit has also conducted Mental Health First Aid courses, responded to incidents within the TPS, worked with the TPS to review critical incident management policies and provided a session on resilience to a team within the TPS.

Employees can also access the Employee Assistance Program, as well as external counselling and coaching services if requested. These are independent to the Wellbeing Support Unit.

The preventative nature of the Wellbeing Support Unit is expected to deliver savings in the long term, with an expected reduction in lost time injuries and workers compensation claims overall. Importantly, the overall benefit of the program is that employees will be supported during difficult times and better equipped to make informed decisions regarding their health and wellbeing which will benefit the individual, the Department and the broader community.²⁴¹

The Tasmanian Government submission stated that Corrective Services employees were susceptible to both physical and psychological injuries, in particular post-traumatic stress disorders, stress, anxiety and soft tissue injuries:²⁴²

The Department of Justice is committed to preventing work related injury and illness and supporting employees who sustain a work-related injury or illness to recover and return to work in a safe and sustainable manner. Workers' compensation continues to be a significant contributor to staff absences in the TPS. Staff absences contribute to staff shortages, high overtime costs, fatigue, lack of continuity and a range of other outcomes. The Department of Justice has a Safety and Injury Management Unit which is part of the agency's Human Resources Branch. The Department has increased the injury management resources from five to seven staff within the unit. The unit works closely with TPS and the agency's Workplace Health and Safety Teams to identify risks and implement controls to reduce work related injuries. The agency is starting to see some improved outcomes.

Although the number of claims is still high:

- *the average time lost per claim is reducing;*
- *the average cost per claim is reducing; and*
- *more people are being returned to suitable work earlier.*

The Injury Management Unit has a strategy to prevent injury and illness and return injured workers to work sooner with a focus on early intervention and regular communication with injured employees, their supervisors and treating medical practitioners. A number of projects within the Injury Management Unit's Project Plan address staff well-being, professionalism, resilience and absenteeism.

²⁴¹ See Tasmanian Government ([Submission #27](#)), p.38

²⁴² See Tasmanian Government ([Submission #27](#)), p.38-39

Projects of particular relevance to TPS include the following project streams:

- *Workplace injury prevention: Hazard identification and investigation, Functional Job Demands identification; Pre-Employment medical review, Correctional Officer footwear review.*
- *Vicarious Trauma risk assessment and training: training for employees and managers, and training on Conflict Resolution/Respectful Relationships.*
- *Improving capacity to meet legislative obligations: Training for employees and managers, updated Injury Management Program.*
- *Improved governance structures: Policies and procedures; Case Management System; Replacement of WHS reporting system, new workers compensation leave codes, claim reconciliations, settlement strategy.*
- *Improved administrative processes: New templates, forms, training and development of Injury Management Coordinators (IMC), IMC debriefing.*
- *Early intervention and enhanced claims management: Dedicated Return To Work (RTW) placements, Vocational pathways identified, Training and development for employees and supervisors, RTW barriers identified.*

The Department is also a participant in the Improving Injury Outcomes Project being run by WorkSafe.

At the public hearings, the Committee heard from Mr Pregnell and Ms Salter about the union concerns in relation to a dedicated human resources function within the TPS:

Mr VALENTINE - ... *I want to go to recommendation 9 in the United Workers Union submission, no 67, on page 14. You say there:*

Allocate funding and resources to ensure the appointment of a well-resourced human resources function within the TPS, including the appointment of designated and qualified HR personnel.

... Can you describe to me, as far as the HR system is concerned, are you saying that's just run centrally from Justice and not specific to the prison service itself and that there needs to be more attention paid to that? ...

Mr PREGNELL - ... *What we are seeing is that the main Department of Justice runs the basics, I suppose, in the pays and so forth. We do have a small team out at the prison that look after workers compensation, rostering, the training facilities under HR and the like. But it is small when you are looking at nearly 500 correctional officers that are on the books, plus all our other people, therapeutics, programs and so forth. That is a fairly large working environment out there and what we are seeing is that the resources available are not there, especially in the workers compensation area. I think we have got two people out there at the moment looking after workers compensation. What we're seeing is that people who are on workers comp aren't being contacted, they're not regularly being checked on, they're not regularly being provided with, 'These are your entitlements, you are on workers comp and we are sorry it has got to that, we are sorry*

you have been injured at work. What can we do for you?' That is not happening. That's because of that small team that is doing it.

Mr VALENTINE - *Through [Budget] Estimates [2023], I think we heard there were 71 people on workers compensation, I think it might have been up to March [2023]. So, you're saying that they're not getting sufficient service, if you like, to help them rehabilitate back into work? Or are these workers compensation cases more severe than that and they won't be going back?*

Mr PREGNELL - *It is a mixture. ...*

...

Mr PREGNELL - *... People have probably seen the 29 June [2023] paper regarding one officer who wanted to commit suicide because of what happened at work. There's a serious one we have just become aware of that no one at work was aware of because contact wasn't happening. They were denying, not asking, 'How are you?'*

Ms SALTER - *My reflection of the HR question is that a lot of my work engages on behalf of members with HR professionals at TPS. It's not well-resourced. I think there are vacancies, but we're not sure any more. I look at the work they do and see the level of work they do and the amount of time they spend, and the people doing those jobs are doing an incredible job with what they have. You just need more. It's about caring for the workers who are caring for our prisoners.*

Regarding engagement with injured members and disputes that may happen, the workforce has a certain level of stress and a certain level of psychological harm happening every day - member versus member or staff versus staff conflict, conflict among people. When you become stressed or you are suffering from the early onset of PTSD²⁴³, people's behaviour changes. Some of the first signs are anger, frustration, irritability, reactivity and that leads to disputes between staff. We need to manage those in a way that is sensitive and reflects that work.²⁴⁴

In a letter to the Chair, Ms Ginna Webster (Secretary, Department of Justice) provided the following additional clarification to some of the points highlighted by the Unions:

The Department of Justice has invested in providing additional permanent resources in the Safety and Injury Management Unit, with 7.0 FTE allocated to the Unit. I note that the Safety and Injury Management Unit comprises of the following positions:

- *1 x Band 8 Assistant Director, Safety and Injury Management;*
- *1 x Band 7 Manager, Injury Management;*
- *4 x Band 6 Injury Management Co-ordinators; and*
- *1 x Band 4 injury Management Officer (currently being recruited for).*

Some of these staff are onsite in TPS facilities every day, with the exception of Wednesday, providing support to injured workers and those supervising or managing

²⁴³ post-traumatic stress disorder

²⁴⁴ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.7-9

them. Injury Management Coordinators make contact with each and every injured worker to inform them of their workers compensation entitlements and help them navigate the workers compensation process. External Rehabilitation Providers are appointed for every injured worker who has a work-related absence of greater than five days, the role of the rehab provider is to provide additional support to the injured worker, meet with their medical practitioners and supervisor and develop a return-to-work program.

Further improvements and updates to the Injury Management Program also now stipulate that Injury Management Plans must be updated monthly which requires further communication between injured workers and the Department. Previously these plans could be written for up to three months. Since mid-2022, the Injury Management Unit have presented sessions to each recruit school about workers compensation, so that if the recruit does sustain a work-related injury in the future, they are aware of their entitlements and know the Injury Management Unit is there to support them.

...

In relation to the newspaper article referenced by Mr Pregnell, there are several inaccuracies in the media reporting of this matter and whilst it would be inappropriate for me to discuss specific cases, I can assure the Committee that full support has, and is continue to be, provided to the worker in question through the Injury Management Unit, a GP, Psychologist, Psychiatrist and Rehabilitation Provider.

In relation to Ms Salter's comments, we are in communication with a number of at risk staff on a regular basis and we are provided the appropriate level of support. The Department is opening pathways to GPs, Psychologists and interstate inpatient treatment services when required, noting that there are a number of processes in relation to accessing such services that can be out of the Department's control.

Supports are always available to injured workers and I will ensure that we reiterate to Ms Salter that she can always reach out to the appropriate person in the Agency, including myself, if there are employees who are struggling with their mental health so that we can provide the relevant support. I am aware that this has happened in the past, not necessarily with worker's compensation matters. In addition, injured workers have access to multiple supports through the Department regardless of whether the workers compensation payments have been ceased. The Department also manages a number of non-compensable return to work matters in which rehabilitation supports are funded with the aim to provide support to the employee.²⁴⁵

In relation to the range of psychological support services that TPS staff may access, the Department of Justice submitted the following:

The Department has a range of psychological support services that staff can access including:

- a) Employee Assistance Program (EAP) – confidential external support for staff and immediate family members. Employees are provided an initial four (4) sessions*

²⁴⁵ Letter to Chair from Ms Ginna Webster (Secretary – Department of Justice) (dated 27 July 2023)

with the ability to have additional sessions approved if the EAP provider considers it is required.

- b) Wellbeing Support Unit – internally resourced unit consisting of one Manager (who is a psychologist), two further psychologists and four case managers. The services provided by the Wellbeing Support Unit are confidential. The express consent of the employee is required for the Wellbeing Support Unit staff to contact the employee's manager or Human Resources. I am unaware of any breach of confidentiality. One of the three internal psychologists has previously worked at the TPS and employees can request appointments with the other psychologists if they believe a conflict exists or if they are not comfortable. In the past 12 months, 32 TPS employees accessed the services which represents 21 per cent of all employees accessing the service.*
- c) The Department also has arrangements with two private psychology practices (North and South) that staff can be referred to if they require psychological support and the EAP or Wellbeing services are either not appropriate or cannot see the employee in a timely manner.*
- d) The TPS M.A.T.E.S. program is a peer support program which has uniformed and non-uniformed staff trained in Mental Health First Aid and other peer support training. M.A.T.E.S. provide face to face and over the phone support to all TPS staff and they refer staff to the injury management unit, EAP/Wellbeing Support Unit or their GP as and when required.²⁴⁶*

The United Workers' Union, in its submission to the inquiry, identified several factors affecting staff wellbeing:

The effect of not having the right staffing levels has adversely impacted not only the cost of the service but on staff welfare and wellbeing. Chronic staffing shortages within the TPS mean that it is a regular occurrence for not all correctional officer shifts to be filled despite an over-reliance on overtime and recalls. To address the issue of unfilled rosters and to ensure the safety of the prison, the use of overtime has been increasing, which is costly and negatively affects the welfare of staff. The TPS has previously acknowledged that long-term staff shortages and absences partly reflects pressure on existing staff to cover shortages by working longer hours and additional shifts. Despite the use of overtime, it is still common for there not to be enough staff rostered on to run the service effectively. This can lead to an increase in the frequency and duration of prison lockdowns, requiring inmates to remain in their cells for longer periods of time.

Mr Digney spoke to the wellbeing hub for youth justice staff:

Ms WEBB - *The Government points to the wellbeing hub that's available for the TPS staff. Is that also available for youth justice staff, or do they have anything similar?*

Mr DIGNEY - *They have a wellbeing team that sits within the department. It's not as well-resourced as the one provided by Justice. We're talking to the department about*

²⁴⁶ Letter to Chair from Ms Ginna Webster (Secretary – Department of Justice) (dated 27 July 2023)

*more training in identifying wellbeing issues. That includes self-awareness of those matters and certainly more resources to deal with those issues for our members.*²⁴⁷

Mr Pregnell and Ms Salter spoke to the Employee Assistance Program (EAP) that was available to Corrections Officers:

Mr VALENTINE - *To clarify, you have the internal wellbeing team and you have the Employee Assistance Program (EAP). I hear what you're saying about the wellbeing team, but the employee must have access to the EAP at any time, is that correct? Is that happening? Or are they discouraged? Can you describe how that EAP service is operating, from your perspective?*

Mr PREGNELL - *The EAP have a set amount of appointments that you can have if you approach to have that treatment or that discussion. We also have a wellness hub, which sits separate to that, like in the TPS. We also have a MATES program. The biggest problem at the moment is that staff do not trust the internal systems and the confidentiality that may be required in those. So, it is a trust thing.*

Mr VALENTINE - *Why is there distrust? Is it because some of the supervisors are in that system? ...*

Mr PREGNELL - *In our wellness hub, I can only use that as an example, we have had psychiatrists/psychologists who have worked within the prison who are now working within that hub, so they know people. I suppose prison officers are untrusting after a fair bit of time in the system, that trust of, 'yes, it is going to be independent, I'm going to have that one-on-one with the doctor'. A lot of them are probably going to their GP, getting a mental health plan and then waiting three to four months to see a psychiatrist if they can.*

Ms SALTER - *... We recently surveyed members asking for their review of the new wellbeing hub that has been in place for 12 months. It was mixed.*

Some really felt supported and engaged in it and thought it was great. Others would never go there because of their perception of the lack of confidentiality, which is a symptom of developing psychological disorders as well. A couple had given us examples of where their confidentiality was not necessarily respected. There's only a couple of those but it is not the same level as the MIPS²⁴⁸ ...²⁴⁹

²⁴⁷ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.11

²⁴⁸ Medical Indemnity Protection Society (?)

²⁴⁹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.12

Committee Findings

- F49. The Tasmanian Prison Service provides mental health and wellbeing support to Corrections Officers, however there continues to be significant concerns with respect to the adequacy of this support.
- F50. Workers' compensation continues to be a significant contributor to staff absences in the Tasmanian Prison Service.

Committee Recommendations

- R21. Improve and expand mental health and wellbeing support to Corrections Officers.
- R22. Improve training and development of managers and other staff who regularly deal with staff applying for workers compensation.
- R23. Develop and provide information resources for correctional staff to understand the workers compensation claim and return to work process.
- R24. Implement welfare checks and referrals to appropriate support services for those accessing workers compensation, where appropriate.
- R25. Ensure that all staff receive adequate mental health training and know how to identify symptoms of complex psychological conditions, such as post-traumatic stress disorder or depression.

Other Potential Training Initiatives for TPS Staff

Aboriginal Cultural Awareness Training for Correctional Officers

The TAC submission made comment in relation to cross cultural training for corrections staff:

Adequate (including regular and consistent) cross-cultural training for correctional staff, that potentially includes one-on-one sessions aimed at improving awareness of contemporary issues facing Aboriginal people in Tasmania, would improve capacity and confidence in the workplace for staff working with Aboriginal people in the prison system.

TAC staff report that after cultural competence training, correctional staff have commented that the training provided was useful and 'made their job easier'.²⁵⁰

At the public hearings, the Committee heard from Ms Maynard (TAC) in relation to Aboriginal cultural awareness training and similar initiatives for Tasmanian Correctional Officers:

Ms MAYNARD - ... *We provide a lot of cultural awareness training through correctional officers in Risdon Prison and staff, but as you can appreciate, there is a bit of a turnover. As you can appreciate, there are new recruits and we are providing cultural awareness training to everyone in the State. There is a difference between*

²⁵⁰ See [Tasmanian Aboriginal Centre \(Submission #59\)](#), p.3

participating in a training course about how to support Aboriginal people and being Aboriginal and providing support to Aboriginal people.

Ms WEBB - *Yes, I am not suggesting that as a replacement necessarily for a specific service program that might be more appropriate, but it would be good for us to understand that staff in that area have received cultural awareness training. I presume that your model for that would be not just as a once-off but as something that is repeated and refreshed in a regular way so that you could be confident that it was flowing through into the culture.*

Ms MAYNARD - *Absolutely. There is a program developed, you are right. It is not just a one-off training session because how could you do a one-off training session in regards to anything, especially learning our history and getting connected with the Aboriginal community and how to support Aboriginal people far more effectively?*

We also do some alternative kinds of things as well. When we have NAIDOC²⁵¹ week and Aboriginal community events, we work with the prison to get some of the prison staff to organise a Section 42²⁵² to get Aboriginal people out of Risdon Prison with supported staff and coming along to NAIDOC events and community events. We have had Aboriginal people come out with their support workers who are correctional officers in Risdon Prison, to come and do bushwalks and learn more about Aboriginal heritage sites, for example. That is not just a learning opportunity for Aboriginal people who have been disconnected. That is a really amazing learning opportunity for some of the correctional officers in Risdon Prison and staff.

As you can appreciate, they're under-resourced in particular areas and so sometimes a lot of Aboriginal people don't get access to their culture and community because of resourcing issues at Risdon Prison.

...

Mr VALENTINE - *... Is there value in having correctional officers themselves that are Aboriginal so that any Aboriginal person going into that environment feels less isolated because they have somebody of their culture who may well have taken on that role of a correctional officer? Do you see that as something that would be valuable or do you think it simply wouldn't work?*

Ms MAYNARD - *... We have a couple of Aboriginal people who are correctional officers, but they are bound by the prison system and the rules: their level of capacity in regards to supporting Aboriginal people is minimal. There was previously an Aboriginal person who used to be a correctional officer and he then was a support worker for Aboriginal people in Risdon Prison, but due to the rules and the culture of the prison system itself, unfortunately, it impacted the very work that he needed to do to provide a culturally appropriate supported service to Aboriginal people.*

²⁵¹ National Aborigines' and Islanders' Day Observance Committee

²⁵² See Section 42 – Leave Permits, Corrections Act 1997 (Tas), <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-051#GS42@EN>

Mr VALENTINE - ... Is there perhaps more work that could be done in that space with management and Aboriginal correctional officers themselves, to improve that?

Ms MAYNARD - I would say no, only because we have worked with various directors, managers and staff: it is a constant process of re-educating how best practice should work and could work. I think the best fit is Aboriginal people and an Aboriginal community organisation supporting culturally appropriate services and working with correctional officers and the various teams at Risdon Prison, that is the best result.²⁵³

At the public hearings, Ms Carter and Phillips (Tasmanian Aboriginal Legal Service) spoke to what they would like to see in relation to staff training and support for Corrections staff including Community Corrections:

Ms WEBB - I am looking at one of our terms of reference around staff training and arrangements for support for corrections staff. In an ideal world, what would you like to see in terms of this? ...

Ms CARTER - My experience with Corrections staff and sitting on a few of their panels, I have sat on a few panels in other states where they have a high-risk category of clients who have continuously breached some of their community-based orders and things like that. They have just not been able to complete them. ... Having a cultural understanding is important, but also being flexible in the way that they approach the client.

Coming back down to some of that really practical training, like your client has missed two appointments, you don't just go straight up and breach a client. You make sure you go to their networks and the knowledge around that client as to who is their contact person. Have they had something going on? Is there something more going on? And trying to divert that person back and providing opportunities. Part of that could be staff getting to know their local services. For example, if they are finding it difficult to engage a client, they might have a local Aboriginal co-op that they know the client is engaged with so they can co-work -

...

Ms PHILLIPS - ... It's about making sure that all corrections staff have an understanding of why Aboriginal people are overrepresented in the justice system and understanding those issues. It kind of breaks down the ignorant racism that exists about Aboriginal people. Second, there needs to be regular training with Corrections staff about specific Aboriginal issues.

But every single person involved in the justice system needs to take their own accountability for their own understanding and respect for different cultures. It's not just Aboriginal people. We can't expect everyone to spoon-feed us as adults. You have to understand if you are going to work in a system that has an overrepresentation of Aboriginal people, why.²⁵⁴

²⁵³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.62-64

²⁵⁴ See Transcript of Evidence [Public Hearings - 4 July 2023](#), p.43-44

At the public hearings, Mr Pregnell (UWU Delegate) informed the Committee about the perceived lack of Aboriginal Cultural Awareness training available for TPS Officers:

Mr WILLIE - ... We have heard from some other stakeholders like the Tasmanian Aboriginal community saying that cultural awareness training is inadequate. ...

Mr PREGNELL - Through the first 10 weeks of training, we do some cultural awareness training. Unfortunately, a couple of our schools over the previous years, instead of using somewhere like the TAC²⁵⁵ to give that culture for our First Nations people training, they got somebody from the Migrant Centre to come and talk and they did that as their cultural training, which is extremely disappointing. There is no ongoing training in that field at all...²⁵⁶

Committee Findings

F51. There is currently no Aboriginal cultural awareness training for Tasmanian Prison Service staff.

Committee Recommendations

R26. Incorporate Aboriginal cultural awareness training for all Tasmanian Prison Service staff.

Innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania, including to future prison/detention centre design

The Tasmanian Government Submission covered three main areas in relation to innovations and improvements to the management and delivery of corrective services that may be applied in Tasmania: forward focus and opportunities, future custodial facility design, and rehabilitation agenda.

The Tasmanian Government Submission stated the following in relation to its forward focus and opportunities:

The TPS's focus in the coming years is to make the community safer by:

- *working towards achieving the goals set out in the soon-to-be-released Corrections Strategic Plan;²⁵⁷*
- *improving rehabilitative outcomes for inmates by targeting and addressing inmates' offending behaviour;*

²⁵⁵ Tasmanian Aboriginal Centre

²⁵⁶ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.6-7

²⁵⁷ See [Sub #28 - Attorney General - Changing Lives Creating Futures \(A Strategic Plan for Corrections Tasmania 2023\)](#) (Tabled 13 July 2023)

- *better equipping inmates to desist from crime, with particular attention on improving literacy and education levels, linking those with disabilities to the NDIS, promoting respectful relationships, seeking better health outcomes, and encouraging inmates to acquire vocational skills;*
- *addressing substance abuse issues, particularly in relation to methamphetamine use;*
- *improving the transition from custody to the community and working more closely with Community Corrections and community agencies to achieve this;*
- *reducing lockdowns; and*
- *ensuring that the Northern Correctional Facility is well designed and focused on rehabilitation.*

In doing this, it will also seek to:

- *improve the safety and skills of correctional staff;*
- *ensure that recruitment, rostering and other measures allow the full staffing of facilities; and*
- *provide a more efficient TPS by reducing overtime expenditure and workers compensation claims.*²⁵⁸

The Committee notes the current Correction Services Strategic Plan ‘Changing lives creating futures - A Strategic Plan for Corrections in Tasmania 2023’ does not include reference to restorative justice initiatives and programs.²⁵⁹

Committee Findings

F52. The current Corrections Strategic Plan does not include reference to restorative justice initiatives and programs.

Committee Recommendations

R27. Prepare an updated long-term strategic plan for Corrections that includes commitment to substantial investment in restorative justice initiatives and programs.

Future Custodial Facility Design

The Tasmanian Government Submission noted that the Department’s next major correctional infrastructure projects were the Northern Correctional Facility (now not going ahead), a new kitchen on the Risdon site,²⁶⁰ and an additional 50-bed maximum-security unit in the RPC. With this in mind, the following was offered by the Government:

²⁵⁸ See Tasmanian Government ([Submission #27](#)), p.39-40

²⁵⁹ See “Changing Lives, creating futures – A Strategic Plan for Corrections in Tasmania 2023”, Department of Justice, https://www.justice.tas.gov.au/_data/assets/pdf_file/0013/710014/Changing-lives-creating-futures-A-Strategic-Plan-for-Corrections-in-Tasmania-2023_web-accessible.pdf

²⁶⁰ See in general Parliamentary Standing Committee on Public Works, New Risdon Prison Kitchen Project Report (No. 14 of 2024), https://www.parliament.tas.gov.au/_data/assets/pdf_file/0030/84279/New-Risdon-Prison-Kitchen-Project-final-report.pdf

It is widely accepted that good physical design of correctional facilities not only facilitates their good management, but plays a significant role in the wellbeing of offenders and in reducing inmates' risk of re-offending. Good design that focuses more on rehabilitation also contributes to a better working environment for staff, and one in which their interactions with inmates are more positive. The Department has accordingly adopted a design philosophy for custodial facilities, developed in part through the recent SRC project, that promotes a positive environmental experience and cultural change.

One of the challenges that the TPS must address is how its infrastructure can better reflect and complement the newer trauma-informed approaches to working with offenders – finding the right balance between necessary security, functionality, utility and a non-institutional feel. In order to do this, the design and development principles that underpin the development of new correctional infrastructure broadly include:

- promoting safety and security, with all areas having good natural surveillance from officers' posts, with hidden areas or blind corners not permitted. The requirement is for line-of-sight observation and improved opportunities for safe staff and offender interaction;*
- designing of unit layouts is to optimise the safe, efficient and effective use of staff resources;*
- opportunities for optimising natural light within the designs are to be considered and incorporated where possible. This not only helps reduce ongoing lighting requirements but also improves the overall experience of space and create a calm relaxing environment where inside spaces have a close connection to the outside;*
- similarly, opportunities for colour, both internally and externally are to be harnessed. A sophisticated selection of colours, materials and patterns can be used to create a visually interesting and calming environment with a domestic/village aesthetic, rather than a sterile, institutional one;*
- carefully designed landscaping, greenery and gardens in areas readily accessible by offenders, as well as in areas that offenders do not have access to but are visible from buildings or transition areas, are to be used. Trees and low maintenance bushes and shrubs are to be included, where possible;*
- consideration is to be given to good acoustic design in all areas. This allows for noise attenuation in areas where large gatherings will occur and where privacy is of most importance – such as interview rooms and videoconferencing facilities;*
- where possible and appropriate, ease of movement of offenders is to be encouraged through use of electronic cards or large open unfenced areas. Operational efficiency and ease of access between and within functional zones is to be a primary design goal, particularly as it relates to the movement of offenders and the placement of staff;*
- the use of razor wire is to be avoided or kept to an absolute minimum;*
- use of technology is to be encouraged to help increase offender daily activities and interaction. For example, accommodation units will contain video conferencing technology for offender use and offender service kiosks will be included to provide them with a degree of flexibility and ownership in booking medical appointments, meetings or ordering items from the canteen/shop;*

- sustainable design principles are to be adopted, encouraging the use of low energy fittings and including opportunities for water harvesting or energy production;
- consideration is to be given to lifetime costs in the selection of construction materials and building services;
- the ethnic and demographic diversity of the offender profile is also to be taken into account. External spaces of spiritual reflection or areas acknowledging Tasmanian Aboriginal heritage of the site are to be encouraged;
- spaces are, wherever possible, to be able to be used flexibly. This allows facilities to be used for different purposes in order to respond effectively to and manage changes to the inmate population. Where appropriate, spaces are to be multipurpose;
- where possible, the facility design for potential future internal and external functional expansion is an advantage; and
- building design, particularly the fit-out and furnishings arrangements, is to be such as to optimise workplace health and safety in every area and for every activity.

*These principles will be used to inform the design of all new facilities. The Northern Correctional Facility and the 50-bed unit will both feature a variety of spaces to provide for education, training, program and work to provide inmates with opportunities to improve their skills address issues related to their offending and promote rehabilitation opportunities.*²⁶¹

At the public hearings, the Committee heard from Mr Greg Barns in relation to the Prisoners Legal Services' view of what a new Tasmanian prison facility could look like:

Mr BARNES - ... *The PLS view is, unless it is a wellness centre, and that is a term we use deliberately, there is no point building a northern facility because you will simply fill it with a Risdon-type culture.*

*Unless there is a Norwegian-style facility which emphasises empowering of people, it provides educational opportunities on a systemic basis and better health opportunities and throughcare, forget it. We will not support it. People say, ..., Norway is Norway and it is very different. That is nonsense. As we have said in our submission, in the United States, which has high incarceration rates, we are seeing Scandinavian-style ventures established; particularly we have referred to North Dakota, Oregon, Alaska, Idaho and Wyoming, looking at northern European prison systems. There is no reason why it can't be done here.*²⁶²

...

Mr VALENTINE - *In regard to the Norwegian model you spoke of, there would be a lot of people who would think it seems to be quite relaxed compared to the model we have here in Australia. Whether it is true or not, a lot of people think there is a lot of gang mentality with inmates.*

Mr BARNES - *You are talking about here in Australia?*

²⁶¹ See Tasmanian Government ([Submission #27](#)), p.40-41

²⁶² See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.17

Mr VALENTINE - Yes. How does the Norwegian model address that? Do they only allow certain classes of prisoners to have this level of better freedom or not? Can you describe that?

Mr BARNS - It is what they call normalisation in prisons and it operates right across the prison system. Firstly, they imprison a lot less people. If you are a non-violent offender, you are unlikely to go to jail. They also have much lower sentences.

...

Mr BARNS - ... The other thing is they focus on outcomes so what they are seeking to do is make sure that person does not come back. What we do is warehouse people.

Mr VALENTINE - Do they wear their own clothes?

Mr BARNS - They are responsible for their own clothes. They are responsible for their own washing. They are responsible for their own cooking and they have a much higher quality of living in the prison system. The attractiveness of it is their recidivism rate is 20 per cent, more than half of ours, so it works. It was the case that people used to say, well, Scandinavia is different, but what we are seeing is that other jurisdictions - Scotland, some American states - learn from those experiences and say, well, let's do it for a certain type of prisoner.

We have made some attempt here in the TPS implementing the halfway-house living that prisoners do on the way out. We would like to see that expanded right through the prison. I do not think gangs is a particular problem in Tasmania. It is not our experience.²⁶³

In relation to the concept of normalisation in prison culture, Associate Professor Anna Erikson's submission highlighted some of the differences as to how prisons operate in the Nordic countries through her research paper 'Rethinking Australia's Approach to Prisoner Rehabilitation':

These ideas emerged within the post-war welfare states, predominantly the Nordic region and other parts of northern Europe, which strongly emphasised the need for the protection of human rights and for humane prison conditions. The principle of normalisation has been central to prison practice in all Nordic countries since World War II. In essence, it means that the inside of a prison should mirror outside society as much as possible, making deprivation of liberty the main punishment while minimising the negative impact of institutionalisation. This in turn will facilitate social reintegration post-release.

... Normalisation in the Nordic countries, then, pays attention to rights and living conditions. For example, in Denmark, reference is made to normalisation in the Program of Principles of the Prison and Probation Service, where it says: 'When planning the daily life in prisons and every time a specific decision is made, the prison and probation service must keep in view conditions in the general society.'

²⁶³ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.24-25

In Finland, normalisation is expressed most explicitly in legislation: 'To the greatest extent possible, prison conditions must be arranged to reflect living conditions in society.' One aspect of this is not only that prisoners are paid for the work they do in prison but also that they have to pay bills in return. It means that prisoners are paid the real minimum wage for work and studies, and that they also need to pay for food, electricity, use of phones, and clothes in prison, as well as save money for their eventual release. A percentage of their salary goes towards funds and support for victims. Hence, normalisation does not mean that life in prison becomes easier, but rather that it mirrors the rights and responsibilities of outside life.

...

The practical implementation of the normalisation principle can be seen in Halden Prison in Norway. The Governor of that prison, Are Høidal, in answering the question that he has been asked many times: whether the conditions in that prison are a bit too nice, said: It is not easy to have your freedom taken away ... In Norway, the punishment is just to take away someone's liberty. The other rights stay. Prisoners can vote, they can have access to school, to health care; they have the same rights as any Norwegian citizen. Because inmates are human beings. They have done wrong, they must be punished, but they are still human beings.²⁶⁴

The Prisoners Legal Service submission outlined the importance of normalisation in prisons, with the emphasis of improving an inmate's skills and capacity once in detention:

Norway is known for what is called normalization in prisons. Prisoners wear their own clothes, are responsible for preparing and cooking their own meals are treated equitably and have a high quality of living similar to that in the outside world.

The essence of the Norwegian proposition, and one which in theory is the case in Australia, but sadly not in practice, is that the punishment is in fact the loss of freedom and movability outside the prison. While in the prison, the emphasis is on increasing skills and life capacity and self-confidence and self-improvement.

The prison system which focuses on outcomes, should, as the Norwegian system does, ensure that a person who leaves is a person who has been able to self-improve, who has increased self-confidence and who then has a very good chance and opportunity of post incarceration employment and pro-social relationships.²⁶⁵

Committee Findings

F53. Evidence from international jurisdictions indicates that prison environments based on the principle of normalisation are effective in achieving rehabilitation and reducing recidivism.

²⁶⁴ See [Associate Professor Anna Erikson \(Submission #32\)](#), further references in submission

²⁶⁵ See [Prisoners Legal Service \(Submission #17\)](#), p.6

Transformation of the Singapore Prison Service

The Onesimus Foundation submission comprehensively outlined how the Singapore Prison Service transformed itself to one of the ‘most cost-effective prisons in the world and has one of the lowest recidivism rates internationally’:

In 1998, the Singapore Prison Service (SPS) was confronted with two pressing issues - an overcrowded prison that was straining infrastructure and resources, and a shortage of manpower due to difficulties in staff retention and recruitment. The situation was compounded by poor public perception of the organisation and its work. Prison officers were overworked and had low morale. The situation became so bad that SPS had to ask its parent Ministry, the Ministry of Home Affairs (MHA), to slow down law enforcement. SPS was also seriously contemplating overseas recruitment of prison officers to address the manpower shortage”.

At that time, the prison had an inmate population of 17,000 and was on the verge of building accommodation for an additional 5,000 inmates. The recidivism rate was 44.1 per cent. By 2009, the recidivism rate dropped to 26.5 per cent and the number of people incarcerated to 13,000. Consequently, the additional accommodation was never built. In 2022, the population of the prison was 7,660 and the recidivism rate 20.6 per cent.²⁶⁶

Amongst other reforms, the SPS initiated the following:

- staff members, strategic partners and voluntary welfare organisations contributed to a new vision for the SPS

We aspire to be captains in the lives of offenders committed to our custody. We will be instrumental in steering them towards being responsible citizens with the help of their families and the community. We will thus build a secure and exemplary prison system.

- non-core functions were outsourced to free SPS staff to engage in prison reforms
- the role of Correctional Officers was changed so that they could engage with inmates in a meaningful and purposeful way
- a research and planning branch was set up to conduct research, network with external research institutes and coordinate the planning and implementation of key organisation-wide initiatives.
- a program branch was set up to give greater focus to rehabilitation
- internal systems and structures were put in place to encourage behaviour to support the operational strategies
- an intentional strategy put in place to change the environment for staff
- a Family Resource Centre was set up to help inmates’ families cope with incarceration
- prison industries started successfully competing with commercial companies for tenders
- SPS brought together eight major community and government organisations responsible for rehabilitating ex-offenders to form the Community Action for Rehabilitation of Ex-offenders (CARE) Network seamless in-system care and after-care support for ex-offenders. Of note, under the framework, case managers from the Singapore After-Care

²⁶⁶ See in general [Onesimus Foundation \(Submission #57\)](#), p.1

Association and Singapore Anti-Narcotics Association met inmates one to two months before their release to cover their aftercare needs and then follow up with them to ensure they received the support up to six months after release.²⁶⁷

The submission contains three broad recommendations for the State Government to consider:

- Government makes a commitment to reduce prison numbers and achieve a recidivism rate in Tasmania of 30 per cent by 2034
- Undertake a comprehensive review of TPS's HR processes and practices, and
- TPS develops a coordinated approach for agencies to work together to achieve better outcomes for people leaving prison.

Any other incidental matters

Educating the community about prison and prison alternatives

At the public hearings, Dr Sotiri (Executive Director, Justice Reform Initiative) supported the view that prison reform advocates had a place in educating the community in relation to the evidence-based alternatives to prison:

***Mr WILLIE** - Do reformists need to tell more of those stories where there has been a change in behaviour and a reduction in crime from a particular individual? A lot of my constituents would not have a clue what programs are being provided at the moment to try to change offenders' behaviour.*

***Dr SOTIRI** - Absolutely. What we know from the market research we do is that most people in the community think prison is pretty good or they think that prison works to rehabilitate, they think it works to deter and it works to protect the community. For communicators, our job is to say to the public that actually none of the research bears that out. Prison does not work to rehabilitate: it does not work to deter. Absolutely, what we are also wanting to do is, we do not get rid of prisons - it is not as straightforward as that - but there are these evidence-based alternatives, many of which are in the submission and more in the report we have released that do tell a very different story about what can happen. Having people that have themselves experienced prison, having family members of people that have been to prison, explaining how it is they have managed to stay out of prison, what are the factors required, is a really important part of painting that different story.²⁶⁸*

Mr Robert Tickner AO (Chair, Justice Reform Initiative) added that parliamentarians also had a role:

Firstly, I think that parliamentarians have a huge role to play in educating the public. We were set up to change public discussion about prisons in Australia and it's a big challenge, but you can help. We can give you really good, hard evidence to show that there's no relationship between high levels of incarceration and deterrence. We can give

²⁶⁷ See [Onesimus Foundation \(Submission #57\)](#), p.10-11

²⁶⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.33-34

*you hard evidence to categorically prove to you that sending someone to prison doesn't create safer communities.*²⁶⁹

At the public hearings, the Committee heard from Ms Heather Kent, CEO, and Mr Stephen Shreeve, Executive Manager (Bethlehem House) that community education had a role in shaping community sentiment and expectations about imprisonment:

Mr WILLIE - ... *it is obvious you know what works in terms of reducing recidivism and reintegration. How do we balance community expectations with that and how do we change the conversation? It seems like the political system responds to the community sentiment. You mentioned Texas earlier - probably a conservative state in America - how have they changed the conversation there, for example?*

Ms KENT - ... *I urge you to have a look at a website called www.rightoncrime.com. It shows the way in which those voices around community safety, expectations around punishment and retribution have been flicked around to having more of a restorative and rehabilitative approach. They make a strong point in here about the government's requirement to make good use of taxpayers' money, because fundamentally that sits behind all of this as well.*

I would argue that in the years that this has been carried through with high effect, they have achieved cost efficiencies and they have been able to turn the dial on community sentiment. I could not help but read a couple of the other submissions that have come through for this process, and one which spoke about a desire to sit with - in this case, youth - who have committed significant crime, to build a shared understanding of that context; for that youth to have an understanding of the impact that has been made upon that family, for the betterment of his future. There are a lot of examples where this can be delivered better; but it does require a sustained effort with constant messaging to the community that locking somebody away and feeling that is the right thing to do is not the best model.

Mr WILLIE - *So, a coalition of community leaders and organisations like yourself running a bit of a community education campaign?*

Ms KENT - *The Justice Reform Initiative sits behind that. It is large part of it, turning that information around. If you look at recidivism, it means more crime is being committed and it means those in the community are exposed to a greater level of crime. If you look at the outcomes of Right On Crime, it is switched back so that there is a reduced level of crime: those who would otherwise be incarcerated remain a productive part of our community and they remain an active citizen in employment as well.*

Mr WILLIE - *The Justice Reform Initiative - members around the table would know about that but the broader public probably do not know. How do you get that message out there?*

²⁶⁹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.36

Ms KENT - It is still in its formative stages, as I would highlight. Probably, it is getting greater traction in some of the other Australian States. I note that it's referred to in a number of other submissions and you will be hearing further about that, too. It is something that the Government - it needs to be completely bipartisan - could listen to and advocate more in terms of what needs to be done.

Mr WILLIE - A national conversation as well as a state one?

Ms KENT - Very much so, but with local flavouring. Stephen, you had some stats around the cost of the Bethlehem House model per resident, versus what the cost would be in the justice system?

Mr SHREEVE - I had a look this morning. On the current budget, with the current resident numbers, it is about \$40,000 per person, per year.

Mr WILLIE - It is about \$140,000 in Risdon?

Ms KENT - No, it is about \$300,000.

Mr WILLIE - \$300,000? Right.

Ms KENT - That is a powerful argument to begin with. You are going to get, naturally, that retaliation around community expectations of safety but there are similarly really great examples: again, that reduced recidivism rate, as a starting point.

Mr SHREEVE - ... One thing that gives me great job satisfaction is to try to sit down with a resident and have one meaningful conversation every day. It could be five minutes, it could be 10 minutes. The reason I say that is because there is probably a perception in the community that people coming out of prison are monsters of all sorts of abhorrent crimes, et cetera. Fundamentally, they are human beings very similar to us. ...

Mr SHREEVE - A lot of them are good people. I get so much pleasure out of being a part of their life, and to help them get back on track. ... we had one leave the other day, and it is just amazing. That is my job satisfaction. ... they are human beings who want to get their life sorted. If the community cannot see the value in doing that, then we have got a big problem.

The Committee heard from Ms Kent in relation to changing prison-related language and terminology:

CHAIR - You talk in your submission about the language, the terminology that we use to refer to people. Can you expand on how you might see that being important and how we might change that?

Ms KENT - I will go back to the fundamental ethos of the Vinnies model. We don't refer to those that we support as clients. Instead, we highlight that we assist companions. Now, that we are companions does not always sit easily with everybody, but the intent is that we are walking beside those individuals to help them establish their own independence

with dignity. In terms of the language - again, the Justice Reform Initiative is a key part of this - there is so much to be gained by educating our broader community about other ways of labelling folk, which is more positive.

I could not help but look at the Danish model that Martyn Goddard placed as part of his submission and early on, instead of referring to folk as 'prisoners' referring to them as 'detainees'. It helps to reset in the community's mind, but even more importantly, it helps to reset in the individual's mind, and that is part of what we see as an important process towards independence.²⁷⁰

At the public hearings, Mr Bartl discussed the challenges of communicating potential changes to the correction management system:

Mr WILLIE - ... *the political system responds to community sentiment. How important is public education with some of these changes that are being proposed by quite a number of the witnesses over the last few days, to get the public to understand the reasons why you would go about those changes?*

...

Mr BARTL - ... *I would say that the public education needs to be around making our community safer. It is easier to say we are going to lock more people up but 99 per cent of people entering prison will exit prison. So, what are we doing to ensure that our communities are safer upon their exit?*

In our submission, we showed that one in five people who got parole last year did not receive the treatment they needed in prison. That is shocking. They do not have homes to go to. When they have to fend for themselves on the streets, they are going to commit crimes. So, yes, the narrative needs to be nuanced around, well, how do we make our communities safer, given that most people will exit prison?²⁷¹

At the public hearings, Professor White said it was important to use the right rhetoric and language to inform the community of any changes to the correctional management system:

Prof WHITE - *I think we need to develop a language and rhetoric that celebrates what we can do here in Tassie. People often say, 'Oh, that's just soft on crime', and I say, no, it's not - soft on crime is just chucking people into detention or prisons. Hard on crime is when you actually demand something from the offender, regardless of age, young offender, older offenders -*

...

Prof WHITE - ... *The general rule, if you go into Risdon or if you go into Ashley, is you have vulnerable people with really difficult, chaotic family lives and backgrounds, many of who are involved with drugs, many who have suffered brain injury, many who have suffered trauma. That notion of unregulated behaviours becomes part of that. They need to be wrapped by the rest of the community.*

²⁷⁰ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.20

²⁷¹ See Transcript of Evidence [Public Hearings - 21 June 2023](#), p.59

Mr WILLIE - Where some of these changes have been successful in other jurisdictions overseas, they have talked about value for money for taxpayers as a way in reducing crime, recidivism.

Prof WHITE - That is partly what the justice reinvestment argument is, that you will save a lot more money. Instead of spending \$400 million up North on a new prison, if you spent that in the community on housing, employment and so on, then it is a better-spent dollar because it is preventative. But it is not as visible in the same way. One of the things about a prison is that, oh, it's visible. But it does not deter. We know from all the studies forever that prisons do not work. It is a 19th century invention that has failed because almost everybody who goes to prison comes back. Two-thirds come back. So, obviously it is not deterring in that sense. I think we can have more value for money.²⁷²

At the public hearings, Mses Phillips and Carter (Tasmanian Aboriginal Legal Service) spoke about reframing community expectations:

Mr WILLIE - How then do we change the conversation to get the change required so there is less offending and that it is more cost-effective and there is better value for the taxpayer?

Ms PHILLIPS - ... When you start seeing success stories. They are all hidden because there is stigma attached, obviously, to people who have been in custody and the like. I have had so many clients who, with the support of our organisation and communities, have gone from being full-time drug users to back at their house with their partner, with their six children. None of the children are in care and they are succeeding. That is because of the court mandated drug diversion program. The Government needs to invest in more programs that are at the start of the sentencing phase, rather than prison. There are people that have to go to prison; because of where they live they cannot be eligible for a drug court because they cannot get to testing. Someone who is disadvantaged then has to go to jail because of where they live.

Ms CARTER - I think the thinking is also wrong. There is a new shift in both the narrative and the way we actually look at what the issue is. A lot of the justice system in that is focused in a very justice lens and they have always approached things from a justice of point of view - responding to the perception of the fact that crime is rising in the community but we know that, in fact, the data and the statistics do not support that fear that has been driven as well. We need to shift from that very justice-focused lens to a human-rights, person-centred approach. If we take a young person in those circumstances - that 14-year-old that took that car - and we look at it from a justice point of view, we would be looking at: is this kid going to be able to be rehabilitated; are they going to offend?

We are constantly assessing the risk of that young person, but what we are not doing is focusing on who that young person is; what is going on with that young person; what opportunities has that young person had; what opportunities can we, as a community, provide that young person. If the only thing we are doing is locking up kids, then, as a

²⁷² See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.49-51

*community, we have failed in our roles to support these young people. We need to move to a very centralised human rights sort of approach, a very different approach to what we are taking at the moment.*²⁷³

Committee Findings

- F54. There is a view in the community that imprisonment works to rehabilitate, to deter and to protect the community, however this is not supported by research.
- F55. Political and community leadership is required to better inform the community about more effective alternatives to prison.

Committee Recommendations

- R28. Ensure political narratives are evidence-based in relation to justice and correction matters.

Custodial Inspections of Adult Prisons

At the public hearings, the Committee from Mr Richard Connock (Custodial Inspector) in relation to his jurisdictional coverage:

CHAIR - ... *I would like to open then with some questions on your role at both the Ashley Detention Centre and the Risdon Prison Complex you and your Office do and the work you undertake. It would be useful to have that on the public record from your perspective.*

Mr CONNOCK - *There are three jurisdictions I administer relevant to that. Dealing with the first one is the Custodial Inspector, which I understand is the capacity in which I have been called here today.*

...

Mr CONNOCK - *And that is to inspect both adult prisons and youth detention facilities against a suite of established standards. That is an objective assessment against those standards. It is distinct from my role as Ombudsman and Health Complaints Commissioner, and it is not involved with individual prisoner or detainee complaints. It is inspecting against a set of established standards to see whether facilities - adult and youth - are compliant with those and, if not, to make recommendations.*²⁷⁴

The Committee also heard from Mr Connock with respect to the standards underpinning the custodial inspectorate function in Tasmania and the process to ensure currency:

CHAIR - *Are they national standards?*

Mr CONNOCK - *They are not. When the Tasmanian inspectorate was established, we called in the Western Australia Custodial Inspector for assistance, which is the longest-standing independent custodial inspector in the country. We had some great assistance*

²⁷³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.36-37

²⁷⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.1-2

from the Deputy Inspector there, who was also working at the same time with New South Wales, which was establishing an inspectorate.

We tried to get some commonality in the standards, but the jurisdictions varied so greatly that we were unable to do that, except at a very high level.

Tasmania has only got a very limited number of facilities. New South Wales has thousands of prisoners and a number of facilities. Western Australia is the same. And those two jurisdictions too are geographically challenged. They have facilities spread out over a wide area. Tasmania is comparatively small.

We got as much commonality as we could and based our standards on the Western Australian ones, but we had to tweak them for domestic purposes.

Ms WEBB - *I do note the 2021-22 Annual Report from the Custodial Inspector mentions a need to review the inspections standards to keep abreast of national and international changes. That was planned, as stated in that report, for the 2022-23 financial year. I wanted to check in with you whether that review occurred in that financial year and if so, what the result has been. Will there be an update of the standards or some changes?*

Mr CONNOCK - *There will be. It is happening at the moment. As you know, I have also been appointed the National Preventive Mechanism for Tasmania for the purposes of the Optional Protocol to the Convention against Torture (OPCAT) and we are having to develop standards for inspections there. We are calling those expectations in line with His Majesty's Inspectorate of Prisons in the UK, which has been OPCAT-compliant for some time. We are reviewing our custodial inspection standards at the same time as we are introducing those expectations to try to make our inspection standards OPCAT-compliant as well. That is occurring at the moment and when that process is completed, there will be an announcement.*

Ms WEBB - *Could you describe for us the process that is being undertaken? What has been involved in the review? For example, who has been involved in feeding into that or providing expert advice?*

Mr CONNOCK - *It's being driven by the OPCAT implementation program. As you know, we had funding to scope the implementation of OPCAT because no-one was entirely clear about what was going to be involved in that. We have had a number of consultants involved in that. We have had Leaf Consultancy, which is a local organisation, reviewing the organisational structure and strategy and so forth. We have had an expert consultant in relation to youth detention. We have had another one in relation to courts and police cells and we have had a former Western Australian custodial inspector to work on the prison standards. That is in progress. We are almost at publication but not quite.²⁷⁵*

Mr Connock commented on the frequency of custodial inspections in Tasmania based on his Office's staff resources:

²⁷⁵ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.2-3

Mr VALENTINE - ... These inspections happen every three years, is that correct?

Mr CONNOCK - We have to get around every facility in this state within a three-year period.

Mr VALENTINE - Do you have any difficulty in making that happen?

Mr CONNOCK - We managed to do it the first time around. Other inspectorates do a full-on inspection with a huge team of people who go in and do a prison against all standards. We have only done that once in relation to the Mary Hutchinson Women's Prison, but as a general proposition we are not resourced to do a full-on inspection of each facility. So, we break it down into inspections against a specific set of standards. We do custody. We do environmental health and wellbeing, and break it down and do those inspections. We've managed to get around every facility in the first three years. We have had staff resourcing issues - and this Committee knows because in other capacities I have spoken to you about it - which have slowed the process down.

We have three extant inspections that are still waiting on a report. We will probably be struggling to get around in the three years this time around because of those matters, but we are not doing badly. It is just that those resourcing challenges - and we are not alone in this - are posing a difficulty across the board.

CHAIR - Can I ask, is that still relating to the appropriately qualified persons applying for the position?

Mr CONNOCK - We now have appropriately qualified people. I am very happy with the team I have now. It has not been there for very long and there have been some unforeseen absences as well which have not helped things, but even with that full establishment it is still pretty tight.

Mr VALENTINE - Doing the inspections is one thing: writing it all up and publishing it is another.

Mr CONNOCK - Yes, and there are constant calls on the inspectorate to visit and inspect. One of the things that is coming out of this Commission of Inquiry is the suggestion that there should be a greater presence of the Custodial Inspectorate at the Ashley Youth Detention Centre, which we would be happy to do, but we are not resourced to do that at the moment. We get up there when we can but we can't increase that presence without additional resourcing. As you say, the report writing is a substantial diversion away from inspections.

Mr VALENTINE - Are you able to put a number on staffing required that might improve that situation?

Mr CONNOCK - We have recently been in contact with Justice and the Department of Education, Children and Young People - because it affects them - to see if they will support a funding proposal. I am suggesting another Band 7 assistant principal

inspection officer, who would then be able to provide more time for Ashley. They would be at an appropriately senior level.

One of the things about the visits is that it is my preference that inspection officers don't attend alone. There have been issues in the past with things and they should be together. Even if I get an extra officer, I'm going to have to take one of my other officers to accompany that person if they're going to Ashley more often, but there are a lot of things that an additional officer can do other than the physical inspections. I'm keen not to over-inspect facilities: I don't want to add to the burden - there are a lot of issues with youth detention at the moment.

CHAIR - *You do an announced and an unannounced inspection?*

Mr CONNOCK - *We've done one unannounced: yes, we can do announced or unannounced. I can't remember the title, I think it was Food and Nutrition which we did unannounced at Risdon a couple of years ago and that was very successful, and we got no resistance at all to it. Marched into the kitchen one morning and everybody was - 'Oh, yeah, all right'.*

...

Mr VALENTINE - *... given that there's this vision to close Ashley and to have other centres doing the work, one presumes that you would be charged with inspecting those facilities as well. So, are you talking about an increase in that load up front?*

Mr CONNOCK - *And we've had the new Southern Remand Centre open which also requires inspection and when we get the northern prison, that will add to our load as well so current resourcing is barely adequate. We will need more when these new facilities come on line and I'm not sure on the timing of the Ashley change. It doesn't look like it's going to happen in the projected time frame. It's like a bit like a piece of string.*

...

Ms WEBB - *... beyond your actively trying to recruit, so putting that aside, in terms of meeting the responsibilities under the act of the custodial inspector, while there was constrained staffing, did you have to prioritise what you were able to do or was everything on hold?*

Mr CONNOCK - *Across jurisdictions we had to prioritise. When we were under-resourced, there were a lot of challenges in each jurisdiction.*

Ms WEBB - *What process and principles did you apply to prioritising the responsibilities to be met at that time?*

Mr CONNOCK - *We focused on monitoring and inspection rather than report writing. It is important to maintain a presence, to maintain a role and to monitor what is actually happening and that affected the production of reports.*

What we are trying to get to is to perhaps produce shorter reports rather than the big ominous ones. That did take a back seat while we were under-resourced. It was important to me that we maintain a presence, do the inspections and liaise with management, with the Tasmania Prison Service and the Department.

...

Mr CONNOCK - *It was challenging. The recruitment market has not helped. We have problems I never thought we would have. That is now coming good, but it has taken a long time.*²⁷⁶

Mr Connock spoke to how his custodial report recommendations are complied with by the Corrective Services:

Mr VALENTINE - *In relation to inspections, looking at something in particular like mattresses on floors and the health aspects of this, the potential for mould to develop, I noticed it in your Environmental Health and Hygiene Inspection Report for 2021. When you discover that these inspections are not happening by correctional staff, do you then go straight to management and let them know that or do you go away and basically write your report?*

Mr CONNOCK - *I go away and write the report. In the one you are referring to, we did make recommendations about checking mattresses, replacing, cleaning and so forth. We have discussed those with the Department, who have agreed in principle with most of the recommendations. What we have not been able to do and what we should be doing is monitor compliance with those. We are doing that as best we can but, again, it has been resourcing issues there. We do follow up with recommendations. The Department employed someone, an assistant director I think the title was, and one of whose principal roles was to monitor compliance with recommendations.*

...

Mr CONNOCK - *I do not have coercive powers in any of my jurisdictions, only recommendatory. If we determine a recommendation is going to be made, we will make that recommendation but we will liaise with whichever department to say this recommendation is going to be made. You are not going to influence that, but how best can you be compliant with that, so when we make a recommendation, we are looking for a constructive outcome. We get very little resistance to our recommendations, apart from questions of money, resourcing or infrastructure. They are the sorts of things that can be difficult. We still make aspirational recommendations when we think that is necessary, but we would prefer to recommend something that can be complied with, so we will confer.*

We have, in terms of the custodial inspectorate, a close working relationship with the Department and the Director of Corrective Services. Before we publish a report, we will make it available and we have been meeting with them to discuss the contents of the report. They do not seek to change the contents, but they have an input into it.

CHAIR - *How they might resolve it.*

Mr CONNOCK - *Yes, they will respond to the contents and we will include in the final report their comments, but we discuss the recommendations and how they can be achieved.*

²⁷⁶ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.6

Mr VALENTINE - It was the time lag I was concerned with in terms of the health and welfare.

Ms WEBB - It is also not hard to support a recommendation and then do nothing about it because, as you say, there are no compelling powers to come back and require they did it.

Mr CONNOCK - There is naming and shaming, which I do not think makes many people comfortable. As I said before, we do not get a lot of resistance to our recommendations.

...

Mr CONNOCK - They are complying with a lot. I am not suggesting that people are non-compliant. They are not.²⁷⁷

Mr Connock also informed the Committee of his Office's interactions with prisoners:

Mr WILLIE - I'm interested in your office's interaction with prisoners. The phone line is available to them. Is that a set period of the day?

Mr CONNOCK - It is now. It wasn't initially and we had to put some parameters on it. We were getting hundreds of messages on the answering machine. They were calling at all hours of the day and night and weekends so we had to put office hours restrictions on it and they are used to that. We don't have any issue with it now.

Mr WILLIE - Are there any sort of trends, given that there is a large number of prisoners at the moment within the Risdon complex in particular?

Mr CONNOCK - There are the standard sorts of things like accommodation, where I am being put, classification, food not so much anymore but that used to be –

CHAIR - Since your unannounced visit?

Mr CONNOCK - Since the unannounced visit, which I must say, when we walked into the kitchen the second time it was a huge difference. A lot of happy workers.

...

Mr CONNOCK - Well, they were working and they were working well together and the smells were great and it was all really good. When they call it tends to be immediate complaints and the standard things, as I say - accommodation, classification, access to services, particularly health services. Our biggest cohort of complainants in Ombudsman and health complaints are prisoners. They have a lot of issues; things are writ very large when you are in a confined environment. There are restrictions on the services that are available.

Mr WILLIE - How does your Office deal with something that is particularly serious or urgent?

²⁷⁷ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.7-8

Mr CONNOCK - We can investigate it. This is primarily the Ombudsman's jurisdiction. If it comes through to custodial, they don't deal with individual complaints but monitor systems. We have full access to prison and youth detention facilities, so that is another thing we do - constant monitoring of numbers, movements and placements, and that sort of thing.

With complaints we have the power under the Ombudsman Act to make preliminary inquiries in order to determine whether something should be formally investigated. In general, 95 per cent of complaints are resolved in that way.

If we get a prisoner call we say, 'All right, there is your complaint'. We don't necessarily make them put it in writing. 'Call back in a couple of days and we will see if we have an answer for you' and we get on to the prison and talk to them and often we can resolve things that way. If it is really serious, we would prefer to get a formal complaint, still make preliminary inquiries. Investigation can be cumbersome. There is a lot of formal toing and froing involved. We would rather try to resolve things quickly than go through that, but if it is particularly serious, we will investigate. We haven't done it for a long time.

...

If there is a system issue, we really think needs to be looked at, we will investigate that on our own motion. We still report back to the people who made the complaint or raised the issue, but they are effectively witnesses rather than a complainant with an expectation of having their personal issues addressed.²⁷⁸

Mr Connock spoke to the Committee about the Office's reporting function:

Ms WEBB - There is a function under the act for the custodial inspector²⁷⁹, as section 6(1)(e) of part of the Act:

To report to the responsible Minister or Parliament on any particular issue or general matter relating to the functions of the Inspector if, in his or her opinion, it is in the interest of any person or public interest to do so.

There have been times where you have raised particular issues out of sequence to your standard report. The issues raised around dental care, prisoner pay scales, lockdowns, prisoner assaults.

Is there documentation? Do you report on that in your annual report when you have these out of sequence individual issues you raise?

Mr CONNOCK - As a general proposition, yes. We have the reporting obligation on inspections, but we can, as you note, report on other things. We do report to the department on those and seek a response. Yes, we do put it in annual reports.

²⁷⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.11-12

²⁷⁹ See [Custodial Inspector Act 2016](#) (Tas)

Ms WEBB - In the comprehensiveness of that reporting in your annual reports, for example, if I were to look to the annual report, would I be able to confidently know all the instances where you have investigated individual matters under this function, that would be reported on and visible to me as a public member or Member of Parliament?

Mr CONNOCK - One way or another, not necessarily all in the annual report. I think we published the lockdowns report separately, because that was an important issue. We do regularly report and that is an important part of our functions. Things do not get swept under any carpet. If there is an issue of significance, we will report on it.²⁸⁰

At the public hearings, the Committee heard from the then Attorney-General and Ms Ginna Webster (Secretary, Department of Justice) in relation to progress against recommendations in the Custodial Inspector's reports:

Ms WEBB - In relation to recommendations made in custodial inspection reports or Auditor-General performance orders - and I am thinking particularly of each of those that came down in 2019 that had some significant recommendations in each of those spaces, is there a way we are able to access an update from the Department on progress against those recommendations? ...

...

Ms ARCHER - We have actually employed someone dedicated to working with the Office of the Custodial Inspector. Since that, it has been a really successful process of working through the recommendations and signing off on those and keeping the Custodial Inspector informed. I can't tell you the difference it has made because of that direct communication. The problem was that the Custodial Inspector didn't understand which things had been signed off on, on which occasion, so -

Ms WEBB - Does that then come out publicly? Also, is there a public accountability? Given that the custodial inspection reports eventually are public documents and those recommendations are in the public domain, are other stakeholders able to monitor progress through public reporting?

Ms WEBSTER - There isn't at the moment but, really, from sheer recommendations received and implemented, there is no reason why we couldn't provide that information.²⁸¹

In a response to a question on notice, the then Attorney-General provided details in relation to the progress against the Custodial Inspector's Resources and Systems Inspection Report 2019.^{282 283}

The Custodial Inspector's Systems Resources Inspection made 64 recommendations. Of those recommendations, 58 were accepted by the Department of Justice. To date, 47 (81

²⁸⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.12-13

²⁸¹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.46-47

²⁸² Letter to Chair of Committee from Hon Elise Archer MP (dated 24 July 2023), p.1

²⁸³ See https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0009/588276/Inspection-of-Adult-Custodial-Services-in-Tasmania-2019-Resources-and-Systems-Inspection-Report_Redacted.pdf [Accessed 17 November 2023]

per cent) of the accepted recommendations have been completed. Of the outstanding 11 recommendations:

- two are nearing completion;
- six are progressing; and
- three are yet to commence.

Of the six recommendations progressing, two will be completed when the Department's new offender management system, Astria, is implemented. The other items are ongoing and require significant amounts of work to complete and have been incorporated into the role of Tasmania Prison Service (TPS) senior managers.

Of the three recommendations that are yet to commence, one relates to the upgrade of kitchen facilities in the TPS, which has been funded and the project planning to build the new kitchen is well underway.

In a response to a question on notice, the then Attorney-General provided details in relation to the progress against Auditor-General's Report (No.3 of 2019-20) Tasmania Prison Service: Use of Resources.^{284 285}

Recommendation	Response from Attorney-General
1. Implement appropriate governance arrangements to strengthen and oversee continued implementation of the improvement program to ensure improvements are strategically planned, communicated, integrated and delivered in a timely way	Governance processes within the Department have been developed significantly since the Auditor-General's report. A Deputy Secretary with responsibility for Corrective services has been appointed, and investments have been made in key areas such as risk, infrastructure, work health and safety, and change management. Key governance bodies overseeing things such as capital projects (of which prison facilities have formed a large part), information technology and workers compensation have matured and are operating effectively. An internal review of the Department's governance arrangements is soon to be undertaken.
2. Review capability and capacity to be able to undertake the improvement program ensuring it is appropriately resourced	The Department of Justice continues to work within its available resources to develop and deliver improvements within the TPS.
3. Improve resource and financial modelling that is more predictive and forward looking to more accurately reflect demand and therefore resourcing requirements, which should lead to more informed decision-making.	The Criminal Justice Demand Forecasting Model was completed in 2019 and has provided forecasts of the prison population since its implementation. The model is updated every year following the Report on Government Services (RoGS) reporting process and has been subject to continual development driven by new technology and data availability. The latest iteration of the model from this development process has improved scenario testing efficiency and transparency. Baseline forecasts are used during the analysis of key drivers of demand, such as government policy changes regarding remand and the opening of the Southern Remand Centre (SRC), but modelling has been

²⁸⁴ Letter to Chair of Committee from Hon Elise Archer MP (dated 24 July 2023), p.1

²⁸⁵ See <https://www.audit.tas.gov.au/wp-content/uploads/Full-Report-Tasmania-Prison-Service-use-of-resourcesd.pdf> [Accessed 17 November 2023]

Recommendation	Response from Attorney-General
	<i>made more complex by the impacts of the pandemic on demand issues within the criminal justice system. The latest iteration has been designed to facilitate the transition to a cloud-based system for implementation into operational dashboards.</i>
<p>4. Develop and implement improved workforce planning processes that:</p> <ul style="list-style-type: none"> • ensure a more accurate approach to staff resourcing • inform recruitment, retention and succession planning • inform training requirements • deliver effective and efficient rostering • reduce overtime • reduce absenteeism 	<p><i>Workforce planning and associated activities have been significantly improved through actions such as:</i></p> <ul style="list-style-type: none"> • <i>ongoing recruitment of Correctional Officers, with 300 new correctional officers being recruited since the start of 2020</i> • <i>several roster reviews and changes to improve availability of staff and reduce the need for overtime</i> • <i>a strengthening of the Department's management of workers compensation claims and support to staff to return to work, with downward trends in the number and cost of claims in 2022-23</i> • <i>the establishment of a Departmental Wellbeing Hub to support staff and reduce absenteeism, and</i> • <i>the development of a Departmental People Strategy.</i>
<p>5. Improve the performance management framework to ensure reliable and comprehensive information to monitor and understand performance and enhance decision-making. In particular, develop dashboard reporting of financial Key Performance Indicators (KPIs) at the executive management level and consider benchmarking performance with other prison services</p>	<p><i>In response to the Auditor-General's report, the TPS developed a new suite of Key Performance Indicators (KPIs) and benchmarked KPIs for internal and external reporting in the 2019-20 financial year.</i></p> <p><i>The TPS and all departmental outputs are required to develop annual business plans which address operational and government priorities, risks, funding and reporting on KPIs and other outcomes.</i></p>

Implementation of OPCAT Compliance in Tasmania

At the public hearings, the Committee heard from Mr Connock in relation to implementation of OPCAT requirements within the Tasmanian Ombudsman:

***Ms WEBB** - ... I want to be clear in terms of the additional role that was put into the Ombudsman's Office for the TNPM²⁸⁶ under the OPCAT. Were extra resources provided for that role beyond your custodial inspection resources that were already there?*

***Mr CONNOCK** - Hopefully, they will be. A couple of years ago I was asked to - it was always mooted that I would be the National Preventive Mechanism but there wasn't a lot of work done on what was actually required. As you may be aware, the UN guidelines for an NPM are detailed and specific about the sort of expertise that's required of an NPM and the sort of inspections that they're going to be carrying out.*

²⁸⁶ Tasmanian National Preventative Mechanism

I was asked to do a budget bid and my response was simple: 'I can't; I've got no idea what's involved and nobody else has either'. We got funding to scope what would be required to implement OPCAT so I've had a program manager for the last 12 months who has just been renewed for another 12 months and who has been engaging with the various consultants that I mentioned before, scoping what's actually going to be required to make Tasmania compliant with OPCAT.

At the end of that process, I'm hoping to be providing a report to Government saying this is what you need to do; this is the staffing level, this is the business model, this is the strategic objective, this is what you're going to have to address, because nobody has done that to date. The Government has been supportive of OPCAT, consistently, which is great but we're still not absolutely clear what's going to be involved. There are various things - OPCAT's a very broad purview. We can do the prisons because we're doing that now, but there are secure mental health facilities and there are a lot of small clinics and facilities around the State that can go secure at any moment ...

...

Mr CONNOCK - *They can switch to secure so they need to be inspected.*

Aged care: we've been looking at New Zealand because they've been OPCAT-compliant for a while. They've got aged care. It's largely federally managed in Australia, but there are a few facilities that are state-managed so we will have to inspect those.

We recently did a road trip with three of our consultants - the prison, youth detention and police in custody - going around the State and looking at the various places of detention, including small prison cells on King Island, the King Island Hospital and things like that. We were looking at how broad the brush is going to have to be, and that's going to be included in our report.

Ms WEBB - ... What is the time line for that?

Mr CONNOCK - *I was hoping to have the report done by now, but that has not been possible: the work is continuing - as I said before, on the brink of being able to publish some of the consultant's reports. I am hoping soon. We have had the funding renewed for the implementation program for another 12 months, which is great. We have also the funding for a permanent director at the NPM, which we will be recruiting for shortly.*

It is starting to happen. Even though it has been big, cumbersome and slow, we are well ahead of the rest of the country.

...

Mr CONNOCK - ... *I met with the Sub-Committee on Prevention of Torture. We have a proactive role in the custodial inspectors' jurisdictions down here and one of the questions that arose there was: what is the difference between that sort of proactive inspection and monitoring against expectations? It is not a simple thing.²⁸⁷*

Mr Connock spoke to the implementation of NPM and the inadequacy of funding:

²⁸⁷ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.4-6

Ms WEBB - I do note the 2021-22 Annual Report from the Custodial Inspector mentions a need to review the inspections standards to keep abreast of national and international changes. That was planned, as stated in that report, for the 2022-23 financial year. I wanted to check in with you whether that review occurred in that financial year and if so, what the result has been. Will there be an update of the standards or some changes?

Mr CONNOCK - There will be. It is happening at the moment. As you know, I have also been appointed the National Preventive Mechanism for Tasmania for the purposes of the Optional Protocol to the Convention against Torture (OPCAT) and we are having to develop standards for inspections there. We are calling those expectations in line with His Majesty's Inspectorate of Prisons in the UK, which has been OPCAT-compliant for some time. We are reviewing our custodial inspection standards at the same time as we are introducing those expectations to try to make our inspection standards OPCAT-compliant as well. That is occurring at the moment and when that process is completed, there will be an announcement.

Ms WEBB - Could you describe for us the process that is being undertaken? What has been involved in the review? For example, who has been involved in feeding into that or providing expert advice?

Mr CONNOCK - It's being driven by the OPCAT implementation program. As you know, we had funding to scope the implementation of OPCAT because no-one was entirely clear about what was going to be involved in that. We have had a number of consultants involved in that. We have had Leaf Consultancy, which is a local organisation, reviewing the organisational structure and strategy and so forth. We have had an expert consultant in relation to youth detention. We have had another one in relation to courts and police cells and we have had a former Western Australian custodial inspector to work on the prison standards. That is in progress. We are almost at publication but not quite.²⁸⁸

Independence of Custodial Inspectorate

At the public hearings, Mr Connock commented on the potential perceived conflict of interest in relation to where it sits within the State Service:

Ms WEBB - Can I ask a question on the Act itself? We have now had it in place since 2016 and we have gone through a couple of theoretical cycle periods in that. I know COVID-19 has interrupted completing full cycles of the inspections. You have, in some of your reports, made some recommendations for legislative amendment, some particular ones, but do you have a view whether it is timely or beneficial to consider a more comprehensive review of the act that relates to the custodial inspectorate role?

Mr CONNOCK - Potentially yes. All pieces of legislation, when they come in - we have seen this with the Integrity Commission Act and with various other pieces of legislation - it is only when you start using it you realise what the shortcomings are. It is not a bad piece of legislation but as a general proposition, any comparatively new act could do

²⁸⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.2-3

with tweaking. As you work with it, you learn the shortcomings and what can be added to it to enhance the functions of, in this instance, the inspector.

Ms WEBB - *Could there be benefit seven years in to be looking at that now?*

Mr CONNOCK - *A lot of the legislation I administer could stand reviewing.*

Ms WEBB - *... On the specific recommendations you have made in some of your reporting on legislative amendment relating to improving the actual and perceived independence of the custodial inspector, has there been any particular response to or interest from the Government in progressing those particular legislative reforms?*

Mr CONNOCK - *Not really, but no opposition either. Everybody does now respect the independence of the Office. One of the things I do have some concern about is that, as in my other jurisdictions, my officers and the custodial inspectorate are Department of Justice officers.*

Ms WEBB - *Employees of the Department of Justice, yes.*

Mr CONNOCK - *That was the old ombudsman model where Justice administers the Ombudsman Act and the secretariat has an obligation to make available to the Ombudsman sufficient officers to carry out the function. That model has just been translated to all of the other jurisdictions as they have been added. I am not entirely comfortable with it, particularly in relation to the custodial inspectorate, because people think you are part of Justice and they are the ones running this joint. I am not sure it is optimal.*

Ms WEBB - *It looks like a department investigating itself.*

Mr CONNOCK - *It does a bit.*

Ms WEBB - *What was your suggestion then for an alternative arrangement?*

Mr CONNOCK - *If you look at other jurisdictions, I am not resourced and I do not know that it is viable for my separate jurisdictions to run their own human resources departments. That would be a bit over the odds.*

...

Mr CONNOCK - *One of the things I have been thinking about is perhaps custodial in particular would better suited to DPAC,²⁸⁹ because that's the Head of the State Service and that would enhance the perception of independence.*

Ms WEBB - *Is it simply a policy decision of Government to make a change like that, or is there a mechanism by which that change could be made?*

Mr CONNOCK - *I am not sure about that. I have made some veiled suggestions, but I have not put up a formal proposal. I think that this will be influenced too by the National*

²⁸⁹ Department of Premier and Cabinet

Preventive Mechanism report. I think there will be some recommended changes to structures as a result of that implementation.

Ms WEBB - *If those two roles are very much in alignment, the custodial inspector and the NPM, and the NPM is broader than just the justice system, then perhaps it even points you towards an alignment more with a central agency like this.*

Mr CONNOCK - *Or perhaps it indicates also that the custodial inspector should be NPM for prisons and that it then be a separate output with other qualified personnel to be looking at mental health and aged care and things like that.*²⁹⁰

Committee Findings

- F56. The Office of the Custodial Inspector is vital in providing a level of oversight on both Tasmanian adult prisons and youth detention facilities against a suite of established standards.
- F57. The Office of the Custodial Inspector is under-resourced and cannot effectively monitor compliance with its report recommendations.
- F58. The Custodial Inspector raised concerns of a perceived conflict with the inspectorate located and resourced within the Department of Justice, being the same department responsible for his areas of oversight.
- F59. There is currently no regular public reporting of the progress against the implementation of the Custodial Inspectorate recommendations.
- F60. The Government funded a project to scope what would be required to implement Optional Protocol to the Convention Against Torture National Preventative Mechanism.

Committee Recommendations

- R29. Resource the Office of the Custodial Inspectorate to the level identified as necessary to meet its legislated role and responsibilities.
- R30. The Office of the Custodial Inspector and the National Preventative Mechanism be resourced independently from the Department of Justice.
- R31. Fully fund the model developed for the Tasmanian National Preventative Mechanism to undertake its legislated roles and function.
- R32. Establish a mechanism for regular public reporting of the progress against the implementation of the Custodial Inspectorate recommendations.

Introduction of a Human Rights Framework Underpinning Criminal Justice System

At the public hearings, Dr Val Kitchener (Convenor, TasOPCAT Network) informed the Committee on their view as to why the Tasmanian criminal justice system needed a more thorough human rights focus:

²⁹⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.14-15

Dr KITCHENER - ... Our primary position is that reform to the justice system should address the causes of crime and not rely on incarceration. We look at the causes of crime as integral to the social determinants of health. There are links with poverty, with education and health, which are all matters of human rights. I have an academic background and a professional background as a long-time public administrator. My personal approach on these matters comes from 30 years as an official visitor under the Mental Health Act.

The professional academic work has been affirmed by the grassroots experience. I really do see that there is a strong correlation between human rights, respect and dignity for human beings and crime rates and recidivism. Being an official visitor also taught me that we look at justice reform through the lived experience of people. We realise that often the Tasmanians who are incarcerated are the same as those who struggled at school, perhaps were in Ashley Detention Centre, and often were in the mental health system. A number of people I spoke to as an official visitor reported their life story as being troubled at school and having included incarceration at Ashley and/or Risdon. Some were at the Wilfred Lopes Centre because they were not guilty by reason of insanity.

Putting people's experience into the centre of decision-making makes better policy. TasOPCAT emphasises that the approach here is what the Australian Human Rights Commission, which I will now refer to as the AHRC, refers to as 'upstream'. That is to say the aim is to prevent problems occurring and not to run into disputes or litigation or the inquiries and royal commissions of which we have seen far too many of late. That means that human rights are as much a matter of public administration as of law. ... I think we often lose sight of that point.

TasOPCAT makes a plea for recommendations to be implemented from recent inquiries. We look forward to the inquiry into the abuse of children in institutional settings in August [2023] and hope that the recommendations will be taken very seriously. Our submission addressed the 'why' questions. The broader framework we have given is about why we think the system needs reform. We also need to move to a 'how' question: how do we implement the human rights? We draw from *Free and Equal*,²⁹¹ the Australian Human Rights Commission document, and we commend this to the Legislative Council as a foundation document for further consideration.

Through *Free and Equal*, we promote a value statement in governance together with the human rights lexicon to build a human rights culture and, ultimately, we would hope a human rights act.

The value statement is that statement of principles, and these are: democratic, preventive, protective, and effective. Each of these has particular elements. To be democratic calls for Parliamentary sovereignty, accountability for upholding the rule of law, participation to ensure the voices are all heard in debate, and balance is vital because we know that there will be intersections between human rights and other legislation. To be preventive

²⁹¹ See *Free and Equal: An Australian conversation on human rights*, Australian Human Rights Commission for the latest developments in this area: <https://humanrights.gov.au/free-and-equal#mEqtf>

means to be proactive. To be protective means to ensure that there are safeguards against contraventions. Being effective means ensuring best-practice decision-making and ensuring equality of access to effective interventions. ...

...

Dr KITCHENER - ... AHRC promotes concepts of positive duty, proper consideration and participation. These are practical tools that policy analysts have shown to be effective in rights-based countries and in Victoria, Queensland and the ACT, all places that have their own Human Rights Act.

TasOPCAT also emphasises the concept of proportionality and progressive implementation. The first recognises that most human rights are not absolute and can be restricted in the public interest. The second recognises the reality of constrained resources, while at the same time ensuring there is a long-term strategy for implementing human rights.

If we do not have a human rights act, TasOPCAT argues that we can behave as if we do - and, at the least, ensure prevention of contraventions of rights through strong scrutiny mechanisms. Together, the Ombudsman and the Commissioners for Equal Opportunity and Children are the default Human Rights Commission for Tasmania, though each is confined to the silo of their founding legislation.

TasOPCAT has argued for reform of the human rights functions - especially within the Office of the Ombudsman. In sum, we promote raising awareness of the need for a human rights act to the Justice inquiry, as well as across other Government inquiries presently in progress. For that, we need a value statement and a lexicon. We also need more transparency and rigorous application of existing legislated oversights and safeguards - for example, the Official Visitor Program.

We need a reformed human rights framework to encourage interaction between the offices of the Commissioner for Children, Equal Opportunity and the Ombudsman. We need transparent, supportive whistleblowing processes. We need a paradigm change in public administration to embed human rights. We need a human rights culture in Parliament and in the public sector for crime and recidivism rates to decrease.^{292 293}

At the public hearings, Ms Tait spoke to the benefit of having a human rights framework underpinning the criminal justice system as demonstrated in other jurisdictions:

Ms TAIT - ... *I would say, particularly in relation to the prison cohort, the human rights acts that have been implemented in other jurisdictions have actually been instrumental in key decisions in promoting and upholding the rights of people in prison.*

Notably, in Victoria as one example, it was the Victorian charter that enabled the Supreme Court to remove the children who had been kept at Barwon in a way not consistent with their human rights. Having those human rights charters is incredibly important. There is also really great evidence from the Human Rights Law Centre, which

²⁹² See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.1-3

²⁹³ A copy of the OPCAT Network in diagram form is available on the Committee's website: see [Sub #18 – Tasmanian OPCAT Network – Extracts from 'Free and Equal Position Paper: A Human Rights Act for Australia' \(Tabled 21 June 2023\)](#)

has commissioned a report where professionals at various levels of the system talk about the impact of the charter on their lives. ...

Having the Human Rights Charter there, you think about the human rights charter as something very lofty being debated in the Supreme Court, but it is being used every day with case managers who are trying to advocate for their clients to get AOD services. People trying to get a young homeless woman into a house. Those are the decisions I see human rights charters as being extremely effective in that it creates a culture of human rights where people are able to understand and articulate their rights and the rights of others, which is incredibly important.²⁹⁴

At the public hearings, Ms Leanne McLean (Commissioner for Children and Young People) informed the Committee as to the Commission's view of a human rights charter:

Ms WEBB - *I was interested to hear you speak in your opening remarks about beyond the public health approach, and that to make a public health approach work you need the legislative triggers to have a government act in a policy and investment sense.*

Yours is a rights-based role. Do you see, as another legislative trigger, a more explicit rights-based approach in our state - like a charter or an act of human rights? Do you see that as being complementary and aligned; and how that would make a difference, both to your role and also to children in this State?

Ms McLEAN - *The short answer to this is, yes. I do think it would be complementary and aligned. I am supportive of the development of a human rights charter and an act around human rights in Tasmania - particularly because the rights of children are so often unheard and underestimated. And they exist because it is far more difficult for a child to exercise their rights and have a say in the decisions that are being made about them every day. They don't vote, so, anything that we can do to bring those rights to the fore through a charter of rights or something of that ilk. In my view, that should be related to child impact statements. What impact is the legislation that is under consideration at the moment, or the policy that is under consideration, going to have on the rights of children in Tasmania?²⁹⁵*

Dr Kitchener also provided the Committee with comparative information with jurisdictions that had human rights instruments against the current Tasmanian experience:

Ms WEBB - *Do we have information on how approaches to justice and corrections systems compare between jurisdictions that have human rights instruments and jurisdictions that don't within Australia? ...*

Dr KITCHENER - *It's a really mixed bag. ... We've recommended a mapping exercise of existing oversights and safeguards, wherever they may be, either under corrections or mental health and how they're going to work with the NPM. I've looked for models elsewhere ... What you see in the formal legislative or public administration process*

²⁹⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.53

²⁹⁵ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.61

might be different from what you are actually hearing from the lived experience of the people incarcerated or in the mental health facilities, or the people performing the oversight function.

Ms WEBB - ... In Australia we have some jurisdictions - Victoria, Queensland, ACT - that have human rights instruments at their jurisdictional level. How then can we compare Tasmania, that doesn't, in terms of accountability, scrutiny mechanisms, performance in delivering effective outcomes in a corrections and justice space? Does the existence of those human rights instruments, the acts, the charters, make a difference to how those jurisdictions perform?

Dr KITCHENER - With the reporting that we have from those three, it is still a bit early to tell, although all of the signs from Victoria are that it is not just about the legislation. We are making better policy decisions and more transparent. First Nations people have said that they believe that there is a culture change that is beneficial for all.

Ms WEBB - In those jurisdictions with the human rights instruments?

Dr KITCHENER - Correct. Not to say it's a silver bullet but there is a change in culture and better administration. In Queensland, there was an issue of the rights of children and incarceration.

...

Dr KITCHENER - ... the conversation there was that you had a human rights charter and it did the children no favours. For those of us in the field, we'd say that we'd have the conversation and that means we can continue the conversation because we have the law.

I keep returning to New Zealand because that is probably the most alike jurisdiction. They've done a lot of scrutiny of their systems and overall they have made improvements, especially with regard to relations with what are their equivalent First Nations. New Zealand websites are remarkable for how you see there is embedded contribution from the Māori people, to the benefit of all. The health websites in New Zealand are embedded with Māori principles and oversight and everyone benefits.²⁹⁶

Committee Findings

F61. Other Australian jurisdictions (Victoria, Queensland and the ACT) have a human rights charter that needs to be considered in dealing with adult imprisonment and youth detention matters.

Gender Diverse Detainees in a Prison Setting

Noting that there is not a lot of research in relation to the prevalence and experiences of gender diverse people in Australian prisons, the Committee noted the recommendation by the Engender Equality submission:²⁹⁷

²⁹⁶ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.11-12

²⁹⁷ See [Engender Equality \(Submission #29\)](#), p.7

Key Message 6: Transgender women and non-binary peoples' needs must be considered

Gender diverse populations face increased discrimination and mental health issues, including alarmingly high levels of suicidality.²⁹⁸ As such, gender diverse populations should be afforded additional consideration, support and protection while in prison to ensure they can safely complete their imprisonment periods without increased risk of harm.

Transgender women should be in women's prisons and non-binary people should be individually considered on which prison they should be sent to. There is a dearth of research into the prevalence and experiences of gender diverse people in prison in Australia. One study of transgender prisoners in US prisons in 2007 by the University of California, found that transgender inmates were more likely than not to have experienced sexual assault while incarcerated — at a rate more than 13 times higher than their male counterparts.²⁹⁹

In the limited Australian research available, trans-women incarcerated in male prisons reported being sexually and physically assaulted and verbally harassed by other inmates.³⁰⁰ Prisons currently present unacceptable safety risks for gender-diverse people and this needs to be urgently addressed.

Rosemary Harwood's submission³⁰¹ outlines the circumstances around her daughter Martin 'Marjorie' Harwood's suicide, primarily based on her experience of being housed in the male population of Risdon Prison and being sexually assaulted from a group of inmates in 2017. Ms Harwood states:

*I strongly believe that training of **all** Tasmanian Prison Service staff in LGBTIQ+ training should be compulsory. It should form part of all induction training. And all staff currently employed, should be required to undertake training as well as a regular refresher.*

In supporting Ms Harwood's submission and lived experience, Caroline Dean³⁰² listed the following recommendations when housing and managing transgender prisoners:

- *research asserts that a general level of ignorance, misinformation, prejudice, stigmatisation and discrimination exists within correctional systems (at both an individual and institutional level) particularly regarding transgender people around*

²⁹⁸ Cited in submission: [How common are mental health conditions among transgender people?](#), Louise Morales-Brown 20 May 2021 'What to know about mental health among transgender individuals'

(www.medicalnewstoday.com), <https://www.medicalnewstoday.com/articles/transgender-mental-health>

²⁹⁹ Cited in submission: [Transgender Inmates in California's Prisons: An Empirical Study of a Vulnerable Population](#), presented at The California Department of Corrections and Rehabilitation Wardens' Meeting by Valerie Jenness, Ph.D. Center for Evidence-Based Corrections Department of Criminology, Law and Society University of California, Irvine April 8, 2009 Slide 1 (<https://bpb-us-e2.wpmucdn.com/sites.uci.edu/dist/0/1149/files/2013/06/Transgender-Inmates-in-CAs-Prisons-An-Empirical-Study-of-a-Vulnerable-Population.pdf>)

³⁰⁰ Cited in submission: ABC News online report: Why are transgender women jailed in men's prisons around Australia?, Meghna Bali, ABC News 2020, <https://www.abc.net.au/news/2020-07-03/why-are-transgender-women-jailed-in-mens-prisons-in-australia/12416562>

³⁰¹ See [Rosemary Harwood \(Submission #50\)](#), p.2

³⁰² See [Caroline Dean \(Submission #64\)](#), p.1-2.

their human rights, recognising and managing their vulnerability, managing duty of care provisions, and providing a safe prison environment

- *transgender people who come into the system often experience their gender identity being misgendered*
- *a lack of knowledge, understanding and training of transgender issues particularly around safety within a prison environment exist*
- *a lack of knowledge, education and training of how to work with transgender prisoners often results in insensitive, discriminatory and at times damaging practices and 'bad' experiences for transgender prisoners*
- *transgender prisoners are significantly more at risk of violence but trans women are especially at risk of anti-trans sexual violence*
- *research reports that transgender prisoners experience daily occurrences of sexual coercion and psychological distress*
- *transgender prisoners are at higher risks of self-harm and suicide*
- *transgender (and other gender diverse) prisoners are less likely to disclose being subjected to violence for fear of not being believed, reprisals, treated with hostility or having moral judgements made against them*
- *transgender prisoners are more likely to experience transphobic abuse from other prisoners and correctional staff*
- *the numbers of transgender prisoners may not be accurately recorded due to failure in recording processes, prejudice, discrimination, bias and moral judgements by correctional staff at reception*
- *if gender identity was acknowledged, identified and considered during sentencing this may prevent a transgender prisoner being housed inappropriately.*

Ms Dean's submission also states that she, Ms Harwood and Martine Delaney had been consulted on the review of the Director's Standing Order 2.15 Transgender and Gender Diverse Prisoners³⁰³ and '...while the review of the DSO is welcomed and has addressed some of our concerns the cultural success of the DSO (and the policy accompanying it) rests on the addressing certain issues' as outlined above.

Committee Findings

F62. Transgender and gender diverse inmates are at a higher risk of assault within the prison system.

Committee Recommendations

R33. Implement LGBTIQ+ awareness and policy training for all Tasmanian Prison Service staff.

³⁰³ See Tasmania Prison Service Director's Standing Order (DSO) 2.15 Transgender, Transsexual and Intersex Prisoners, https://www.justice.tas.gov.au/_data/assets/pdf_file/0020/562016/2-15-Transgender-Prisoners-DSO_VER-2.pdf

Tasmanian Prison Over-housing

At the public hearings, Mr Connock spoke to the issue of 'over-housing' in Tasmanian prison facilities:

Mr VALENTINE - To clarify some operational things, in respect to 'over-housing', we might have multiple beds in a cell and have a single bed in a cell. A single-bed cell might have a mattress put on the floor for an extra occupant. Can you give us an understanding of the percentage of over-housing?

Mr CONNOCK - Not really. The prison publishes a report regularly listing the number of prisoners, where they are housed and what circumstances there are. That is dynamic, it changes. No, I cannot really give you an answer to that. ...³⁰⁴

The Committee heard more evidence from Mr Connock in relation to the enforceability of his custodial inspectorate report recommendations:

Ms ARMITAGE - With regard to the increase of capacity in the prisons, some bunk beds are being added, mattresses on sealed floors and, obviously, a lot of this is ongoing. It is not changing. The majority of prison cells, the 2021-22 report states, do not meet the SGPFANZ³⁰⁵ - ... - minimum cell area for single and double cells.

...

Ms ARMITAGE - And also that no formal risk or profile assessment is performed when determining which prisoners should be housed in single cells that have been converted to double or triple cells. This is a question you might not want to answer, but do you consider that is a risk in itself, that there is no assessment? What was the response to that, that no assessment is done when they are putting someone or putting a couple of people into a cell that was previously single, now become double or maybe one double and it takes three? What teeth do you have to make some changes that perhaps they do at least a profile risk assessment on the prisoners they are putting in together? I have noticed in your 2021-22 report it was not happening.

Mr CONNOCK - All we can do is make the recommendations and follow them up. As you know, prison numbers at the moment are massive. They are the biggest they have ever been, which is creating a lot of challenges for the adult prison.

Ms ARMITAGE - Is it important to assess who is going in together?

Mr CONNOCK - In the abstract, yes, it is, but I am not comfortable going into too much detail about this.

...

Mr CONNOCK - Prisoner numbers mean that things have to be done that otherwise would not ordinarily be done.

Ms ARMITAGE - It does not meet the standards for the cell area?

³⁰⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.13

³⁰⁵ Standard Guidelines for Prison Facilities in Australia and New Zealand (1990)

Mr CONNOCK - It does not necessarily meet the standards, no, but there is not a lot. That is perhaps an example of an aspirational recommendation. Given the numbers and at the moment there are 760 something prisoners in the Risdon campus, take out the SRC and the Launceston Reception, it is still a significant number, more than they're really designed to cope with. So, accommodation - I was going to say shortcuts but I do not think that is appropriate - but compromises have had to be made. Now, we continue to monitor this and continue to raise it -

Ms ARMITAGE - But you have no teeth to do anything about it.

Mr CONNOCK - I do not have any coercive powers, no.

Ms ARMITAGE - And to me that is a concern that you are a custodian of the sector and you can make recommendations, but there is actually no power to make sure those recommendations are carried out. To me, that is a bit of a concern.

Mr CONNOCK - Yes, but on the other side of that, that is the same in my other jurisdictions. I do not have coercive powers in any of them. I am not like a court. We do have courts for that sort of thing. We do have other facilities that can direct how things are done. My roles are effectively monitoring.

...

Mr CONNOCK - Someone else needs to take action. It is not for me to take action -

Ms ARMITAGE - On the issues you find or discover.

Mr CONNOCK - On the issues I find, but it is my job to pursue those and as far as I can, to ensure that the recommendations are complied with and that systems are improved. The role of the Custodial Inspector is to monitor and improve the running of prisons. That of the Ombudsman is to improve the administration of government. It is a broader brush.

Ms ARMITAGE - I just see it is hard though if you cannot enforce it.

Mr CONNOCK - Look, it is, it can be incredibly frustrating but there are often reasons that things cannot be complied with and in this instance, one of the things is prisoner numbers.

Ms ARMITAGE - Too many prisoners.

Mr CONNOCK - Yes, ... I do not make comment about alternatives to that. I know there has been a lot of evidence before the Committee about that but yes, we do have too many prisoners and -

Ms ARMITAGE - I guess as you have recommended, simple things like an assessment of profiles before people are put in together is certainly something that could be easily undertaken.

Mr CONNOCK - *Comparatively easily, I would have thought, yes.*³⁰⁶

In response to a question taken on notice, Mr Connock provided the following with reference to providing a percentage of cells overcrowded in detention facilities across Tasmania at last inspection:

The last inspection my office conducted was the Physical Health Care and Substance Use Management Inspection on 30 January to 10 February 2023. The Inspection team did not see any overcrowded cells during this inspection. The Daily Report, provided on a daily basis to the Office of the Custodial Inspector by the Tasmania Prison Service, at the start of the inspection indicated that the Apsley and Huon Units in Maximum at the Risdon Prison Complex were overcapacity as follows:

- *Apsley Unit capacity is 10 prisoners and was accommodating 12; and*
- *Huon Unit capacity is 18 prisoners and it was accommodating 22.*

I do not know if the overcrowding was in multiple or single cells. The total for all of the adult custodial facilities at that time was a capacity of 851 with 683 prisoners in custody.

*Overcrowding within cells significantly decreased with the opening of the Southern Remand Centre and the gradual transition of remandees into this facility from July 2022 onwards.*³⁰⁷

Committee Findings

F63. Whilst not compliant with the Standard Guidelines for Prison Facilities in Australia and New Zealand, the Office of the Custodial Inspector noted that overcrowding within cells significantly decreased with the opening of the Southern Remand Centre in 2022.

Tasmanian Prison Lockdowns

At the public hearings, the Committee heard from Mr Connock with regards to prison lockdowns in general:

Mr VALENTINE - *The other aspect we do hear a lot about is lockdowns. Is that where an individual is actually held in their cell or held within the unit their cell is in?*

Mr CONNOCK - *It varies. In medium, they have independent units, which have a number of cells in them. They can be confined to that unit.*

In maximum security, they are in their cells. Lockdowns can be whole day or half day and they are normally resource-related, like staffing issues.

³⁰⁶ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.8-9

³⁰⁷ Letter to Chair from Office of the Custodial Inspector (dated 14 August 2023)

I do know TPS has been working on a new rostering system to try to anticipate staffing levels, so if there are lockdowns, and I think at the moment they are probably a necessary evil given the staffing levels, they can be predicted. The services can be maintained so prisoners maintain access to education and various other things. I know Mr Thomas has been working on that for some time. I think it is now coming into effect and will make a difference.

I think given the number of prisoners, which is huge, and the number of staff, I do not know if we are going to be able to rule out lockdowns completely.³⁰⁸

At the public hearings, Mr Ben Bartl (Policy Officer, Community Legal Centre Tas) highlighted the apparent declination in out-of-cell hours in the Risdon Prison Complex:

Mr BARTL - ... On page 2,³⁰⁹ you can see that a recent right to information request provided by the Department of Justice demonstrates that over the last six years out-of-cell hours has declined in all prison facilities except Ron Barwick. The number of out-of-cell hours has halved over the last six years. That's important because the Risdon Prison complex comprises about half of the Tasmanian prison system and all medium and maximum-security prisoners. The very people who need access to education, rehabilitation and treatment are the ones most missing out on out-of-cell hours.

The final graph I would like to take you to is at the bottom of page 2. It demonstrates that compared to other Australian jurisdictions, Tasmania has the worst out-of-cell hours. It is a real concern. As I said earlier the most important thing about out-of-cell hours is the ability of persons in prison to access the treatment, the rehabilitation and the education programs that we need them to be undertaking in order that they can better reintegrate upon their release.³¹⁰

[Appendix A Graph 11](#) charts the downward trend of Tasmanian adult prisoner time out of cell (average hours per day) over the period 2012-13 to 2022-23.

Mr McCrae spoke to the issue of lockdowns and its impact on prison literacy programs:

Mr WILLIE - There's a TAFE facility there, there's some literacy support. You have talked about lockdowns. How much impact have the lockdowns had on those sorts of programs in the last few years?

...

Mr McCRAE - I know it's been highly problematic. The people in the prison are so time-rich that they will get involved with anything. ... One of the criteria we look at was, 'Do you work when you are inside? How many programs have you done?' More often we speak to people who are signed up with programs but have not been able to start them. We see a number of our appointments that have been blocked because of lockdowns. We don't know what the lockdowns are for -

CHAIR - Could be staff shortage.

³⁰⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.13

³⁰⁹ See [Sub #63 Community Legal Centres Tasmania & JusTas - Out of Cell Hours \(Tabled 21 June 2023\)](#)

³¹⁰ See Transcript of Evidence [Public Hearings - 21 June 2023](#), p.56

Mr McCRAE - Could be a number of different things. They have a whole heap of things to deal with inside the prison system, but we know from speaking to people that their access to some of those programs is not what it could be.

The services supplying those supports to people in the prison are struggling for money as well. The only ones who do not struggle for money to apply their service are the ones that voluntarily apply them. Everybody else is going through those two- to three-year funding cycles where there is never any certainty of being here next year, so your capacity to retain good staff is almost impossible. That is really problematic.

I have a colleague who provides us with service on numeracy and literacy, but it is much higher than just 26TEN.³¹¹ It is more about understanding why these people have had these learning issues. It's not just about teaching people to read and write. It's talking about the barriers that have been historically presented to people to leave them functionally illiterate or completely illiterate.

Mr WILLIE - Anecdotally, a lot of your clients are illiterate?

Mr McCRAE - I sit down with a lot of people at the computer. How do you apply for 20 jobs when you don't know how to use a computer? You don't know how to read or write?

CHAIR - You don't have a MyGov account and you don't have any of those things.

Mr McCRAE - Our peer support officers at Bethlehem House, people with backgrounds in IT expertise, set them up with a MyGov account, set them up with their access to Centrelink, to Medicare, to be able to apply for jobs via seek.com.au, yet we don't have services with the capacity to do that. Especially in the prison there is a great need for it. Lots of really influential people will say that education is the way out of the prison system is the way out of poverty, is the way out of ignorance.

...

Mr McCRAE - We have an opportunity in prison where we have a captive audience.³¹²

The Committee heard from Mr Barns how prison lockdowns impacted on the availability of leave permits under section 42 of the *Corrections Act 1997*.³¹³

Mr BARNES - On section 42, for those who do not know, it is under the *Corrections Act*. It basically says you can get day leave, you can go out, do a job and come back. It works well. It is a good system. The reason it has been reduced is because of lockdowns. I know because we got that quote from Richard Connock.

We are talking to prisoners, and particularly women prisoners it is problematic for. The issue is they will be ready to go out to work and 'sorry, lockdown, no-one to take them'. It is debilitating.

³¹¹ 26Ten is a network of organisations and individuals working together to improve adult literacy and numeracy in Tasmania: the name comes from the 26 letters of the alphabet, and the ten digits used for counting

³¹² See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.64-65

³¹³ See Section 42 – Leave Permits, *Corrections Act 1997* (Tas), <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-051#GS42@EN>

...

*Mr BARNS - ... section 42 though is very important in providing people with some job skilling, but also resocialisation with the community and it has become more difficult because of resourcing.*³¹⁴

The Committee notes the impact of lockdowns within Risdon Prison Complex remains problematic, with recent data coming to light through a right to information process indicating a concerning frequency of lockdowns during 2024, particularly in the Southern Remand Centre.³¹⁵

Committee Findings

- F64. Tasmanian adult prisoner time out of cell (average hours per day) continued to trend downwards over the period 2013-14 to 2023-24.
- F65. There is a negative impact of lockdowns on prisoners accessing prison education programs, section 42 leave permits, and access to visitors.

Extra Prison or Extra Rehabilitation Program?

At the public hearings, the Committee asked the Justice Reform Initiative representatives as to whether the \$270 million budgeted for a new prison facility should be spent on extra rehabilitation programs as an alternative:

Dr SOTIRI - I do think the investment of \$270 million would make a substantial difference in reducing recidivism and reducing reoffending over that period of time. We've had the opportunity to do a bit more mapping about what is and isn't happening in Tasmania through the process of putting out the report that came out yesterday.

What I've been surprised at - ... is the absolute absence of funding for the kinds of programs and services in Tasmania that we know will make a difference when compared to other jurisdictions.

We started looking at the services and the funding of the services that we have noted in the submission. In this report, we note how much some of those services are funded for and it is things like \$100,000 for two years; \$15,000 over two years. Prisoners Legal Service are delighted that they have an extra \$80,000. This is a problem, in how we are imagining what it is that is actually going to take in Tasmania to make a difference.

The \$270 million over four years - we've focused on those areas which have a strong evidence base: post-release, diversionary programs, the opportunity to invest in children who are at risk of criminal justice system contact. The size of Tasmania is quite small so there is this real opportunity to genuinely make a difference. There is no reason in

³¹⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.28

³¹⁵ See 'Greens say frequency of lockdowns at Tasmania's Risdon Prison a 'breach of human rights'', Lucy MacDonald, ABC News, <https://www.abc.net.au/news/2025-03-18/tasmanian-risdon-prison-complex-lockdowns-frequency-2024/105061502> [Accessed 20 March 2025]

Tasmania why every single person walking out the prison door tomorrow should not have access to the kind of service that we outlined in the submission.

...

The \$270 million, I think, although I don't know what the total amount would be that is currently being spent on post-release, but from what I can gather in what is publicly available, ACNC³¹⁶ data and so on, it looks like it is less than \$1 million, in the kinds of things that we are actually investing on in Tasmania.

...

We know we are not investing in the programs around Australia and internationally that have an evidence base that will reduce crime.

Mr VALENTINE - ... *It would be interesting to know how much it would actually take to fund those programs that you were talking about on an ongoing basis.*

Dr SOTIRI - *Just that we would love to spend some time putting that together. We haven't had the resources to do that today.*³¹⁷

Potential Reforms to the Criminal Justice System

At the public hearings, Ms Tait (Policy Officer, TasCOSS) spoke to examples to reduce involvement in the formal criminal justice system:

Ms TAIT - ...*The second area we identified as a key area for intervention would be for the Committee and the Government to consider ways to reduce involvement in the formal criminal justice system. Firstly, looking at ways to support the Tasmanian police service to do the job they are doing, which is a difficult job to engage proactively with communities and to increase community safety. There are already several options for police to engage with children and with adults in a non-prosecutorial way. Police have the option of issuing cautions, they have the option of not proceeding with prosecution, they have the option to refer people to support service when they are found engaging with crime.*

However, the data is showing us that cautions are actually going down, and more and more people are being referred to prosecution. Clearly, there is a failure there and we are not exactly sure what it is. Perhaps it's due to resourcing, both for Tasmania police and also a perceived or actual lack of support services that police can refer children and adults to. There are several models we would highlight have been extremely successful in other jurisdictions when we are looking at how police can interact with the community in ways favourable to the community and also reduce crime.

One example is the New Zealand model, which I am sure you may have heard about already. It is what I would call a community-based model. Where a young person is found engaging in criminal activity, before deciding whether or not to charge that young person, the police must engage proactively with that child's family, with their guardian, with support services. It is really a collaborative approach to how that child is going to learn from their behaviour. It is an opportunity for several members of the community to

³¹⁶ Australian Charities and Not-for-profits Commission

³¹⁷ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.36-38

get involved in the lessons we want to teach that child, but also to identify gaps that might exist in the child's life, in their wellbeing and to provide them with an opportunity for support.

The Committee I heard was asking questions about culturally appropriate responses. This has been incredibly successful in the Māori community in particular, and it has resulted in a significant decrease in the crime rate for young people in New Zealand. We would also highlight there are local models. In the Australian Capital Territory there was an extensive report that was provided from the government as part of the commitment to raise the age of criminal responsibility to 14, which has recommended a model that is a type of multidisciplinary panel. Again, police acting as first responders can notify this panel which can get together to make decisions about how best to support children under 14, who would have previously been going through the court system but are now going to be referred out to receive those supports in the community instead. We have models in Tasmania of that working already: the IFSS³¹⁸ hotline is a good example of multidisciplinary supports being provided to families in the child safety sector.

This is a model we are already doing in Tasmania. We already know how to do that. We would say there is a scope for co-responder models to be broadened. Again, in Tasmania we have the Police, Ambulance and Clinician Early Response model where police, when they are exercising their function as first responders under the Mental Health Act, instead of bearing that burden of responsibility for interacting with those individuals or groups alone, they work with the support of a mental health specialist or with a social worker who is able to help the police with their specialist knowledge and expertise, de-escalating that situation and making sure the person they are engaging with is referred to appropriate supports. We believe this is an example of a model that could be expanded, for example, to the youth jurisdiction. Maybe there is a co-responder model that could work with youth support of officers providing outreach support to the children or families who are having issues with young people. There are even successful models in Australia of police responsibility being put to the side and community taking responsibility for that first response.

...

We have previously advocated in our responses to the Youth Justice Blueprint for the development of specialist charging protocols or practices between Tasmania Police and Child Safety and with residential units to make sure the children who are in those units are not being subjected to excessive criminalisation, that they are not coming to the attention of police. We think it could be worked on as a matter of priority, particularly given the findings of the recent Tasmania Legal Aid report into crossover children.

We also note recent inquiries in other jurisdictions - mainly in Victoria - have highlighted the need to review the Summary Offences Act and consider opportunities for decriminalisation to reduce involvement in the criminal justice system for particular cohorts. That would include, for example, consideration of decriminalisation of public space offences which could have significant impacts on our Aboriginal community, on young people, and culturally and linguistically diverse communities - all those communities that are coming to the attention of police in disproportionate ways. There is

³¹⁸ Integrated Family Support Service

*also an opportunity for Tasmania to look to other Australian and international jurisdictions and consider changes to drug decriminalisation in relation to use and possession of currently illicit substances. We believe that is also something that could contribute significantly to reducing the rates of involvement in the criminal justice system here in Tasmania.*³¹⁹

At the public hearings, Professor White suggested some ideas in relation to judiciary training:

CHAIR - *We heard from the previous witness this morning about training, if you like, for the judiciary. Is that something you have ever addressed your mind to, or is it just a matter of experience that gets you to where you need to be to deal with that whole range of scenarios that come forward?*

Prof WHITE - *We need to do several things in terms of the judiciary. If I think of magistrates just for the moment, because the bulk of the criminal cases come before the magistrates, we need selection. If we are going to have therapeutic courts and therapeutic justice, then we need to select judges and build that into the criteria of selection so that they need to be familiar with restorative justice, with family therapeutic approaches, neighbourhood courts, and this kind of thing. So that is a selection process.*
...

Prof WHITE - *... so they need to have knowledge of it and that could be part of the selection process. That is something that we could legislate. Over here, in terms of training, the way in which we deal with judges and magistrates at the moment is that you are your own person, you can't tell them what to do, and you can't force the magistrate or judge to go into training. So, we entice.*

*Now, the interesting thing is that we can offer, and we do, in Tasmania have a range of exposures and programs and so on for judges and magistrates, but it tends to be those who are already on side who might go and get the extra training. So, if you understand therapeutic jurisprudence and you want to get the finer detail, you might go to a session at a magistrates' conference or whatever or go to Victoria for the judicial administration and so on. How we convince old-school magistrates in particular that training and being up-to-date is important, is a different kind of matter, but certainly in terms of the selection process we can and have taken a proposal - Michael Hill and myself, in fact, took a proposal - to the Attorney-General and said 'look, why don't we have another proviso in the selection process?'*³²⁰

In his submission to the Inquiry, Mr Michael Hill suggested that Tasmanian Government's current selection criteria for judicial appointments could be supplemented with the addition of the following clause or similar:

*'a person who has an appreciation of the principles of Restorative Justice and Therapeutic Jurisprudence and the application of those principles'.*³²¹

³¹⁹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.46-48

³²⁰ See Transcript of Evidence [Public Hearings - 21 June 2023](#), p.53

³²¹ See [Michael Hill \(Submission #3\)](#), p.7

By referencing the principles of restorative justice (policy behind the *Youth Justice Act 1997*)³²² or therapeutic jurisprudence (the evidence-based approach behind the Drug Court and the Mental Health Diversion List), Mr Hill suggested that including such a provision ‘...would go some way to ensuring the appointment of suitably qualified persons who have at least some familiarities with these principles...’.

Court-Based Bail Support Services

At the public hearings, Ms Tait talked to the notion of more court-based bail support services:

Ms TAIT - ... The next opportunity that our system presents us with is the moment that people are within the court system. We should be using the court system as an opportunity to really wrap services around that person.

...

Ms TAIT - It is an extremely slow system, but we can use that delay to our advantage. If we were to have more court-based bail support services, for example - which, in our view, should be provided through a combination of state-based services and strengthened community funding - we could use the delays in the court system as an opportunity for the person who is engaging with that system to receive support.

In Victoria, there is a program which I think is now operational in all Victorian courts. It is called the Courts Integrated Services Program.³²³ It is available to people who are on bail. If someone is on remand, they can get application for bail; or someone who is presenting at court for a first hearing can be referred to be assessed for the program. The person who completes that assessment is a case manager who is employed by the Magistrates Court of Victoria - a state service employee. If found suitable for the program, they participate in case management with the court. So, updates to the courts are regularly provided and judicial officers can request, if they deem it necessary, judicial monitoring to provide an additional layer of accountability to that process. The person is also referred out to support services in the community. While that person is awaiting trial or awaiting sentence, they can receive AOD support: they can be linked in with a GP to get a mental health care plan, they can start accessing services for homelessness support. It is using the court system to our advantage, to work with the people who need it most. It's also about trying to support community services to increase their presence at court so that people know what services they can access.

Another example is the family violence space. There are specialist courts in other jurisdictions but I think there are also specialist workers in most courts in Victoria now - respondent and applicant support workers - who are available to give family violence support and counselling, not just to people who are at the court for family violence but to any person who is deemed to be needing supports of that nature. Referrals can be made

³²² See in general section 5 (General principles of youth justice) *Youth Justice Act 1997* (Tas), <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-081#GS5@EN>

³²³ The Victorian Courts Integrated Services Program (CISP) focuses on proactive ways to address underlying causes of offending behaviour, providing case management, and linking program participants to services with expertise in: drug and alcohol treatment, crisis and supported accommodation, people with disability, mental health needs, and cognitive impairment including acquired brain injury. Referred persons are required to undergo a formal risk assessment and screening process as part of their entry into the CISP program. If deemed suitable and accepted, they are engaged with a CISP advanced case manager who coordinates their treatment, provides regular case management, documents their progress, and provides written reports to the Court. See Court Integrated Services Program, County Court Victoria, <https://www.countycourt.vic.gov.au/going-court/criminal-division/court-integrated-services-program>.

from judicial officers, from lawyers, from police prosecutors or from court staff. It is also a way of increasing awareness around family violence within the whole court structure, to make sure that everyone who is working within the court is aware of the patterns of behaviour that family violence might be demonstrated, and to make sure that everyone is aware of the support services that exist.

CHAIR - *That is the first time I have ever heard of any positive aspects around our very slow justice system, thank you.*

Ms TAIT - *There are also therapeutic courts, and there are examples of that here in Tasmania. I am sure the Committee has heard about these courts already. We would strongly recommend an expansion of those existing programs, including the drug court and the mental health list. We would support the recommendation that the mental health list be embedded in legislation to give a greater degree of the certainty and the accountability. I believe the Committee has heard that recommendation already.*

We would also encourage the Committee to consider further alternatives such as community courts. This is an example that exists in Victoria at the Neighbourhood Justice Centre in Collingwood. This is a hub-style support, similar to what I was speaking about earlier, where services are co-located at the court. It has been incredibly successful in the City of Yarra in transforming relationships between the police and the court, and community relationships more broadly. It has had a significant impact on recidivism. ...

We believe there is a need for trauma-informed services for everyone involved in the criminal justice system. We would particularly highlight that judicial officers are doing an incredibly difficult job and that in Tasmania, in particular, many judicial officers are performing a difficult job in remote, regional and isolated locations. There is, from my understanding, a lack of support services for them as well; perhaps a need for judicial education and training to make sure that they are supported to do the work that they are doing in a safe way, but also to make sure that the job they are performing is consistent with community expectations and rapidly developing evidence around how best to engage in a trauma-informed and culturally appropriate way.³²⁴

At the public hearings, Ms Phillips and Carter (Tasmanian Aboriginal Legal Service) spoke to the issue of Aboriginal community organisations and bail support programs:

Mr VALENTINE - *You touched on it a little bit earlier about the Aboriginal community organisations and the wins that are being gained through them. Can you expand a bit more on the sorts of resources or support that they might need to make the wins even greater, and possibly also touch on bail support programs that they might be involved in, and how that might be improved?*

Ms PHILLIPS - *Our service has lawyers that work alongside Aboriginal liaison officers, and we have five across the State. Those Aboriginal liaison officers support our clients with non-legal issues. We can look at the big picture and say, 'There are so many issues', but if you make the difference with one thing - for example, getting a 13-year-old to court,*

³²⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.49-51

an Aboriginal liaison officer contacts the youth and says, 'Have you got a way to get to court? Is there anything we can do to support you to make it easy to get there?', because they might not have the family support to do that.

You are avoiding them being arrested for not going to court - and that is step one. Then when you are in the car, you can have a conversation about what is happening at school, for example, and there might be a situation. I have had a youth say to me, 'I can't get to school because police have put a bail condition on me that I am not allowed in the CBD because of stealing'. They catch the bus from the CBD, so they cannot go to school.

If you don't have those conversations with a young person - they don't know the way the court system works - you aren't going to find those answers. Two very small things that having that non-legal support for a young person can change the entire trajectory. They are locked up, they are in a cell with adults. We have had a 12-year-old who was in the same cell in the Hobart Reception Prison as where they keep adults, in clothes that go below his knee, asking for his mother. That is disgraceful, because there is nowhere to keep a youth in Hobart.

Mr VALENTINE - *The bail support program for the adults, could you address that?*

Ms PHILLIPS - *Yours was two questions. One, properly resourcing the Aboriginal community organisations is key. Quite often, as we know, you will get organisations who get a little bit of money, start up a program and the program kicks off and starts to do well, but they don't have the funding to keep that program going. But the benefit of having such programs properly resourced is that we know communities are going to engage with their own community. They are more likely to rock up and get the support that they need within their own community areas as well.*

With the adult supports, was your question the benefit of having such a program or - ?

Mr VALENTINE - *Well, it is just what it looks like compared to what a bail support program might be for non-Indigenous people.*

Ms CARTER - *I would imagine it would be the same, it would be the staffing and the cultural support that would be available. First of all, we don't have bail support programs.*

...

Ms CARTER - *... We have recently been funded an amount to commence a bail program for our clients. It is going to be a very small pilot program to, hopefully, show the success of it. We are advertising at the moment for that position. We will run it in Launceston and see how it goes.*³²⁵

Prison Inmate Opportunities for Employment

At the public hearings, Mr Barns SC highlighted the following in relation to opportunities for prisoner employment:

³²⁵ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.37-39

... One of the issues is that we have people in prison who don't need to be there. Non-violent offenders don't need to be there. We are also taking out of the labour market, when we have shortages, young people in their 20s, 30s and 40s. Ian Thomas, the director, said to me once he had an electrical contractor. We are desperate for workers and he said, 'I am calling you because I want to see is there any capacity to employ some of your guys, even if it is on a daily basis and they come back to prison?' Ian made the point to me that we have this entity here with all these people and there are serious employment opportunities that could be taken advantage of. We would go further and say you are warehousing young individuals, taking them out of those opportunities in the labour market and that, again, is costing society because there is a tendency, when they go out, to go back onto Newstart.³²⁶

At the public hearings, the Committee heard from Dean Maddock (Churchill Fellow, Prison Reform)

CHAIR - *We note from your information that you were awarded a Churchill Fellowship to study prison reform.*

Mr MADDOCK - *In 2017, yes.*

...

Mr MADDOCK - *I was transferred to medium security in 2012. I became frustrated with the lack of work and the state of the grounds in medium security. I was then put in charge of the garden crew. I started researching reform practices and I implemented a whole heap of different strategies whilst I was there. The employment grew from six inmates to approximately 16. We had half a dozen different programs going, which went from worm farms all the way through to composting. From the top of my head, we composted something like 100 cubic metres of prison waste in five years.*

I applied for the Churchill Fellowship to study sustainability in prison projects in the United States. I travelled to California, Oregon and Washington State. I went to 16 different prisons and four outside providers, and I pulled all of their programs apart and looked at why they were so successful. The basic part of it was that prisons and cities are all man-made and they are very noisy whereas nature is very rejuvenative and very quiet and soothing. That's why they have gone to all of these nature-based programs, to try to compensate for that unnatural man-made environment. The stats on it were quite good actually. There was a 40 per cent reduction of inmate prison violence, from inmates that were in this program, and there was a huge reduction in recidivism as well. After 10 years they had the runs on the board, they had over 100 different programs and at last count they were in about half of the American prisons and they employed about 3,500 inmates in total.

...

Mr MADDOCK - *I came back and all of my programs had been bulldozed. They had all been levelled except for one of the gardening beds, which was inside the compound, due to it being too hard for other people to maintain while I wasn't there for three months, because everything I did was on top of my custodial duties, not instead of.*

³²⁶ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.18

From that, they started the Sustainability in Prison Project Tasmania, which was a series of Committee meetings and really, they gave me enough to shut me up but not enough to actually make any difference into the project. I ended up getting extremely frustrated with management. They had spent huge amounts of money on office space but they wouldn't spend \$100,000 on recycling. In a nutshell, through savings I had worked up a \$20,000 budget but when I went to spend the money, they had given it someone else. They just pulled the rug out from underneath me continually. I was banging my head against a brick wall..

...

CHAIR - *When you came back and you did try to reimplement some of the programs that you had, did you reach anywhere near that 16 inmates that were part of the program that you had built up prior to heading off?*

Mr MADDOCK - *The jobs were still there but we just never got toward where we were. The inmates were shattered after the amount of work that we had put into it because the soil at Risdon Prison is all clay-based. I don't know if anyone here remembers the hassle where they scraped off all of the top soil and sold it when they built the Risdon Prison Complex. That was a big thing back in 2006. It's all a clay sub base. We had to dig all the trenches. We had to put all the green waste in it. We composted to get good enough soil to grow vegetables in. From last count when I was there, we gave about 5,000 kilograms in three years to charity.*

CHAIR - *They were not able to be used in the prison system?*

Mr MADDOCK - *No, they just bulldozed it. It's just stopped.*

...

Mr MADDOCK - *... At Medium in its heyday when I was there, we'd put out about 600 kilograms out of that little square patch per year. We had garden beds all the way around Medium. At one stage we gave 1.5 tonnes of pumpkins to one of the soup kitchens. We did 2,000 plants for the Understorey Network, plus we did some grasses and things for Coastcare.*

We were doing a lot of plant propagation. They were also doing the Certificate II in Horticulture out of Medium. In my time we might have graduated 20 inmates through that program in two or three years.

...

Mr MADDOCK - *... We'd planned to go into recycling because recycling is a hot topic. A good part about the prison environment is that labour is cheap. It gives us the avenue to recycle products that are not commercially viable in mainstream. We don't have to worry about competing in the outside world. There was a range of different issues from plastics to composting to a massive amount of stuff that we could have done. They weren't interested.*

Mr VALENTINE - *The reason for them not being that interested, was that a matter of space, storage or any of those sorts of things?*

Mr MADDOCK - *Originally it was finances. I showed them through savings how we could afford it. Then they couldn't afford the staff. At the time I was on return-to-work*

programs and they had me doing other projects but wouldn't have me getting sustainability projects off the ground. They didn't want the hassle of it.

Mr VALENTINE - *What changes did you see in the prisoners that were involved with those programs?*

Mr MADDOCK - *There are always inmates who do the wrong thing. You're going to get that in any situation. The majority would get out of bed and they'd attend labour. They'd work. Some inmates are capable of working six hours a day, others are capable of working two hours a day. You really have to gauge on their effort how they have performed as an individual. I had one guy who was a particularly hard case in the jails. When he found out that we were supplying one of the soup kitchens he said, 'Oh, I eat there when I'm on the streets'. He went overnight from being a thug to working his absolute butt off in the vegetable patches.*

CHAIR - *Because he felt like his effort was going to benefit somewhere that had assisted him.*

Mr MADDOCK - *If what we were growing and doing was going to the prison we would not have had as good a response as we did when we were saying it was going to charity. We openly named them. We named the charities where it was going to so the inmates could see. We would inform them of the weights we were using, different things that were happening. It was quite encouraging for them.*

Giving a bit of self-worth to them is huge.³²⁷

Prison Farms

Mr Maddock also informed the Committee of his experience of the defunct Hayes Prison Farm:

Mr MADDOCK - *... The problem was when we shut Hayes Prison Farm, we lost the initiative.*

...

Mr MADDOCK - *... we would have inmates come to us and say, 'Boss, how do I get to Hayes Prison Farm?' And you would say, 'Right, you need to stay out of trouble, you need to do this course, you need to be employed, you need to x, y, z'. And they would go and do it. Then they went to Hayes. The reason being was because the visits up there were all-day or half-day. The only thing missing from that visits area was a creek to fish in and a beer. It was absolutely magnificent, it was fantastic. It gave them that contact with their family. And they could work in the dairy, they could walk outside, it gave them everything they needed.*

Mr VALENTINE - *You are saying they could have visits from their family all day?*

³²⁷ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.29-31

Mr MADDOCK - Yes, on the weekend, that is. They would work during the week, visits on the weekend.

...

Mr MADDOCK - ... females never went to Hayes Prison Farm. Up until recent years, you only really ever had a dozen to 20 female prisoners, so the numbers were always very low.

...

Mr MADDOCK - ... when Hayes was around, the inmate had to do 25 per cent maximum security before he could work his way through the system. Now, that's not here. They can go straight to a minimum environment during their classification process. ...³²⁸

...

Mr WILLIE - The prison farm would be potentially at Ashley, in Deloraine?

Mr MADDOCK - You'd need one at either end of the state. ...

Mr MADDOCK - ... If we had a prison farm anywhere up North and we had one in the South, and if the Ron Barwick site was also a smaller scale prison farm, so we'd get them out into the paddocks, we can gauge whether they're going to be suitable for a minimum environment. It gives us that extra carrot, extra little bits and pieces. What it does is when inmates at medium and maximum look out the window and they see other inmates walking around the bigger prison complex, it gives them hope that they can actually do the same thing.

Mr Maddock spoke briefly to the 'Sustainability in Prisons Network':

Ms WEBB - When you went and spoke to the facilities in the US and elsewhere under your fellowship, they must have had a point in time that they went from a more traditional sort of model to these new innovative approaches. Did they describe what it took to have that change occur? ...

Mr MADDOCK - It took over 10 years to get any momentum and it started with a guy named Dan Pacholke. He was a commander in a SWAT team and he ended up running a minimum-security prison. His life story is excellent to read. And he just thought, 'there has to be a better way'. It came down from him, as a prison manager, being told, 'you need to save money'. All of a sudden, he had these ideas but the government wouldn't give him the money, so he did outreach programs to the local colleges and got their interest. He said, 'You can use our facility for training of your students'. He started all these collaborations then it sort of grew.

...

Mr MADDOCK - Yes, one person pushing change in a position of power. That is pretty much what happened. His story is very good to read. It is on the Sustainability in Prisons Network page.^{329 330}

The Committee was informed during its SA Department of Correctional Services familiarisation visit that prison industries were well established. In particular, the Cadell

³²⁸ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.34-35

³²⁹ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.35

³³⁰ See Dan Pacholke, Sustainability in Prison Project, <https://sustainabilityinprisons.org/about/spp-staff-2/dan-pacholke/>

Training Centre (a male low security prison farm located 185 km northwest of Adelaide) produced olive oil and citrus, and supplied milk not only to the other prisons but also to other departments within the SA public service. Operating since 1960, the agricultural work conducted at the farm is supported by a maintenance team of workers who maintain the vehicles, equipment and irrigation systems and the Department had delivered training and qualifications to a number of prisoner workers in horticulture.

Two other SA prison farms in operation are the:

- Northfield Farm which is situated between the Adelaide Women's Prison and Yatala Labour Prison and is worked by pre-release prisoners from the Adelaide Pre-Release Centre. This facility grows fruit and vegetable and an annual cereal crop.
- Port Lincoln Prison provides fresh fruit and vegetables for the prison and for local outlets.³³¹

The Committee is of the view that a similar operation in the Tasmanian corrective management system would have benefits. The Committee also noted that at the time of this report, the Parliamentary Standing Committee on Public Works had recommended the New Risdon Kitchen Project:

The new kitchen will be capable of employing up to 70 prisoners (up to 50 FTE positions). The new kitchen will provide prisoners with opportunities to participate in employment and training opportunities, as part of their case management program, supporting their rehabilitation and reintegration into the community.

*Prisoners will have the opportunity to obtain relevant qualifications in food services, which may help them secure work upon release.*³³²

Adelaide Women's Prison Greyhound Adoption Program

As part of its familiarisation of South Australia's Department of Correctional Services rehabilitation initiatives, the Committee saw first-hand the benefits of the greyhound adoption program that has been running from the Adelaide Women's Prison since 2013. In short, domesticating the retired greyhounds appeared to give the prisoners a welcome focus outside their normal routine.

Greyhound Racing SA requires owners to rehome their dogs once they have left the track. As outlined in the 2021 ABC news article 'Retired greyhounds helping inmates at Mobilong and Adelaide Women's prisons get lives back on track':

- the Greyhounds as Pets program is the largest foster program of its kind in the world
- prisoners care for former racing greyhounds before they are offered up for adoption
- inmates can study a Certificate II in Animal Studies as part of the program
- since 2013 the Adelaide Women's prison has rehabilitated 200 dogs, and

³³¹ Farming and horticulture, Department of Correctional Services, <https://www.corrections.sa.gov.au/Rehabilitation-education-and-work/work-opportunities/types-of-industry/farming>

³³² See in general Parliamentary Standing Committee on Public Works, New Risdon Prison Kitchen Project Report (No. 14 of 2024), https://www.parliament.tas.gov.au/data/assets/pdf_file/0030/84279/New-Risdon-Prison-Kitchen-Project-final-report.pdf, p.5

- Mobilong Men's Prison had rehabilitated 400 dogs as at December 2021.³³³

The Committee was of a view that a similar program within the Tasmanian prison environment could complement the State's own successful greyhound adoption program.

Impacts of National Competition Policy on Prison Employment

Mr Maddock spoke to the impact of the then overarching National Competition Policy³³⁴ on prison labour programs in Australia:

Mr MADDOCK - ... *When I started at the prison there was an 18-month wait to get anything made at wood work. I'm a cabinet maker by trade and I used to hate going up against the apprentices at the prison because their quality of work was better. They had all day to do it where we had a limited time frame.*

To get the industries up and running I believe we need a TAFE centre. We need someone who wants to drive it forward. You can put in an EBA. It can be as simple as 'This month at Risdon Prison industries we're making box trailers, garden arches, coffee tables and get orders for it'. I build trailers on the side and they could have three or four industries just to keep the staff happy.

Mr WILLIE - *A more internal focus with the prison purchasing goods and skills for the broader prison, not outside?*

...

Mr MADDOCK - ... *that gets you around the fair-trade laws. You're not competing in the marketplace it becomes a part of the job, a bit of a privilege. Where we should be aiming if we're going to aim in the broader sector is the recycling industry. There are huge opportunities there for the prison. We should also be going to native rehabilitation work, whether it is animals or plants because we're not competing with anyone.*

We can employ inmates and go through grants. Four or five years ago the Federal Government had the proposal to plant 200 million trees. Instead of giving that money to the broader community, if you had given that money to the prison system Australia-wide we could have produced hundreds of millions of trees. That's where I see the future of our prison industries going into the broader community. It's helping the community.

Mr WILLIE - *Do fair trade rules apply across government? Could you have a prisoner working for a government department on rehabilitating the natural landscape?*

Mr MADDOCK - *I can't see why not. I haven't got into the fair-trade laws. Every time I tried to take them on at the prison I'd just get a road block.*

Mr WILLIE - *You'd say the fair-trade rules need looking at and there's scope to do a whole lot more than what's happening?*

³³³ See 'Retired greyhounds helping inmates at Mobilong and Adelaide Women's prisons get lives back on track'. Peter Martin, ABC News, 9 December 2021, <https://www.abc.net.au/news/2021-12-09/sa-prisoners-take-part-in-program-to-retrain-greyhounds/100686326>

³³⁴ Spanning 1995-2005, the National Competition Policy was Australia's landmark microeconomic reform program – it was superseded by the National Reform Agenda, www.ncp.ncc.gov.au

Mr MADDOCK - There is a lot of scope. You just need a manager who's willing to do it. It needs to be funded. Again, funding is the problem.

Mr WILLIE - Outreach to the community is currently not happening at the scale you're talking about. How would you take the community on that journey?

Mr MADDOCK - It has to start at the simplest thing. You start with the food banks producing food. You start producing plants for things like Coastcare. You need to advertise the fact that these are coming from Risdon Prison. We can put prisoners out to clean up beaches, do rehabilitation work and plant whatever needs to be done. We just need to do it and then we need to advertise the fact.

Once we get the basic bits and pieces happening, why can't we do some of the programs the states do? They refurbish wheelchairs and give them to the needy, push bikes, glasses. I have been to prisons where they have call centres that deal with all the government DVA stuff, or motor vehicle transport, they book camping sites over the phone. It's all done by prisoners.

A lot of it has to come from slight changes in legislation. I reckon, for argument's sake, no government agency is allowed to buy external from the prison unless they have gone to the prison first. These guys build colleges. I asked the industries manager in Oregon how they got away with this. He said:

I am the biggest supplier of furniture in this state. A university rings me up and says, 'I want 200 beds and I need them next week'. I say, 'No problem, it's going to cost you'. They say, 'I don't care, we want them'. I have 14 prisons that all have woodwork shops. I put 14 prisons onto it and I make 250 beds in a week. No-one in the marketplace can do what I do. I'm the most expensive but I can deliver.

Mr WILLIE - All the revenue generated would offset the operations of the prison, so it's helping Government with the costs of the system.

Mr MADDOCK - Yes. Disposal of government furniture in Oregon all goes through the prison. They have a tailor shop that will repair the chairs then they get put back in circulation. All the office furniture gets recycled. If it can't be recycled as a desk, they break it down and use it for something else.

Mr VALENTINE - Presumably there are some issues with how you manage that. There is opportunity for graft to happen. How was that managed in those circumstances?

Mr MADDOCK - You employ professionals, you train professionals and professionals give you a professional job. There would be systems over there that are taken advantage of but you have to look at the greater good and you have to look at what goes in and what comes out and make sure people are doing the right thing.

In one of the prisons I went to, I was in the sewing room and it was full of bikies, all from different motorcycle clubs, and there was a little gay guy running it and they were all

*making teddy bears. This little gay bloke was screaming at them. It was the funniest thing I have ever seen but they were producing 100 teddy bears per week. They went out to the hospitals and were all made out of recycled material. All prison waste. People say it can't be done, well, I have seen a lot of things that can be done.*³³⁵

The Committee understands that the then current the Standard Guidelines for Corrections in Australia (Revised 2004)³³⁶ contained a clause referring to prison industry and competition, which states that '[i]ndustry within prisons should be consistent with the National Code of Practice on Prison Industries and National Competition Policy'. In its 2006 report Issues relating to the operations and management of the Department of Corrective Services, the NSW Legislative Council General Purpose Standing Committee No 3 found:

2.26 The Committee did not obtain a copy, or determine the origin, of the National Code of Practice on Prison Industries, which does not appear to be a publicly available document. It is therefore unclear which aspects of the code that industry within prisons should be consistent with.

*2.27 The Committee notes, however, that as discussed in paragraph 4.53, Commissioner Woodham indicated that the Department viewed the Standard Guidelines for Corrections in Australia as a statement of intent rather than a set of 'absolute standards'.*³³⁷

³³⁵ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.35-37

³³⁶ See Standard Guidelines for Corrections in Australia 2004, Queensland Government Publications Portal, <https://www.publications.qld.gov.au/dataset/other-qcs-plans/resource/fe92c3ac-d38d-4fc0-a1a9-0661a5e1f00c>

³³⁷ See Report No.17 – General Purpose Standing Committee No.3 – Issues relating to the operations and management of the Department of Corrective Services (2006), NSW Legislative Council, https://www.parliament.nsw.gov.au/lcdocs/inquiries/2376/Issues_per_cent20relating_per_cent20to_per_cent20the_per_cent20operations_per_cent20and_per_cent20management_per_cent20o.pdf, p.10

Notwithstanding, the Committee notes that the current Guiding Principles for Corrections in Australia (2018)^{338 339} has the sole guiding principle on prison industry and competition:

5.4.3 Appropriate consultation ensures that correctional industries do not unreasonably impact on other Australian businesses and employment.

Of interest, a shortage of Chinese imports and a rise in furniture sales due to the COVID-19 pandemic drove a production boom at one of Australia's largest regional prisons, the privately operated Mount Gambier prison in South Australia. Handmade timber furniture, metal fabrication items and packaging for large retailers were some of the products made by 200 prisoners for private companies.³⁴⁰ At other State-owned prisons in SA, a range of prisoner made products were available to businesses through specific contract including (but not limited to):

- dining room sets
- large wooden toys
- kitchen chopping blocks
- lobster pots
- pizza ovens
- pot belly stoves
- concrete sleepers used in retaining walls
- concrete pavers
- pallet assembly
- coffins
- statues
- garden pots
- cloths pegs
- retro fitting trailers
- specialised tray tops³⁴¹

Prisoners engaged in these employment opportunities were afforded vocational qualifications commensurate with the trades undertaken. Of note, Department of Correctional Services will not undertake a contract with a potential commercial business if:

- there is likely competition from a local market or local supplier
- there is the possibility that job losses could occur in the local community, and
- they will not enter into partnerships with companies experiencing hardship or financial difficulties.³⁴²

³³⁸ See Guiding Principles for Corrections in Australia (2018), Corrective Services Administrators' Council, https://files.corrections.vic.gov.au/2021-06/guiding_principles_correctionsaustrevised2018.pdf, p.26

³³⁹ The Guiding Principles for Corrections in Australia constitute outcomes or goals to be achieved by correctional services, rather than a set of absolute standards or laws to be enforced. The Guidelines represent a statement of national intent, around which each Australian State and Territory jurisdiction must continue to develop its own range of relevant legislative, policy and performance standards that can be expected to be amended from time to time to reflect 'best practice' and community demands at the state and territory level.

³⁴⁰ See 'Employment program in Mount Gambier prison sees inmates work for daily pay packet, gain qualifications', Sandra Morello, ABC News, 3 March 2021, <https://www.abc.net.au/news/2021-03-03/mount-gambier-prison-jobs-changing-lives/13132374>

³⁴¹ See 'Sample products and items made', SA Department of Correctional Services, <https://www.corrections.sa.gov.au/prison-industries/sample-products-and-items-made>

³⁴² See 'Benefits to business, SA Department of Correctional Services', <https://www.corrections.sa.gov.au/prison-industries/benefits-to-businesses>

Committee Findings

- F66. There is a lack of prison employment opportunities for prisoners.
- F67. Other jurisdictions successfully run a range of prison-based industries.
- F68. Other jurisdictions provide vocational qualifications to prisoners undertaking prison industry jobs commensurate with the trades undertaken.

Committee Recommendations

- R34. Fully develop, support and resource prisoner employment opportunities including prison-based industries and trade qualifications..
-

Evidence – Youth Detention in Tasmania

Factors influencing increases in Tasmania's youth detention population and associated costs

In her submission, Ms Leanne McLean, Commissioner for Children and Young People stated:

*In my experience, children and young people in youth justice detention have generally experienced chronic childhood trauma and disadvantage. While these factors are by no means causal, children and young people are also more likely to be male, come from lower socioeconomic areas, to be disengaged from education, to have experienced family breakdown and homelessness, to be known to child safety services, to have mental health needs and/or disability, and to have drug and alcohol issues. Aboriginal and Torres Strait Islander children and young people are over-represented.*³⁴³

The TasCOSS submission notes factors that may be increasing the Tasmanian prisoner population including: sentencing and bail practices; links between children protection and youth justice involvement; links between disadvantage and crime; and an increase in punitive responses to socio-legal issues.

It was also noted:

TasCOSS is particularly concerned about the increased involvement of young people in the criminal justice system, especially rising rates of youth detention. Despite youth crime rates falling in Tasmania and across Australia,³⁴⁴ a large and increasing number of Tasmanian children are involved in the youth justice system, with recent statistics showing the number of Tasmanian children who are supervised in the community by Youth Justice is higher than the national average.³⁴⁵ Research shows that any involvement in the criminal justice system has a criminogenic effect on young people, and TasCOSS therefore strongly believes urgent intervention is needed to ensure better support for young Tasmanians.

...

*The rates of children in out-of-home care in Tasmania are higher than the national average,³⁴⁶ which in turn can lead to involvement (particularly involvement at a young age) in the criminal justice system. Although most children who are involved with the child protection system do not engage in offending behaviours, there are demonstrated links between the offending of young people and early childhood experiences of trauma, which means many children who are involved in the child protection system are presenting with risk factors for offending.*³⁴⁷

...

³⁴³ See [Commissioner for Children and Young People Tasmania \(Submission #43\)](#), p.2

³⁴⁴ From [TasCOSS \(Submission #60\)](#): Sentencing Advisory Council (2021), 'Sentencing Young Offenders', p4

³⁴⁵ From [TasCOSS \(Submission #60\)](#): Productivity Commission (2023), 'Report on Government Services 2023 – 17 Youth Justice Services', Table 17A.1

³⁴⁶ From [TasCOSS \(Submission #60\)](#): Productivity Commission (2023), 'Report on Government Services 2023 – 16A Child Protection Services', Table 16A.2

³⁴⁷ From [TasCOSS \(Submission #60\)](#): Tasmania Legal Aid (2021), 'Children First: Children in the child safety and youth justice system'

Organisations supporting children in out-of-home care have highlighted that many children first become involved in the criminal justice system due to problems relating to their experiences in care, including police becoming involved when children are reported as missing, were understood to be missing by residential care workers, or had run away from their out-of-home care placements, at times due to safety concerns.³⁴⁸ Children in residential care are also overrepresented in the youth criminal justice system, with many facing criminal sanctions for behaviours which would not necessarily trigger a police response if they had occurred in a home environment.

...

There are demonstrated links between social disadvantage and crime, explained by theories which include the greater exposure of people within socially disadvantaged groups (such as those experiencing poverty) to criminogenic contexts.³⁴⁹

...

TasCOSS is concerned that governments including the Tasmanian Government at times adopt punitive, criminal justice-focused responses to issues better addressed through other means.³⁵⁰

At the public hearings, Ms McLean (Commissioner for Children and Young People) informed the Committee on the anticipated increase in youth detainees:

Ms WEBB - ... you mentioned in your opening comments a spike we have seen since the 2021-22 financial year, you mentioned that you anticipated the increase will be continuing into 2022-23 when we see the data from that most recent year. Is there work being done to locate some causes or identify what has driven the spike in the number of children coming into the criminal justice system?

Ms McLEAN - To clarify, my anticipation of data I said was in relation to numbers of children in youth detention. My observation is it has increased in the last 12 months, including some of the highest numbers I have seen. I would not like to extend that anticipation to the numbers of children proceeded against by police. We will need to wait.

During Budget Estimates we heard from police they were increasing their presence and arrests of children in hotspot areas. Some areas in the south were mentioned during that time.

The underlying factors of this go to our service system, our ability to understand the needs of children and to respond to their needs, and the needs of their families, in communities. When we are not able to do that, children fall through the gaps. Every child is seeking a place to belong. When that place to belong becomes a group of children together exhibiting harmful behaviours, that can become problematic.³⁵¹

³⁴⁸ From [TasCOSS \(Submission #60\)](#): For example, see Create Foundation (2018), 'Youth Justice Report: Consultation with young people in out-of-home care about their experiences with police, courts and detention', p3-4.

³⁴⁹ From [TasCOSS \(Submission #60\)](#): Wikström, P and Treiber, K, (2016), 'Social Disadvantage and Crime: A Criminological Puzzle', *American Behavioral Scientist* 60(10), p1232-1259

³⁵⁰ See [TasCOSS \(Submission #60\)](#), p.5-11

³⁵¹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.65

At the public hearings, Mr Dean AM provided his observations from his time at AYDC in relation to recidivist residents:

Mr VALENTINE - *Looking at the other side of it, if they were to exit Ashley, what suitable support do you think those young people should have in order to reduce the recidivism?*

Mr DEAN - *I wrote further to that in my submission. I had a number of these residents say to me, 'What happens when I get out of here? I go back to my home, I go back to the same environment that I came out of and you think that I am going to turn around?' What they are saying is, 'We need to have a place to go that we can get away from that previous environment that we have been in to give us the support to move forward'. A number made a similar statement. I felt for those kids. I said, 'We need to try to get you to a place, we need to try to get you into a position, a job, and we need to do better and more than we currently are'. Talk is not going to help unless we take positive action to do something about that.*

A couple of the kids said to me, 'If I go home, I'll get into trouble again, I'll be back and will see you again'. One boy rang me a few days after he was released, after he was back home. He said, 'I'll be back, I'm coming back, mate, I've done the wrong thing, I'll be back to see you again'. It's just a crazy situation. The area we really need to work on is getting them a good place when they leave Ashley and with support. They have to have support. They have to have some financial support. As they said, 'We come out, we have little money, we need it, we have got to have support'.

Mr VALENTINE - *Would having some of those programs like Balanced Choices available outside as they are exiting work as a diversion?*

Mr DEAN - *It would be brilliant. If you could have something like Balanced Choices meeting with these residents after their release from Ashley, I think that we would see a lot of gain from that.*³⁵²

At the public hearings Ms Wylie and Ms Kirsten Abercromby (Acting Associate Director, Crime – Tasmania Legal Aid) spoke to the current resourcing constraints that impacted on youth being in detention on remand:

Ms ARMITAGE - *When you say that, let us say for example a 13-year-old who has stolen cars, who has burnt cars out, a myriad of different things, and they come into the court system or police station. They get remanded to go to court that night and they are remanded to Ashley for a court hearing in two or three weeks. You do not put them in remand and you are saying link them up with someone. I think we all know you are not going to get linked up initially, so what is going to happen to that person who maybe does not have a home life, does not have anywhere to go? That night, the police say 'Okay, where are we going to take you, where are we going to drop you?' What does happen in the meantime while they are waiting? It sounds good in practice, but I am just wondering, you say link up with this person, link up with that person, link up with someone else.*

³⁵² See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.24

Linking up and then letting them free saying you should go and do this - have you got any wraparound or any suggestions?

Where do they go that night if they do not go to Ashley? When you talk to custodial, they feel Ashley is a safe place at least for them to go for that night or period.

I hear what you are saying, that they need to link up with them ..., but does that actually work? Unless there is someone they can link up with that night - and the Government has a couple of protective places; there is one just along the road from me where eight males and females under the age of 16 can go and stay. What I am trying to get from you is, it sounds good on paper but how does it work to actually protect these kids?

...

Ms ABERCROMBY - ... *The first point I would probably make is there are limited youth shelters, certainly on the north-west coast. There is one I am aware of in Devonport routinely reasonably full. That is the first difficulty of accommodation.*

CHAIR - *That is the only accommodation option on the north-west coast?*

Ms ABERCROMBY - *In Devonport, as far as I am aware. There is also another shelter in the Burnie area that I believe takes people of all ages. But, to answer your question -*

Ms ARMITAGE - *Where are they going to go? They are taken to the police station, they have done some pretty serious crimes.*

Ms ABERCROMBY - ... *What I think TLA's position would be is when a child is brought to court, they can be released on what is called 'supported bail', which is where Youth Justice will monitor them in the interim. Youth Justice are an incredible bunch.*

Ms ARMITAGE - *And how do they monitor them?*

Ms ABERCROMBY - *They have regular contact with them. They remind them about court dates, assist them in getting to court: they can try to assist in getting the young person to school if they are engaged with education and often that is quite challenging. Something in the interim that might help is to increase their ability to address those problems by providing interim programs for them to take part in. For example, this child is monitored by Youth Justice - doing the best that they can do - but they are limited in what they can do, they are limited in programs that can be offered in that interim period. If there are further programs that can be given to them, part of their bail [conditions] might be that they engage with these programs. Courts have the ability to make that a condition of bail if it were an option. I am not aware of any programs. There are programs, of course, when youths are sentenced.*

Ms ARMITAGE - *If they are homeless, where do they go that night?*

Ms ABERCROMBY - *Yes, that is a different although interlinked issue. The shelters on the north-west coast are few and far between.*

...

Ms ARMITAGE - ... but what is available to the court system if they do not go somewhere like Ashley? Is it better to put them on the street or to give them accommodation?

Ms ABERCROMBY - Of course, no, but putting them in Ashley ought not to be seen as the next best step, because the reality a lot of the time is that due to staffing levels these children spend many hours a day in their cells. The hours they spend in the day in their cells are hours they are not receiving education, not being assisted to reintegrate upon their release. The issue comes down to lack of accommodation for children and it is concerning some of them do see Ashley as a better option.

Ms ARMITAGE - A safe haven,

Ms ABERCROMBY - Absolutely, but that in and of itself is the concern because they may have nowhere else to go. Again, it comes back to accommodation and places for these children to stay: Ashley ought not to be seen as a safe haven.

Ms WEBB - To be clear, you are advocating for more investment and improvement of the support currently inadequate in these areas? And you, being in the social services sector, are well aware we have known for many years - as a State, and the Government of the State - about these inadequacies and we have not yet seen movement on improving them in any substantial way. Are the arguments you are making for a future better funded, planned and integrated system rather than a comment on what is currently available?

Ms WYLIE - What is currently available is really difficult. We are seeing the reality of that play out every day where young people are sent to Ashley because there is no accommodation, and for pretty much no other reason other than that they are offending, obviously. In my view, Ashley is not a safe space and if each of you have not gone and had a look -

Mr VALENTINE - We have been there.

Ms WYLIE - It is very sobering. In my view it is not a safe space, it is the most detrimental option, but sometimes it is the only option at the moment. We do need better investment in crisis accommodation options, as well as intensive services so these young people have a chance.³⁵³

Mses Abercromby and Wylie (Tasmania Legal Aid) also spoke to the issue of intergenerational crime in the youth justice system:

Mr WILLIE - I'm interested, in talking about alternative programs and things like that, in the home environment. I know of a former teacher who had a kindergarten child once say to her, 'Will you come to court with me?' She said, 'You don't need to go to court, you're too young', and he said, 'Well, my dad goes to court all the time and I will have to go one day, so will you come with me?' How do we break that cycle where these home environments are clearly very tough? I am interested in that sort of situation because you

³⁵³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.5-7

can put supports around kids but they are still going back to this environment where they have these sorts of role models, who probably through their own childhood had similar role models, so it is cyclical.

Ms ABERCROMBY - *Intergenerational crime is a huge problem. It is really concerning. A step in the right direction are programs like the drug diversion program. I appreciate that your question relates to the child but, of course, if the parents of that child - and many people on the CMD, which is another name for the drug diversion program, are parents. If that child, instead of being exposed to the criminal justice system, sees a parent breaking that cycle, then that can only be a positive thing. There are defendants who complete that program. I am a huge proponent of that program. It works wonders. It is a difficult program, it is onerous, but it is a two-year program and I have seen it break intergenerational crime...*

Ms WYLIE - *That also works into the idea of extending the nature of the programs that could follow the drug treatment order (DTO) model because it does work and we see it work. But it's really frustrating when you think about the number of people addicted to alcohol ...*

Ms ABERCROMBY - *The reality is that illicit substances are not the sole driver of that problem, of course. Family violence, for example, is a scourge on society, as we know. A program like the drug diversion program but aimed at family violence instead would go a long way to breaking that cycle, a long, long way. Of course, those problems are often interlinked but the difficulty with the drug diversion program is that you cannot be on it if you have committed an offence that involves actual bodily harm.*

Mr WILLIE - *Where I am going with this is that when we have a young person who starts interacting with the justice system, do we need to do more in terms of not just looking at them but also their family circumstances and maybe putting support with the family as well?*

Ms WYLIE - *Treat the parents and then you treat the child. There are two things that are happening here. First of all, within families we are seeing intergenerational crime. We can only fix that by assisting the parents. And then, once you get people formally into detention, we see that perpetuating over and over and over again. If we can divert them before they go into prison the first time, we have a much better chance of keeping them out of the justice system.*

Mr WILLIE - *What happens currently with a young person charged with an offence for the first time and they are going down that pathway? Is there some sort of look at the rest of the family and what support might be required, or is it just solely focused on the young person - with an inadequate response, which is what I am hearing today?*

Ms WYLIE - *Yes.*

Mr WILLIE - *Just the young person? They don't look further than that?*

Ms ABERCROMBY - They are not entitled to and that is part of the difficulty. If it is the child that is offending, there could be a number of reasons for that. The home life can certainly be one of them -

...

Ms ABERCROMBY - ... The child is dealt with by Youth Justice with bail support in the interim, for example. But the home life, and I suspect it's a matter of under-funding in terms of child protection that the home life is not - if the child is clothed and fed to a certain extent.

Mr WILLIE - Or at a certain age.

Ms ABERCROMBY - Or at a certain age, where they can self-protect. They're not seen as - I'm not sure that I really understand the term 'self-protect, to be frank.

Ms WEBB[?] - Enough to run away.

Ms ABERCROMBY - Yes, that's exactly right, enough to remove themselves from a situation that is completely out of control is the base level.³⁵⁴

Committee Findings

- F69. Children and young people in youth justice detention have generally experienced chronic childhood trauma and disadvantage.
- F70. Despite youth crime rates falling in Tasmania and across Australia, a large and increasing number of Tasmanian children and young people are involved in the youth justice system.
- F71. Drug diversion programs and family violence services would assist in reducing intergenerational contact with the criminal justice system.

The use of evidence-based strategies to reduce youth contact with the justice system and recidivism

Five Key Ideas for Juvenile Justice Reform

At the public hearings, the Committee heard from Professor White on the five key ideas for juvenile justice reform:

Prof WHITE - ... The Human Rights Commission is also doing some work on juvenile justice reform and child protection and I rediscovered some old talking notes there. ... Basically, and I won't explain this in depth, it is five key ideas in relation to young people specifically -

CHAIR - But could that transfer to older -

³⁵⁴ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.9-10

Prof WHITE - In many cases, yes. So, there are five key ideas. They are all R words: Respect, Responsibility, Rapport, Responsiveness and Restorative ethos.

Respect refers to both self-respect and social respect; Responsibility is both individual responsibility but also societal responsibility to the individual; Rapport means let's talk to the kids and let's talk to the adult prisoners -

...

Prof WHITE - Build a rapport but there has been a lot more panic around juvenile crime especially in Queensland but also in Tasmania. ... Responsiveness, and perhaps there is some questioning you can ask me about some of that, but have stuff that kids and young people and adults will respond to. I am thinking of community spaces and I can give some examples where -

CHAIR - Like a skatepark or -

Prof WHITE - Even more than that. It is inclusive but it is not the word inclusive it is being responsive to where kids are at and working with that; and the final thing was the Restorative ethos which means it is not simply just conflict resolution. Restorative justice really talks about conflict resolution but I think what we can do is create a restorative ethos. In work that Rosie Martin and myself did a few years ago, we looked at Gagebrook Primary School and we were gobsmacked. At that time maybe five or six years ago, they had created a restorative ethos so that the whole school was built around the notion of respect: respect the place, respect yourself, respect the other. So, it was an ethos. It wasn't about conflict resolution. It was how do you carry yourself in your daily life.

So those are some of the general ideas, values and principles that I would see underpin in my mind an ideal system. We in Tassie have a small system relative to the rest of the country and it seems to me that we should be doing a lot more. We could be world leaders in a range of different areas.^{355 356}

Youth Justice Blueprint 2022-2032

In developing the Final Draft Youth Justice Blueprint 2022-2032,³⁵⁷ the Tasmanian Government Submission noted a number of important themes expressed by stakeholders that would have a positive impact in reducing youth contact with the justice system and the associated recidivism: prevention and early intervention; diversion and targeted intervention; and therapeutic service system.

The Committee noted that the final Youth Justice Blueprint 2024-2034; Keeping children and young people out of the youth justice system was released in December 2023.³⁵⁸ The Tasmanian Government handed the responsibility for aspects of the Youth Justice Blueprint to the Department of Premier and Cabinet (DPAC). This includes the delivery of a new youth justice facility to replace Ashley Youth Detention Centre and associated supported

³⁵⁵ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.43-44

³⁵⁶ See [Sub #30 – Professor Rob White – Five Key Ideas \(Tabled 21 June 2023\)](#)

³⁵⁷ See Final Draft Youth Justice Blueprint 2022-2023, https://publicdocumentcentre.education.tas.gov.au/library/Shared_per_cent20Documents/Youth-Justice-Blueprint.pdf [Accessed 13 November 2023]

³⁵⁸ See Youth Justice Blue Print 2024-2034, https://publicdocumentcentre.education.tas.gov.au/library/Shared_per_cent20Documents/Youth-Justice-Blueprint.pdf

accommodation and supported bail options.³⁵⁹ The Youth Justice Reform Taskforce (YJR Taskforce), established within DPAC is a multi-agency group delivering key elements of the Youth Justice Blueprint that require cross-agency collaboration. Their focus areas include:

- reducing the number of children and young people in youth detention: consider and plan for the service system requirements necessary to fulfil the Government's intent to raise the minimum age of detention to 16 years and increasing the age of criminal responsibility to 14 years by 2029.
- intervening early with children and young people in the youth justice system: implementing early intervention, prevention and diversion initiatives and programs in collaboration with the community services sector and guided by the Commission of Inquiry recommendations. This includes developing and implementing the Youth Justice Model of Care, a Diversionary Services Framework and an Aboriginal Youth Justice Strategy, and
- design and construct a new Tasmanian Youth Justice Facility: overseeing the construction of a new youth justice facility that is smaller and incorporates design features that reflect best practice international youth justice facilities. This includes detailed site planning, Aboriginal co-design and cultural safety, defining the scope of works and organising community consultation sessions.³⁶⁰

Current Status

In relation to the current status of the Youth Justice Blueprint 2022-2032, the Tasmanian Government submission noted the following:

In line with a public health approach, the Blueprint has a focus on prevention, early intervention, and diversion, through to services for repeat and high-risk offenders; changing the pathways for children and young people at risk of, or who are engaged in offending behaviours.

Over its ten-year lifespan the Blueprint's key objectives are to create a contemporary, integrated and therapeutic youth justice system that:

- *supports children, young people and families to prevent contact with the youth justice system.*
- *addresses offending behaviour by children and young people.*
- *addresses the overrepresentation of Aboriginal children and young people.*
- *keeps children and young people in youth justice facilities safe.*
- *supports children and young people to re-enter the community through prosocial pathways.*
- *improves community and staff safety.*

To achieve this, the Blueprint focuses on five key strategies to deliver a connected and responsive youth justice service system:

³⁵⁹ See 'Youth Justice Reform in Tasmania', Department for Education, Children and Young People, <https://www.decyp.tas.gov.au/safe-children/youth-justice-services/youth-justice-reform-in-tasmania/>

³⁶⁰ See 'Youth Justice', Department of Premier and Cabinet, <https://keepingchildrensafe.tas.gov.au/youth-justice/>

1. *Prioritise prevention and early intervention to reduce engagement with the youth justice system.*
2. *Ensure diversion from the justice system is early and lasting.*
3. *Establish a therapeutically based criminal justice response for children and young people.*
4. *Integrate and connect whole of government and community service systems.*
5. *Provide an appropriately trained and supported therapeutic workforce.*³⁶¹

At the public hearings, the Committee heard from Minister Jaensch in relation to future funding of the Youth Justice Blueprint:

Ms WEBB - ... in this Budget there is funding for custodial facilities and things, but there is not funding to implement the non-building parts of this Blueprint when we are expecting it to arrive within this financial year, how is progress on putting this Blueprint in place going to be funded?

Mr JAENSCH - You will recall, there was also a provision in the Budget for \$30 million to be allocated to a range of activities that respond to issues arising through the Commission of Inquiry.

Ms WEBB - Yes, but that is different to this Blueprint.

Mr JAENSCH - There are some overlaps in there.

Ms WEBB - Are you expecting some of that \$30 million to come into your portfolio area to fund the Blueprint?

Mr JAENSCH - To fund aspects of the Blueprint and aspects of the reform and the model, yes.

Ms WEBB - Will that be sufficient funding to begin implementation of the Blueprint in this financial year, the actions that are expected?

Mr JAENSCH - Given the amount of money involved and the types of things that can be spent on, and whilst the \$30 million is for the immediate needs in this financial year, there will definitely be resources there we can use this financial year to kick those activities -

Ms WEBB - Is that something that is going to be publicly available to us or to Parliament to scrutinise how that Blueprint is going to be funded, once the Blueprint is made public and then the allocation of some of that \$30 million is made?

Mr JAENSCH - What we will be doing is when the Commission of Inquiry's recommendations are known and we have imbedded any changes or made any updates to the Blueprint to reflect that, the next thing we will do is publish an action plan for an

³⁶¹ See Tasmanian Government ([Submission #27](#)), p.48

initial two-year period which will outline what actions we will take and how they will be resourced.

Ms WEBB - *Funding allocations against those actions going forward?*

Mr JAENSCH - *Yes, but they will be the actions we commit to delivering.*³⁶²

At the public hearings, Ms McLean (Commissioner for Children and Young People) was asked about her views on the youth justice reforms then currently underway:

Ms WEBB - *One more thing on the legislation side of it. We have the youth justice reforms underway in this State. I am not clear on whether reform of the act is part of the reform process. Is that an explicit undertaking as part of that process? If so, where is that up to?*

Ms McLEAN - *It is my understanding that it is, and that it has been committed as part of the reforms. Both the Youth Justice Act and the Children, Young Persons and Their Families Act are slated for review. The latter has begun.*

In a complex environment at the moment - including the public service preparing to receive the recommendations of the Commission of Inquiry - there is merit in understanding what those recommendations are, prior to proceeding with any review of either of those pieces of legislation. I think that we would probably see those reviews proceed later in 2024.

Ms WEBB - *You don't see it as a problematic mismatch if we are progressing a youth justice reform framework and designing a new system, without waiting until we look at reforming the act? Those things don't have to happen in concert?*

Ms McLEAN - *They should be happening in concert. We haven't seen a finalised blueprint from Government on what the youth justice reform agenda actually will be. The legislative implications for that are, as yet, unknown.*³⁶³

Prevention and Early Intervention

The Tasmanian Government Submission outlined the following:

Stakeholders identified the need for appropriate accommodation options for young people at risk of entering, or engaged with, the youth justice system from the early intervention stage through to supported accommodation options as part of transition from detention. A lack of suitable accommodation increases the risk of offending with young people often committing offences out of necessity, as a result of poverty or housing insecurity. Stakeholders indicated that often other needs cannot be addressed for families and young people until suitable housing security is found.

³⁶² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.68-69

³⁶³ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.62

Many stakeholders highlighted the need for mental health supports and drug and alcohol services, including inpatient facilities available to young people. It was noted that substance misuse is a key issue for young people who offend and that some young people are required to detox while remanded or detained.

Education was recognised as both a protective factor in prevention and early intervention and as a circuit breaker in diversion. Young people in the youth justice system often experience fragmented and problematic contact with the education system and disengagement from education is an early potential risk factor for future contact with the justice system.

Stakeholders indicated that there is a need for alternative education programs for young people who fall out of mainstream schooling and reported that there needs to be a range of flexible learning models to suit the needs of young people.

Stakeholders proposed that government, non-government and community workforces all needed to be skilled in meeting the needs of children, young people, families and carers across the service continuum of the public health model. They noted that the youth sector would benefit from upskilling in trauma-informed practice. It was suggested that there be greater availability of trauma-informed and therapeutic intervention training for professionals in the child safety, community conferencing, education, court, youth justice and police systems so they are better able to meet the needs of young people at risk of entering or in the youth justice system.

Several stakeholders highlighted the need for continuous and effective throughcare along the service continuum for the child and young person. Feedback noted that any future programs need to incorporate throughcare supports that model good case management, referral and collaboration across government and service providers to ensure young people and families experience continuity and services that meets their needs.

Stakeholders identified successful programs supporting at risk youth such as those that have been run in collaboration between DECYP and the Tasmanian Youth Crime prevention unit. This program, which has been running since 2018, ran at 10 Northern Schools including a collaboration between Prospect and Summerdale Primary. This program involved a police officer working closely with a staff member for these schools. Evidence of the success of this type of positive support programs can be seen in data collated around a trial program run in Northern Tasmania in 2018 in May to July. Ongoing data showed that 90 per cent of students involved in this program successfully transitioned to high school.³⁶⁴

At the public hearings Ms Kristen Wylie (Director, Tasmania Legal Aid) spoke to a number of factors relating to prevention and early intervention:

Much of the TLA submission focuses on children and youth. That is no coincidence given that children and young people are a focus in our current strategic plan, but also because you cannot look at adult imprisonment without considering youth offending, given the

³⁶⁴ See Tasmanian Government ([Submission #27](#)), p.45

number of children who are detained who go on to be imprisoned as adults. Any improvement in the early intervention and diversion of youth will have a flow-on effect in the adult prison population.

...

Of greater concern is that over half of Tasmania's young offenders are sentenced to new offences with detention within 12 months of release from custody. The high rate of recidivism indicates that detention is not having any positive long-term effects. This suggests that a focus on diverting children away from the justice system will not only positively impact children and young people, but will have a flow-on effect for adults. The Productivity Commission found that diverting children away from the youth justice system can avoid them becoming trapped in the judicial system into their adulthood. It helps lower reoffending rates, saves money and leads to better community outcomes.

...

Courts often look to a person's engagement with social services for evidence of rehabilitation or reduced future risk. Unless services are available to address the drivers of offending, rates of imprisonment are likely to increase. This is particularly the case on the north-west coast, where we hail from.

As noted by the Custodial Youth Justice Options Paper,³⁶⁵ Tasmania does not have the breadth or depth of prevention, early intervention and diversionary services required to address the complex needs of young people. Investment in these services can address the risk factors that lead to offending behaviour, which is a far more cost-effective approach to rehabilitating young people than detention.

...

TLA's Children First Report³⁶⁶ demonstrated that Tasmanian children with complex needs can become entrenched in the youth justice system, which compounds disadvantage. The risk is increased the earlier a child comes into contact with the youth justice system. Increasing the age of criminal responsibility to 14 would help decriminalise the social needs of the most disadvantaged children in Tasmania.³⁶⁷

At the public hearings, Ms Meg Tait (Policy Officer, TasCOSS) highlighted the need to strengthen community engagement and pro-social supports as a means to minimise young people from entering the criminal justice system in the future:

Ms TAIT - ... *Firstly, we believe and we think there is very strong evidence that there is a need to strengthen community engagement and pro-social supports - not just for people who are at risk of engagement in the criminal justice system, but more broadly.*

Obviously, Tasmanians are already engaging with each other in a wide variety of activities. There is a number of organisations, such as sporting organisations and faith-based organisations, that present really fantastic opportunities for increased engagement. We believe that the evidence is clear that early engagement really is the

³⁶⁵ See 'Custodial Youth Justice Options Paper: Report for the Tasmanian Government', Department of Health and Human Services. Noetic Solutions Pty Ltd (October 2016), [https://publicdocumentcentre.education.tas.gov.au/library/Shared per cent20Documents/99010-Custodial-Youth-Justice-Options-Paper-October-2016-Report-for-the-Tasmanian-Government.pdf](https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/99010-Custodial-Youth-Justice-Options-Paper-October-2016-Report-for-the-Tasmanian-Government.pdf) [Accessed 5 March 2025]

³⁶⁶ See [Sub #33 – Tasmania Legal Aid – Children First Infographic \(Table 4 July 2023\)](#) and [Sub #33 – Tasmania Legal Aid – Children First Report \(Tabled 4 July 2023\)](#)

³⁶⁷ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.1-4

answer. Programs that work include parenting support programs, strengthening the services that present us with unique opportunities to address underlying issues and also reduce involvement in the criminal justice system. For example, education is an area that I know several members are familiar with. It is a fantastic opportunity, but our teachers are already struggling with the very high workload they have. How can we strengthen our schools and other education centres to make sure that teachers and the children and families who are engaging with those institutions are afforded every opportunity to be engaging in support and receiving treatment if needed?

Interestingly, I know that there have been recommendations from Tasmanian-based organisations for programs such as the school-based lawyer program to be implemented here in Tasmania. That is a program run by a community legal service in Victoria in which a lawyer is embedded within the school. They not only provide legal support to students and staff, but also raise awareness about issues that are likely to lead to young people's involvement in the criminal justice system. They also create smoother referral pathways for children and families who might be identified at a very early stage as needing further support, both within the legal system and the social system.

CHAIR - *Are there any negatives? For example, 'I've already got somebody in my corner, so if I act up or mess up, I'm okay'. Do you see any negative with that?*

Ms TAIT - *Do you mean behavioural issues?*

CHAIR - *Having a lawyer based in schools.*

Ms TAIT - *The role is not as an advocate for students. It is seen as a separate, supplementary service. The lawyer isn't engaged to act as an advocate for each of the individual children. It is more a program designed to provide referral pathways in education in a more general sense.*

...

Ms TAIT - *It is similar to Health Justice Partnerships, where having co-located services increases understanding and awareness of issues that might be presenting - something like financial disadvantage, for instance. It might give children an opportunity to disclose something in a legal education session that might result in a referral to a financial counselling service for that child's family, for example.*

Mr VALENTINE - *To clarify that, are you talking about a high school environment here or primary?*

Ms TAIT - *The model in Victoria is a high school program. It is a high school in the western suburbs of Melbourne that was identified as a high-need area. ... There has been an evaluation of that program, it is my understanding, and with positive findings.*

...

Ms TAIT - *... I'm sure the Committee has also heard about the desperate need in Tasmania for comprehensive alcohol and other drugs (AOD) supports for children and young people. That is a need that has been identified by many community organisations and that the Government has also identified in the recent Tasmanian Drug Strategy. It is something we believe could make a real difference to Tasmanian children and their*

families. In our submission, children should not be ending up in the criminal justice system because they have not been able to access the support that they need to deal with substance abuse issues in the community.

CHAIR - Does that include alcohol?

Ms TAIT - Yes, I think that would include alcohol: and possibly also consideration of conditions such as foetal alcohol spectrum disorder (FASD). That has been recognised in other jurisdictions as a key driver for children and young persons in prison in jurisdictions like Western Australia, where levels of FASD are extremely high. That is a cohort of children that has been recognised by the Western Australia Government as a priority cohort for their Youth Justice Blueprint.

CHAIR - Do we have any numbers in Tasmania for that?

Ms TAIT - I am not aware of that. The difficulty with FASD is that it is a condition that has been diagnosed or recognised relatively recently, so I am not sure.

The other idea that we wanted to highlight in this section is the idea of hub-style supports and how effective those can be. For example, in Melbourne there is a service run by Our Front Yard, which is a youth service. It is a drop-in centre, it is not staffed 24 hours, but it has significantly extended open hours. I think it might be open until 10:00 pm. It is a location where children and young people aged up to 25 can access a safe bed to sleep if they've been kicked out of home or they are not feeling safe where they are living. They can access a meal. During work hours they can be referred to support services including government services such as Centrelink. There is a co-located mental health service and health service. There is a legal service. These are supports especially useful for children and young people who may struggle for various reasons to access more traditional supports. We think a hub style model could be a great way of increasing community engagement in those kinds of support services, not just for those who are at risk of criminal justice involvement, but to increase community engagement more broadly.

CHAIR - Even given that Tasmania is such a decentralised state and we have really poor public transport options, do you still see that model fitting for Tasmania?

...

Ms TAIT - It seems to me that people in Tasmania - certain parts of Tasmania in particular - have a very strong sense of regional identity. A regional-based hub service might actually speak to that need more than the services currently offered, which I would note are centralised anyway. We have centralised court services: it is not like we are presenting an alternative that is any different to what is on offer in that way.³⁶⁸

The Committee noted that the submission from Mr Kim Smith APM highlighted a number of positive youth outreach initiatives that were established by the Hobart Police and Community Youth Club (PCYC) in the late 1990s (supported by the Rotary Club of Sullivans Cove) that had an impact on reducing youth crime in the Hobart and Glenorchy areas. Of note, Mr Smith wrote to the basic principles to gain the trust, support and cooperation of those in need:

³⁶⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.44-46

- *There is an old saying, - You can lead a horse to water, but you can't make it drink, but you can make it thirsty – we found out what they were thirsty for – what they wanted to do – what got their interest, and once that was ascertained, then motivation wasn't an issue.*
- *Give them ownership – We gave them a leadership role, involved them in meetings, setting the ground rules, getting quotes for equipment, and a whole host of other.*
- *Get in step with them – We had a genuine interest – so we took a walk in their shoes to help us understand where they had come from and why they were hanging around with nothing to do, why they ended up in fights, why they ended up with substance abuse issues, what their background was.*
- *Give them more than they bargained for – In addition to playing football or other sporting activities, we provided much more, i.e., a BBQ, a Football Champion to meet and talk to, playing on Hobart's premier ground, new sporting gear, providing 'in situ' counselling and support, being part of a team, contributing to the team, getting healthy exercise, and getting a feeling of value.*
- *Suggest – don't shove - many of the young people we dealt with had been the victims of abuse, neglect, put downs and didn't need some coach or youth worker or Police Officer shouting and screaming at them as well.³⁶⁹*

Ms Tait also informed the Committee about a Hawaii Government initiative that resulted in fewer young girls being detained for criminal offences:

Ms TAIT - ... Finally, I might turn to changes to the prison system, which is our fourth opportunity. There are ways that we can make our existing prison system more therapeutic, safer and more effective. I know you have already heard from the Justice Reform Initiative in relation to some of these approaches but we wanted to address the Committee specifically on an initiative that has come from Hawaii. I am not sure if the Committee is aware of this, but up until a few years ago, there was a significant youth crime problem in Hawaii, particularly with young girls. One of the offences that was leading to a lot of girls being locked up was the offence of truancy - girls running away from family environments or out-of-home care environments that were not sexually safe for them, in a majority of cases.

The Hawaiian Government committed to reviewing the charging practices for children in Hawaii. That resulted in such a significant decrease in the prison population that they were able to transform the facilities that they had for children - the detention facilities - into a co-located school, vocational educational training facility and halfway house - a type of shelter for children experiencing homelessness. Most shockingly, they removed all locks from the doors and transformed it from a maximum-security centre to a centre where children could come and leave as they pleased. Despite some initial cynicism that it wouldn't work, it has been incredibly effective.

Most children, even when it was not compulsory to be engaging with the services, were engaging with the services because they were services that they needed - principally, a safe place to sleep and food on the table, which, unfortunately, as we know, in Tasmania so many of our young people do not have.

³⁶⁹ See in general: [Kim Smith APM \(Submission #21\)](#)

This is an example of a way. As with my last report I read in 2022, there were no girls in prison in Hawaii and the youth crime rate had reduced significantly. With the closure of Ashley, we say there is such an opportunity to transform these facilities into something that is going to be useful, to make sure that Tasmanian kids get the support they need, somewhere safe to sleep.

CHAIR - *How useful, though, would a centre like Ashley, where it is located, be for the youth of Tasmania who are looking for that safe place? Because it is in the middle of farmland and I don't think the bus stops there.*

Ms TAIT - *That is an issue and, again, with the new facilities being proposed, it is a real opportunity though -*

CHAIR - *Those facilities become those places - is that your idea? The new facilities become those places.*

Ms TAIT - *Yes, the new facilities could become those places. And looking to other jurisdictions in Spain, for example, youth offending is not totally decriminalised, but all prisons are essentially education facilities. There are so many models we could look to for different approaches to how we can reshape our youth justice system and make sure they are actually being used for the purposes they are intended for.³⁷⁰*

Committee Findings

- F72. In Tasmania there are some prevention and early intervention services in place to support disengaged young people.
- F73. Evidence suggests coordinated wrap-around services (e.g., accommodation, education, health and mental health, and alcohol and drug) support disengaged young people to minimise contact with the youth justice system.

Committee Recommendations

- R35. Increase investment in coordinated wrap-around services to support disengaged young people to minimise contact with the youth justice system.

Bail Support and Unsented Children in Detention

The Tasmanian Government Submission outlined the following:

Stakeholders cited evidence demonstrating the effectiveness of intervention and diversionary programs at reducing recidivism and preventing long-term involvement with the criminal justice system. Diversion was strongly supported, to be used whenever appropriate, to redirect as many young people as possible away from the criminal justice system, as well as diverting young people who were already in the formal criminal justice

³⁷⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.51-52

system. Many ideas for intervention options and diversionary programs were provided. Stakeholders advocated for increasing the number of intervention options and diversionary programs throughout the State.

A number of responses touched on the topic of bail. Stakeholders noted that there should always be a presumption in favour of bail in respect of a young person charged with any criminal offence and indicated that this should be considered in legislation. It was noted that denial of bail increases the likelihood of incarceration and is a major contributing factor in causing children to become further entrenched in the criminal justice system. Remand was only viewed as appropriate when the young person posed a genuine risk to the community. Many stakeholders noted that young people in Tasmania are often refused bail because of accommodation issues that are outside their control, including family breakdown, being under the care of child safety and without effective supervision, or because of mental health or drug problems. Stakeholders noted that more appropriate bail support programs are required to ensure that youth have appropriate accommodation, access to transportation and to other services that provide the best opportunity to both meet bail requirements and be eligible for bail instead of being held in detention whilst on remand.

Stakeholders indicated that bail conditions should be focused primarily on the welfare and rehabilitation of the young person and should not overwhelm a young person or set them up to fail, while still providing structure to a young person's life. Further they should also take account of cultural factors and be able to be reasonably met by Aboriginal and Torres Strait Islander people.³⁷¹

At the public hearings Ms Wylie and Ms Kirsten Abercromby (Acting Associate Director, Crime – Tasmania Legal Aid) spoke about bail support for youth:

Ms ARMITAGE - You were talking about Ashley and children in detention on remand and I have noted the comments you made in your submission. You talk about diversionary programs and multidisciplinary. Have you got any suggestions about what to do or what would your thoughts be if - you are saying the kids on remand that may not have been sentenced yet - they have stolen a car, burnt a car, done a lot of things like that? To the person victimised that is pretty traumatic.

...

Ms WYLIE - Touching back on the idea of the intensive bail support program -

Ms ARMITAGE - As in, how would that work?

Ms WYLIE - A young person who has been arrested for committing an offence can be bailed in these circumstances if there is an intensive bail support program, [with someone] who assesses the drivers for that young person's offending. The bail support officer will assist them in obtaining housing options, or would link them up with drug or alcohol rehabilitation options, if need be, or if it is a mental health or a cognitive driver, link them in to the mental health system - ³⁷²

³⁷¹ See Tasmanian Government ([Submission #27](#)), p.46

³⁷² See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.5

Ms Wylie also discussed child-specific bail laws:

... the introduction of child-specific bail laws [inaudible] sentencing tools as possible. The greater the sentencing options, the more a sentence can be tailored to the unique circumstances of the person. This will keep some out of prison and better promote rehabilitative sentencing options.

...

It is critical that diversionary programs are available in rural and regional areas of Tasmania like the north-west coast. Universal programs should be developed to avoid this postcode injustice.

There is a real need for multidisciplinary responses for both children and adults, by addressing social and health needs alongside legal needs. When you do this, you see wholesale improvement. By addressing the social or health need, you lessen the drivers for offending as well as the need for more punitive responses.

Tasmania would be well served by increasing funding into services that target key risk areas that lead to childhood offending. These areas include mental health services, drug rehabilitation, education, child protection, sexual rehabilitation, and education and housing.³⁷³

At the public hearings Ms Wylie also discussed diverting unsentenced adults and children away from prison:

The first proposition is that detention has a criminogenic effect and leads to further imprisonment. There is real scope to change this trajectory for young people by diverting them away from the youth justice system.

Diverting unsentenced - and I want to emphasise 'unsentenced' - adults and children away from prison will prevent time on remand having a criminogenic effect.³⁷⁴

Ms Wylie raised that many adult prisoners and children in detention are unsentenced:

More than a third of adult prisoners in custody are unsentenced. Even worse, approximately two-thirds of children in detention in Tasmania are unsentenced. I saw that for myself personally when I visited the Ashley Youth Detention Centre about a month ago. On that day there were only three children who had been sentenced, the rest were on remand.

Overwhelmingly, when their case is finalised, children are not sentenced to a period of detention, with only 8 per cent of Tasmania's supervised sentences involving detention. All those children are there being punished when ultimately it didn't warrant them having a custodial sentence. The increasing and high rate of unsentenced prisoners will only contribute to an increasing prison population, where unsentenced prisoners, like these

³⁷³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.2-3

³⁷⁴ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.2

children, are later found not guilty, have their charges dismissed or do not receive a term of imprisonment. Diverting unsentenced adults and children away from prison will again prevent time on remand having a criminogenic effect.

...

Court backlogs and systemic delays contribute to an increase in the number of unsentenced prisoners because of the time it can take to reach their case. For children and young people, a lack of adequate support services for children in crisis, and in particular a lack of supported accommodation, means that some children are detained not because the offence they are charged with would warrant detention, but because they are homeless. That is really sobering.

While two-thirds of children in custody are on remand and unsentenced, the number of children ultimately sentenced to a term of detention is very low, as I've pointed out before. The more likely scenario is that a child will be remanded in custody awaiting the outcome of their case, with factors such as homelessness often contributing to this detention.

... a lack of social supports and multidisciplinary responses can make bail options difficult and non-custodial sentences more difficult to justify.

...

Children in this State are often refused bail because of problems with accommodation that are outside their control. This can include situations where a child is homeless because of family breakdown, or is under the care of Child Safety but without effective supervision, or because that child has mental health issues or drug problems.³⁷⁵

The Committee noted that in the Youth Justice Blueprint, the Tasmanian Government stated the following with respect to youth detainees without accommodation:

All other states and territories have some form of state-wide bail assistance program, the key components of which include an after-hours support service, bail supervision and accommodation support.

Bail support programs that assist children and young people charged with committing a crime to remain in the community in appropriate accommodation are critical to ensuring that they are not detained unless absolutely necessary. Consultation with stakeholders also suggested that bail support must include more than simply accommodation, with strong support for a supported accommodation model which could include therapeutic staffing and day programs linked to education, health and wellbeing.³⁷⁶

Stakeholders noted that more appropriate bail support programs are required to ensure that youth have appropriate accommodation, access to transportation and to other services that provide the best opportunity to both meet bail requirements and be eligible for bail instead of being held in detention whilst on remand.³⁷⁷

³⁷⁵ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.2-4

³⁷⁶ See Youth Justice Blue Print 2024-2034, p.36

³⁷⁷ See [Tasmanian Government \(Submission #27\)](#), p.46

At the public hearings Ms Wylie stated that lack of accommodation should not be a basis for remanding someone in custody:

The next touchpoint is bail. The introduction of child-specific bail laws and principles and a bail support program would help divert many children and young people away from the prison system. Given the numbers in Ashley that are simply on remand, this is really urgently needed. Tasmania doesn't have specific bail laws for children: rather, the same law that applies to adults is used for children with some modifications.

Tasmania should have child-specific bail laws and practices, including a legislative presumption in favour of bail for children. Bail should not be refused solely on the basis of lack of suitable accommodation. I cannot understate this point today. Lack of accommodation should not be a basis for remanding someone in custody. Finally, bail conditions should be no more onerous than are necessary and do not in themselves punish a child.³⁷⁸

Committee Findings

- F74. Approximately two-thirds of children and young people in detention in Tasmania are unsentenced.
- F75. It was noted that young people in Tasmania are often refused bail because of accommodation issues that are outside their control.
- F76. All other jurisdictions have a bail support program for children and young people.

Committee Recommendations

- R36. Establish a bail support program for Tasmanian children and young people.

Young Aboriginal People and the Justice System

At the public hearings the Committee heard from Ms Maynard (TAC) in relation to the lungtalanana Clarke Island alternative diversion program for Aboriginal youth:

CHAIR - *It's not operating though, is it, the program?*

Ms MAYNARD - *No.*

Mr VALENTINE - *But what caused that all to fall apart? Obviously, funding was an issue, but was it the type of service that was being provided, was it successful or otherwise? Can you just expand on that and whether that is something that could be reinvigorated?*

Ms MAYNARD - *We hope you could give us the answer because the Government just made a decision not to fund it. We were really successful at keeping young people or kids*

³⁷⁸ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.4

out of Ashley Youth Detention Centre. Some of the things that we do - are you all familiar with lungtalanana, the alternative diversion program that we ran?

CHAIR - *No, that is why I am asking the question so we can get it on the record.*

Ms MAYNARD - *We ran a really successful program where we did not want kids locked up and we want take them to lungtalanana. We would give a lot of kids connection to culture, history, language and family, because there were a lot of relationship breakdowns. We would have family come together and reconnect with the young people on the island. We would also give those young people life skills, access to psychologists, access to medical care and access to mentors. Funny enough, but unfortunately, some of the conversations that I have with Aboriginal people who are adults in Risdon Prison today say that some of the best times that they have ever had growing up is being on lungtalanana.*

...

CHAIR - *It was definitely just funding that was the reason why that program ceased?*

Ms MAYNARD - *Absolutely, yes and it was not from our part, I might add.*

Mr VALENTINE - *Do you know what the Government was expecting in terms of data, if you like, coming out of that program? Was that an issue, that they did not have the data to be able to assess whether it was successful or not? Do you have any understanding there?*

Ms MAYNARD - *I do not think I could personally answer that specific question, but going back at that time and not being specifically involved in that program, my understanding is that we ran a really successful program at keeping Aboriginal youth out of Ashley. I do not believe that the numbers of Aboriginal kids in Ashley were significant enough for the Government to continue to fund Aboriginal kids.³⁷⁹*

In relation to the TAC Lungtalanana Program, the Committee noted the following information is publicly available on the Tasmanian Department of Health's website:

11. What were the comparative costs of running the local Tasmanian Aboriginal Centre's Lungtalanana Program for Indigenous youth serving detention sentences which housed them on Furneaux Islands?

The Lungtalanana program is not comparable to the Brahminy program. The contract for Lungtalanana was for a culturally based program for Aboriginal young people in the youth justice system that aimed to rehabilitate and reinforce the role of communities in supporting and rehabilitating youth through traditional activities, whereas Brahminy is a therapeutic program for children and young people on care and protection orders that includes education, trauma and grief counselling and assists in behaviour modification.

³⁷⁹ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.60

In 2010, the annual funding for the Lungtalanana program at the Furneaux Islands was approximately \$155,000 (excluding GST). One young person attended for part of this year.

In 2011, the annual funding for the Lungtalanana program at the Furneaux Islands was approximately \$155,000 (excluding GST). One young person attended for part of this year.

From 2012 to 2015, [G]overnment has expended approximately \$160,000 per annum (excluding GST) to hold places in the Lungtalanana program at the Furneaux Islands. Although one young person was referred to the program, they were deemed ineligible by the provider. As a result, no young person attended during the period.³⁸⁰

At the public hearings, the Committee heard from Minister Jaensch in relation to Aboriginal detainees at AYDC:

Mr VALENTINE - *Given the level of incarceration of Aboriginal people through our system per se, what culturally aware steps, what therapeutic and restorative justice approach do you take at Ashley? I am looking at the publication called Keeping Kids Safe that is mentioned on page 51, under 4.2 of the submission, Keeping Kids Safe: A plan for Ashley Youth Detention Centre until its Intended Closure. Looking through that, I do not see any mention of anything to do with cultural awareness and the way you deal with Aboriginal children that come into the care of Ashley ...*

Would you be able to point us to how you deal with those children and what approaches are taken when you learn, or the system learns, that this child is indeed Indigenous or Aboriginal?

Mr JAENSCH - ... *We know there is an over-representation of Aboriginal young people in the population we see coming through Ashley. Aboriginal young people are around five times as likely as non-Aboriginal young people to be under youth justice supervision generally.*

...

Mr JAENSCH - ... *Interestingly, and just for context, I understand Tasmania has the lowest rate of all jurisdictions for Indigenous young people in detention, and also in community-based youth justice supervision. That level of representation is far too high -*

Mr VALENTINE - *Is that the lowest per head of population?*

Mr JAENSCH - *Yes, per 10,000, of any jurisdiction. Now, that does not matter to the individuals who are in there, and we don't resile from the need to be Closing the Gap and bringing our numbers down. Certainly, in the Blueprint there is extensive reference to work that needs to be done in the prevention, early intervention and diversion areas. There are relationships, and have been in the past, with Aboriginal community-controlled organisations to do this work.*

³⁸⁰ See Right to Information Decision – Public Disclosure Log Right to Information No.: RTI201617-020, https://health.tas.gov.au/_data/assets/pdf_file/0009/226827/RTI201617-020_-_Online.pdf [Accessed 9 November 2023]

Mr VALENTINE - *How actively is that being progressed?*

Mr JAENSCH - *As I am advised, there are two funded programs at this stage working with Aboriginal and Torres Strait Islander young people and their connection to community and culture is a case management goal. There has been work with the Karadi organisation in the south. We are also, on another front, working with the Tasmanian Aboriginal Legal Service on some assisted bail programs. They are typically focusing at the moment on adult corrections as I understand it, rather than youth, and we have an ongoing relationship with the Tasmanian Aboriginal Centre in these areas. Their focus at the moment is primarily on child safety-related matters but in the past there have been programs that have worked in that diversion for young offenders as well. These are the sorts of things that we are going to need to open up more as we look further upstream to where our young offenders come from and what we can do to ensure that they don't get to meet the youth justice system at all.*

Mr VALENTINE - *If a youth or child was to go into Ashley today who identifies as Aboriginal and you find that out right from the word go, what steps do you take to ensure that therapeutic approach and to do your best to try to make sure that that child does not continue on their life of crime, I suppose? Yes, every other child is in exactly the same boat in that sense, I understand that, but these are culturally aware circumstances I am asking for.*

Mr JAENSCH - *... We do have and have had visiting programs where Aboriginal workers come into the environment and work with young people in Ashley in their case management and also in their exit planning...*

Ms BURGESS - *I was informed this morning that at the moment, the process is when a young person comes in to the youth detention centre, we inform the TAC of that entry and they have a youth worker that comes and visits periodically to support in that process.*

Mr VALENTINE - *Is it only that TAC involvement that is over and above services that you provide at Ashley or are there other services within Ashley itself that provide for Aboriginal youth?*

Ms BURGESS - *At this point in time, that is the extent of it. ...*

Mr JAENSCH - *Karadi³⁸¹ is the other organisation I understand that at the moment doesn't have a youth worker in this space but has previously, and so we would be looking to future engagement with them as well.*

Mr VALENTINE - *You would hope to beef that up because, quite clearly, if we've got an over-representation of Aboriginal people in the adult system, they start somewhere and quite clearly with that youth detention system that we've got at the moment, you would think it is a very important aspect.*

³⁸¹ See in general Karadi Aboriginal Corporation Tasmania, <http://www.karadi.org.au/programs/> [Accessed 14 November 2023]

Mr JAENSCH - We need also to have a variety of providers because people from different parts of the State and different community organisation backgrounds might relate better to different organisations providing those supports and which also provide support for them as they move out of youth justice and back into their community, so continuity there is important.

Mr VALENTINE - What can you give us in terms of evidence, if you like, that you may already have in train that these sorts of circumstances are going to get special treatment going forward?

Mr JAENSCH - I would point you to the matters that have been raised in the Blueprint, which is our most up-to-date strategic plan, if you like, for where we are going next and what you will see more of in our youth justice reforms that we roll out.

Mr VALENTINE - So, it is a job of work to do rather than something being in place at the moment?

Mr JAENSCH - There are arrangements in place at the moment, but this is an area, we acknowledge, where more work needs to be done, in particular ... on this, we do recognise, as we have discussed in the context of our Closing the Gap work, that building the capacity of Aboriginal community-controlled organisations to provide these services to their people is critical, rather than it being a dedicated service that is within our youth justice system only. We need it to be able to follow them outside...³⁸²

At the public hearings, Ms McLean (Commissioner for Children and Young People) spoke to the Committee about Aboriginal youth detainees:

Mr VALENTINE - In your opening acknowledgement of country, you said 'I recognise that Aboriginal people are best placed to determine and deliver services to meet the needs of their children'. I am certainly well aware of the percentage of children that are of Aboriginal descent that are currently being held at Ashley ... Have you had much interaction with the Aboriginal community, in terms of either gauging what services they might be able to provide and exactly how they ought to be treated differently to what might be the case today? Are you able to expand on that?

Ms McLEAN - ... My advice to Government on raising the minimum age focuses on three core principles. The first is that it should be child-centred, which stands on its own. The second is that it should be culturally sensitive, and that underlies my firm view that Aboriginal people are best placed to make decisions around what is in the best interests of Aboriginal children in their community. That is my way of describing what I think the State Government has agreed to in the principles of self-determination that are underpinning the Closing the Gap agreements. What I am saying is that we need to get on with that, by providing that kind of opportunity to Aboriginal organisations to be able to come up with alternative solutions for their children and support them in their communities.

³⁸² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.73-75

Mr VALENTINE - So, is it fair to say at this point in time that area has not really been fully explored in terms of the types of programs that could be offered by that community for their children?

Ms McLEAN - It is beginning to be further explored and I would encourage you to seek advice from Aboriginal organisations on exactly what that looks like: but the Closing the Gap implementation plan has afforded a mechanism to build capacity for Aboriginal organisations to explore that space further. We can learn a lot from palawa people and the way they already are working in their communities.

*The third principle in my advice is that when we consider appropriate supports for children, we should do it within the ecological model of childhood development - which is that a child exists as a person in their own right but within a family and within a community, within a society. As policy makers, we often think about interventions for children, targeting the child alone. They are usually quite unhelpful, because a child exists within a family within a community within a society. If we need examples of where that is done well, we can look to the palawa community because they do it naturally. It is exactly what they do all the time.*³⁸³

...

CHAIR - Commissioner, when you talked about the Indigenous community being best placed to provide for their young people and their needs, does that not already happen now they have the opportunity to find somewhere safe for those Indigenous members of their community? Is that not something they are able to do at this point in time to the extent of what is needed?

Ms McLEAN - I think in some cases yes, and I do not want to speak for the Tasmanian Aboriginal community, I am not an Aboriginal person. There are instances where young people are in detention and the very strong view of the Aboriginal community is they should not be there, they should be with their own, with their community, and their behaviour should be being supported to turn around within the realms of their own community.³⁸⁴

The Committee noted that the Youth Justice Blueprint 2024 – 2034 contained the following Government commitment in respect to reducing the over-representation of Aboriginal children and young people in the youth justice system:

The Tasmanian Government has accepted the Commission of Inquiry recommendation to develop an Aboriginal youth justice strategy underpinned by self-determination and with a focus on prevention, early intervention and diversion strategies for Aboriginal children and young people. The Strategy will consider and address legislative reform to enable recognised Aboriginal organisations to design, administer and supervise elements of the youth justice system for Aboriginal children and young people. Development and implementation of the strategy will require capacity building and funding for recognised Aboriginal organisations to participate in youth justice decision making and to deliver youth justice services to Aboriginal children and young people. The need for increased

³⁸³ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.62-63

³⁸⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.64

measures to ensure cultural safety for Aboriginal children and young people in youth justice facilities was also highlighted.

...

We recognise that Aboriginal organisations are best placed to ensure there are appropriate responses to address the over-representation of Aboriginal young people in the youth justice system in Tasmania. We will actively partner with these organisations to provide culturally appropriate supports and services for their children and young people at risk of offending or re-offending.

*The Blueprint is consistent with the principles of the National Agreement on Closing the Gap 2020 which outlines priority reforms for the Tasmanian Government ...*³⁸⁵

At the public hearings, the Committee heard from Ms Maynard (TAC) in relation to their views on Aboriginal youth in the justice system:

Mr WILLIE - *I am interested in the data around Aboriginal children in the youth justice facility at Ashley and the data not being very robust. The same department now runs schools and Ashley they'd have information on Aboriginal children from the schools they come from. I am interested in what the block is there.*

...

Ms MAYNARD - *We don't have an answer because there is no reliable data. I guess, touching base on child protection, we know there is an issue with Aboriginal people going through that process. We know there is a higher rate of Aboriginal people, unfortunately, in out-of-home care. Do we know the specific data around that? No, because there is no accurate information. From the high demand that we receive at the Tasmanian Aboriginal Centre, when we have got child protection services getting in contact with us, wanting us to do their work for them, yes, we know there is a high rate.*

Mr WILLIE - *A disproportionate number, yes. I am interested in your interaction with Ashley as a facility, too. It sounds like there is no funding, but do you do similar things to what you are doing at Risdon Prison?*

Ms MAYNARD - *Off the side of our desk we have workers who have regular contact with Aboriginal youth - I should say Aboriginal kids, that is what they are - at Ashley Youth Detention Centre. We will do the best support and the best work that we can. I should touch base that it is not just the kids either, it is the kids' families. As a community, we can have one kid in Ashley Youth Detention Centre and they could have three or four siblings. We are supporting those three and four siblings and making sure that they do not go into Ashley Youth Detention Centre as well as their whole entire family, with mum and dad, with parenting programs ensuring that they get the support and the needs that they require as well. That could come to housing issues or education issues.*

I am thinking of Launceston, for example. We have a successful after-school program where we get a lot of Aboriginal youth together: we have a boys' and a girls' group and a joint group. We get kids together learning more about their culture and history and

³⁸⁵ See Youth Justice Blue Print 2024-2034, p.8

celebrating palawa kani, Aboriginal achievements and ensuring that kids are connected to their community and ensuring that we can keep kids in schools.

Mr WILLIE - *Schools is a big one. We were talking about that with an earlier witness seeing increases in non-attendance and suspension rates. Is that a concern? We have also got historically high numbers at Ashley as well.*

Ms MAYNARD - *It is a major concern. Some of the work that the Tasmanian Aboriginal Centre does, like our families and youth programs, we have a mentor program where we have young kids who we are trying to keep in school and re-engage with school. We have plans to try to ensure that we have kids you know having access to education and seeing what a lot of the barriers are and getting kids back into school, but we do see a high proportion of kids being suspended. I guess some of the programs that we support families in our communities with could be - there is a waiting list, for example, to see a paediatrician in this State. We are lucky that we have a visiting paediatrician as a part of our program and our plans is putting a plan with a whole family and seeing what their needs are. If there is a young kid that needs to see a paediatrician, we will elevate that and we will obviously look at getting kids back into school and having individual mentors and seeing what the barriers are.*

*We have got kids with different learning - we all learn in different ways, so trying to harness our kids' learning styles and supporting our kids with their individual goals and needs and families.*³⁸⁶

Ms Wylie discussed the over-representation of Aboriginal children in Tasmania's youth justice system:

Finally, in NAIDOC Week, a reflection on the Aboriginal prison population, which is growing twice as fast as the general prison population. In our view, this calls for a specific inquiry into the drivers of this phenomenon so it can be addressed. Aboriginal children in Tasmania are significantly over-represented in the youth justice system. Despite making up 10 per cent of the population, they account for 57 per cent of children in detention over the last five years and are incarcerated at about five times the rate of non-Aboriginal children.

*Almost half of Aboriginal children who are under 14 when first charged with a criminal offence were also in the child protection system. Raising the age of criminal responsibility will provide the opportunity to address the intergenerational disadvantage inflicted on Aboriginal people and children.*³⁸⁷

³⁸⁶ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.57-58

³⁸⁷ See Transcript of Evidence [Public Hearings - 4 July 2023](#), p.1-5

Committee Findings

- F77. Aboriginal children are over-represented in Tasmania's youth justice system.
- F78. There are limited targeted intervention and diversion programs for Tasmanian Aboriginal children and young people in the youth justice system.
- F79. As recommended by the Commission of Inquiry, the Youth Justice Blueprint 2024-2034 outlines significant work to be done in prevention, early intervention and diversion for Tasmanian Aboriginal children and young people, through programs designed and delivered by Aboriginal community-controlled organisations.

Therapeutic Approaches to Youth Justice System

The Tasmanian Government Submission outlined the following:

Stakeholders identified that effective throughcare support should be available to assist all young people transitioning into and from detention and throughcare should be incorporated into the development and implementation of a therapeutic, trauma informed model of care for detention. To enable throughcare to occur, it was suggested that service providers be granted greater access to detention centres during a young person's period of detention to provide continuity of service provision or to build trust and planning for sustainability as early as possible where the young person is exiting detention.

Stakeholders highlighted that strong referral pathways to specialist service providers should be streamlined and made a priority for all young people in detention who need them, when they need them. These should include step-up and step-down throughcare supports in collaboration with community organisations.

Stakeholders also proposed that intensive support through comprehensive case management and coordination across community and custodial youth justice services and other, government and non-government service providers was important for young people transitioning in and out of detention, putting the young person and their needs at the centre of the system.

Stakeholders also identified that young people would benefit from offence specific programs for youth, noting that their needs and approach needs to be different from those delivered to adults.

There was agreement across stakeholders that custodial facilities should be built for purpose and provide the supports based on personal needs and abilities including education, physical and mental health care, and that young people be free to communicate with others who are important to their wellbeing and treated in a way that recognises their dignity. Young people need to be supported to maintain family relationships and links to the community through personal and professional visits and there needs to be additional investment by staff to establish rapport and trust with individuals as well as identifying appropriate complementary wrap around services.

Feedback from stakeholders indicated that the new custodial centre must be designed with substantial input by Aboriginal communities including how they look, the programs and the outcomes they are seeking to achieve.

Stakeholders also recommended that in accordance with the findings of the Royal Commission, the facilities also need to be Child Safe and reflect implementation of child safe standards.

Stakeholders noted that the physical environment of a custodial centre is a significant factor in facilitating relationships between staff and young people and providing a space for rehabilitation. Key features proposed as best practice facility design included:

- *small scale facilities, located in the local community;*
- *close to the young person's home and family;*
- *non-prison like with security features limited and invisible where possible;*
- *homelike interior and young people have their own clothes and belongings;*
- *have the capacity for a range of adaptable and relational security levels; and*
- *therapeutic and support young people to feel safe, secure and calm.*

Stakeholders also proposed therapeutic models for custodial settings and a common theme was the relational approach to treatment and security based on building relationships between staff and young people. In particular, the Missouri and Diagrama models were cited as internationally regarded models.

To support these models and ensure a therapeutic approach, stakeholders highlighted the importance of ongoing workforce capacity development, requiring a highly qualified and trained workforce that is committed to supporting children and young people in and out of detention, using trauma informed practice.

Stakeholders noted that continuing, and extensive engagement in learning while in a custodial setting is important in rehabilitation. Substantial education options need to be available to those in detention including academic education and vocational opportunities for hands-on learning. Stakeholders highlighted the importance of the continuation of this engagement post release and the need for support to ensure this occurs.

Stakeholders also identified of the importance of system integration between youth and adult systems to enable visibility of young people on youth and adult orders in Risdon Prison.

Stakeholders noted that offending peaks in late adolescence, when young people are aged eighteen (18) to nineteen (19) years and are no longer legally defined as 'youth' but their brains are still developing. Stakeholders queried whether the adult system sufficiently differentiates between late adolescence and the adult population and queried whether there could be an enhanced focus on education and training for late adolescents. Stakeholders indicated that this is an area that would benefit from joint planning between adult/youth systems and could impact on future centre design.

At the public hearings, Ms Wylie (Director, TLA) stated:

The idea of a specialist legal service - a wraparound young persons' legal service providing both legal and social support services - would enable TLA to better support children, particularly those at risk of long-term engagement. TLA lawyers are trusted by the children who they work with and they provide the best opportunity to engage children and address factors contributing to their engagement with the justice system.

TLA already has considerable experience in delivering a multidisciplinary and holistic service. We've run the Family Advocacy and Support Service since 2017, which uses lawyers and social support workers to address a client's legal needs alongside their social and health needs. We've seen fantastic responses. I'd really love to be able to do this in the youth justice space.

I urge Tasmania to introduce a holistic, legislated bail support program that provides intensive case management for children at risk of being remanded in custody.

These supports could include drug and alcohol treatment, crisis and supported accommodation, disability and mental health services, and Aboriginal-specific services.³⁸⁸

Committee Findings

F80. Effective throughcare support should be available to assist all young people transitioning into and from detention, and throughcare should be incorporated into the development and implementation of a therapeutic, trauma informed model of care for detention.

Committee Recommendations

R37. Facilitate and fund effective throughcare support to assist all young people transitioning into and from detention.

Speech and Language Matters at AYDC

At the public hearings, the Committee heard from Hon Roger Jaensch MP (then Minister for Education, Children and Youth) and Ms Jenny Burgess (Acting Secretary, Department of Education, Children and Youth (DECY)) in relation to speech and language matters at AYDC:

Mr VALENTINE - *This morning we heard from Rosie Martin about speech pathology and the importance of being able to deliver services to not only those who are incarcerated, but also staff, so that they understand how they should deal with inmates*

³⁸⁸ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.3

and actually help them to express themselves properly. Do you have any aspect of that in your training for those who are working with youth at Ashley?

Ms BURGESS - *I am unaware of any training for staff, but certainly we have assessments from speech and language pathologists within a time frame of the child entering the centre.*

Mr VALENTINE - *Is that a one-off thing or is there any ongoing delivery of service in that regard?*

Ms BURGESS - *We have a clinical team there at the site, so I imagine, depending on the determinations of that assessment, we would case-manage that child or young person to get the supports they need. It is an area we are looking to strengthen more broadly - the clinical supports in the centre that we provide to the children and young people.*

Mr JAENSCH - *That, Mr Valentine, goes to the therapeutic approach that we refer to a lot but which we don't unpack very often. Within their time in the youth justice system, our aim with those young people would be to settle them, to address what might have been undiagnosed or unmet needs in terms of health, mental health or other developmental issues - disability included - and aspects of their education and literacy.*

A lot of these things might need to be resolved to some level before they can start to focus on taking on responsibility for their crimes and address themselves as to how they're going to get back into education, work and society beyond that - and not just return to the system that they were removed from when they came into the youth justice system.

It's a long burn. If we're going to do it well, it's going to need a lot more services to be applied. They're some of the matters that will be dealt with in the more fulsome reform of the system, because it comes down to the way they're sentenced as well, and the time frames we have in which to work with them through these therapeutic processes.

Mr VALENTINE - *Listening to Speech Pathology Australia and Rosie Martin this morning, quite clearly it would seem that training in this area, for staff particularly, would be able to assist with de-escalation and those sorts of circumstances staff can find themselves in.*

Mr JAENSCH - *Potentially, yes.*

Mr VALENTINE - *I am interested to know how deeply you're going to incorporate some of that training into the system.*

Mr JAENSCH - *Ms Burgess provided an answer regarding the residents as opposed to the staff, but certainly the Maybo³⁸⁹ training that has been undertaken is very much, as you say, about communication through a process of de-escalation. Rather than just use of force to contain or control young people, it is about creating situations where you can secure the situation, but then talk people through what's going to happen next and not*

³⁸⁹ See Maybo website in general for better particulars, <https://www.maybo.com.au/>

raise the energy level. In that context, the communication skills of the staff who are applying that method will be critical.

Ms WEBB - ... I want to clarify that Ms Burgess was saying every child who enters Ashley is assessed for speech and language by a speech pathologist. Is that the case?

Ms BURGESS - That's the documentation that I've seen, which is that they do have an assessment.

Ms WEBB - By a speech pathologist - someone who's trained to do that?

Ms BURGESS - That's my understanding.

Ms WEBB - What proportion of children in Ashley would have been identified as having those issues? Obviously, I'm not asking for identifying information about individual children or young people. We're given to understand that we'd expect to see a higher level of incidence of that sort of disability or challenge in that cohort. Do we have data on that?

Ms BURGESS - I don't have that level of data around the clinical and the case management approach.

Ms WEBB - But then we do specifically provide allied health services, speech pathology services, to the children who have been identified through that assessment while they're in Ashley?

Ms BURGESS - I don't have that level of detail.

Ms WEBB - Is it because the data isn't collected, or you don't have it here with you today to provide to us?

Ms BURGESS - Within the case management approach there would be data. I just don't have that level of operational detail on each of the case management and the documentation on each of the children within the centre.

Ms WEBB - If we assess every child who goes in, and therefore presumably identify instances in which children have these particular sorts of disabilities or situations, then the assumption would be that while they're in our care in that detention facility, we must provide them with services towards assisting with those situations and disabilities. I would like to understand whether we can have confidence if that occurs or not.

Mr JAENSCH - In relation to your initial question, I understand that a range of assessments are made when young people enter the system and that informs their case management. That might be information that is held at an individual case level, rather than aggregated so that we can give you numbers of young people requiring certain types of interventions or with certain types of diagnoses across the population. There is a difference between holding data and having information about each young person in there.

Ms WEBB - Are you able to say that if a child has been assessed as having a speech or language disability or challenge, and who would require a speech pathologist attending to them, that that occurs while they are in Ashley?

Ms BURGESS - It would be part of their care planning, but remembering that a high number of the young people in the Ashley Youth Detention Centre are on remand. Therefore, the longevity of the time that they are there to get the subsequent supports may vary.

Ms WEBB - Do we bring in private speech pathologists to do that work? Or are some within the school system who come into the space? Who is it that provides the services if they've been identified as being required? ...³⁹⁰

In a response to questions on notice, Minister Jaensch provided details in relation to whether any routine or ad hoc screening for speech, language or communication disorders/disabilities are undertaken for children entering AYDC, and whether there were any instances in which a child/youth detained at AYDC was assessed as requiring speech/language/communications therapy.³⁹¹

All young people undergo a Tier 1 assessment by a registered nurse on site upon admission. This includes an assessment of immediate management needs, including the risk of suicide or self-harm, and any other security, safety or vulnerability concerns, as well as physical and psychological health assessment that may involve referral for specialist assessment.

Ashley School uses a component of the Australian Curriculum to assess young people's Speaking, Listening and Interacting during their early weeks at Ashley School. These assessments are utilised to inform teaching and learning of young people in Ashley School. AYDC does not offer routine speech screening on admission for all young people.

[In the past three years to 2023], there have been instances in which young people in AYDC have been identified as requiring additional support, including access to speech pathologist services, over the past three years. Young people in AYDC have had access to these services through Patches, an external provider. Patches speech pathologists worked with young people in AYDC in a range of areas as required, including communication and language improvement, swallowing, reading and writing.

Committee Findings

F81. Children and young people entering the State's youth detention facility undergo a Tier 1 assessment by a registered on-site nurse, with access to external speech pathologist services.

³⁹⁰ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.64-66

³⁹¹ Letter to Chair of Committee from Hon Roger Jaensch MP (dated 3 August 2023), p.2

Committee Recommendations

R38. Provide additional speech pathology services to support children and young people at Ashley Youth Detention Centre.

Engaging with Youth within AYDC

At the public hearings, the Committee heard from Minister Jaensch in relation to other models being employed at AYDC to assist those detained:

Ms ARMITAGE - Still along the same area, looking at the submission and the youth justice facilities model, the model provides for a greater opportunity to reduce the number of children and young people entering detention and support those exiting detention.

I have been looking at some of the things they are doing around the world. They have Transforming Youth Custody, Beyond Youth Custody. I know a lot of what we have talked about is de-escalating and how we protect the workers. But a lot of what is happening in other countries - and this is why I am asking you with regard to a model - it is saying, in addition to working with families, more needs to be done alongside young people to help them identify how to make new circles of friends and develop supportive networks.

I do something called an independent person. One of the things I hear from these kids time and time again is that, 'Okay, but they are the only people I know. I'm not allowed to go and play with other people because their parents don't want me to.' That is an issue for kids. They are in the same circles.

Particularly in the one in the UK, encouraging young people to take up positive new hobbies and activities can be very important in helping them forge a new self-identity, being more creative, looking at hobbies.

Are we looking at those issues too when they are actually in detention? We have a group of people there that - not just school, but trying to give them other hobbies and trying to teach them other things. It doesn't matter whether it's in the UK or where it is, young people in custody and young people with problems are the same all over the world.

Are we looking at those areas as well, apart from just having body cameras to try to control them and trying to get the kids to maybe behave better and have some other activities that might start to interest them and make them realise there is a new world out there?

Mr JAENSCH - Absolutely.

Ms ARMITAGE - Can you fill me in with some of the things that we are looking to do, perhaps in this area where it says this model provides for greater opportunity? That's great, but what opportunities, apart from just having the school there? Will they have people come in and give them some ideas about different activities?

Mr JAENSCH - I'm advised that a lot of the things we've talked about have to do with providing for the safety of young people and everybody in there because we are often dealing with people who are there because they have been responsible for violent crimes in the past, that is the first thing. But that is clearly not all.

For example, I am advised that today, the young people at Ashley are involved in a range of school holiday programs including fitness, arts and crafts, cooking and painting activities. This is across the centre as part of their school holiday program. Over the last six months or so, I'm aware that we've had young people involved in creating their own hip-hop music, with visiting artists coming in to work with them. I understand the Commissioner for Children and Young People has also facilitated the development of a music video, in collaboration with the Big hART community arts organisation as well that has been working in there -

Ms ARMITAGE - *Things they can do when they're out of Ashley on their own, not something as a group. We did hear previously, a few weeks ago now, that many of these kids who steal cars are very good mechanics. Do we have people coming in and maybe help them with these sorts of things to get them on a track so they can get an apprenticeship and move out of the crime sphere?*

Mr JAENSCH - *We do have project work in there, both in the arts and I think there's metal work and cookery and other things as well. Over recent months, it was seasonal work so it wasn't continuous, there's also been assistance for at least one young person to participate in work on a farm in the district as well. Again, socialising them to what is expected of you when you go to work on someone else's premises, as part of a team, and all of that.*

Yes, individualised, where there are young people in there for long enough to get the benefit of it. Typically, not for those on the shorter-term remand programs, but for those who are with us for longer who we know more about and who have a longer stay, there are opportunities for a lot of that to be applied.³⁹²

At the public hearings, the Committee heard from Mr Smith APM in relation to his observations on how AYDC residents should be better informed around rules to assist with behavioural change expectations of staff:

CHAIR - *Can I take you to page 8 of your submission, ... where you talk about the need to provide more structured engagement by youth workers on behaviour and expectations with clearly understood consequences that, in effect, replicate community standards and life generally.*

Can you expand on that? That's one of the issues: we've got the youth workers and the residents of the Ashley Youth Detention Centre and there are different expectations from both parties.

³⁹² See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.66-68

Mr SMITH - *The interaction that a youth worker will have can be relatively ad hoc. It can be relatively unstructured and very conversational. Where I was coming from with that is, once a young person is moved to the facility at Ashley, what I observed with the induction process was that they were taken into a room, they were searched and then walked around the facility.*

What I was getting at there is that there is a more formal conversation about behavioural expectations at the facility so that the young person knew what the go was. It seems to be very ad hoc conversations around behaviour. There doesn't seem to be much in the way of consequences for behaviour and so forth. To give you an example, there was one young fellow there scribbling on the wall at Ashley and I spoke to him, 'Do you really need to do that?' and he said 'No, I'm allowed to do that' and he continued to scribble, so I let it go. I tried to engage with him later on, talking about damage to property and the consequences of that, and the cost to government and this, that and the other. He did not seem to have a lot of engagement at all. But there seems to be lots of things happen where there is nothing structured around providing that opportunity for immediate education to hopefully invoke behavioural change. It is ad hoc. There could be more in a structured way in which we can engage with young people in that facility. There are good opportunities with the right people to engage in that type of conversation, but it is largely unstructured.

If we are going to have support officers or whoever in there providing this so-called therapeutic approach, there has to be some type of structure on behaviour and behavioural standards, otherwise there is no consequence. It is probably part of my experience that some of the violence directed towards me and also others there, I might add, it was largely felt there would not be any consequence for it. I think before they get there, we have a conversation with them and we talk about expectations, but that does not happen.

CHAIR - ... *Another version of what is we call in the rural area a toolbox meeting, where people understand the rules of engagement and then we get on with the work we do. ...*

Mr SMITH - *To add a bit more, again to pick up on your word, Chair, 'rules'. It is about changing and having a solid conversation around values. That is the type of educative approach needed and pushes on to one of the other points I made. For our support officers, the better opportunity we have to provide people well educated in this area and fully appreciative of the role they are undertaking. I am not saying they are not at the moment. There is space there for better personal development of the employees that work there to give them better tools to be able to have those conversations. They are a bit underdone.*³⁹³

³⁹³ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.69-70

The provision of, and participation in, services for youth in detention and leaving detention (health, housing and legal services)

Broadly, the Tasmanian Government Submission noted as part of its Youth Justice Blueprint Consultation (covered under [Youth Justice Blueprint 2022-2032](#)) there were several key reforms highlighted by stakeholders:

- the need for appropriate supported accommodation options as part of transition from detention
- the need for continuous and effective throughcare along the service continuum for the child and young person
- effective throughcare support should be available to assist all young people transitioning into and from detention and throughcare should be incorporated into the development and implementation of a therapeutic, trauma informed model of care for detention, and
- intensive support through comprehensive case management and coordination across community and custodial youth justice services and other, government and non-government service providers was required for young people transitioning in and out of detention, putting the young person and their needs at the centre of the system.³⁹⁴

The Commissioner for Children and Young People submission noted the following in relation to the services needed for children and young people in detention:

... when I speak with children and young people in detention, they tell me that they need:

- *a safe place to live on transition from detention, and someone to support them;*
- *regular contact with family and the people who are important to them;*
- *access to health services, programs and activities, including better access to mental health supports;*
- *access to timely legal advice and representation;*
- *to feel connected to their communities and lives outside of detention; and*
- *to be treated fairly and to be and feel safe and respected.*

I continue to advocate for a child-centred therapeutic approach to the treatment of children and young people in detention and as they transition from detention. This includes:

- *access to criminogenic needs programs,*
- *proper access to mental health and drug and alcohol detoxification services,*
- *access to specialised and individualised therapeutic intervention programs,*
- *access to timely legal advice and representation,*
- *access to appropriate supports and assistance for cross-over children moving between out of home care and detention,*
- *access to a supportive, integrative and responsive referral pathways and the ability for these to continue upon release,*
- *the development of effective throughcare,*

³⁹⁴ See Tasmanian Government ([Submission #27](#)), p.49-50

- access to housing and recreational activities,
- access to NDIS case managers and treatment plans both within detention and upon release.³⁹⁵

Ms Abercromby (Tasmania Legal Aid) also informed the Committee in relation to the lack of services available to assist youth in more remote parts of Tasmania:

Ms HOWLETT - In relation to that, what programs are currently lacking right now?

CHAIR - It is a bit patchy across the State, isn't it?

Ms ABERCROMBY - It very much depends on where you are located. In terms of existing programs lacking, Youth Justice administer many of those programs, and those programs that they do administer are often comprehensive and involve a lot of effort by Youth Justice. But the reality is, especially when it comes to regional and remote areas, that there just aren't enough. There are youth justice matters down the west coast.

Ms HOWLETT - Are there facilitators that provide those programs? Or what programs particularly are you referring to?

Ms ABERCROMBY - What I am referring to is the paucity of programs themselves, programs to help children remain at school, youth offenders on the west coast, general offenders on the west coast. For example, Community Corrections, as I understand it, down the west coast, will contact people on probationary orders by telephone. It is not face-to-face contact. They don't have offices down there, they don't have permanent staff down there. That, of course, lessens the effect that you can have in assisting people - not just youths but offenders who have a probationary order. That order is designed to address criminogenic factors, to assist someone in obtaining employment. Of course, it is lessened when that contact has to be by telephone, for example.³⁹⁶

Ms Kristen Wylie (Director, Tasmania Legal Aid) stated:

... many TLA clients are remanded in custody because of a lack of access to housing and social support, with imprisonment of this unsentenced cohort again having a criminogenic effect.

...

*It's been TLA's experience that many of our clients are remanded because of a lack of access to housing and social support. This cohort often receives terms of imprisonment equal to their time in prison prior to sentencing, which may have been avoided if they had not been remanded in custody.*³⁹⁷

³⁹⁵ See [CCYP \(Submission #43\)](#), p.4-5

³⁹⁶ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.7-8

³⁹⁷ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.2-3

At the public hearings, Ms McLean (Commissioner for Children and Young People) informed the Committee as to the current practice of detaining some children at AYDC as they had no appropriate accommodation measures in place:

Mr VALENTINE - ... *You mentioned that there were children in Ashley with nowhere to go. Can you give us a bit more of a picture of that and the age of the children you are talking about in that circumstance? ...*

Ms McLEAN - *In my experience, these children could be aged from 13, 14, right through to 17 or 18. I have had experiences across the age cohort. What it looks like is that prior to being taken into custody, they may have been what you would call effectively homeless or an unaccompanied homeless child for some time. That means they might be staying with a friend here and there, sleeping on the street here and there, with their mates here and there. Again, I encourage you to go to the Voices Project, because this is detailed by children themselves, what that is like.*

When they arrive in detention - if they are on remand, they might be there for one or two nights, or that might extend to two or three months, depending on a range of circumstances - but fundamental to that is that child is highly unlikely to be bailed without there being an address for them to go to. If that address can't be located or it is not deemed to be safe, what's the likelihood of that child leaving? They are more likely to be remanded for a further period until that occurs.

When you overlay the context of a housing crisis, and the context of the availability of therapeutic placements for these children that can be provided by the state - which is extremely limited and is retreating - the likelihood of young people needing to be detained for longer because of a lack of accommodation is a real issue that I have seen increasing.³⁹⁸

...

CHAIR - *Following on from the member for Hobart's question about there being nowhere to go, I wrote down earlier, 'foster home'. Is that something not necessarily readily available in the Tasmanian community at this point in time, to have some of those short-term placements for people with no safe place to go?*

Ms McLEAN - *The Tasmanian out-of-home care system - because a child is in youth detention and has no safe place to go does not necessarily mean they are under the custody or guardianship of the State: they may be, they may not be. Setting that aside, our out-of-home care system relies on foster carers. I have released data reports recently which show we currently have a decline in the number of foster carers available in Tasmania. That is of concern. There was a net loss of 14 caring families over the period of that report. Given we rely so heavily on foster carers, who are - can I just put on record - an absolutely extraordinary bunch and we need to value them more -*

...

Ms McLEAN - ... *I am amazed by the incredible work they do every day. It would be unlikely for a young person to exit detention into a new foster placement: it would be more likely, under the current system, for a young people to exit detention into a*

³⁹⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.63

supported, therapeutic care placement, in either a group home or a special care package, until such time they were settled and then perhaps able to be transitioned to a foster placement. That is going to be limited by the availability of either of those placements.

Ms WEBB - *And only if they are on orders.*

Ms McLEAN - *That is right, only if they are on orders. If they are not on orders, then it is more likely an emergency accommodation provider for children. They exist around the state. It may be seen as the most effective means to house a child on exit from detention.*³⁹⁹

Ms McLean also informed the Committee as to her understanding of how a child's fixed address location is confirmed by authorities:

Ms ARMITAGE - *When you were talking about children having a fixed address, was that simply from the coming out of detention they need a fixed address or was it also when they have been charged? They have been picked up. They have gone to the police station - and I should declare here I do independent person and have been doing it for 30 years and am quite well aware of it. When they give an address, is it necessarily checked they can go to that address? From my perspective, when I am sitting there and they say their name and an address, it might be mum's or dad's or a friend's. They are released on bail, not apprehended. Are you aware whether the police check with the homeowner or the person at that address that the child is going to go there or can they just give an address and then they are released?*

Ms McLEAN - *My understanding is there are checks: certainly, when exiting detention there are checks.*

Ms ARMITAGE - *I am wondering about at the police station.*

Ms McLEAN - *My understanding is there is a level of checks undertaken, particularly if the address is also that of the guardian of the child. Ideally, you would expect the guardian of the child to be present during those discussions of court proceedings.*

...

Ms McLEAN - *You would have to check with police to get the accurate answer, but my understanding is it is checked and it certainly should be. It would be in the best interests of the child for it to be checked.*⁴⁰⁰

Identified Need to Support Young People with AOD Issues

The Committee noted that the Youth Justice Blueprint 2024 – 2034 contained the following Government commitment:

To reduce the involvement of children and young people in the youth justice system by ... ensuring children and young people have access to and are supported to access services

³⁹⁹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.64

⁴⁰⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.65

*to address their mental health, disability, and alcohol and other drug dependence needs.*⁴⁰¹

The Committee heard from Ms Charlton (Holyoake) about her observations on young people accessing alcohol and other drugs:

Mr WILLIE - ... I was going to ask about children. Have you seen a change in the trends in the sorts of alcohol and drugs that they are accessing?

Given you have just raised the issue of very young children, your interaction with the child safety system -

Ms CHARLTON - Yes, I have a lot of interaction with the child safety system. I see a lot of kids and parents who are going through that whole child safety thing. A lot of our clients, our Gottawanna clients, come to us because they always have a motivating reason, they have lost something, they want it back. It could be their freedom, it could be their kids, it could be their licence, it could be their job. Something really bad has happened to them, so we work a lot with child safety and the parents who come back to try to prove that they are nice people now so they can have their kids back.

Mr WILLIE - And in terms of the children that have alcohol and drug issues, you are very concerned about the trends there?

Ms CHARLTON - Yes, I am. I don't know if I put a graph in here about trends, but we are seeing cannabis as the drug of choice with young people. When I say 'young people', I mean under 24 years, but even 12- to 18-year-olds, they are all smoking dope: but more of them are taking ice now because it is quite available now.

Mr WILLIE - And it is highly addictive.

Ms CHARLTON - Incredibly addictive. Probably one of the most addictive drugs and the hardest to get off, and it takes longer with people using ice. Alcohol was a walk in the park, really, to physically get people off it, but ice changes the brain. It overstimulates the serotonin which makes you happy - it is a chemical that gives you pleasure like if you have great sex or a really good chocolate cake or a really good book or film.

...

Ms CHARLTON - You know those things that make you happy? It overstimulates that to the point where you are depleted of that chemical and it takes more and more ice to get that happy feeling again. When people come off ice - if they have been a chronic user - they are as flat as a tack. Nothing. They just feel flat because that serotonin has been overstimulated and that has affected the brain physically. It is a horrible thing. It can take years: if people are able to cope with feeling like that, they say it can take 12 to 18 months, and some researchers say years, for that to recover. It is just too hard, so you have more ice because you feel better.

Mr VALENTINE - So you go back on it.

⁴⁰¹ See Youth Justice Blue Print 2024-2034, p.25

Mr WILLIE - And then that is driving crime rates because they are committing crimes to feed their habit.

Ms CHARLTON - Yes, it is a really strange drug. It gives people super-human strength. I witnessed this years ago when ice first came, when I was in the hospital. It was very early days and a guy came in, he was a bikie. Tiny, skinny, little, runty bloke. We found out he had been using ice, which had only just hit the market. It took six attendants to hold him down - it was unbelievable - from this drug. You can imagine the level of violence that people are capable of if they are really having an episode. It is not like dope where you just do the 'flower pot man' thing.⁴⁰²

Ms Charlton went on to explain the lack of care for youth leaving AYDC that have alcohol or other drug issues:

Mr WILLIE - ... what sort of interaction do you have with AYDC in terms of case management when kids are exiting there? You talked a bit about the prison, how there is no support -

Ms CHARLTON - None. We work with kids who may have been in, but there is no formalised referral system from them.

Mr WILLIE - Care arrangements?

Ms CHARLTON - No, not at all. ... One thing that has been very alarming is the anxiety and depression in young people. At one point last year, of the young people we were seeing in schools, 20 per cent of them had attempted suicide. I made it very clear to my staff who were reporting this, please make sure you differentiate between cutting, which is not attempted suicide -

Ms ARMITAGE - It is self-harm.

Ms CHARLTON - Yes, and these kids who said 'No, I want to die' and they had tried it. That's really alarming.

Mr WILLIE - Do you think there are opportunities to have a more formalised system in place for kids exiting youth justice, whatever that facility may be in the future? There is obviously some discussion around that, but some more case management and things like that to help turn it around at an early age rather than when it is -

Ms CHARLTON - Definitely and even before, hopefully before they go into the criminal justice system. Could I just mention here, there was a program called IDDI, Illicit Drug Diversion Initiative, which has been around for years. We get some funding for it and it is a police initiative where they can direct clients who are caught with small illicit substances and maybe it is their first that they have been caught, so they then send them to us for counselling. It might be one-off, which is useless but it might be something. That has been stopped.

⁴⁰² See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.29-30

CHAIR - For what reason?

Ms CHARLTON - I don't know, no-one ever told me.

...

Ms CHARLTON - ... That's something you might want to look into because they were brief interventions where these people, who were often but not always young people -

...

Ms CHARLTON - This was a brief intervention that, not in all instances but in some instances, would have introduced those people to our service - an entry point. You might want that on your radar.⁴⁰³

The Committee also heard from Ms Charlton (Holyoake) in relation to the lack of AOD rehabilitation services for young people in Tasmania:

Ms WEBB - ... We have nothing to send them to in terms of psychiatrists.

Ms CHARLTON - ... we have no psychiatrists. We have no detox unless your parents are rich enough to take you to a private hospital somewhere but even then, where do you go? Because if it is a grown-up hospital -

A MEMBER - Melbourne probably.

Ms CHARLTON - ... We have had parents who were desperate to get their child into a detox centre and there is nothing.

Ms WEBB - That's the situation that we have been discussing in this State for years, if not decades, but certainly from my direct experience, years and years. Is there any glimmer on the horizon from where you sit to say that we are going to put something in place to provide kids with detox facilities in this State?

Ms CHARLTON - No, not from where we sit. We, other members of the ATDC, my colleagues out there in the industry, we've been saying this for years and years. Deaf ears. No, I am not aware of anything.

Ms WEBB - It is a significant contributor through into the youth detention system and the youth justice system.

Ms CHARLTON - It sure is, they go hand in hand, as does mental health because you can't remove the mental health comorbidities from addiction.

Ms WEBB - Have you been involved at all in the discussions that are underway right now about redesigning our youth justice system and our youth detention system and how that looks? Has your sector been involved in discussions around that?

Ms CHARLTON - I haven't ...⁴⁰⁴

⁴⁰³ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.31

⁴⁰⁴ See Transcript of Evidence [Public Hearings - 20 June 2023](#), p.37-38

At the public hearings, Mses Abercromby and Wylie spoke to the limitations of the Court Mandated Diversion (CMD) service in relation to other dependencies:

Ms ABERCROMBY - ... A lot of drug and alcohol - licit and illicit substances - go hand in hand, although not always. There is a number of clients, a number of defendants that TLA represents that struggle solely with alcohol, and that deems them ineligible for the CMD service.

Ms WYLIE - Use of prescription medication is another matter.

Ms ABERCROMBY - Yes, because it's not necessarily illicit so it creates this gap. Similar reasons for offending, and yet one person is eligible for that program and the other may not be.

Mr WILLIE - The issue is dependency, not necessarily the illicit nature of it. It's the dependency, and then the crimes that support that.

Ms ABERCROMBY - Absolutely, and without wanting to go deeply into the reasons behind addiction, the treatment for alcohol addiction can often be fairly similar to the treatment for drug addiction - urinalysis, counselling, detoxification facilities, mandated detoxification time, the creation of a journal and the encouragement to reflect upon their triggers for the use of such substances. I don't think it is any different to the use of cannabis or methylamphetamine.

Mr WILLIE - Anecdotally, do you see any of your clients using alcohol that then leads to further problems with drug use?

Ms ABERCROMBY - Yes, all the time. They are usually using them both. Often, I suspect again anecdotally, it's unusual to have someone on the CMD program manage to rid the addiction of illicit substances and then replace it with alcohol, because with that wraparound service they are already being treated and assisted. I imagine that part of that treatment is not to then encourage them to replace it with something else, albeit a legal substance.

The difficulty starts right at the beginning where often someone might, under their own steam, rid themselves of an addiction, which is then often replaced with an addiction to a substance such as alcohol. They have done the hard yards initially themselves, but in doing so, they have deemed themselves ineligible for a program.⁴⁰⁵

Committee Findings

F82. There is a lack of mental health and alcohol and drug services (including inpatient facilities) for Tasmanian children and young people.

⁴⁰⁵ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.15-16

Committee Recommendations

- R39. Significantly increase the funding for mental health and alcohol and drug services (including inpatient facilities) for Tasmanian children and young people.

Training and support initiatives for youth detention staff related to increasing individual well-being, professionalism, resilience and reduced absenteeism

With respect to the Youth Justice Blueprint consultation, the Tasmanian Government submission noted ‘... stakeholders proposed therapeutic models for custodial settings and a common theme was the relational approach to treatment and security based on building relationships between staff and young people. In particular, the Missouri⁴⁰⁶ and Diagrama⁴⁰⁷ models were cited as internationally regarded models.’⁴⁰⁸

In November 2022, a direct response to the Commission of Inquiry public hearings and evidence from witnesses relating to past harm of children and young people detained at AYDC, the Tasmanian Government released *Keeping Kids Safe – a plan to keep children and young people at Ashley Youth Detention Centre safe until its closure*:⁴⁰⁹

The Plan recognises that the workforce is a crucial element for the successful operational of the Ashley Youth Detention Centre. Actions in relation to maintaining an appropriate level of staff with the right experience and competencies (Objective 2) include:

- *Development and implementation of Youth Justice Services Workforce Strategy*
- *Appointment of Director, Custodial Operations*
- *Staff appointments to supplement AYDC staff*
- *AYDC Youth Worker recruitment*
- *Retired Police Officer recruitment*
- *AYDC Workforce Restructure*
- *Additional leadership implementation*⁴¹⁰

At the public hearings, the Committee heard from Mr Digney in relation to AYDC staff recruitment and ongoing training practices:

Ms WEBB - ... in TPS there is a 10-week training program for new correctional staff: in the youth justice system it is a six-week course. Everyone who comes in passes a psychometric test to get through the entry requirement, does a six-week course and is then termed a youth worker and put to work -

Mr DIGNEY - Employed in the unit.

Ms WEBB - Is there annual refresher training, as there is in the TPS environment?

⁴⁰⁶ See *The Missouri Approach: A revolutionary approach to meaningful juvenile justice reform*, <http://missouriapproach.org/> [Accessed 13 November 2023]

⁴⁰⁷ See in general Fundación Diagrama (Spain) Children and Young People in Conflict with the Law, <https://www.fundaciondiagrama.es/index.php/en/socioeducational/children-and-young-people-in-conflict-with-law> [Accessed 13 November 2023]

⁴⁰⁸ See Tasmanian Government (Submission #27), p.51

⁴⁰⁹ See https://documentcentre.education.tas.gov.au/_layouts/15/DocIdRedir.aspx?ID=TASED-1087178304-5253 [Accessed 13 November 2023]

⁴¹⁰ See Tasmanian Government (Submission #27), p.51

Mr DIGNEY - Only on mandatory training matters, so CPR and what they refer to as Maybo training, which is about restraint and non-violent crisis intervention. That's the only training they would do on an annual or biannual basis.⁴¹¹

At the public hearings, Mr Dean AM suggested to the Committee that the AYDC staff training was inadequate:

Ms WEBB - I appreciate that you have shared your view on the quality of the staff and accept the view you have presented. You comment on training in your submission and express that you are not satisfied that the level of training provided is adequate to really equip and support people well to be in that environment, which you have described as fairly extreme. When you were brought in as a retired police officer, you were given an induction day. Presumably, people who are employed there on a more permanent basis are provided with training. Can you speak about the adequacy of that, given what is going to be required in that workplace?

Mr DEAN - I can't give you the training syllabus that these youth workers go through. I can't give you all those details. I am not aware of the whole syllabus, but what I am saying is that working in that environment is so harsh, so difficult, I am just not quite sure what the level of training should be.

Some of the people coming in to work at Ashley are reasonably young people. I am not sure how you can get through to some of these people that they are going to be subjected to violence and threatening behaviour almost daily. So, how do you train a person to be able to work in that environment? It would take a lot of training and it takes a special type of person, in my opinion, to put up with that.

As I said, one police officer left Ashley only after a few weeks of having been there, because he was in fear. I think he did the right thing by doing what he did. Simply walking out was a feat. One day, he had taken enough and he just put his gear down and walked out of the centre saying that 'I can't take any more of this'. I think that is an indication of just how tough it is: there is an officer who had been in the police a number of years.

Ms WEBB - Presumably, like you, Ivan, he was somebody who was given an induction day and then brought in, so it would not necessarily be representative of the more long-term staff.

Mr DEAN - Long-term staff have weeks of training and they go through the facility regularly and on work training as well. They have a number of weeks in their syllabus, but I am not quite sure how many weeks of training they go through. I am not certain of the exact way their training is carried out.⁴¹²

At the public hearings the Committee heard from Minister Jaensch MP and Ms Jenny Burgess in relation to then current recruitment practices for AYDC staff:

⁴¹¹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.10-11

⁴¹² See Transcript of Evidence [Public Hearings - 4 July 2023](#), p.22

Mr VALENTINE - ... we heard that there are no essential qualifications for youth workers, except for psychometric testing, and a six-week course that follows after they have been employed. Can you talk us through that, and why there aren't essential qualifications for those who might be working at places like Ashley?

Mr JAENSCH - ... What I have been aware of, particularly over the last six to 12 months, where we have had some staffing challenges at Ashley, is that qualifications are one thing, but training for this environment and what we expect people to do in it are critical. It makes our recruiting process longer, where we are bringing people in who are not already trained and experienced in working in youth justice settings. Even for those who are, there is a level of training we are applying for our youth justice setting to make sure that our staff are consistent with each other, and over time, in the methods they use - for example, in working at close quarters with young people, including physical restraints, and the right ways of doing that.

The other challenge that we face, particularly with the turnover in our workforce, is that for people who are coming in who are fully trained but not experienced, we need to ensure they are working alongside more experienced staff for an initial period, to ensure they are not just being thrown in the deep end - for their sake and also for the young people we are working with. A lot of training goes on. ...

Ms BURGESS - Certainly, our approach will be a multipronged one. Yes, there are plans to ensure we upskill the staff as quickly as possible in many ways. We are looking into the Certificate IV in that space. We have learnt that we need to have continuous training as practices change. As we implement the therapeutic model more fully in the Ashley Youth Detention Centre, this will require additional levels of training.

We have implemented the Maybo approach ... for positive behaviour support and trauma-informed support for staff. The more training we can do will be beneficial.

We have a consultancy at the moment through the Australian Childhood Foundation, which is looking at our workforce planning and our training and development framework. We are waiting on their advice around what they see. You would appreciate they are a national organisation, and therefore they can draw on best practices from around the country. We are awaiting their final report before we make further determinations about how we support our staff to be the best that they can be.⁴¹³

In a response to a question on notice, Minister Jaensch provided details in relation to a profile of the qualification level of all staff at AYDC and the training courses provided over the past three years to 2023:⁴¹⁴

There are a range of staff at AYDC with Certificate IV Community Services and Diploma in Community Services. There are also staff with university degrees in Criminology and Social Work. Experience of staff is also taken into consideration alongside formal education throughout the recruitment and hiring process.

⁴¹³ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.63-64

⁴¹⁴ Letter to Chair of Committee from Hon Roger Jaensch MP (dated 3 August 2023), p.1

All staff undertake a six-week staff induction that includes security and safety operational skills and training on working with young people in a trauma informed manner. Some of the training undertaken by AYDC staff over the past 3 years includes:

<i>First Aid/CPR</i>	<i>Mandatory for all staff</i>
<i>Maybo training</i>	<i>Mandatory for all staff</i>
<i>Fire Safety Training</i>	<i>Mandatory for all staff</i>
<i>Fire Warden Training</i>	<i>6 staff</i>
<i>Water Safety</i>	<i>4 staff</i>
<i>Trust Based Relational Intervention Training</i>	<i>6 staff</i>
<i>Mental Health First Aid</i>	<i>5 staff</i>
<i>Drug Education Network Brief Intervention Foundation</i>	<i>7 staff</i>
<i>Assist Client with Medication</i>	<i>8 staff</i>
<i>Mandatory Reporting</i>	<i>41 staff</i>
<i>Motivational Interviewing</i>	<i>5 staff</i>
<i>Sexual Trauma First Aid</i>	<i>25 staff</i>
<i>Alcohol and Other Drug Awareness Training</i>	<i>7 staff</i>
<i>Signs of Safety</i>	<i>10 staff</i>
<i>Motivational Interactions</i>	<i>8 staff</i>

In a response to questions on notice, Minster Jaensch provided details in relation to the implementation of the actions within the Keeping Kids Safe Report:⁴¹⁵

A comprehensive update of the Keeping Kids Safe (KKS) Plan is currently underway and will be publicly released once finalised. Some key activities of the KKS Plan that are completed or underway include:

- a review and enhancement of CCTV capability including establishing a CCTV control room for monitoring.*
- a security risk management plan is being implemented which will be supported by a security governance framework.*
- the suite of existing Standard Operating Procedures relating to safety and security at AYDC is being reviewed to identify any gaps or improvements. As well as addressing safety risks, this also provides an opportunity to ensure all operating procedures put the young person at the centre and are trauma informed.*
- a staff member from Australian Childhood Foundation has been on site since mid-September 2022, providing therapeutic evaluation of all young people and their support needs, as well as direct guidance and support for staff.*
- delivering Maybo training to almost all AYDC staff. The program promotes positive approaches to behaviour and includes proactive and reactive strategies where physical intervention is a last resort for preventing and containing a risk situation. It is a youth friendly program and focuses on a trauma informed platform to de-escalate and resolve incidents. The Maybo approach is used in a number of institutional settings in mainland jurisdictions and internationally and is designed to help*

⁴¹⁵ Letter to Chair of Committee from Hon Roger Jaensch MP (dated 3 August 2023), p.2-3

organisations reduce risks surrounding behaviours of concern and workplace violence.

- *AYDC staff will also be provided with Certificate IV in Youth Justice training, to ensure all staff have the qualifications they need.*
- *research and consultation have been completed on the use of Body Worn Cameras in AYDC, and plans for a trial are underway with policies, procedures and training currently being developed.*

The Committee heard from Minister Jaensch and Ms Jenny Burgess in relation to improving safeguards and protections for the current youth detainees at AYDC, including the implementation of closed-circuit television (CCTV) technology and body-worn cameras by staff:

Ms HOWLETT - Minister, could you please update the Committee on the work that's underway to ensure we have got better safeguards and protections for young people that are currently in Ashley Detention Centre.

Mr JAENSCH - ...There's a transition period we are going through. We have young people in the system now who are our responsibility and we need to give them the best we can. The Ashley Youth Detention Centre we have today as a starting point is quite different from the one we inherited back in 2014.

Over recent years we've established better safeguards and protections for the young people who are in Ashley, including new CCTV technology which has improved the safety of both the young people in there and staff. A new personal searches policy was implemented in 2019 ensuring that all personal searches at the Ashley Youth Detention Centre comply with the UN Convention on the Rights of the Child. The centre has strong independent oversight in place now. The Custodial Inspector we appointed in 2017 provides independent statutory oversight of the Ashley Youth Detention Centre, including completing independent inspections and reports.

The Commissioner for Children and Young People also conducts monthly visits and provides direct advocacy for young people at Ashley. Young people can contact the Commissioner directly with concerns they have in relation to their care at Ashley and the Commissioner can advocate with centre management or the department on their behalf. This has been further enhanced recently by the Commissioner having an advocate for young people in detention who is now on deck three days a week in Ashley. I will confirm with Ms Burgess that young people are able to make phone contact with the Commissioner on a cleared line?

Ms BURGESS - That's my understanding, as well as the paper-based forms and support to help complete those forms should that be required.

Mr JAENSCH - ... in addition to the safeguards that are already in place we have also released the Keeping Kids Safe plan, which details actions completed and underway to ensure that young people in Ashley are safe during this transition. Its focus has four areas. ... Some of the key activities that have been completed or are underway include a further review and enhancement of the CCTV capability, including establishing

additional cameras and planning for the introduction of a control room for monitoring the closed-circuit TV system. This is different to recording areas for use in reconstructing an event and understanding what happened. It allows for live, real-time monitoring across a range of areas.

A suite of existing standard operating procedures relating to safety and security are being reviewed to identify gaps and improvements. The Australian Childhood Foundation has been on site since mid-September last year [2022], with a staff member providing therapeutic response plans for all young people and their support needs as well as direct guidance for staff. A new incident review Committee has also been established to review Ashley incidents on a weekly basis for compliance with policy and procedure.

Those oversight and monitoring measures are also about ensuring that there are third parties who are witness to how Ashley operates. It is not a closed shop: we have recording of what happens and independent supervision of the practice in Ashley and of the welfare of young people. That gives people, including the young people in Ashley and their families and the employees, confidence that this is not out of sight, out of mind. With some of the matters that came up during the Commission of Inquiry, being able to show that we have this oversight mechanism in place is going to be critical.

...

Mr JAENSCH - *There's been training for staff in a range of new approaches to de-escalating conflict and tension in Ashley when there are incidents. An important thing is that we will soon be trialling the use of body-worn cameras by appropriately trained officers in Ashley. This would be guided by outcomes around increased safety and security for young people in Ashley, the reduced amount of severity of critical incidents in Ashley, more transparency and accountability in incident reporting, less time to investigate complaints because there would be more information, and increased professional safety of staff at Ashley.*

It is an interesting discussion and I understand the union has been involved because body-worn cameras sometimes are thought of as keeping an eye on what the staff are doing. It's important that we can see what the staff have seen and heard. I see this as part of supporting our staff in Ashley with their complex work, their often-difficult work, so that when there are allegations raised, when there are incidents then we can see what went on, we can hear what was said, we can understand the procedures that were followed or not followed, we have the back of our workers in those environments and fewer competing accounts when it comes to investigating these matters. We look forward to the introduction of body-worn cameras as part of keeping everybody safe in Ashley, including our staff, as well as the young people.

CHAIR - *Do you see that body-worn cameras may assist in a more timely action for resolution, particularly around those staff who are involved in an incident? We heard this morning that for two years a staff member has been waiting for their matter to be heard and resolved.*

Mr JAENSCH - *I'm advised that's one of the key advantages of having that to capture more information. ...*

Ms BURGESS - Hopefully we would be able to turn around the investigations into those incidents more quickly. To add to the Minister's overview of that, you would appreciate we also need to ensure that the children and young people understand the approach and the process. This is also about educating them on their rights and how the body-worn cameras would be used. We're also developing a campaign for them so that they fully understand the implications of this, as well as support and training for the staff so that they understand the impacts that might have.

CHAIR - Is there a time frame for that to be implemented?

Ms BURGESS - We are working to that as soon as possible. We just need to go through our final consultation processes, hopefully in the next few months.⁴¹⁶

Committee Findings

- F83. A number of safety and security interventions are being employed to assist Ashley Youth Detention Centre staff with their duties.
- F84. As the therapeutic model is implemented in the Ashley Youth Detention centre additional levels of staff training will be required.

Committee Recommendations

- R40. Provide Ashley Youth Detention Centre staff with a level of training appropriate to implement the therapeutic model.

Staffing Matters at AYDC

The Committee noted that the Youth Justice Blueprint 2024 – 2034 contained the Government commitment with respect to the principle behind ‘People working in the youth justice system are supported and safe’:

*We consider the wellbeing and safety of staff in service design, implementation and delivery of youth justice services. Staff members are recognised for their contributions and provided with the skills, supports and resources required to work safely and effectively.*⁴¹⁷

...

An effective, therapeutic youth justice system requires a highly qualified and trained workforce, skilled in evidence-based and trauma-informed practice that is culturally aligned to a child safe environment. Staff need the competency to assess, identify and match interventions for children and young people that effectively address the causes of their offending. Staff require a comprehensive understanding of adolescent development

⁴¹⁶ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.61-63

⁴¹⁷ See Youth Justice Blue Print 2024-2034, p.10

*and behaviour change interventions and the ability to access specialist advice when needed.*⁴¹⁸

At the public hearings, the Committee heard from Mr Lucas Digney (Assistant State Secretary – Health and Community Services Union) in relation to the current staffing at AYDC:

Ms WEBB - *Regarding AYDC, because of things scrambling over the last couple of years, there is now a real mix of staffing, from Tasmanian-based staff to staff brought in from interstate, to retired police officers. Can you comment on how we can be assured of the preparation, training and cohesion of that workforce, given the mix of where it's come from and how it's been put together?*

Mr DIGNEY - *There's been some measurable improvement in the last months because there has been a level of stability around that workforce. In the two years previous to the last precedent period, there are no assurances that workforce was stable, or that they had the necessary skills. It was providing boots on the ground. The reality is the Department had no other choice because they were chronically understaffed and had to bring in a workforce as best they could.*

What we saw during that time was reduced inductions, no essential requirements for youth workers aside from psychometric testing and we still see no essential qualification requirements for youth workers. If you pass the psychometric testing then you can work with the young people who have been detained there.

Because of an inability to retain youth workers there, in the last month we have seen lockdown because of staffing at Ashley Youth Detention Centre. The Government does not like to call it lockdown but that is what it is. If young people are restricted to their rooms, then they're locked down.

Ms WEBB - *You mentioned in the last couple of months there has been an improvement on the past couple of years, yet we are still seeing shortages to the extent that lockdowns are required. The change has been that there is a more stable workforce but still not enough of that workforce?*

Mr DIGNEY - *That's right. They'll recruit a number but then they don't use ongoing recruitment strategies to make sure there's a contingency. People will be injured in that type of environment, people will need time off for workers compensation, people will be suspended because there are allegations made about them from a young person. It seems the Department does not count that in their staffing projections. We've never been able to convince them that it's a fact they need to take into consideration.*⁴¹⁹

At the public hearings, Mr Smith APM informed the Committee about some of the risks that face staff at AYDC:

⁴¹⁸ See Youth Justice Blue Print 2024-2034, p.36

⁴¹⁹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.10

Ms ARMITAGE - ... I was reading a couple of the other parts of your submission. You mentioned you were involved in several incidents of violence directed at you by residents and follow up was sound, but you have also said when you saw the young guy with the graffiti, there is not a lot you can do. Were you physically assaulted? Did you see other staff being physically assaulted? When you say follow up was sound, what can staff actually do? What can happen? Is it just that they lose privileges? There is nowhere else they can send them. They cannot move them on to an adult prison. What is the situation after you have had violence directed at you? Are they locked in their room or what is the situation that occurs there to try to maybe point out to them that it is not the right thing to do but also, as you say, about victims of violence?

Mr SMITH - I can tell you what happened, to put a bit of context around it. There were three instances over the course of two days that ultimately caused me to decide it is not a safe place, certainly for me, to be there. The first instance occurred where there was a young fellow. I engaged with him when I first started the shift and his first comment to me was that 'I am going to stab you before the end of your shift', and he was quite a solid young man. I did a bit of background. I knew there were some mental health issues involved, but he was quite a solid fellow that did cause me concern, and you can sense in there that something was not right.

Ms ARMITAGE - His age, would he have been under 14 or over 14?

Mr SMITH - He might have been 15, maybe. I cannot remember at all.

There was another guy. I was making breakfast for one of the residents. I mistakenly, and through my own inexperience, left one of the locks of the kitchen cage sitting on the bench and he went and grabbed it, put it in his jumper and then flung it around. He said, 'I'm going to knock your head off.' We had to get a heap of people in to negotiate him to put that down. This young fellow was making the point I shouldn't have left the lock around. That was true, but he threatened to take my head off with it.

The third is what ended it for me. It was two of them, who asked me if I wanted to go outside and kick the football, to which I said yes, it sounded like a good idea. Little did I know one of the other youth workers said they are going to take you out there and do what they call a 'two-pack', where they take you out there and there are only the three of you out there and they attack you. That necessitated a conversation with one of them, who got angry and started to throw things. We called a code black and ultimately the people concerned were restrained. It got quite violent and volatile. Most of us had made it back into the secure area of the facility itself. At the end of that particular one, everyone involved was put in their rooms for a period of time.

I don't know what happened after that because I rang the General Manager up and said, 'That's it, I'm going home, I've had enough.' That was for a couple reasons. Firstly, it felt very physically unsafe. There is always the risk of mental health harm out of that sort of thing, but it did certainly feel physically unsafe.

More importantly, I am big enough and ugly enough to look after myself. My concern was, what protections did I have to protect myself in those situations? What could have gone wrong was that I could have been the story in all of that.

Ms ARMITAGE - *Do you think some of that, Brett, was because they knew you were a former police commander?*

Mr SMITH - *Yes, they definitely knew that most of us in there were police officers. I am not sure if they knew what our roles were. They may have done, with me.*

Having said that, I had number of instances where I had been outside playing basketball, playing football with a couple of them over the course of a couple of days, without issue: except there was one particular guy, Sam, who I played chess with. He wasn't bad: he knew how to beat me - not that I'm very good at it. There was some really good interaction, but what concerns me is that all of a sudden you can be in a particular position and things just turn really quickly.

Ms ARMITAGE - *Interestingly, we heard ... from Leanne McLean, Commissioner for Children and Young People, that she goes unaccompanied, gets a set of keys and just wanders around on her own. Yet, from hearing what you're saying, that might not be the safest option.*

Mr SMITH - *I can't comment on that. There were a number of people that I observed who did have free range, but they were people that I observed that didn't pose any type of risk to the residents at all. The support workers probably pose a risk or a perceived risk to the residents themselves, and for whatever reason we were taken. I wasn't the only one that was injured that week. There was a lady I was working with: I understand that she had her hand jammed in a door and was off work with an injury as well.*

I don't think it was my former role, specifically. I understand that most of the other former police officers that were there had issues themselves and there were acts of violence. The violence across the board towards the staff is pretty consistent.

I remember being in one of the managers' offices at one point and there was a list of people on the whiteboard. The whiteboard had about a dozen names of all the people who were working and on duty, and then there was another list of all the people who were off on workers compensation and/or on leave - and that list was three times as long as the first list. That ought to be a concern.

...

Mr SMITH - *That is as it was. Even though I went out there with the intention of providing some help and support, it is just not the place for me.*

Ms ARMITAGE - *You're not going back?*

Mr SMITH - *Definitely not.*

Mr VALENTINE - *... I was reading through pages four and five of the security aspects that you point to being needed to improve the circumstances, do you think that all that*

might do is actually trigger unacceptable behaviour from these young people? A more psychological approach, call it therapeutic if you like, might work better than trying to tighten security and make them feel more restricted and kick against authority even more so. Can you see what I'm getting at and do you have any comment on that?

Mr SMITH - *Look, this is a case of which way you go with this. My whole focus was workplace health and safety, hence what I talk about there. A lot of that was some observations I've seen in an adult custodial facility. You have got to have staff feeling safe and confident in the workplace to be able to do that. I get it, that you try to create an environment that is open, non-threatening and so forth with young people. I get all of that, but the reality is that these people, these aren't just your normal, ... -*

...

Mr SMITH - *These people are young: most have got an immature mindset; and just about all - and particularly the males - are physically adult strong and it creates a very dangerous environment. My argument is, what do you put first here? Shouldn't we be putting staff safety and the young person's safety at a parallel here?*

Mr VALENTINE - *Some might say that, for the amount of money that is spent on a place like Ashley, if there was a more one-to-one approach where you don't have groups of these residents together that might incite various behaviours, that it would be a better approach: if there was more one-on-one and the money still being applied in a different way rather than at a centre like Ashley.*

Mr SMITH - *I have said in my submission that there needs to be more of the one-on-one stuff. What I saw and what I experienced was largely a group mentality. These particular guys, I felt that they wanted to do it for a bit of fun - which is fine. I tend to agree that if the interaction can be more one-on-one in a more controlled environment, you might not need all of the stuff that I am talking about. I do accept what you say: but, having said that, the State still has an obligation to look after its workforce - ...⁴²⁰*

At the public hearings, the Committee heard from Mr Lucas Digney (Assistant State Secretary – Health and Community Services Union) in relation to the union views of a perceived lack of support for AYDC staff:

CHAIR - *... regarding evidence we heard last week in our hearings about Ashley Youth Detention Centre (AYDC) staff, and the lack of support for workers who have not been at the centre for some time, can you give us a brief outline of that?*

Mr DIGNEY - *... I concur with the submissions of my comrades in relation to employees who are suspended or who are under investigation for whatever reason, or workers who are on workers compensation. They are cut off by the Department. They might have central contact from someone from injury management or someone from human resources but they don't have any contact from their operational managers. They're cut off from their email system, they have difficulty accessing their pay slips, and all of that administrative stuff. They are just isolated.*

⁴²⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.71-73

CHAIR - *They feel like that have been cast aside.*

Mr DIGNEY - *They are removed from the workplace and they are isolated. A number of members have been suspended for well over a year and the investigation hasn't even commenced. I have members who have been suspended for over two years on full pay. One of them has been cleared by the investigation, but they still won't return that person to work, for whatever reason.*

The real issue is a failure by the employer to recognise the traumatic environment that these workers work in. In the prison and in youth detention, these workers are exposed to vicarious trauma every single day, every single minute. The departments they work for fail to recognise that. There could be a real reduction, particularly in traumatic stress injuries, to these workers by ensuring they have regular access to professional supervision. They don't.

When it is provided, it's provided by someone in their management structure, so it's not professional supervision in a proper sense. You can't debrief about all of the issues that you may be feeling, or that may be of concern to you because you have to take into account that you are talking to somebody who is in your management structure, someone who you may have a problem with. In youth justice, in prisons and in child safety and other areas where employees are exposed to trauma, the Government could make a small investment, employ their own teams to provide that professional supervision on a regular basis. It would measurably reduce traumatic stress and those type of injury claims against the department.

CHAIR - *An independent team?*

Mr DIGNEY - *Absolutely. It can't be from inside the management structure. It is not effective if you have to debrief about those matters with someone who has power over you.*

Ms WEBB - *That's a really interesting observation about the professional supervision and how it needs to be separate to performance management, which is what your manager and line managers do.*

Mr DIGNEY - *Absolutely.*⁴²¹

At the public hearings, the Committee heard from Mr Ivan Dean AM on his observations of how some AYDC staff felt in relation to prolonged suspensions at the time:

Ms WEBB - *I wanted to go to some things you mentioned in your opening remarks around your concern about staff at AYDC who are being suspended and then there's an extended time across which it appears that that isn't being addressed actively. Therefore, there seems to be a failure of natural justice, I would think, and it's what you're pointing to. That's very distressing for those, potentially. Are you aware of what the holdup is? Are*

⁴²¹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.9-10

they kept informed or updated on what progress is being made to do whatever is needed to resolve that situation?

Mr DEAN - *No. That's a good point you've made. The staff are muzzled under the act under which they work, the State Service Act. They are not able to talk to people about their issues and their complaints made and so on. They've said they've got to keep that under control. They are not being informed of where they are at and what's going on. That is one of the problems.*

I've spoken to family members of these people and they are suffering. Their kids are suffering as well. I would like some of you to talk to some of these people that are currently on suspension and get a feeling from them as to where they are and what's happening to them. I cannot believe that a person can be suspended for two years - and I think it is longer now. I know some have been suspended for 18 months and have had little contact or feedback on where they are at and what is going on.

Ms WEBB - *So, they are not given an understanding of what it is that is holding the process up necessarily or what steps are being taken?*

Mr DEAN - *That's true. This is the information I am being given. It might have changed since then, but I doubt it. The last bit of information I got was back about three months ago when I had some contact in relation to what was happening with the suspended people.*⁴²²

Committee Findings

- F85. The Ashley Youth Detention Centre staff face unique challenges in a difficult environment.
- F86. A number of Ashley Youth Detention Centre staff have been stood down for prolonged periods pending finalisation of investigations.
- F87. Ashley Youth Detention Centre staff that have been stood down pending investigation had reported a lack of regular communication and support by the Department.
- F88. Insufficient staffing at Ashley Youth Detention Centre leads to increased lockdowns which is detrimental to detainees and staff.

Committee Recommendations

- R41. Ensure regular communication with Ashley Youth Detention Centre staff that are absent from the workforce.
- R42. Increase recruitment to ensure Ashley Youth Detention Centre can be fully staffed and lockdowns minimised.

⁴²² See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.21-22

Innovations and improvements to the management and delivery of youth detention services that may be applied in Tasmania, including to future detention centre design

The Tasmanian Government Submission noted that as part of the Youth Justice Blueprint Consultation:

- custodial facilities should be purpose built and provide the supports based on personal needs and abilities including education, physical and mental health care, and that young people be free to communicate with others who are important to their wellbeing and treated in a way that recognises their dignity
- young people need to be supported to maintain family relationships and links to the community through personal and professional visits and there needs to be additional investment by staff to establish rapport and trust with individuals as well as identifying appropriate complementary wrap around services
- the new custodial centres must be designed with substantial input by Aboriginal communities including how they look, the programs and the outcomes they are seeking to achieve
- in accordance with the findings of the Royal Commission, the facilities also need to be Child Safe and reflect implementation of child safe standards
- the physical environment of a custodial centre is a significant factor in facilitating relationships between staff and young people and providing a space for rehabilitation. Key features proposed as best practice facility design included:
 - small scale facilities, located in the local community;
 - close to the young person's home and family;
 - non-prison like with security features limited and invisible where possible;
 - homelike interior and young people have their own clothes and belongings;
 - have the capacity for a range of adaptable and relational security levels; and
 - therapeutic and support young people to feel safe secure and calm
- continuing, and extensive engagement in learning while in a custodial setting is important in rehabilitation. Substantial education options need to be available to those in detention including academic education and vocational opportunities for hands on learning. Stakeholders highlighted the importance of the continuation of this engagement post release and the need for support to ensure this occurs.⁴²³

The Committee noted that after the completion of public consultation in 2023 and feasibility studies in 2024, the Tasmanian Government had chosen a site at 466 Brighton Road, Pontville (located in southern Tasmania near Brighton), for the new Tasmanian Youth Justice Facility:

It will provide a therapeutic, trauma-informed and culturally safe environment for a smaller number of young people sentenced to detention and a smaller number of young people on remand. While the facility will provide secure accommodation for those who

⁴²³ See Tasmanian Government ([Submission #27](#)), p.52

*need it, its purpose is rehabilitative, focussing on intensive interventions that support the safety and wellbeing of young people.*⁴²⁴

The Tasmanian Government Submission noted that in November 2022, the State Government released the proposed Youth Justice Facilities Model⁴²⁵ to key stakeholders in a targeted consultation for finalisation:

The Facilities Model consists of the following new youth justice facilities:

- *one detention/remand centre in the South which will provide a state-wide facility for children and young people sentenced to detention or on remand providing the opportunity for intensive intervention and rehabilitation through a therapeutic model of care.*
- *two support centres, one in the North/North West and one in the South which will provide young people with skills and support for a successful transition from detention to independence and aim to reduce the number of young people reoffending.*
- *two Assisted Bail Facilities, one in the North/North West and one in the South which will provide safe stable accommodation for young people as well as assistance in managing their bail conditions and support to address underlying issues that are contributing towards harmful, antisocial or offending behaviours. Assisted bail facilities aim to reduce the number of children and young people remanded to a detention centre by supporting those children and young people on bail who, if not supported, may breach bail or re-offend and end up on remand or detention.*

This model provides for a greater opportunity to reduce the number of children and young people entering detention and to support those exiting detention.

*A detention centre is only one element of an integrated youth justice system and will be most successful if it is part of a planned program of supports in the community upon a young person's release. Without this support, children and young people can easily fall back into past patterns of behaviour, both increasing their risk of returning to detention and undoing any progress made while in detention.*⁴²⁶

The Committee noted that the following statement from the Tasmanian Government about the new Tasmanian Youth Justice Facility:

The youth justice reforms focus on moving to a therapeutic model that focuses on early intervention, prevention and rehabilitation, with detention as a last resort.

Closing the Ashley Youth Detention Centre is part of these reforms and aligns with recommendations for improving the youth justice system. The new facility will be part of a broader network of services. These services will support young people with complex needs, reduce offending and prevent re-offending through intensive therapeutic interventions.

⁴²⁴ See 'About the new Tasmanian Youth Justice Facility', DPAC, <https://keepingchildrensafe.tas.gov.au/youth-justice/>

⁴²⁵ See [https://publicdocumentcentre.education.tas.gov.au/library/Shared per cent20Documents/Proposed-Youth-Justice-Facilities-Model.pdf](https://publicdocumentcentre.education.tas.gov.au/library/Shared%20Documents/Proposed-Youth-Justice-Facilities-Model.pdf) [Accessed 13 November 2023]

⁴²⁶ See Tasmanian Government ([Submission #27](#)), p.53

*A priority for these reforms is to significantly reduce the number of young people held in detention before they have been sentenced, which accounts for the majority of young people currently held in the Ashley Youth Detention Centre. By developing more options for young people to be safely bailed prior to sentencing, the number of young people in detention can be reduced and the new detention facility can be smaller and more focussed on rehabilitation of young people who have been sentenced.*⁴²⁷

At the public hearings, the Committee heard from Minister Jaensch in relation to the proposed facilities to replace AYDC:

Ms ARMITAGE - ... You were talking about the new facilities to replace Ashley, and this has probably been mentioned to you or asked of you in the past. It is the two bail facilities, north and south, and two supported step-downs, but the single smaller in the south. I guess that is the detaining area in the south, so not in the north? Is that not one of the issues that we have now with the proposed new prison, that it is to try to keep people near and particularly younger people: would you not consider that younger people who are detained would be better near families? The fact is that you actually have only one in the south and not one in the north. My understanding was that a lot of the offenders are from the north, so what is the reasoning behind only having that one detention centre in the south given the whole reason we are hearing for the new prison is to try to have people closer to their families, which helps with rehabilitation?

Mr JAENSCH - ... I am very happy to talk about this because we are not just replacing the Ashley Youth Detention Centre with two smaller versions. As you would be aware, when we announced our proposed youth justice facilities model, we came up with this five-site approach. The idea is, at the moment, all of the young people who we're dealing with who have been sent to a detention setting by the courts are all in Ashley. The majority of them at any point in time are not sentenced -

...

Mr JAENSCH - They're on remand. They're awaiting the process of court, but for many of them there is no other more suitable place to be remanded to. What we would hope to see in the future is that, of the population of people we're currently seeing this side of the courts in detention, that they will be accommodated across that network of facilities according to the needs for their supervision and the court's directions as to where they should be.

If this system works the way it should do, our detention facility should be catering for a smaller number of young people who are in a facility for a longer period of time, who have more complex needs and need to be able to be accessed by a broader range of services. One of the drivers for this that has been informed through the blueprint process and our investigations has been, if we're to provide a therapeutic response for those in detention with those very complex cases, part of the key to getting that right, not just holding them and keeping them safe, but having the hope of being able to reintegrate them into society as safe, positively contributing citizens, is that we may need to deal with their underlying and disability issues, their drug or alcohol or mental health matters,

⁴²⁷ See Tasmanian Youth Justice Facility, DPAC, <https://keepingchildrensafe.tas.gov.au/youth-justice/>

their ability to come to terms with the crimes that they've committed and to take responsibility for their actions and to undertake a therapeutic process.

What this means is that we're going to need to be able to apply lots of different services; they aren't available evenly across the State. Our best chances of getting good servicing of those young people are to have them close to where the greatest concentration of services is, and that's our capital city.

Ms ARMITAGE - *I understand that but, with respect, 5.1.1, Therapeutic Services:*

The key features proposed as best practice the facility design included being close to a young person's home and family.

I appreciate that there are a lot of facilities in the South, but can you answer - you've got these young people, that's one of the arguments that you've got for the new prison in the north, and yet now all of a sudden, young people who haven't really all got into that terrible justice system yet may have committed some pretty nasty crimes but we're hoping that they can be rehabilitated - the fact that they won't be close?

Mr JAENSCH - *Half the State's population is in the South and -*

Ms ARMITAGE - *... more than half are in the North and North-West actually.*

Mr JAENSCH - *As a crude breakdown, half - and if you combine that with the clear advice that being close to the services that we need to -*

Ms ARMITAGE - *Doesn't that contradict what you're saying though with the other prison?*

Mr JAENSCH - *Only if you ignore half the argument. If we want them to be accessible to their families and accessible to services, we can achieve most of both of those close to the southern population centre.*

Ms ARMITAGE - *Would it not be a thought, if you're looking to relocate the adult prison to Ashley, to have a section there that could accommodate youth offenders so they can be closer to their family? Has that been considered - not as part of the prison but in another area?*

Mr JAENSCH - *One of the principles that we've had clear advice on over the years has been not to co-locate youth justice and adult justice or corrections facilities.*

Ms ARMITAGE - *I don't actually mean them intermingling.*

Mr JAENSCH - *But being adjacent and somehow reinforcing, at least the optics of a sort of junior school, senior school. We want to break that, the inevitability that might be perceived of having youth offenders alongside adults.⁴²⁸*

⁴²⁸ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.57-59

Minister Jaensch informed the Committee as to the revised timelines originally announced by the State Government in relation to the proposed closing date of AYDC:

Mr WILLIE - Minister, we've heard this morning from workforce representatives that the ongoing uncertainty around the closure time line is impacting the young people at Ashley and also the staff. I've been fortunate to visit Ashley three times, and I noticed on our last visit the presentation of the young people was much different, in terms of heightened behaviour and the way they were presenting. I'm just interested in when you'll be able to clarify some of those time lines and put a transition plan in place and provide some more certainty.

Mr JAENSCH - ... When then-premier Mr Gutwein announced that the Government would be closing Ashley, he gave a time frame and he also gave a transition to two smaller facilities, one in the north, one in the south. On the face of it, that was about two smaller youth justice facilities doing the same job as Ashley does now.

Mr WILLIE - Which was based off a Noetic report that the Government has had since 2015 or something.

Mr JAENSCH - Since many years ago. We've taken further advice, including from Noetic again and broader consultation that there now appear to be better ways than just decanting a larger Ashley into two smaller Ashleys because if we did that we still would have the issue of the majority of the residents being remandees, not detainees, and still have the remaining problems of no provision for throughcare in terms of step-down accommodation for those exiting detention and not the options of assisted bail facilities as an alternative to putting them in a detention environment, particularly for those whom courts may not end up sentencing to detention, so -

...

Mr JAENSCH - When we announced our intention to not just replace Ashley with two smaller Ashleys, we also then realised that delivering this more sophisticated, better-practice model may take more time and so whilst we have remained committed to the ambition of closing Ashley as soon as possible, and 2024 is the date that was announced, we believe that is going to need to be updated. Now, what I do not want to do is to issue another political deadline. What I want to do, as soon as possible, and I hope to be able to do in coming months, is once we have confirmed the preferred site for the development of the southern detention facility, which is a critical component of the new facilities delivery model, once we have an actual site that we have locked in, then we can conduct the remaining site investigations, planning and design processes, then we will know how much it will cost and how long it will take to build that and my next step, in terms of clarifying time frames, will be to provide a firm, actual time frame based on those investigations, so I hope to do that in coming months.

Mr WILLIE - It is not a political time line, the basis of my question, Minister, it is about the young people there and the uncertainty and how it is impacting them and also the staff in this current environment.

Mr JAENSCH - That is right, that is why, in my overview, I referred to the Keeping Kids Safe plan, which was developed in response to some questions from the Commission of

Inquiry, specifically to do with as we plan and transition to our new, reformed model and our new youth justice facilities, what are we going to put in place to ensure that, in the transition period, young people are safe in detention and that's what has been taking a lot of the energy of the department over the last six months or so and will continue to until we have the new facilities in place.

Mr WILLIE - *Was it a mistake to announce a closure time line the way that it was announced by the Government?*

Mr JAENSCH - *No, I think what it did is it drew a line under Ashley and the experience of Ashley in the past, the fact that we would not build something like Ashley now as a youth detention facility, and we needed to be able to make a break from the Ashley model in all of its forms to something better and something that is informed by best practice. I think it is sensible to have said there is a date we are going to move out by. Since then, we have become, I think, better informed about what the replacement should be and we are reaching for that now.*

Mr WILLIE - *Arguably, you should have done some of this work first: you could have said that Ashley was not fit for purpose and the Government was moving in this direction, but sending a deadline that you are not going to meet has created a lot of uncertainty.*

Mr JAENSCH - *Look, I think so, but we have engaged with a lot of stakeholders through our Youth Justice Blueprint consultation. There seems to be close to universal support for the direction we're taking and support for us to be doing what will be best practice in Australia on this, possibly more broadly as well. The process has been worth it to reset around that reform agenda. We're going to need everybody to be working together to make it work. This reaches outside of what happens once young people have been sentenced. To deal with prevention and diversion we're going to need to work across a range of services across different portfolios and into other sectors so that we're diverting kids earlier so they never see the inside of one of these facilities.*

Mr WILLIE - *I don't think you will find much disagreement, particularly across the Parliament. What we're doing is not working.*⁴²⁹

In relation to the proposed changes under the Youth Justice Facilities Model including the proposed replacement of the Ashley Youth Detention Centre, the Commissioner for Children and Young People submission stated the following:

Informed by evidence and my experience as the independent advocate for young people detained under the YJ Act, the physical environment of a detention facility is a significant but by no means the only factor in helping, or hindering, a young person's rehabilitation.

Any detention facility for the very small number of young people who may be detained must fully adopt a therapeutic, child-safe, culturally safe and trauma-informed approach.

⁴²⁹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.59-61

*See for example the matters set out in former Commissioner Morrissey's advice to the Tasmanian Government...*⁴³⁰

In reimagining future prison/detention centre design there is an urgent need to address the use of adult custodial facilities as the 'front door' to the youth justice system. Reception prisons are neither child-centred nor therapeutic environments in which to hold a child as young as 10 even for a short period of time.

*I note the Tasmanian Government is currently pursuing reform of the entire youth justice system. This includes a commitment to closing Ashley Youth Detention Centre, the development of a new therapeutic model of care across the entire continuum, and the construction of five new purpose-built facilities which, in my view, should be focussed on a therapeutic approach to supporting young people exhibiting harmful behaviour. I would strongly encourage the Committee to seek up to date information specific to these reforms directly from the Department for Education Children and Young People.*⁴³¹

At the public hearings, Ms McLean expressed the Commission's view on replacing AYDC:

CHAIR - *With the proposal the Government has put forward on the new system, are you supportive of what has been put forward? You are on the record as saying the Ashley Detention Centre is not fit for purpose. Is the proposed model something you see as appropriate?*

Ms McLEAN - *Like you, I know a limited amount about the model that is proposed.*
...

Ms McLEAN - *What I know is there are five facilities proposed. Only one of those will be a custodial facility in the south. We certainly know there is a desperate need for providing young people with supported accommodation.*

Arguably, there are people on remand at the Ashley Youth Detention Centre on any given day, who are there partly because there is no other safe accommodation for them to go. I have certainly advocated for children in my time as commissioner, in relation to that.

I am very supportive of additional supported accommodation for young people. When it comes to the model of detention, detention should only ever be an absolute last resort for any child. In my view, it should certainly not be for any child under the age of at least 14.

What we have seen in Tasmania over the years is that as our ability to provide solutions through welfare-based responses and as a homelessness crisis and cost of living has really impacted communities, the likelihood of children ending up in detention appears to be rising.

That is because, in part, we are not able to support families to manage the harmful behaviour of children in the community. That is a terrible concern. It is something we

⁴³⁰ See Integrated Therapeutic Youth Justice Model, [Letter to the Minister \(18 October 2019\)](https://childcomm.tas.gov.au/wp-content/uploads/2022/07/2019-10-18-Letter-to-Minister-Therapeutic-Approach-to-YJ.pdf), <https://childcomm.tas.gov.au/wp-content/uploads/2022/07/2019-10-18-Letter-to-Minister-Therapeutic-Approach-to-YJ.pdf>

⁴³¹ See [CCYP \(Submission #43\)](#), p.5

should be deeply worried about. We certainly do not want to see that 5 per cent rise go any further. We want to see it go backwards.

Ms ARMITAGE - *With regard to the proposed changes, obviously for Ashley and the fact the one custodial centre will be in the south, my concern was that they are talking about having a northern prison facility for people to be close to their families. Yet, here we are only proposing to have one custodial centre in the south. They tell me that is because that is where all the services are.*

Do you have an opinion on that? Do you think it does not have to be large, obviously, or whether one of the other centres could be set up to have some custodial sentences, or is it just to have it in the south? What are your thoughts on that? On one hand we are saying for adult prisoners, we need to have a northern facility so they can be close to families. Yet on the other hand, we are removing Ashley and while having the other centres is a good thing, the one custodial area for young people, if anyone needs to be close to their family, it is them, but it will just be in the south. Your thoughts on that?

Ms McLEAN - *My first thought is I would like to see the numbers of young people in detention reduce to an extremely small number. If we have a service system response able to support young people in the community, that is possible. I have detailed what that would contain in my advice to Government and also in my previous submissions on youth justice.*

Working under that presumption we have a very low number of children in detention, what we see from the numbers at the moment is the numbers are skewed to the south. The vast majority of children and young people in detention do come from the south and in the majority of that 5 per cent rise, there is also a southern skew in those figures.

Once you are dealing with those two pieces of information, the first question you ask yourself is: do we need a large detention facility at all anywhere, or are we able to provide similar levels of security in different, smaller community settings around the state? That is something, if we are serious, we could open up a discussion about.

The second part of the question is about economics, which is not my forte. The Government's position is to build a larger youth detention facility. The economic question is, can you sustain two of those? The fundamental question about whether or not young people should be close to their families is important. I hear from young people in detention that they do need to be close to their families. They want to maintain family connection, and maintaining family connection for children in the south at Deloraine has been incredibly difficult.

Ms ARMITAGE - *Interestingly, the answer given, from memory, was not that the majority of offenders were from the south, it was that the facilities and the programs they needed were located in the south.*

Ms McLEAN - Workforce is another issue. Staffing issues have plagued Ashley Youth Detention Centre and they are continuing. The location of the facility has perhaps added to people's ability to undertake employment there because it is some drive away.⁴³²

At the public hearings, Ms Abercromby and Wylie (Tasmanian Legal Aid) spoke to proposed replacement for AYDC:

Ms HOWLETT - What are your thoughts on the five proposed sites around Tasmania?

Ms ABERCROMBY - In terms of the five proposed sites, can you elaborate on that for me?

Ms HOWLETT - What the Government is looking at when they close down Ashley is replacing it with five sites around the State.

Ms ABERCROMBY - I would need to look more closely at what those five proposed sites involve. If I could just make this point, in terms of programs and facilities for youths generally, there are no detoxification facilities for youths. We would be kidding ourselves if we thought that children don't suffer from drug and alcohol addiction problems. That is, of course, something that occurs.

Ms HOWLETT - We have seen some young people being detained in Ashley to dry out.

Ms ABERCROMBY - The lack of facilities like that are part of TLA's concerns.

Ms WYLIE - Probably, our focus in relation to the proposed change is we welcome the announcement that there is going to be a therapeutic approach taken. So, rather than focusing on the where, I'd rather focus on the how and the move to a therapeutic approach to delivering youth justice services. I think we will start to address the problems that we are identifying here today.

Ms WEBB - On that, in terms of the Government's intention to reform the youth justice space into that therapeutic approach, has TLA been involved in the discussion and development that's been progressing in that space? Has the Government connected with TLA to help inform input into that?

Ms WYLIE - Not yet but we would very much welcome entreaty to that effect.

Ms WEBB - ... Are you intending to make submissions or to proactively try to be involved in discussions from this point?

Ms WYLIE - Absolutely. As I said before, it is part of our strategic plan to focus on children and young people. We avail ourselves of every opportunity to make representations in this space, which is why we made the representation that we did to this Committee. Whenever an opportunity presents itself for us to be involved, we will absolutely be accepting of that. I encourage those who are putting those programs

⁴³² See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.57-59

*together to work with us because we have a unique understanding of the youth justice system from the perspective of the young people.*⁴³³

At the public hearings, Mr Smith APM closed off his evidence with this statement around a replacement for AYDC:

Mr SMITH - *I believe everyone involved in this process genuinely wants the best outcomes for these young people that unfortunately find themselves on the wrong end of the law. There has to be some type of agreement between each of the viewpoints about what Ashley should be or a facility like Ashley or the other facilities going forward. There has to be some common agreement around the table about what it is and what it produces. There has to be a commitment that everyone tries to work together in order to get the best outcomes, rather than firing shots about one another. That is not helpful. It has happened from time to time and the staff at Ashley themselves have been victims in this process. As a State we cannot ignore the fact they are employees and the State has obligations towards them in this.*

*I would like to think that in going forward the systems, structure and processes that need reviewing and having a different focus and a different model, that there some thought goes into this around providing an environment that encourages good people to want to work in this environment.*⁴³⁴

The Sisters Inside Inc. submission, an abolitionist-based organisation, were of a view that no AYDC replacement should be funded and rather the monies divested elsewhere:

The Tasmanian Government has announced that it will build five new 'youth facilities' (2 locations were announced last week) and is using carceral propaganda to sell the idea of these new children's cages to the community as something positive (keeping the community safe) and the facilities as softer options to detention centres. However, they do not keep all people in Tasmania safe. If children are not able to freely leave these new facilities, they are prisons. No matter how you dress these new spaces up, a prison is a prison. All these new spaces will do is increase the State's capacity to confine more children.

The money that the government is allocating to these so-called rehabilitative spaces, 'bail houses' and accommodation facilities managed by corrections for children who do not have accommodation should be redirected to serious and sustained investment in mainstream and Aboriginal specific public housing for communities, youth, and families. This is how we stop the criminalisation of young people, not through caging and confining.

We assert that correctional service monies must be redirected from prisons, surveillance and policing to essential services like housing, health and education and positive programs and services to create healthy and thriving neighbourhoods. The government must commit to a moratorium on increasing the prison bed numbers or building new

⁴³³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.8

⁴³⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.74-75

children's prisons and instead develop a carceral divestment strategy as a matter of urgency. This will enable the government to focus on building up communities not prisons.

The Tasmanian Aboriginal Centre (TAC) must be consulted with and fully resourced to support First Nations children and their families so that they are not criminalised and imprisoned. TAC must be provided with funding to legally represent children who are criminalised and imprisoned. The allocated \$40 million dollars to build children's prisons must be allocated to TAC to lead the visioning of reimagining communities – their communities.⁴³⁵

Committee Findings

- F89. The Tasmanian Government has committed \$50 million to the development of the new Tasmanian Youth Justice Facility in Pontville.
- F90. The new detention facility is expected to be smaller than Ashley Youth Detention Centre and more focussed on rehabilitation of young people who have been sentenced.

⁴³⁵ See [Sisters Inside Inc. \(Submission #47\)](#), p.2-3

Any other incidental matters

Role of the Commission for Children and Young People

At the public hearings, Ms Leanne McLean (former Commissioner for Children and Young People) informed the Committee in relation to her functions and responsibilities of that Office as it related to youth detainees: ⁴³⁶

Ms McLEAN - ... I am an independent statutory officer enacted through the Commissioner for Children and Young People Act 2016. My role is to advocate for all children and young people in Tasmania, and to act as an advocate for youth detainees under the Youth Justice Act 1997. I research, investigate and influence policy development in areas relating to children and young people, including a very strong interest in the youth justice system. I promote, monitor, and review the wellbeing of children and young people, and I promote and empower children and young people to participate in the making of decisions and to express opinions about matters that affect their lives.

I also help to make sure Tasmania meets its national and international obligations in respect of children and young people - for example, the United Nations Convention on the Rights of the Child - and I encourage organisations to establish child-friendly mechanisms to assist children. In performing these functions, a unique feature of the Commissioner's role, unlike any other role really in Tasmania, is that I'm required to undertake the functions according to the principle that the wellbeing and the best interests of children and young people are paramount, and that I must observe any relevant provisions of the United Nations Convention on the Rights of the Child. I also need to give special regard to any children and young people who are disadvantaged or vulnerable for any reason.

It is important to start with a bit of context in relation to children and their interaction with the criminal justice system. Fewer than 2 per cent of our children aged 10 to 17 come into contact with the criminal justice system due to their behaviour. If we think about that in relation to the most recent ABS recorded crime statistics - for 2021-22, of the 55,860 children and young people who are aged 10 to 17 in Tasmania - so, that's within the scope of our youth justice system - 888 were proceeded against by police. That is 1.65 per cent of that population. The number of youth offenders aged 10 to 17 has been steadily declining since 2008-09 in Tasmania. However, in 2021-22 there was a 5 per cent increase in the number of children and young people aged 10 to 17 proceeded against by police. That contrasts with a 7 per cent overall decrease in total offenders in Tasmania. In 2021-22, the number of children and young people in youth justice detention on an average day in Tasmania, was 9.1 children. Over the five years to 2021-22, on an average day in Tasmania, the number of children and young people in youth justice detention actually fell by 22 per cent and the rate decreased from 1.9 to 1.5 per 10,000. Now, based on my observations of youth detention over the course of the last 12 months, I would anticipate that when the 2022-23 data is released, we will see an increase in the number of children in youth detention.

⁴³⁶ The Commissioner for Children and Young People tabled the following: Witness notes and references; Memorandum of Advice: The Age of Criminal responsibility in Tasmania (July 2023); and Voices of Young People in Youth Justice System Project (Voices Project) (July 2023). See [Sub #43 – Commissioner for Children and Young People – Various Documents \(Tabled 10 August 2023\)](#)

In my experience, children and young people in youth justice detention generally come from lower socio-economic areas in Tasmania, are disengaged from education and have been for some time, have experienced family breakdown and homelessness, are known to child safety services, have experienced chronic childhood trauma and disadvantage, have mental health needs and/or a disability, and have drug and alcohol issues. Aboriginal and Torres Strait Islander children and young people are overrepresented in the age bracket of 10-17, which is the scope of our youth justice system. Aboriginal or Torres Strait Islander young persons are about six times more likely than their non-Indigenous counterparts to find themselves tangled up in the youth justice system.

As you know, I have a legislated role as an advocate, and a legislated role to be the individual advocate for these children. In practice, this means that children and young people who are on remand, or who are serving a period of sentenced detention - noting there are very few of those: the majority of children in detention are on remand or in an adult prison - can request my advocacy services on any matter affecting their rights and their wellbeing. Importantly, young people who are held in police watch houses or reception prisons - which they frequently are: and I note to the Committee that these are adult custodial facilities where they are under the custody of police or a correctional officer while waiting to be taken to court - cannot access my individual advocacy services. They only kick in once a young person has been sentenced or remanded under the Youth Justice Act.

However, I can advocate at a systemic level for any issues that can be raised. Section 10 of the Commissioner for Children and Young People Act outlines how I undertake those functions. I visit Ashley approximately every three weeks and have done so since I was appointed Commissioner in 2018. I try, in those visits, to meet with every detainee in a face-to-face way. My visits are unstructured. I arrive, I have free access around the facility. I literally move around corridors, in and out of units, and have discussions with children and young people about how they are going. Sometimes we play a bit of basketball, sometimes we might play some cards, sometimes we might sit down and have a chat. And, if those young people flag an issue with me, we can try to make an arrangement to have a more confidential discussion so they can raise that issue in an advocacy sense. Confidential discussions within the detention environment are really difficult to have.

CHAIR - *You actually walk around freely? Are you unaided? Unsupported?*

Ms McLEAN - *I do - unaided, I always have been supported. When I arrive at the facility I am provided with a set of keys and a radio that I wear on my belt and I'm not accompanied. Since February last year - 2022 - my advocacy function has been supported by the addition of an advocate for young people in detention. That is a full-time role, and the advocate has substantially increased advocacy services for young people in detention by being on site on a more regular basis. They're there about three days a week. The advocate can establish more effective rapport with children and young people, witness their living environment, facilitate access to services, assist them to raise concerns or to access complaints processes, and monitor any emerging systemic issues. The advocate role is a fixed-term role, it is not a permanent role in my office, and that will expire at the end of 2024 or beginning of 2025.*

The other part of my work is systemic advocacy. Since providing you with my submission, which was some months ago now, I think the biggest addition I have to make is that I have now provided advice to the Tasmanian Government on raising the minimum age of criminal responsibility in Tasmania. ...

In addition to this advice, I have also released the beginnings of what I think will be a powerful suite of work.

...

***Ms McLEAN** - This work is underpinned by work we have done with children and young people with experience of the youth justice system in Tasmania. We have undertaken a project which has included sitting down with them and having structured discussions with them to seek their feedback on their experience of the system, what led them to engage with the system in the first place, and how it is they think the system could be different to meet their needs.*

... the first output of that work, which we call the Voices Project. It is called 'Listen: This is my voice'.⁴³⁷ These are the views of children who have had an experience of the justice system, and they are experts in this system. There is a bit of a trigger warning on the document. I have not edited the language: these are the unedited views of young people, but we can learn an enormous amount from what they have to tell us about the system.

I don't have a lot more to add, other than that I can summarise my advice around the minimum age of criminal responsibility for you. You will have heard from other advocates and research organisations about the need to do things differently if we are to keep young people out of the justice system in the first place. We have had, for a long time now in Tasmania, policy objectives which operate around the notion of a public health approach to looking after children, a public health approach to youth justice. The position I formed after giving it quite a bit of consideration is that all the goodwill in the world won't result in a public health approach. It is legislative and policy triggers of government which embed these changes in practice.

My view is that raising the minimum age of criminal responsibility from the currently appalling low level of 10 to at least 14 would provide us with one of the most powerful policy and legislative triggers to embed a real public health approach to the safety and wellbeing of children, including our most vulnerable children, in Tasmania. It requires legislative reform: but more importantly, it requires a new approach to the system that supports children and young people to thrive. A system should acknowledge that when we can intervene for a child, the first moment we find that there is an issue, that is where we have the biggest chance of making a difference in the life of that child. That begins in their first 1,000 days of life and then flows through to the rest of their life.

If we look at the trajectories of the lives of children who end up in youth justice detention, for many of them, our opportunities to intervene in their lives within the context of their families have been many, and they have been frequent for years and years. We have missed many of those opportunities because our service system is not set up in a way that

⁴³⁷ See 'Listen: this is my voice' (July 2023), Commissioner for Children and Young People, https://childcomm.tas.gov.au/wp-content/uploads/2023/07/Listen_Report_2023_004-FINAL.pdf

we can intervene earlier. I am proposing in my advice to Government that we review and adjust and enhance our service system to be able to do just that. In doing so, we will no longer need to rely on a criminal justice system to support children displaying harmful behaviour, and instead we can help them to change that behaviour in a supported way. ...

CHAIR - ... *About the advocacy role that you have indicated will expire late 2024, early 2025, and the benefit you have seen from that advocacy role - three days a week at one centre, if that role is expanded or receives ongoing support from the Government, how do you see that working with a possible five centres? Do you see that advocacy role being able to be put in place and see the same positive results if there ends up being five centres around the state for youth in the new Government arrangements?*

Ms McLEAN - *The short answer is yes, we will need advocacy services for children and young people who are in the youth justice system.*

My view is they should be broader than they are now and encompass children who are in custody who have not yet been sentenced or remanded under the Youth Justice Act.

We are having this conversation in the context of a Commission of Inquiry finalising their recommendations to Government. Once they are known, we will be in a better position to work together to design what oversight mechanisms are required across youth justice in Tasmania.

My position on this is already public and clear. I believe we need a commission for children and young people in Tasmania that includes the ability to provide individual advocacy to vulnerable children across the youth justice area and the out-of-home care area and perhaps other vulnerable groups of children.

*There is going to be a need to expand those functions as we come to a different arrangement for youth justice in Tasmania.*⁴³⁸

Ms McLean also informed the Committee as to the level of advocacy provided to youth detainees:

Ms WEBB - *About the advocate role that has been put in place - it's a fixed-term role, as you described it. It's probably fairly important if we are to anticipate it being extended beyond the end of 2024 to be able to demonstrate its effectiveness and as an essential component. What have we got available to tell us about the effectiveness of that role? Have we got data? Are we collecting information about the activities?*

Ms McLEAN - *We do now. The advocate is roughly three days a week on-site at Ashley Youth Detention Centre, but they are also able to manage a record-keeping system, which we weren't able to do prior to them coming on board. It's not the most comprehensive of record-keeping systems, but nevertheless it is there and I can provide you some data. In-person visits to youth detention centres from 15 February 2022, which was the commencement date, to about 2 August, which is the last data I have, so just under 18*

⁴³⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.54-57

months, we have had 160 visits to Ashley Youth Detention Centre, to adult custodial facilities, we have had five visits to the Hobart Reception Prison, two visits to the Launceston Reception Prison and one visit to Risdon Prison, out-of-hours visits is at least 14 - that is popping in in the evening or on a weekend - so, seven weekend and seven evening visits. At least 702 requests for individual advocacy have been made to the advocate between 15 February and 2 August [2023], and within each of those requests, multiple issues could be raised, so that doesn't capture the full scope of each advocacy issue: it is the requests.

CHAIR - Can we have an example of an issue?

Ms McLEAN - The most common individual themes during this period include restrictive practices and isolation. That is, the use of lockdowns, unit-bound practices, isolation of young people, and restricted movements around the centre. There have been 236 advocacy requests about that. Other requests include:

- health, safety and wellbeing, mental health support, access to medical treatment, access to exercise - 230 requests
- complaints or requests of assistance to lodge a formal complaint to chase up the outcome of a complaint - 210 requests
- 202 requests relating to Ashley staff
- exit planning and accommodation on release - 182 requests
- programs and school - 180 requests
- legal and court matters - 166 requests
- contact with family, friends and members of their social and support network – 131 requests
- support services and support agencies - accessing NDIS, NGO support services – 126 requests
- the physical environment within detention - 115 requests for advocacy
- the use of force and/or assault - 101 requests, and
- issues with other residents - which are not uncommon - 72 requests.⁴³⁹

Ms McLean informed the Committee as to the level of data kept by Government agencies to assist the Commission in its advocacy work:

Mr VALENTINE - In your advocacy role, you are now collecting statistics, but have you been able to get other statistics that might assist your role from the Department, or have they not been able to deliver on some of your requests for statistics such as the circumstances the children might be coming from?

Ms McLEAN - When I make direct requests for information of departments - usually depending on what is available - we can come to an arrangement on what I can be provided. Obviously, that is limited by the input of data in the first instance. What I can say is in the instances when I have raised the personal circumstances of a child I am advocating for at the senior levels of the Department, all efforts are made to try to find a

⁴³⁹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.60-61

safe place for that child to go on their release. There are factors at the moment influencing that, including the ability of non-government providers to be able to provide those safe placements within the realms of their limitations, which include work health and safety considerations for their staff. That is ongoing.

Mr VALENTINE - *Are there statistics you would like that are not being kept by the Department?*

Ms McLEAN - *The short answer to that is yes. I would always advocate for a much richer set of data to be able to inform my advocacy work on the rights and wellbeing of children. There is a discussion currently open with the Department. I think there is a general agreement we would like to work together to have a more collaborative and shared data set on the wellbeing of children.*⁴⁴⁰

Committee Findings

- F91. The legislated advocacy role of the Commissioner for Children and Young People is important in providing a voice to children and young people in detention.
- F92. For the 18 months to August 2023, the most common advocacy requests to the Commissioner for Children and Young People from Ashley Youth Detention Centre detainees were for the use of restrictive practices and isolation.
- F93. There is a need for a more comprehensive data set on the well-being for children in the youth justice system.

Committee Recommendations

- R43. Develop a more comprehensive data set on the well-being for children in the youth justice system.

Custodial Inspection of AYDC

At the public hearings, the Committee was informed by Mr Connock (former Custodial Inspector) of the positive working relationship his Office had with the Commissioner for Children and Young People:

Mr CONNOCK - *I think we have a very good relationship with the Commissioner for Children. As the Commissioner has said, we have been a bit of a double act before the Commission of Inquiry and various other places. We have a symbiotic relationship. The Commissioner has defined functions, as do I. The Commissioner does not have a complaints handling function but she does have an advocate who is up at Ashley quite a lot and we do have an understanding that the advocate can facilitate complaints to us.*

The Commissioner plays her role but if someone wants to make a complaint, they make it to the Ombudsman, and we have been getting a few more complaints than we have in the

⁴⁴⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.63-64

past. It has been interesting. I must compliment the advocate. She assists the young people by writing out the complaints but she uses their voice so that it comes in then not homogenised, ...

...

Mr CONNOCK - *You know it is their words. So, we actually get that contact from young people –*

Mr VALENTINE - *It is so important.*

Mr CONNOCK - *Absolutely, which they are not necessarily able to articulate themselves or to do - they cannot write it out. We are working on phone access at the moment that has been limited in the past. We are trying to get my jurisdictions onto the call list but that is a work in progress: we are not getting resistance but it has not happened yet -*

CHAIR - *It takes time to set those processes up.*

Mr CONNOCK - *So that they can call us directly. We have that facility with the adult prisons. As you are probably aware, we are on their phone system. It is just a hash and a number and those calls are not monitored or I am satisfied they are not monitored. As I have said to this Committee before, I think there is a little cohort of prisoners who will not believe that it is not being monitored, but I am pretty satisfied that it is not. We are looking for that sort of communication with young people in detention at Ashley as well.*

*But this advocate has made a difference and we are now getting more complaints from young people, and it's very pleasing that it is in their own words because, as you said, I think it is very important - not somebody else translating what they think the young person wants to complain about.*⁴⁴¹

In a response to questions on notice, Minister Jaensch provided details in relation to the most recent date that Custodial Inspector visited AYDC:⁴⁴²

The most recent announced Custodial Inspector visit to AYDC occurred on 3 February 2023 and was focused on Physical Health Care and Substance Use Management.

The Custodial Inspector also conducted an unannounced visit to AYDC on 27 April 2023.

The Committee noted whilst this inquiry was underway, the Custodial Inspector had tabled two Youth Custodial reports:

- Youth Health Care Inspection Report 2023, and
- Youth Wellbeing Inspection Report 2024.

Both are available on the Office of the Custodial Inspector website.⁴⁴³

⁴⁴¹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.9-10

⁴⁴² Letter to Chair of Committee from Hon Roger Jaensch MP (dated 3 August 2023), p.3

⁴⁴³ See the Office of the Custodial Inspector inspection reports, https://www.custodialinspector.tas.gov.au/inspection_reports

Committee Findings

- F94. The Office of the Custodial Inspector provides an important monitoring of compliance function for the Ashley Youth Detention Centre.
- F95. The Youth Custodial Reports into Health Care and Wellbeing have important recommendations for the relevant Department to implement.

Committee Recommendations

- R44. Prioritise the implementation of the Youth Custodial Reports into Health Care and Wellbeing recommendations.

Use of Restrictive Practices at AYDC

The Tasmanian Government submission noted the following in relation to restrictive practices at AYDC:

Restrictive practice is only implemented at AYDC when staffing numbers are at critical shortages and when assessed against the risk profile of the young people within the centre. Restrictive Practice is only utilised for the shortest amount of time and as a last resort when all other options to increase staffing numbers have been exhausted. Generally, Restrictive Practice will operate on a rotational basis, allowing limited numbers of young people out of their rooms for equal amounts of time within numbers that staff can safely manage.

Ashley Youth Detention Centre has maintained sufficient staffing numbers since mid-December 2022 that has allowed the centre to move away from the previous occurrence of restrictive practices.⁴⁴⁴

At the public hearings, Minister Jaensch updated the Committee on the use of restrictive practices at AYDC and the employment of retired police officers to assist with workforce demands:

***Ms WEBB** - The other area I wanted to ask about is the use of what is often called restrictive practice and could at times be thought of as seclusion and at times thought of potentially as ill treatment, depending on how it has been handled. There has been more public discussion in the public domain since we heard from the Commissioner for Children [and Young People] in the media last week that there is a continuing scenario where these restrictive practices are being utilised in an ongoing way. We understand that is due to staff shortages. Essentially, what we are saying is we are locking children down for convenience, which might be acceptable in the short term because of safety, but if it is something that has gone on for a year or more, it is hardly acceptable anymore*

⁴⁴⁴ See Tasmanian Government ([Submission #27](#)), p.53

under the rights-based approach we take, given the sort of obligations we have under international rights and even domestic law.

What can you tell me about the guidelines applied to ensure the use of these practices is compliant with things like the Convention on the Rights of the Child, the Optional Protocol to the Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment and our International Covenant on Economic, Social and Cultural Rights? How are we ensuring that each instance of restrictive practice is compliant?

Mr JAENSCH - *I thank you for making reference to restricted practice, although you have variously referred to this as lockdown or seclusion. I do reject the implication it is for convenience. Restricted practice is used for the shortest possible amount of time as a last resort when other options to make best use of available staffing resources have been exhausted and it is done for safety. Within our resident population at Ashley, across the detainees and remandees, we will typically have a range of age groups. We will have males and females, we will have maybe older people who have been responsible for violent, physical crimes, others who may be very vulnerable to them. We may have dynamics between our residents based on their pre-existing relationships with each other, based on their individual vulnerabilities, including disability. What this means is it is not a case of everybody is out in the playground together, it is not a school type environment.*
...

Mr JAENSCH - *Very careful planning: the advice I have is every morning at the Ashley Youth Detention Centre, an assessment is made of the staff available, their level of experience and training, the needs of every individual young person, and the program of activity planned for the day. Then there is a roster developed to optimise getting people out of their rooms, getting full advantage of the activities and doing so safely for the staff and for the young people. It is not convenience, it is for safety. We are in a process of rebuilding our experienced workforce. There has been a lot of recruitment undertaken and a lot of people who are new to Ashley: some who are also new to youth justice who have received training but do not yet have experience. That means the efficiency of the use of the staff we have is still improving. We still do have, like any workforce at the moment, gaps and occasional unplanned absences. This is a management tool used to keep people safe. I am glad to be able to report that the plan as of this morning was that everyone was going to be out of their rooms by about nine, for about nine or ten hours of activities, including their holiday activities I mentioned earlier. I thank the staff for the work they do every day to ensure they can do that safely.*

Ms WEBB - *That is good to hear about today, but clearly there is a situation where the rights of children have been impinged continuously and regularly for well over a year of time.*

That has been identified by the Children's Commissioner. What I am saying to you is, the understandable staff shortages and limitations would cause that to happen every now and then, and that we would impinge on the rights of children when that occurred. For it to happen frequently and regularly for over a year's worth of time points to the serious shortcomings of workforce strategy, planning and putting them in place. That is your responsibility. While we understand it is done for safety, the reason it has to be done is

because of a failure to staff the facility appropriately. That is a failure that comes to you, Minister.

Mr JAENSCH - *The use of restrictive practices is primarily to ensure young people's right to be safe is upheld first and foremost: we do not -*

Ms WEBB - *But because of the workforce failure -*

Mr JAENSCH - *We do not for a minute say it is our preferred model, it is a last resort, but it is about putting safety for everyone first. It has been used more often than we would like, certainly, there is no argument about that. With our workforce, this is a very dynamic and volatile environment we are working in when it comes to workforce, particularly over the last 12-18 months, with the Commission of Inquiry, the intense media and political scrutiny, the personal scrutiny our workforce members feel under, inside and while in the community.*

While matters regarding the historical incidents and conduct of management of places like Ashley has been in the news is very disruptive, you've referred to failures of workforce planning and development. Our focus has been continuous recruitment, training and replacement of the workforce to meet unplanned absences that have happened in far greater numbers over the last year or so than would typically happen. All efforts have gone to maintaining a safe staffing level of properly trained people. We've brought staff in from other jurisdictions with backgrounds in youth justice. We have retrained them to the systems that we prefer and we apply in Ashley. We've also been bringing people in from non-youth justice and youth work backgrounds and training them afresh. We're working alongside them to gain their experience and confidence in working in this environment.

We've also deployed, as you'd be well aware, some quite novel initiatives, including recruiting some retired police officers -

Ms WEBB - *By all accounts, that hasn't been an entirely smooth process. Were they provided with additional training when they were recruited, Minister, beyond an induction day?*

Mr JAENSCH - *I'm sure that you've had evidence and advice from some of the people that participated in those programs. I've spoken with them and heard their feedback on what their reflections have been about, and their recommendations for training and support for staff working in the facility.*

What I'm trying to illustrate is that we have taken quite some extraordinary lengths over the last year, in particular, to ensure we are recruiting the numbers and the types of people we need to keep young people in Ashley safe. There is some stability in there at the moment, which is good. That's an absolute credit to the workforce who are there on the ground doing this complex and sometimes dangerous work every day. I want to thank them for the extraordinary work that they do under difficult circumstances. We will continue to recruit to provide that stability in our workforce.

Ms WEBB - *The retired police officers that were brought in, were they provided with training for the role beyond an induction day?*

Mr JAENSCH - *I don't have detail with me on the regime of training and updating that they were given. I understand that when people are brought into the Ashley work environment, the typical approach is that they are working alongside people who are experienced in working in that environment, at least initially, rather than thrown in the deep end.*⁴⁴⁵

In a response to a question on notice, Minister Jaensch provided details in relation to the retired police officers recruited to the AYDC and their initial training:⁴⁴⁶

Six retired police officers were recruited to AYDC and were provided with a one-day induction with a focus on security.

They were then placed on shift with youth workers in a support youth worker role. Direction was given that retired police officers were to be paired with youth workers when interacting with young people in AYDC.

No retired police officers are currently working at AYDC.

The Committee noted that the Office of the Custodial Inspector Annual Report 2023-24 stated the following with respect to the employment of restrictive practices in the Ashley Youth Detention Centre:

In our 2022-23 Annual Report we published graphs outlining lockdowns occurring at AYDC over the financial year. ... Under our 'Expectations on the treatment of children and young people deprived of their liberty', young people should have a minimum of 10 hours out of their bedrooms each day. We noted in our 2022-23 Annual Report, that this 10 hours was rarely achieved.

The way in which the centre records out of room data changed during the reporting period. From December 2023, the centre moved from recording the time each young person spent out of their room to recording the time young people spent in their room separate from others and from the normal routine of the centre. The aim of this change was to increase transparency in reporting of isolation as defined by the s133 of the Youth Justice Act 1997.

The change in recording methods meant we were unable to directly compare data from this reporting year with the previous. While this change in reporting increases clarity on the time that young people spend in isolation, it does potentially make determining actual time out of room more difficult. The investigations and calculations required become more complicated and more prone to error if the planned out of room hours vary between young people (due to behaviour – young people on 'green' colour due to positive behaviour get a later bed time).

⁴⁴⁵ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.70-72

⁴⁴⁶ Letter to Chair of Committee from Hon Roger Jaensch MP (dated 3 August 2023), p.3

Additionally, as described in our previous annual report, the data continues to be recorded manually in Excel spreadsheets and is prone to error. We triangulated the data provided by AYDC against the daily roll which reports the young people present at the centre as of 11:59 pm the previous day and found numerous discrepancies. The centre has informed us that work is being conducted to improve their record keeping and we look forward to seeing this.

Due to the issues described above, it is difficult to comment on whether time out of room for young people has improved in this reporting period. Data from July to November indicates that the minimum of 10 hours out of room was still not being achieved. Time out of room between December and June is more difficult to comment on. Time spent in restrictive practice during this period averaged across the whole centre at 2.6 hours per day, however the graph in appendix 3 shows an increase in restrictive practice between the end of April and the middle of June 2024.

Clarity regarding out of room hours for young people in custody is not a concern limited to Tasmania. We joined with inspectors of youth detention around Australia to send a letter to the Productivity Commission seeking the inclusion of time out of room data for youth detention to the Report on Government Services. We noted this is a key mechanism for improved transparency and accountability. Positively, the response from the Productivity Commission flagged that work is being done in this area.⁴⁴⁷

The Committee noted that the Youth Justice Blueprint did not make mention of the use of restrictive practices in a youth detention setting nor what might be done to minimise the same.

Committee Findings

- F96. The Office of the Custodial Inspector notes the use of restrictive practices and lack of out of room hours for detainees remains an issue.
- F97. Insufficient staff resourcing at Ashley Youth Detention Centre is a main contributor to the continued use of restrictive practices.

Oversight of Police Watch Houses

At the public hearings, the Committee heard from Mr Pregnell and Ms Salter (United Workers Union) in relation to the union's observations and concerns around young people going through watchhouses:

Mr PREGNELL – *Just carrying on from the youth side of things, so far this year, I think we have seen well over 200 young people come through the watch houses for the TPS.*

CHAIR – *Aged 18 to 25, is that what you are talking about?*

⁴⁴⁷ See 2023-24 Annual Report – Office of the Custodial Inspector, https://www.custodialinspector.tas.gov.au/data/assets/pdf_file/0011/785990/2023-24-Annual-Report-Office-of-the-Custodial-Inspector.pdf, p.12-13

Mr PREGNELL – No, I am talking 11-17 years.

Mr WILLIE – Are they a lot of repeat offenders?

Mr PREGNELL – There are some repeat offenders. One may go to Ashley today, be released in two days by a magistrate and we may see them the next night. We do have those repeat offenders coming in. We do not have training in how to deal with youth. As correctional officers, we have to look after them when they are in the watch house, because that is where we have the MOU, that is our job. But we do not have that training.

Ms WEBB – A quick clarification there. You are not given the training. Do you have practice guidelines or models that apply to the way youths are dealt with in the watch house situation?

Mr PREGNELL – We do have practices on what we can and cannot do. They are stipulated. If we need to escalate to a certain level, we have to make a call higher up and get that approval. But how to communicate with them? I can communicate with an adult who I see regularly. That is a different level than what I can communicate with a 12-year-old. I don't have that training to that level.

Ms WEBB – I don't want to put words into your mouth but what is the impact of not having that training, on a daily basis, with young people coming through the watch houses? I am thinking about the staff but also the young people. Are you seeing risk on both sides in that situation?

Mr PREGNELL – Yes, I am seeing risk on both sides. Staff are cautious and scared sometimes to handle young people. They are scared that if they do the wrong thing – and not on purpose, in the line of their duty, they are going to be laid off for 12 months while an investigation happens. We have seen staff laid off for 12 months while an investigation took place, which found nothing to report. But because somebody who doesn't understand work practices and what we are trained to do saw footage that does not look good, they are laid off. In 12 months' time they come back to work, their mental health is affected, everything is affected, and their colleagues' mental health. They are going –

Ms WEBB – They were not trained in the first place to encounter that situation?

Ms SALTER – No. The way I would summarise it, from the conversations I have had with our workers in watch houses, is that they feel concerned for the environment. They do not feel equipped to effectively support and deal with these offenders. They are trained to be adult correctional officers. They're trained to be adult correctional officers. They do not have the training that youth workers have. There's a set of procedures and rules around what you should do, but that's not clearly communicated. It's not workshopped. They are afraid of self-harm. They're afraid that harm is going to come to a young person at work and that they're not going to be equipped to deal with it, that that's going to have a psychological impact on that young person, other people around them and the workers. Then they're going to be disciplined for that.⁴⁴⁸

⁴⁴⁸ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.12-13

At the public hearings, Minister Jaensch responded to Committee members as to matters around children and young people transiting through police watchhouses:

Ms WEBB - ... in the Keeping Kids Safe, or the Youth Blueprint that's there at the moment, I don't believe that this issue is addressed, but of course, children and young people who come in begin their journey in the youth justice system, often come in through police watchhouses, which is an adult space staffed by adult corrections staff who, we have heard, are not trained to deal with children and young people. So, is that something that is going to be covered by the Youth Justice Blueprint and the new design going forward and how we better ensure that children coming in are not going into adult environments with adults who aren't trained to be necessarily effectively working with them?

Mr JAENSCH - ... it is something that came up strongly in the discussions around the Youth Justice Blueprint and internally we have been discussing how we design a system which ensures that we don't have young people in adult corrections environments at any point.

Ms WEBB - So the plan is that that won't occur under the new model, whenever the new model starts? Does that mean when the new model starts, when it is finalised later this year, or does it mean when you have all your new facilities in place and there is a new physical model in place?

Mr JAENSCH - It will be both. My hope would be that we can roll out elements of the model as they are ready.

Ms WEBB - I am asking about this element of the model, a change to young people coming in through adult watchhouse facilities.

Mr JAENSCH - That would rely on there being a suitable holding option, which was designated for holding young people in detention.

Ms WEBB - Are you aware of whether either of the monitoring entities, the Custodial Inspector or the Commissioner for Children and Young People, at any stage go and monitor that environment, that watchhouse environment, where children are entering?

Mr JAENSCH - I think the Custodial Inspector would have jurisdiction, but I am not the expert on their scope. Certainly, I know that the Commissioner for Children and Young People has taken interest in these matters in terms of the wellbeing of the young people themselves, but I don't have a clear understanding of whether that would extend to the Commissioner being able to inspect adult corrections facilities.

Ms WEBB - It is an interesting question, isn't it, because she has a role there in youth justice, but that environment is not a youth justice environment, so that could be a blind spot in terms of the oversight of the Commissioner.

Mr JAENSCH - Potentially, and it is one, as I said, we would aim to eliminate.⁴⁴⁹

The then Commissioner for Children and Young People informed the Committee that her position did not have jurisdiction to provide advocacy services to children in police watch houses.⁴⁵⁰

At the public hearings, Mr Connock informed the Committee in relation to the jurisdictional oversight of police watch houses:

Ms WEBB - ... We know that even though young people come into the system through the watch house, it is not an area where the Commissioner for Children and Young People has any oversight or jurisdiction. Does that come under the purview of the Custodial Inspector or is that an aspect of the system that is covered by neither oversight mechanism?

Mr CONNOCK - We can look at it. There is a jurisdictional question because it is not controlled by the Prison Service. Watch houses are police, normally, and they do hold people there for short periods of time. We do look at that. When OPCAT comes in, that will all be covered. All that will be gone.

Ms WEBB - Under the National Preventive Mechanism?

Mr CONNOCK - Yes, that is right. That will cover everything. We are not bound by what's a prison or a youth detention, what is a police cell. All of those things will be covered.

Ms WEBB - But currently that's not an area that you are actively monitoring as Custodial Inspector?

Mr CONNOCK - We will look at it and we take complaints from the Ombudsman about the treatment of prisoners and detainees in watch houses.

Ms WEBB - To clarify that, you will look at it. Is that if something is raised with you or is it part of a regular inspection?

Mr CONNOCK - When we go through the Hobart Reception Prison, we go around the watch house in there. It is all part of that facility, the same in Launceston Reception, so we do look at it.⁴⁵¹

⁴⁴⁹ See Transcript of Evidence [Public Hearings - 13 July 2023](#), p.75-76

⁴⁵⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.55

⁴⁵¹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.10-11

Committee Findings

F98. The OPCAT National Preventive Mechanism will provide better oversight of detention of youth in police watch houses.

Raising the Age of Criminal Responsibility

The Committee noted that the Government had made commitments to raise the **minimum age of detention** from 10 to 14 as part of their reform of the Youth Justice System in Tasmania. Minister Jaensch (former Minister for Education, Children and Youth) in his 8 June 2022 media release also stated:

Raising the minimum age of detention will require legislative amendment to the Youth Justice Act 1997. This will occur together with a suite of amendments identified as part of our whole system reform. Under our Youth Justice Reform Transition Plan this is anticipated to occur near the end of 2024.

It is important to note that raising the minimum age of detention is separate and distinct issue to the age of criminal responsibility, which will continue to be considered through the national Meeting of Attorneys-General. As our Attorney General Elise Archer has said, it is our preference for a nationally consistent position on the minimum age of criminal responsibility.⁴⁵²

The Committee noted that the Australian Standing Council of Attorneys-General ‘Age of Criminal Responsibility Working Group Report’ (September 2023) stated the following with respect to jurisdictional reforms within the minimum age of criminal responsibility (MACR) area:

*In most Australian jurisdictions, the MACR is 10, other than the Northern Territory where it was raised to 12 on 1 August 2023. The MACR is the age at which a person can be found to have committed a criminal offence by law. For a child below 14 years, the prosecution must prove that the child knew or had the capacity to know that their conduct was wrong before they can be held criminally responsible and convicted of an offence, a common law presumption known as *doli incapax*, which is legislated in most Australian jurisdictions.⁴⁵³*

In recent years, several jurisdictions have also progressed reforms to the MACR:

- *On 1 August 2023, the Criminal Code Amendment (Age of Criminal Responsibility) Act 2022 (NT) commenced, raising the MACR from 10 to 12 in the Northern*

⁴⁵² See ‘Raising the minimum age of detention’, Hon Roger Jaensch MP, (Minister for Education, Children and Youth), 8 June 2022, <https://tasmaniantimes.com/2022/06/govt-to-raise-minimum-age-of-detention-not-criminal-responsibility/>

⁴⁵³ The presumption against criminal responsibility for children under 14 exists in all jurisdictions, either in statutory form (*Crimes Act 1914* s 4N (Cth) and *Criminal Code Act 1995* (Cth) s 7.2; *Criminal Code 2002* (ACT) s 26; *Criminal Code Act 1983* (NT) s 38(2); *Criminal Code* (Qld) s 29(2); *Criminal Code Act 1924* (Tas) s 18(2); *Criminal Code* (WA) s 29) or via the common law presumption of *doli incapax* (New South Wales, Victoria and South Australia). In *RP v The Queen* [2016] HCA 53 at [8], it was explained that the common law presumption applies to children aged 7 to 14 years, however across Australia, statutes have modified the ages to which a presumption against criminal responsibility applies. ... the phrase *doli incapax* refers collectively to the common law presumption and statutory provisions but recognises that there is variation in the operation of the presumption between statutory forms and common law, and also between statutory formulations themselves.

Territory. The Northern Territory Government has pledged to review the legislation in two years' time, with a view to raising the MACR to 14. The Act also reformed the test for doli incapax to be more in line with the model criminal code drafting style.

- *On 9 May 2023, the Australian Capital Territory introduced legislation to raise its MACR to 12 with no exceptions upon commencement of legislation and to 14 within two years with exceptions for four exceptionally serious and intentionally violent offences. The Bill provides for an alternative service system for children and young people aged 10–13 who engage in negative behaviour, to address their underlying needs and divert them from engagement in the criminal justice system.*
- *On 26 April 2023, Victoria announced that it will raise the MACR in two stages – from 10 to 12 without exceptions, in legislation expected to be introduced in late 2023, and then to 14 with exceptions for certain serious crimes in legislation that will be introduced by 2027, subject to the design and implementation of an alternative service model. Further work on what these exceptions are will be undertaken as part of the second stage of reforms, while reforms in the immediate term will codify and strengthen the existing legal presumption of doli incapax.⁴⁵⁴*

The Committee noted that the NT Government again reduced the age of criminal responsibility from 12 to 10 in October 2024.⁴⁵⁵

The Tasmanian Legal Aid submission noted the following with respect to their views of raising the age of criminal responsibility to 14:

TLA's Children First Report demonstrated that Tasmanian children with complex needs can become entrenched in the youth justice system which compounds disadvantage. This risk is increased the earlier a child comes into contact with the youth justice system. A substantial body of evidence suggests that dealing with young children in the criminal justice system is unfair, ineffective, and harmful.

Increasing the age of criminal responsibility to 14 would help to decriminalise the social need of the most disadvantaged children in Tasmania. Neuroscience evidence indicates that, at 14, the reasoning function of a child's brain is underdeveloped, while the risk-taking part is more developed. This results in children engaging in spontaneous acts, without reflecting on the consequences. This indicates that children younger than 14 do not have the cognitive maturity necessary for criminal responsibility.

It is important to remember that the number of children under 14 charged with an offence is small. Further, it is mostly low-level offending, with TLA's data showing that most charged offence was stealing. The majority of children who are charged with criminal offences are from disadvantaged backgrounds and have multiple and complex needs that would be better addressed outside the criminal justice system.

Tasmania's age of criminal responsibility is out of step with international standards, where a median age of 90 countries is 14. The UN has expressed concern that Australia

⁴⁵⁴ See 'Age of Criminal Responsibility Working Group Report 2023', Standing Council of Attorneys-General (September 2023), <https://www.ag.gov.au/sites/default/files/2023-12/age-of-criminal-responsibility-working-group-report-2023-scag.pdf>, p.13

⁴⁵⁵ See 'Reduce crime - new laws introduced', NT Government, 25 October 2024, <https://nt.gov.au/news/2024/reduce-crime-new-laws-introduced>

*has a “very low age of criminal responsibility” and recommended that it be raised to 14. ... Raising the age would provide an opportunity to address the intergenerational disadvantage inflicted upon aboriginal people and children.*⁴⁵⁶

The Commissioner for Children and Young People submission contained the following support for raising the age of criminal responsibility:

Further, it is my view that raising the minimum age of criminal responsibility to at least 14 years, with no exceptions, together with broader service system reform, will serve to immediately and significantly reduce the involvement of children and young people in the criminal justice system. For further information, I refer the Committee to:

- *my submission to the Council of Attorneys-General Working Group*⁴⁵⁷
- *a background paper to inform community discussion on the minimum age of criminal responsibility*⁴⁵⁸
- *my March 2022 Youth Justice Submission*⁴⁵⁹
- *an April 2022 research report of the Tasmanian Law Reform Institute, Raising the Minimum Age of Criminal Responsibility – Law Reform Considerations,*⁴⁶⁰ *and*
- *my December 2022 feedback on the Final Draft Youth Justice System Blueprint 2022.*⁴⁶¹

*I also note that in 2021 I joined an expert panel of Tasmanian practitioners and academics to explore what raising the minimum age of criminal responsibility might mean for Tasmania. The University of Tasmania hosted forum included a discussion of alternative ways to address children’s problematic behaviour, meet their underlying needs and promote community safety.*⁴⁶²

The Committee noted that the then Commissioner for Children and Young People released her Memorandum of Advice – the age of criminal responsibility in Tasmania to the Tasmanian Government in July 2023.⁴⁶³

⁴⁵⁶ See Tasmanian Legal Aid (Submission #33), https://www.parliament.tas.gov.au/_data/assets/pdf_file/0032/69836/33.-Tasmania-Legal-Aid.pdf, p.9

⁴⁵⁷ See Letter to Secretary, Department of Justice (dated 28 February 2020), <https://childcomm.tas.gov.au/wp-content/uploads/2022/07/2020-02-28-CCYP-Comment-Age-of-Criminal-Responsibility-FINAL-1.pdf>

⁴⁵⁸ See ‘Age of Innocence: Children and Criminal Responsibility A background paper to inform community discussion’, February 2021, <https://childcomm.tas.gov.au/wp-content/uploads/2022/07/Age-of-Innocence-Children-and-criminal-responsibility-Background-Paper-FINAL.pdf>

⁴⁵⁹ See Letter to Secretary, Department of Communities Tasmania (dated 21 March 2022), <https://www.childcomm.tas.gov.au/wp-content/uploads/2022-03-21-FINAL-Reforming-Youth-Justice-submission.pdf>

⁴⁶⁰ See https://www.utas.edu.au/_data/assets/pdf_file/0005/1583816/2022.MACR.Research_report.FR.CFR_secured.pdf

⁴⁶¹ See Letter to Secretary, Department for Education, Children and Young People (dated 23 December 2022), <https://www.childcomm.tas.gov.au/wp-content/uploads/2022-12-23-FINAL-CCYP-response-to-Nov-22-YJ-Blueprint.pdf>

⁴⁶² See Commissioner for Children and Young People Tasmania (Submission #43), https://www.parliament.tas.gov.au/_data/assets/pdf_file/0032/69845/43.-Commissioner-for-Children-and-Young-People-Tasmania.pdf, p.4

⁴⁶³ See ‘Memorandum of Advice – the age of criminal responsibility in Tasmania’, Commissioner for Children and Young People, 14 July 2023, <https://childcomm.tas.gov.au/wp-content/uploads/2023/07/2023-07-14-FINAL-for-public-release-CCYP-Memorandum-of-Advice-re-Age-of-Criminal-Responsibility-.pdf>

Similarly, submissions from TasCOSS⁴⁶⁴ and the Australian Lawyers Alliance⁴⁶⁵ both supported the raising the age of criminal responsibility.

The Committee heard from Ms Tait (TasCOSS) in relation to the impact of raising the age of criminal responsibility being exploited by organised crime:

Mr WILLIE - *Regarding raising the age of responsibility, you do hear people who have opposing views saying it could create a loophole where criminals use children to commit organised crimes and crimes because they know they are not going to be held criminally responsible for that. What do you say to that? That comes from people who are well intentioned.*

Ms TAIT - *I would say already that loophole exists, at least in theory because our Tasmanian legislation already recognises that children are different to adults. They are sentenced in ways that are different to adults. It is something that could already be happening. A child, if they were to be caught committing an offence under our current Tasmanian legislation. They need to be given a more lenient sentence than an adult, at least in theory. That's what our legislation already says. I don't really see that raising the age of criminal responsibility would cause that much of a difference in that respect.*

*If anything, the models that are being proposed by the Commissioner for Children and Young People, which includes a strengthening of community-based supports, in our view are only more likely to protect children from engagement in criminal behaviour such that you're referring to. I would say that's the most likely outcome.*⁴⁶⁶

Ms McLean and Ms Isabelle Crompton (Director, Office of the Commissioner for Children and Young People) informed the Committee on the Commission's views of raising the age of criminal responsibility:

Mr WILLIE - *... what do you say to people who are well intended and say raising the age will create unintended consequences where criminals use children to carry out organised crime and crime because they know they are not going to be held responsible criminally? The second question is: what does a response look like for, say, a 12-year-old that commits a serious crime where they are not held criminally responsible? What does an ideal response look like?*

Ms McLEAN - *To the first question, that situation exists now, where an adult may have interactions that encourage a young child to undertake criminal behaviour. There are provisions within legislation at the moment to deal with that.*

Ms CROMPTON - *Certainly, that instigation of offending would be covered by some existing provisions. For example, in our advice we talk about the Tasmania Law Reform Institute's consideration of legislation and potential amendments that might allay concerns in that regard.*

⁴⁶⁴ See TasCOSS (Submission #60), https://www.parliament.tas.gov.au/_data/assets/pdf_file/0030/69861/60.-TasCOSS.pdf, p.15-16

⁴⁶⁵ See Australian Lawyers Alliance (Submission #65), https://www.parliament.tas.gov.au/_data/assets/pdf_file/0035/69866/65.-Australian-Lawyers-Alliance.pdf, p.9-10

⁴⁶⁶ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.48

Ms McLEAN - And what we have seen in some other jurisdictions - it is either the Scottish or the Welsh, I can't remember - we saw significant strengthening of those provisions under the criminal code in relation to adults at the same time the age of criminal responsibility was adjusted. That sends an incredibly clear message to the community it is absolutely not okay to have those sorts of interactions with young people.

The second question is, what do you do in relation to the harmful behaviour of a 12-year-old who may commit a crime? The first thing I would say is you could almost guarantee at the point that crime is committed that it is not the first interaction that young person will have had with police. In the advice, what I am saying is the first interaction that a young person has with the police should be a gateway to an expanded service system to help understand and respond to their behaviour. At the moment, our system is limited in how much support we can provide a child at that point: and how much we are limited in even how much understanding we can have for that child in the context of their family, and what kind of support they might need - let alone provide the support.

If we are able to provide that support and intervene early, it is much less likely that we get to that point in the first place. But, if we do - and we might - my view is that our obligation is to uphold the rights of that child, while at the same time helping them be accountable for their behaviour, to change their behaviour, and to receive the support that they need to do so. Assessments need to be made, but they need to be in a safe place for that to occur. I have included in my advice that we need to establish these safe places around Tasmania.

What we don't need to do is put that child within a youth justice detention model where they are locked in their room on any given day for periods of times that are detrimental to their wellbeing, and that impinge on their ability to get the services that they need to be well and to change their lives. What we should not be doing is setting them on a trajectory for a life in the criminal justice system. Unfortunately, the way we respond at the moment to these types of crimes does just that for these young people. We need to do it differently.

Mr WILLIE - The current system puts them with other young people who are offending, it's almost like a university of crime, isn't it - the environment they are in?

Ms McLEAN - Before we do that, the pathway to youth justice detention is via an adult custodial facility. This is something that is often forgotten. If you are a young person and you are taken into the custody of police from 10 years old, you will be taken to an adult custodial facility, an adult reception prison. These are no places for children, no places at all.

Mr WILLIE - We visited the reception centre in Hobart just after a child had been in one of the cells there. They spoke to us about that experience for that young person. It was pretty eye-opening and shocking.

Ms McLEAN - *It's harrowing. I draw your attention to the voices in the youth justice system paper, and you will hear from children themselves what it is like to spend time in an adult custodial facility.*⁴⁶⁷

At the public hearings Professor White spoke to some of the nuances in relation to raising the age of criminal responsibility:

Mr WILLIE - *One of your recommendations is raising the age of criminal responsibility: you don't just raise the age: kids are still responsible for their behaviour and you talk about alternatives. What are the alternatives in your view?*

Prof WHITE - *I think one of the things we need to do is look at other jurisdictions and how, when jurisdictions have higher ages of criminal responsibility, they respond. In most of the cases, it is the social welfare-type of response, so they intervene. Just to give you a sense, in some jurisdictions, the age of criminal responsibility is 18. That reflects the United Nations Convention on the Rights of the Child. Many other jurisdictions have it at around 14, 15.*

When we look at the science behind adolescent development, the more we are finding that, really, there is quite a significant difference between adolescents and, say, adults in their mid-20s. It is not saying don't have state intervention. Raising the age of criminal responsibility is not saying don't hold kids accountable, but hold them accountable in a different way that is less stigmatising and less criminalising. What we also know is that the earlier you go into detention or juvenile prison, the more likely you are going to end up in Risdon or in adult custody. What you want to do is stave that off as much as we can.

Obviously, there are exceptions to what I am saying, and the exception would be a grievous, serious crime - but even that has to be contextualised. A 10-year-old who kills somebody is going to be very different from a six-foot, 15-year-old kid. So, there is contextual stuff around all that as well.

Mr WILLIE - *Some of this restorative justice that you are talking about would be involved. Anything else?*

Prof WHITE - *In a sense we have embedded that nationally in juvenile justice. The question I have with the way it has been embedded or institutionalised is that it tends to be used for the less serious cases and people who are not repeat offenders.*

I have always thought that the best value for money is to have restorative justice for the people at the mid-range and more serious crimes so you can drill down and go into depth and work with the kid. I think it is partly a waste of money to have too much family or group or juvenile conferencing at the front end of the system. Those who don't match the criteria for that end up going into the harsher parts of the system. If you look at that nationally, that tends to discriminate against indigenous kids because they build up a track record and they get charged with more serious offences and so on. So, restorative justice is part of that.

⁴⁶⁷ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.59-60

I think also, going to back what I said before, things like mentoring. One of the things, when we have kids who are acting out, let's think of that acting out for the moment, what that means. If we think of trauma-informed care and trauma-informed approaches, it means that you're going to have kids doing real shit stuff and they're going to get up your nose and they're going to be angry. If you look at the impacts of trauma, I don't know if I put my notes on trauma amongst that stuff, what you end up with is kids who are really messed up and mixed up.

Mr WILLIE - *And can't regulate.*

Prof WHITE - *And can't regulate, absolutely. One solution, so-called, is to put them away from the rest of society and put them in isolation. The worst thing you can do is do that because what you want to do is surround the kids. We should be upping the youth and community workers, social workers and so on who are working with these children, because they might be 15 and tall but they're still children. It's embedding them in a different series of relations.*

I'll come back to that notion of mentoring as well. That hooks back into that notion of respect, one of the Rs. You need kids to develop their own self-respect but also social respect. One of the things often with kids, or actually with adults, is that when we punish them, it's a passive form of response because we're saying, 'We're going to chuck you into detention, we're going to chuck you into Risdon'. But basically, you can do nothing. You don't have to do anything.

Unless there's facilities and avenues to do something worthwhile, often you can just sit there and come out and there's no change. We want people to be rehabilitated. Whereas, I'm a firm believer, in terms of under-18s, in an active program, get young people to do stuff. In the case of adults, the same thing. Give them the opportunity to engage and to do stuff rather than have a passive punishment process.

One of the best things that we've seen, and this goes with kids as well, is, two quick examples. Dunally fires, we had volunteers from the prison. They felt on top of the moon, on top of the mountain.

CHAIR - *They were helping.*

Prof WHITE - *They were helping, so they got out, helped to rebuild the fences and did stuff, because they're contributing and giving back. Many of our people who are in these systems don't have a chance to give back. When they can volunteer, they can do it. The physicality of that process also mattered.*

In the case of juveniles, we've had different kinds of animal therapy programs. The most interesting one, and this is what got me up to Gagebrook all those years ago, it was a Pat a Pony program. It's literally pat a pony and it was for primary-aged schoolkids, many of whom had learning difficulties and so on, and this was a calming thing. The program was actually run by Justice at the time and the kids who were involved were in the juvenile justice system. So, it was 15-year-olds working with 10-year-olds and 11-year-olds, and it

changed the 15-year-olds because all of a sudden, they're working with younger kids, they're working with animals.

CHAIR - *They're the example.*

Prof WHITE - *They become the example. A lot of these kids hadn't had an opportunity to do something involving giving back. But it can't be coercive.*⁴⁶⁸

At the public hearings Ms Kristen Wylie (Director, Tasmania Legal Aid) spoke about Tasmania Legal Aid's view on raising the age of criminal responsibility:

*It's important to remember that the number of children under 14 charged with an offence is really small. Further, it's mostly low-level offending, with TLA's data showing that the most charged offence for the under-14 cohort is stealing. The majority of children who are charged with criminal offences are from disadvantaged backgrounds and have multiple and complex needs which would be better addressed outside the criminal justice system. There is strong evidence to demonstrate the negative impacts of incarceration, which in themselves have a very strong criminogenic effect on children. As the number of children sentenced to a term of detention is very low, the age of detention as opposed to the age of responsibility should be raised to 16 in recognition of the criminogenic impact of detention.*⁴⁶⁹

The Committee heard from Mr Brett Smith APM about his observations in relation to raising the age of criminal responsibility:

Ms ARMITAGE - ... *We are hearing from many people that the age of criminal responsibility should be 14 or higher, and that nobody under 14 should be detained. You have been at Ashley and you have been a police officer for 40 years - what are your thoughts on that, having seen many young people under 14 that have committed some fairly serious crimes and also having been at Ashley very recently?*

Mr SMITH - *I understand the philosophy behind it. It's very commendable, it's very aspirational. One thing that the community doesn't pay a lot of attention to are victims of crime. I just wonder what the general community, usually as victims of crime, would be thinking about this. I'm not convinced that increasing the age of criminal responsibility will reduce crime: in fact, I think the literature says that it probably doesn't. There is room for an open debate about it, but whatever decision is made, it must be well informed and there must be suitable support structures around it, particularly for young people, to do the best we can right from the get-go, in order to invoke that behavioural change, which ultimately is what we're about.*

I have an open mind about increasing the age of criminal responsibility, but a number of discussions need to be had with that and about what works in a practical sense.

⁴⁶⁸ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.47-49

⁴⁶⁹ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.4

As I reiterated before, quite often we don't talk about the victims of crime in all this, and the last thing we want is to have more of the community victimised through the commission of crime.

Ms WEBB - *You mentioned that you thought that the literature said that raising the age of criminal responsibility won't necessarily reduce crime. Can you point us to something on that?*

Mr SMITH - *No, I can't. I have read that in some research I did some time back through the college. If you like, I will try to find it and get back to you.*

Ms WEBB - *Are you aware that the Commissioner for Children and Young People has recently released formal advice to the Government on this matter? Have you looked at that?*

Mr SMITH - *No, I haven't. But, whichever way we go, we have to properly consider it and consider it with all stakeholders in mind.*

It is very frustrating, from the policing perspective, that victims of crime - and even with our reporting stats, we talk about victimisation rates per 10,000 members of the community. But when you think about it, if an offender breaks into a house - regardless of age - there is more than one victim. The whole family essentially are victims, but we only ever report the one person because that is the reporting person. That is how our national accounting stats work.

So, when we talk about true victims of crime - and the impact of crime on victims can be lifelong - that part of the equation and that part of the conversation needs to be had when we talk about this.

Ms WEBB - *You would be aware that no-one who is suggesting that raising the age is the right thing to do would be suggesting that therefore nothing is done. There is a presentation of a whole range of other approaches that are not criminal justice-based but are still active responses that would be put in place.*

Mr SMITH - *Yes, definitely. That is really important, that it is about accountability as well, particularly with young people. If we are keen to integrate young people into society that have unfortunately fallen off the rails, then part of that is integration into accountability as well.^{470 471}*

The Committee noted that in the Youth Justice Blueprint, the Tasmanian Government stated the following with respect to raising the age of criminal responsibility:

In its report, the Commission of Inquiry has also recommended raising the minimum age of criminal responsibility to 14 years, without exception. The Tasmanian Government has

⁴⁷⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.68-69

⁴⁷¹ In separate correspondence to the Committee Mr Smith APM shared the following reference for consideration: [Why we should not rush to raise the age of criminal responsibility in Australia](#), Associate Professor Criminal Justice and Criminology Terry Goldsworthy, Bond University (1 September 2022), <https://bond.edu.au/news/why-we-should-not-rush-to-raise-age-of-criminal-responsibility-australia>

accepted the Commission of Inquiry recommendation and will develop and provide a range of community-based health, welfare and disability programs and services tailored to meet the needs of children and young people under the age of 14 years who are engaging in antisocial behaviour, and to address factors contributing to that behaviour. This recommendation will be completed by July 2029.

There are a range of considerations associated with raising the age of criminal responsibility, most notably what the appropriate service response is for those under that age who engage in behaviours that would otherwise be an offence. The [Standing Council of Attorneys General] SCAG Working Group and Commissioner for Children and Young People advice will further assist the Tasmanian Government in this context.

...

The Tasmanian Government ... will increase the minimum age of detention to 16 years by developing alternatives to detention for children aged 14 and 15 years. Implementation will be completed by July 2029.⁴⁷²

Committee Findings

- F99. There are evidence-based arguments for raising the minimum age of criminal responsibility.
- F100. The Tasmanian Government is committed to raising the minimum age of criminal responsibility to 14 years by July 2029.
- F101. The Tasmanian Government is committed to raising the minimum age of detention to 16 years by July 2029.

Committee Recommendations

- R45. Progress the commitment to raising the minimum age of criminal responsibility to 14 years by July 2029.

Role of the Courts in Youth Justice Matters

At the public hearings, Mr Hill made comment as to whether there were different approaches that a court might take in relation to dealing with youth justice matters:

Mr WILLIE - *In your submission, Michael, you talk about the crossover kids. It's one of the most unjust parts of our system. There are so many examples of people progressing through child protection into Ashley and then into a lifetime in and out of Risdon.*

Mr HILL - *Yes, it's inevitable, isn't it?*

Mr WILLIE - *The Government has talked a lot about its reforms in child safety, in trying to keep families together. Have the courts changed at all alongside that in terms of*

⁴⁷² See Youth Justice Blue Print 2024-2034, p.5

problem-solving? You mentioned the family drug court in Victoria, where they supervise parents' rehabilitation.

Mr HILL - *I think the structure of the court is poor in relation to dealing with these child protection things; I don't know if you've ever seen them in action, but they are cumbersome.*

...

Mr WILLIE - *I have dealt with plenty of constituents who were bouncing in and out of that system.*

Mr HILL - *I'm talking about when I was there. We don't specialise. I would get an affidavit of 50 pages. It would tell me all about this child and what would happen. I would make certain orders. It's very structured, it's responsive, but it is slowly responsive. It's cumbersome in its response. We are not experts. I had a view that we shouldn't be dealing with these things. I thought to myself a few times, why don't we have a panel of psychologists who can make decisions quickly? They don't need 50-page affidavits. If you want magistrates to issue warrants to get children then that's a different thing.*

To make decisions about the long-term benefits for children, I really struggled with it. I used to think to myself, 'Why the hell are we doing these things. Why are we doing this?' Anyway, that's another argument. If the Magistrates Court is going to keep it, you need specially trained magistrates. That becomes part of the youth division. So you have a youth division which includes a child protection division, because ultimately -

CHAIR - *That's the care and protection system that you talked about?*

Mr HILL - *Yes, that is the care and protection system. Andrew Becroft, rugby fan, my good friend from New Zealand, was a marvellous man. I don't know if he is still with us but he was former chief judge of the Youth Court of New Zealand.*

CHAIR - *The 2008 connection?*

Mr HILL - *Yes. That's where we got our Youth Justice Act from, New Zealand. Why don't we have a look? Seems to me that if you mould the care and protection division into the youth division and have a magistrate specially trained dealing with all the young people's matters, that would be a way to do it. It's a change in structure more than anything else. Try to streamline your processes about care and protection. When I say streamline, in a way, the legislation promotes a non-adversarial approach but it becomes an adversarial approach.*

Mr WILLIE - *The trauma that is inflicted on families -*

Mr HILL - *Precisely, and it continues on. I have seen names recently that I have known back in the day. Your point's well made. It would be advantageous to look at how things are done elsewhere. I'm a great believer in having a look around and seeing. Victorians and South Australians deal with problem kids, so do we. There's no difference, really.*

How do they do it? Is it better? Peggy Hora, my good friend, wrote a report called Smart Justice. She was a resident thinker at Flinders University. She used to work for the South Australian Government. She worked down here for a while at our university. I think she has some comments in Smart Justice about child protection matters. I don't know how you fix it. I know how you smarten it up, but the issues behind it, the drug issues, the unemployment issues -

Mr WILLIE - *The court is the end of the line.*

Mr HILL - *But you don't want to add the trauma upon making the court process a traumatic one. I think at the moment it's got the potential to be a traumatic process.*

Mr WILLIE - *If you sharpen up the court, even though it's at the end of the line, potentially that is going to be a cost saving to government. The trajectory to people's lives -*

Mr HILL - *You are potentially diverting. Potentially saving you 350 bucks a day if you can stop one or two of these kids. When I became Chief Magistrate, we specialised the Youth Justice Court. You might have 100 kids but only half a dozen are really causing grief. The others, they pinch a Mars bar or something and then they just don't come back for all sorts of reasons. The ones who are continuing on often come from the families, and we all know who they are, well I know who they are, the culture around them is a criminal culture. How you fix that, I just don't know.⁴⁷³*

Mr Hill informed the Committee in relation to his views of the NZ Youth Court model:

CHAIR - *... I am interested to explore the New Zealand model a little more. What should we be looking for, if we were fortunate to have the opportunity to look at the New Zealand model, ...? ... Where do we put our focus as a small Committee of a Tasmanian Parliament?*

Mr HILL - *I think it is the caring magistrates that we look at. There was an article recently called 'A Caring Court', which I know Greg Barns referred to. It was an article by a judge - or maybe the Chief Justice - in Western Australia and it talks about how courts are not generally regarded as caring institutions.*

CHAIR - *They have a role.*

Mr HILL - *They are there to give you a whack over the knuckles because you have done something wrong.*

Ms WEBB - *They are black and white.*

Mr HILL - *Yes, very black and white. Very judgmental, obviously - pardon the pun. You need this attitude of magisterial appointments who are prepared to go off the square and experiment. The Koori Court would be another example. It is a bit different to the New Zealand one, but New Zealand obviously has a history of assimilation issues, and they*

⁴⁷³ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.21-23

seem to have a broader view of what can be offered to children in a youth court, rather than community service or probation or something. There seems to be a broader view.

I have made some comments about the appointment process, ... but if you get the right people in place - I am not necessarily saying the ones who are there now are not. ...

...

Mr HILL - *... You do need to have people who are at least aware of what we are talking about here. At least aware of it. They do not have to agree, but at least they are aware of what is happening, and they are aware of the debates that are going on.*

*Mine was not a 'St Paul on the Road to Damascus' experience. For me it was just a gradual realisation that perhaps we could do things a bit differently. I would be looking at their administration structure in New Zealand, how they structure their listings, how they appoint their magistrates and how they structure their court hearings. You would be looking at the whole system ...*⁴⁷⁴

At the public hearings, Professor White also spoke to the subject of cross-over children:

Ms WEBB - *In terms of children, we have a youth justice system that, in some ways, we like to think of as being separate to an adult justice system, other than we acknowledge that there is quite a pipeline from one to the other. Apart from that, there is also crossover because although we do detain children in Ashley rather than adult prison, children who are coming into the system are coming through a lot of environments that are adult justice-related environments. There is going to be an impact there from exposure to those environments.*

Can you talk a bit about that and how we might better think about the trajectory of children through the system from whoa to go. Not just in terms of where we might place them if they are going to be detained but every step of their way through that journey, from being picked up, committing a crime as we now frame it?

...

Prof WHITE - *I will answer that in two ways. One is that we know there is a massive crossover between kids in child protection and juvenile justice. A lot of the kids are already in the system but it is a different system. It is a state system and it is a form of intervention and it is, in essence, a form of coercive control, whichever way you cut it. That crossover is well-documented and well-known. So, the kids are already confronted by an adult system and by a state system, and so on, if they are vulnerable children in those systems.*

But over here, we tend to treat children as if they are on their own. But they're not because children are embedded in their own family relationships. Often, with the kids that we see at Ashley, we know this. Often they are associated with families that are chaotic, that are involved in criminal affairs, drugs and so on. The kids grow up in a milieu in which they are confronted with this all the time. Also, the resistance to authority is partly a result of being brought up in that kind of milieu as well, whereas say archetypal middle-class kids, if they are confronted say, with a juvenile conference, they would never reoffend anyway.

⁴⁷⁴ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.23-24

The old police caution used to work with middle-class kids because the parents are being dragged down to the cop shop and the police are saying don't do this again and that was enough. So now they go through a conference and, of course, they do not reoffend because they never would anyway, because that is their first exposure to the state authority. But a lot of the persistent young offenders are used to this stuff, either through prior institutionalisation or because they are embedded in milieus that is routine.

Ms WEBB - *I'm also interested in the sense that kids who are coming into that system, you know, they are picked up by the police, they are brought into an adult space in terms of a reception area or whatever with the police force, and they are in a lot of these adult environments, even a court environment is quite an adult environment. Do we have to reconsider each element of that as we bring them through, as well as reconsider a place of detention if that is something we are considering retaining for children?*

Prof WHITE - *I think so for a whole range of reasons and, again, I go back to that notion of trauma-informed care on the part of police, social workers and others who are involved in intervening in those children's lives. It is very intimidating to go into some of these environments. We also know that different magistrates have a different approach to the young people as well, which is now why we have a separate Children's Division and specialist magistrates in Tasmania. Prior to that, virtually any magistrate could deal with children's issues without necessarily being trained in how to deal with children. So, yes, I think environments matter.⁴⁷⁵*

Communication Challenges Facing Advocates and Government

At the public hearings, Mr Barns (Prisoners Legal Service) and Ms MacDonald (Australian Lawyers Alliance) commented on the challenges that may be faced by the Government in getting public support for alternatives to Ashley Youth Detention Centre:

CHAIR - *... Have you addressed your mind at all to the proposed new model for youth detention in our state? Is that something that has taken some time while you have been doing your work? I am interested.*

Mr BARNS - *I'm going to put my ALA⁴⁷⁶ hat on.*

...

Mr BARNS - *We have, and the Prisoners Legal Service has as well. We are very supportive of the therapeutic model. I am opposed philosophically to the idea of youth detention.*

Mr VALENTINE - *You're what?*

Mr BARNS - *I am philosophically opposed to the idea of youth detention and many in the ALA would be, but there is a recognition that there are some young people who do commit serious crimes. They are few and far between. The therapeutic model should be about secure housing and again I use that term 'wellness', because it encapsulates*

⁴⁷⁵ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.51-52

⁴⁷⁶ Australian Lawyers Alliance

everything that we are talking about. For example, we would like to see working with education so that kids aren't being suspended or expelled, which happens far too often with troublesome behaviour.

Great first step by the Government to say 'close Ashley'. We would have liked to have seen it done more quickly and we think it should have been, but the therapeutic model, depending on what it looks like, Chair, will be a great improvement if it is the model we envisage, which is, as I say, small, secure housing close to urban centres so that people are still connected to families, health and education.

CHAIR - *It appears from the early conversation that it is not necessarily going to be easily accepted by the community. ...*

...

Mr BARNS - *Governments have to stand up and educate communities. This is not uncommon that people say, and you and I both know from experience.*

...

Mr BARNS - *Government needs to explain. It needs to stand up to those who use these issues for their own political gain or community gain, and needs to point to examples of where this works. Youth detention does not exist as we know it in most parts of Europe and it is part of the furniture. You are going to get communities saying we don't want it here. Nimbyism is alive and well, but you do have to stand up to it because if you don't, you allow everybody a right of veto.*

CHAIR - *And nothing happens.*

Mr BARNS - *And nothing happens. The community needs to understand if you want safety, if you want to improve community safety, then you have to treat people with respect. You have to ensure that those who are vulnerable, that is young people but also adult prisoners, if you treat them with respect and you work on underlying issues, you are enhancing community safety.*

Ms ARMITAGE - *With regard to youth detention, one of the issues that I noted recently when we were having some hearings is that with the new youth detention centre, all of a sudden, the custodial part was going to be in the south, which I found a little confusing because here we were talking about a northern detention centre so that people can be close to their families.*

Mr BARNS - *Are you talking about adult or youth?*

Ms ARMITAGE - *Well, I am talking about both. When we had the recent hearings to do with Ashley, when we were talking about those, what we were told now with the new ones that are proposed is that the actual custodial section, where at the moment Ashley is located in the north, that will be located in the south. To me, this is a little bit at odds with the fact that all of a sudden, we are talking about a northern detention centre so that people can be close to their families.*

Here we are with youth, who you would think would benefit from being close to their families, being located in the south because, as we were told, that's where most of the

facilities are that they will need. I want your opinion on that with the latest we have heard. We have these other areas where they are not so much custodial but the one custodial for the kids that have done some bad things will be totally southern.

Mr BARNES - *It is absurd.*⁴⁷⁷

At the public hearings, the Committee also heard from Mr Barnes and Ms MacDonald in respect to whether there needed to be a change in language from advocates:

Mr WILLIE - *... In terms of your comments about governments standing up to the public and educating the public, do you think there needs to be a change in language from advocates? Governments only have a certain amount of political capital or they get permission to implement reforms from the public.*

Talking about value for money for taxpayers is a good thing. If I think about my own electorate in particular, there are constituents who come to me. They think there is a youth crime issue. There are elderly people who don't want to go out at night because they don't feel it is safe and if they hear advocates and governments talking about rehabilitation, wellness centres, a therapeutic approach, they don't want to hear it.

Mr BARNES - *I agree with you. That is why value for money and community safety is important.*

Mr WILLIE - *Being tougher with the language though, so saying we are going to take this youth offender and we are going to make them do the hard work to stop their offending, to change their behaviour - what I am saying is it is a nuance in the communication.*

Mr BARNES - *I hear you: I find it hard to use that language but I understand the point.*

Mr WILLIE - *I am a politician and you have to get permission from people to change things, and sometimes that is a communication issue. That is the basis of my question. Is there an issue here, a disconnect between where the public is at and where advocates and reformists are?*

Ms MacDONALD - *Briefly, more reading for you and you can look it up if you like, Legal Aid 2021, the report Children First, makes a good point at page 5. I will read the whole quote:*

Many children are successfully diverted from the justice system, supported by those working within the system - police, child safety, the Court and support services. However, the data shows that more needs to be done for some of the most vulnerable and marginalised children in our community.

⁴⁷⁷ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.20-21

Reducing the involvement of a young person in the justice system not only benefits the child, it also reduces the number of victims of crime and is a more cost-effective response.

And then, finally:

It is important that these young people are recognised as children first. Children in need of support and protection in order to improve their chances of fulfilling their potential.

I think people hear the word 'child' and they have a vision in their mind and then they hear 'young offender' and they have a completely different vision in their mind.

Mr BARNS - ... my experience has been in these discussions with communities, when people are engaged in the issue and facts are presented and they meet young people, for example, their views shift. There is a lot of evidence about that and I know Kate Warner did all that work on juries.

I take your point and community safety has to be front and centre of any conversation, I agree. However, I will give you an example. I got the shock of my life the other day when I was reading the Mercury ... I saw an article by Brendan Bromley, the Mayor of Clarence ..., where he was talking about this issue of the Rosny bus mall and some of the communities in youth crime. He made a point which, as I say, I nearly fell out of my chair when I agreed with him.

He said, 'the solution is not punitive, the solution has to be working with young people et cetera'. I am assuming he is getting that from the police. When we talk to the police, not that often, but there are some good people in the police who say it is a bottomless pit. If you give in to every community demand, the community would rather have 10 police officers patrolling a bus mall, but it is a waste of resources. All it does is shift the crime around the corner. You cannot have a punitive response. It does not work. Actually, I think, Josh, if they are engaging with local police and if police say it, there is sometimes more acceptance. If I say it, they say it is predictable. If police say it and engaging with local police, I think is often reassuring to the community.

...

Mr BARNS - ... What I am saying is, those who communicate it are important in this debate. I would accept the Prisoners Legal Service and probably the ALA are not the people to communicate it because we have a particular view. When I do talk to people about youth crime et cetera, if people are prepared to engage, attitudes shift. But I get your point it is easy to whip up fear about crime. We have incredibly low crime rates in Tasmania, and yet, you're right, some people think their perception is that there is a lot of crime.

Mr WILLIE - It is very real.

Mr BARNS - Sometimes it is real. It is the same in Victoria. It is the same in every state in Australia. But we know that pursuing a law-and-order approach has been a disaster in Australia, an unmitigated disaster. Victoria is a classic example of that where they

tightened up bail laws after offending and we saw the tragic death of an Indigenous women who was in there for a shoplift ...

Mr WILLIE - *I have found with constituents where you talk about making young people do the hard work to change their offending to engage with education again, that works.*

Mr BARNES - *We do not disagree with that. I think the point to make here, if you talk about children, people start to get it in their mind, they soften up a bit rather than talking about youth offenders. You are right, there is no problem with using the term, there has to be some structure in this so people do engage and that they do have to do the hard work. If you use that sort of language, I think that is right, I think you can shift people.*⁴⁷⁸

At the public hearings, Dr Mindy Sotiri (Executive Director, Justice Reform Initiative) continued on the theme on the importance of public communication and justice reform matters:

Mr WILLIE - *... I will use my electorate with the previous witness as an example. I represent the northern suburbs of Hobart. There is a perception among some of my constituents that there is a youth crime issue. I have elderly constituents who don't want to go out at night because they don't think it's safe and I'm interested in the disconnect between advocates and reformists, where the public is at and how we bridge that gap through communication.*

I talked to a previous witness about some of the language he was using, like 'therapeutic approach, wellness centre, rehabilitation'. Some of my constituents don't want to hear that so I'm interested in whether some work can be done to change the language to be a little tougher. It's hard to change behaviours so maybe talking about that. I found with some of my constituents, if you talk about making youth offenders do the hard work to change their behaviour, to start engaging with education - that's really hard work. ... I am interested in how we bridge that gap to get change because political systems and governments only have a certain amount of political capital and goodwill from the public to make change.

Dr SOTIRI - *... I think it is a really important question, how we actually communicate: what it is that might look differently without appearing to be soft on crime or airy-fairy. Almost every time we put out a report, we absolutely get some response from the public saying similar things like, 'You've got to hold people accountable'.*

There are two things in response to that question of how do we do it. The first is we've had the good fortune of being able to do some market research, which I'm very happy to share with the Committee, that really assisted with our campaign in the kinds of messaging that we might want to use. Certainly, saying things like 'This is not being soft on crime: this is being smart on crime', and really starting to think about how that might land with members of the community who have quite legitimate concerns about their safety -

⁴⁷⁸ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.22-24

Mr WILLIE - Real experiences.

Dr SOTIRI - The other thing that is really important with all of this is to talk about alternatives always through the lens of community protection and community safety. I'll share the market research which goes through the things that people in the community are concerned about when it comes to this particular issue.

The second thing is that we have a couple of victims' advocates who are very connected with the work that we are doing. Also, one of our patrons has a fairly high profile as a victims' advocate in New South Wales. We do a lot of engagement with victims of crime. Trying to have these conversations with people who have genuine concerns about the safety within their community is really important.

One of the things that we know is that victims often say - and I wouldn't presume to speak for all victims because of course there are so many different experiences - most of the victims we engage with, our victims talk about not wanting what happened to them to happen to anyone else. The way we are trying to frame the alternative picture is by saying we know that currently prison protects the community for a small amount of time. If someone is a prolific offender and is in the community doing a lot of crime, then there is no doubt that while that person is locked up the community may feel safer for that period of time. Unfortunately, the evidence is absolutely clear that this is a very short period of time. We need to expand our lens of what community protection and community safety actually means because we also know without a doubt that when somebody is released from prison, they are more likely to commit crime - in fact, often more likely to escalate in terms of the kinds of crime that are being committed. That is the case even if someone is on remand ...⁴⁷⁹

Mr Patrick Burton (Advocacy and Campaign Coordinator, Justice Reform initiative) spoke about a Texan experience of not building more prisons and how that was communicated to the community:

Mr BURTON - ... I would probably take some of you back to 2017 where, as a member of JusTas, we had a forum at Glenorchy all about community safety. We introduced, as part of that forum, a legislator. ...

...

Mr BURTON - ... His name was Jerry Madden and he was in that role in Texas and they had slated three new prisons to be built. During his term he decided he was not going to build those prisons and he said no, we have got to build communities. Leon Compton was facilitating that conversation at the time and he asked Jerry, 'How do you go about this?' This is not about communication. He said, what we do is we bring the community along with us and we make sure we have bipartisan agreement. A lot of these reforms were brought about through Republican, through conservative means. Essentially, what we're advocating for when we're talking about communication is getting the communication to the people on the ground, the punters, and to the three levels of government, to say that this is about community expectations based on really good evidence. ...⁴⁸⁰

⁴⁷⁹ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.32-33

⁴⁸⁰ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.35

Community Space Interventions

At the public hearings, Professor White spoke to the different strategies that have been employed to deal with youth in community space settings:

Prof WHITE - Years ago I did a lot of stuff on shopping centres and shopping malls. Two very quick stories. When I lived in Perth, the manager of one of the local shopping centres was tearing his hair out because the local traders complained about shoplifting. He was about to hire two full-time security guards. He went home to his teenage kids, and they said, 'Don't do that, you're just going to antagonise the young people. Why don't you think of another way?' In partnership with the local council, he hired a part-time youth worker who worked in the shopping centre. It transformed it because the kids had a voice. They could go to the youth worker if they were crapped off, the retailers got to know the kids a bit better because of it, and so on. The shoplifting dropped after six months. Things were going so well, he started to put on Friday afternoon rock concerts once a month for the kids.

Related to that story is work we did in Cairns years ago. The shopping centre management did two things of note. They located the alternative school in the shopping centre. An alternative school is designed for the so-called troublesome ones who get kicked out of normal school. Over time, the kids started to see it as their shopping centre and they got really protective. Importantly, the head of security in that shopping centre talked to these kids and got to know their names, so when they walked through the door they were addressed by name. Most of the kids were indigenous young people and they were addressed by name. The pay-off was similar to the other pay-off: the young people start to see this as something they want to protect.

Another bunch of young kids trashed the back of the Cairns shopping centre, and the police were brought in. The shopping centre and the young kids told the cops to back off and they would handle it. The kids talked to the elders and found out who did it. They worked through the elders and it was cleaned up, but the message went out not to touch. The vandalism disappeared.

The other important thing was it was the so-called troublesome kids who became the centre of the protection of the place. If you get people with an affinity to place, responsiveness is really people seeing it as 'my space' and not feeling excluded. There is more to it than that.

...

Prof WHITE - A lot of our spaces are commercial spaces and they cost money. If you do not have money, then where do you go? We were talking earlier, when we were kids, we had lots of places to go because we didn't have to pay for anything.

Mr VALENTINE - That changes the individual, doesn't it? I remember years ago when the Hobart City Council wanted to keep troublesome kids away from an area. They put in certain lighting which made their pimples show up and no one wanted to go there and the music they played was not the music they wanted. All that did was push it away to somewhere else. It didn't engage with the kids. What you're describing there seems to me to be a very positive way forward.

Prof WHITE - Yes, but you need an enlightened management.⁴⁸¹

Funding of Tasmanian Legal Aid

At the public hearings Ms Kristen Wylie (Director, Tasmania Legal Aid) spoke about Tasmania Legal Aid in general:

Ms WYLIE - Just a bit about Tasmania Legal Aid first. Tasmania Legal Aid (TLA) is the primary provider of criminal law services to adults and children in Tasmania's justice system. We provide these services by providing in-house representation and duty lawyer services, and by funding private practitioners to provide representation services. Last financial year, TLA made 2,398 grants of aid for criminal law: 61 per cent of those were made to private practitioners and 39 per cent to in-house practitioners. We spent \$3,830,534 on criminal grants and we delivered 3,677 criminal duty lawyer services.⁴⁸²

At the public hearings, the Committee heard from Mses Wylie and Abercromby in relation to the apparent underfunding of Tasmanian Legal Aid:

Ms WEBB - In your submission, on page 12, you talk about your funding. You say the TLA receives non-recurrent funding to provide legal services to children facing charges. From what you then discuss in that paragraph, it sounds as though we have a shortfall of funding.

Can you reflect for us a bit more fully on the degree to which children are being provided with the legal assistance and support they currently need in this State, and what would need to change to have that be fully funded and fully provided?

Ms WYLIE - That relates to the provision of duty lawyer services. We receive some funding to operate duty lawyer services for both adults and children.

Ms WEBB - Is it specified how much is to go to each, or is that something that is decided within TLA?

Ms WYLIE - We allocate: we are underfunded. Effectively, we carry all the super and the on-costs for those lawyers and, rather than not deliver services, as an organisation we carry those costs we are underfunded for. It is something that we will continue to advocate for, for these positions to be fully funded because they're crucial. It's absolutely crucial to have duty lawyers in place for both adults and children in every court in this State, every day they sit.

Ms WEBB - If you weren't subsidising into that space in order to stretch it further, what is the shortfall in what you're funded to provide, and what would be needed to provide the services required? ...

Ms WYLIE - We are underfunded by \$390,000 -

⁴⁸¹ See Transcript of Evidence [Public Hearings – 21 June 2023](#), p.46-48

⁴⁸² See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.1

Ms WEBB - Per year?

Ms WYLIE - Yes.

Ms WEBB - That's pretty significant for you guys - not overly significant for a State Government though, I note. In your submission, on page 12, where you're talking about this and about recent funding provided to establish after-hours bail service in the north and north-west, but then potentially leaving children in the south without legal representation, is it the case that you have to rob Peter to pay Paul, in that sense? To be able to deliver a service somewhere, you have to take it away from a service somewhere else, and kids are going to miss out somewhere?

Ms WYLIE - Correct me if I'm wrong, but I think what we are seeing now is that the adult service, the after-hours service, is delivering services for youth in the south. At the moment, we are still only delivering weekend after-hours services for youths in the north and the north-west. Luckily, we are not seeing a lot of youths being arrested out of hours: we have only seen low numbers so far.

Ms ABERCROMBY - And the ones that we do see that are arrested out of hours, whether or not they're brought to court, is that we might have contact with them initially to give them some advice when they're at a police station. The decision is then made by prosecuting authorities - the police - whether or not they're brought to court. They're not always brought to court. As Kristen said, luckily, there isn't a significant number that we are seeing, but it's certainly a necessary service.⁴⁸³

Committee Findings

F102. Tasmania Legal Aid is the primary provider of criminal law services to adults and young persons.

F103. Tasmania Legal Aid is currently receiving inadequate funding to meet the increased demand on its services.

Committee Recommendations

R46. Ensure Tasmania Legal Aid is adequately funded to provide representation to those within the justice system.

A Role for Community Policing

At the public hearings, Mr Smith APM spoke to the Committee about the potential place for more community policing in Tasmania:

CHAIR - ... We have heard a bit today and in previous presentations on community policing. With your former policing hat on, you might like to make a comment about how

⁴⁸³ See Transcript of Evidence [Public Hearings – 4 July 2023](#), p.14-15

you see the community policing as it is at this point in time, and how that might look somewhat different into the future to support some of these younger offenders and, to some extent, repeat offenders in the adult population. Is there more of a role for what they class as community policing?

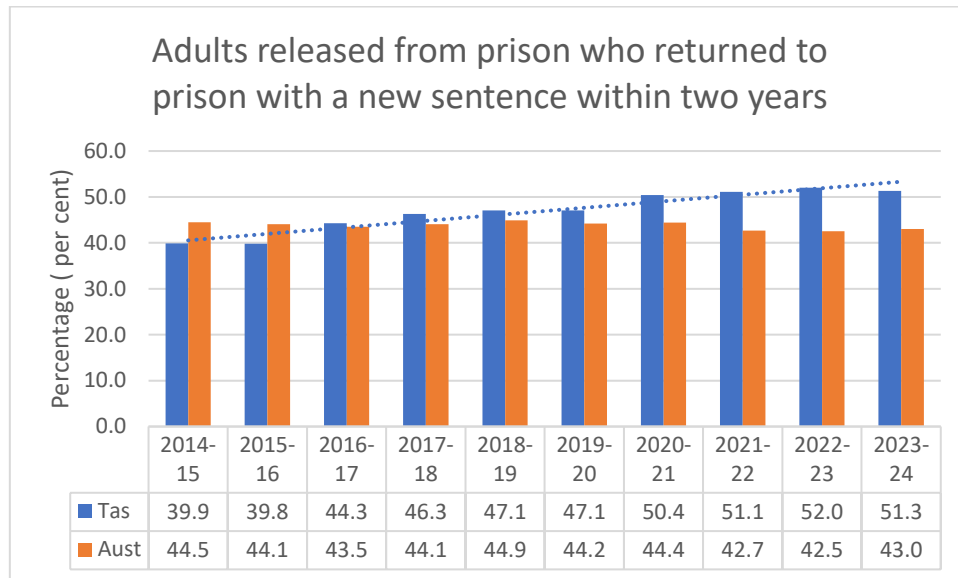
Mr SMITH - *That is a good example of a term that has broad interpretation. If you talk to the AFP, they will say everything they do is community policing. I think what you are getting at is, is there a broader role for the police to do some of the - and I don't use this term loosely - softer options for police to be more integrated into the community, particularly around young people and other offenders? That can be programs, and the PCYC is a good example.*

Correct me if I am wrong, but I am not sure if the hub development out at Mowbray is still going ahead. That was always mooted as being an opportunity to get a greater involvement with police and other services in the early intervention of youth, whether that be in a proactive or reactive sense. There probably is, but it comes at the cost of resourcing. I know my former colleagues agree that a lot tends to get lumped into the laps of police to do and the demands are much greater. That thin blue line has become thinner. There probably is, but whatever the police do, it has to be resourced. Any additional work has to be resourced. We have found over the years, the police quite often have wanted to say yes to do things, but it has come at a significant resourcing cost and something has to fall off at the other end. That has been quite common over the years. ...

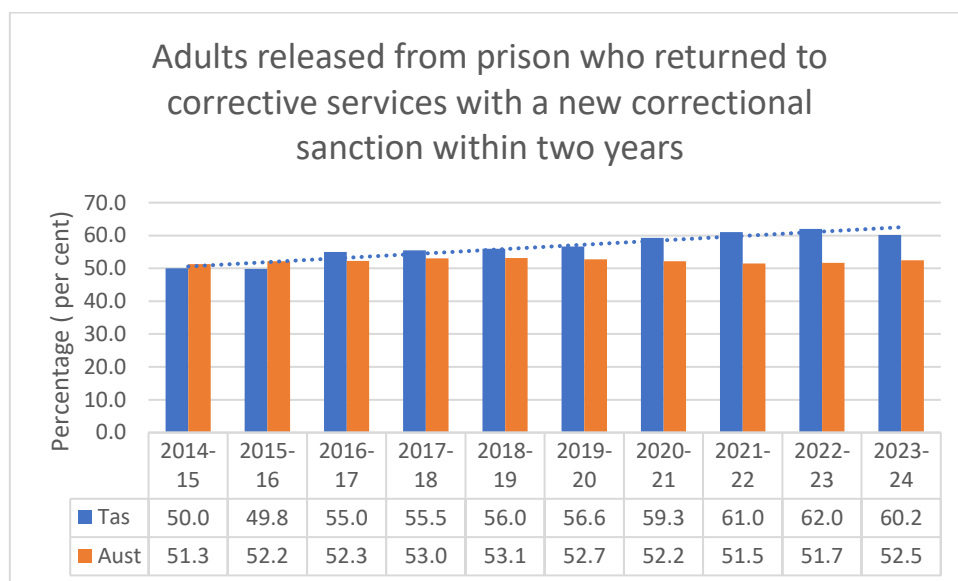
Mr SMITH - *There are certainly roles to play and creating better relationships, particularly with vulnerable groups and groups that are perhaps incongruent to what police do, has always been official, but at what cost to other core policing functions? That is the question.*⁴⁸⁴

⁴⁸⁴ See Transcript of Evidence [Public Hearings - 10 August 2023](#), p.70-71

Appendix A – Extracts from Report on Government Services 2025 – Justice and Corrections

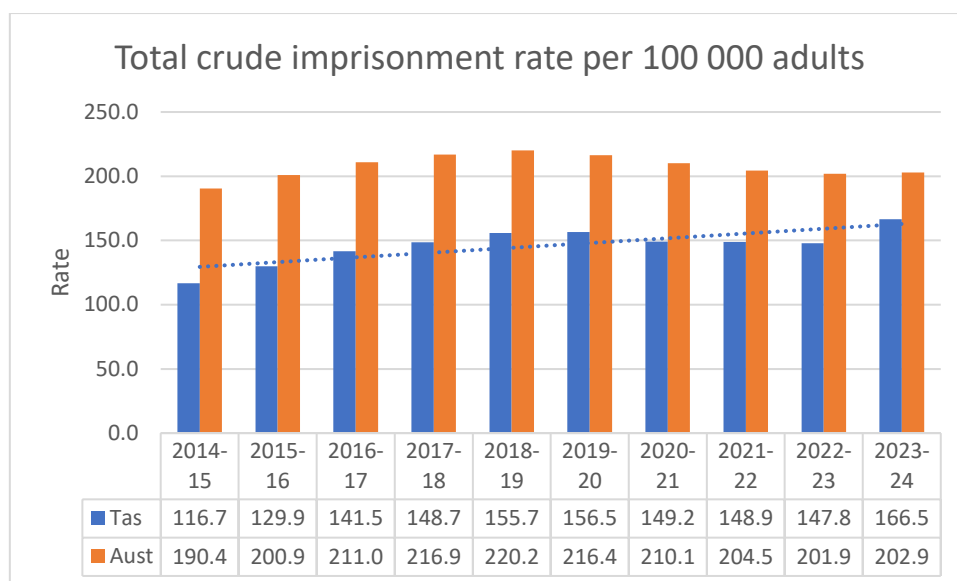


4 Extract from ROGS 2025 Part C Table CA.4

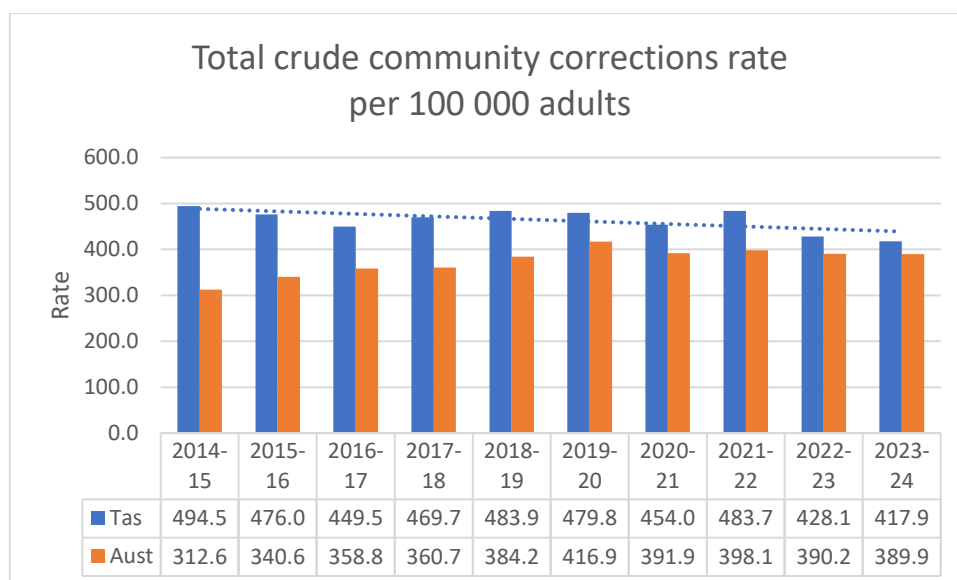


5 Extract from ROGS 2025 Part C Table CA.4 ⁴⁸⁵

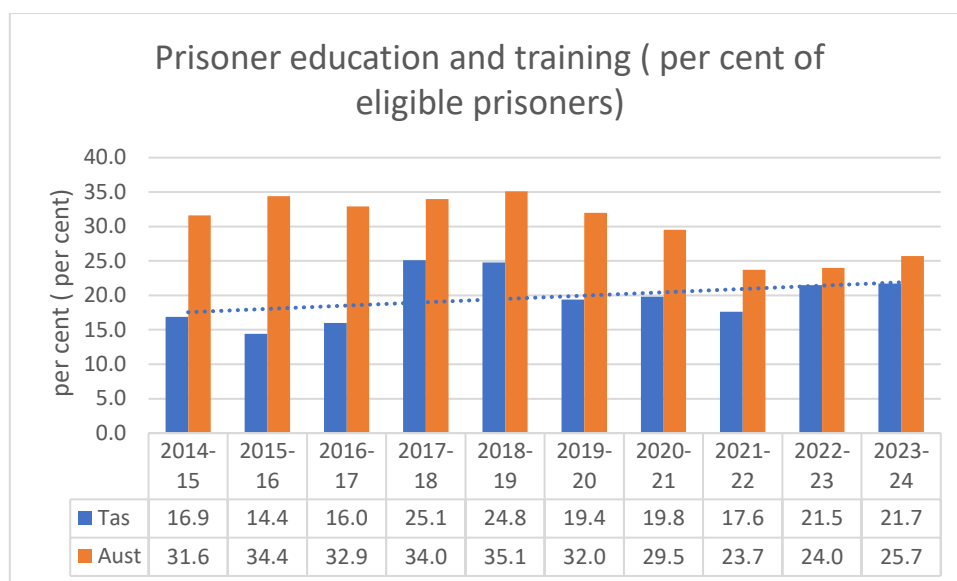
⁴⁸⁵ Includes a prison sentence or a community corrections order



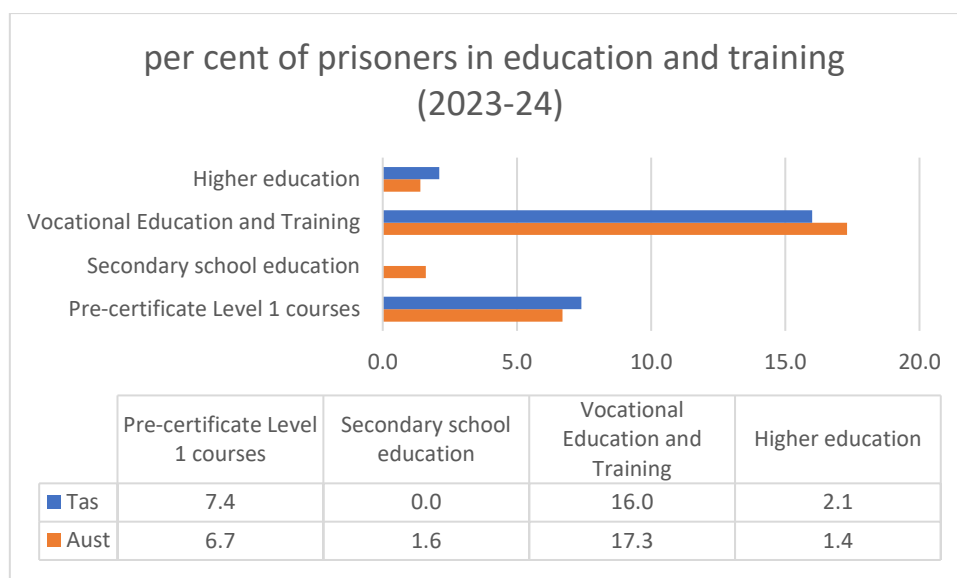
6 Extract from ROGS 2025 Part C Section 8 Table 8A.5



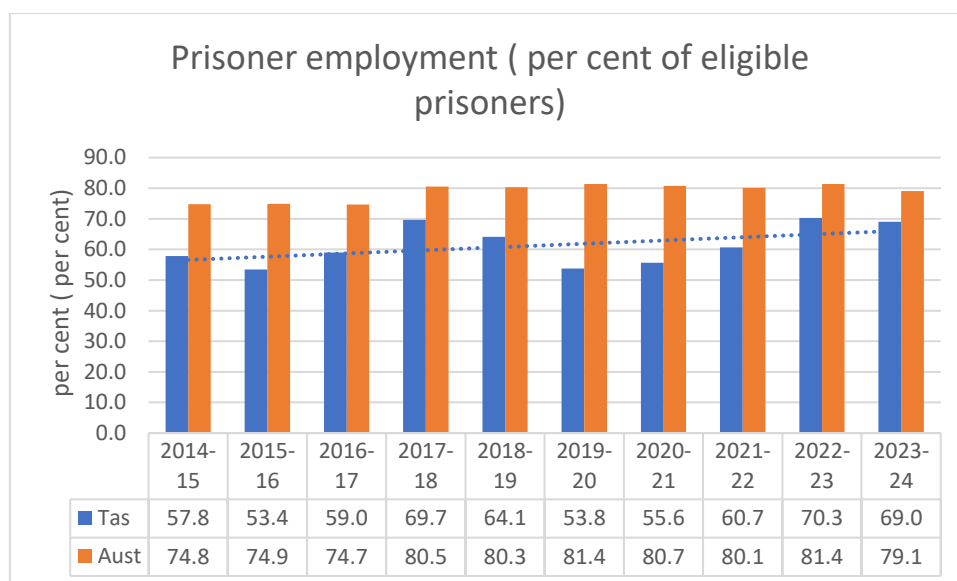
7 Extract from ROGS 2025 Part C Section 8 Table 8A.7



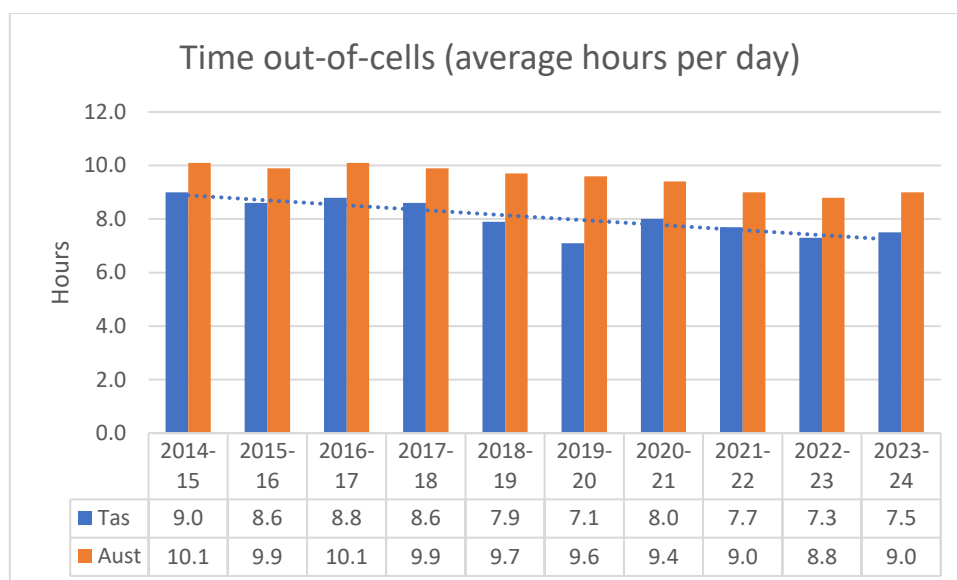
8 Extract from ROGS 2025 Part C Section 8 Table 8A.11



9 Extract from ROGS 2025 Part C Section 8 Table 8A.11

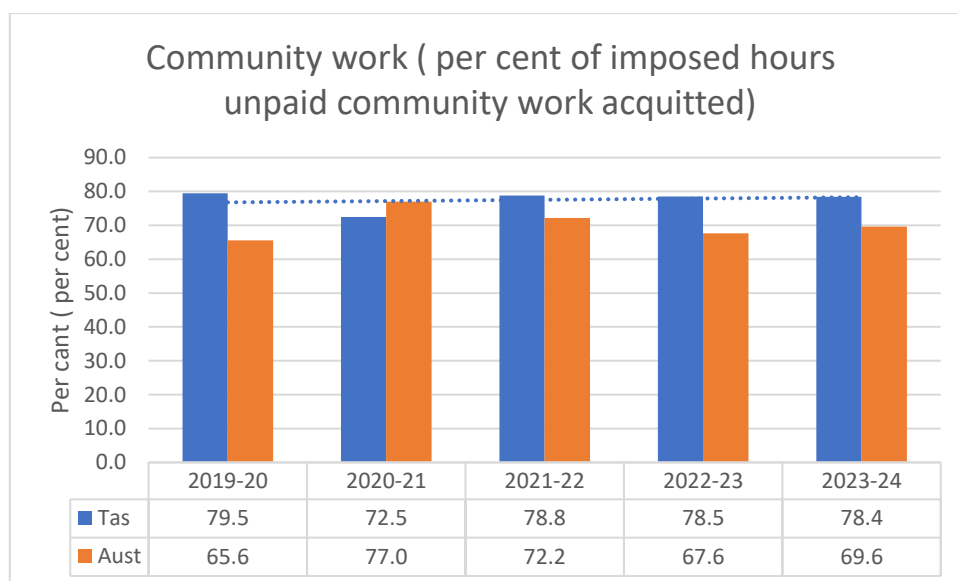


10 Extract from ROGS 2025 Part C Section 8 Table 8A.12

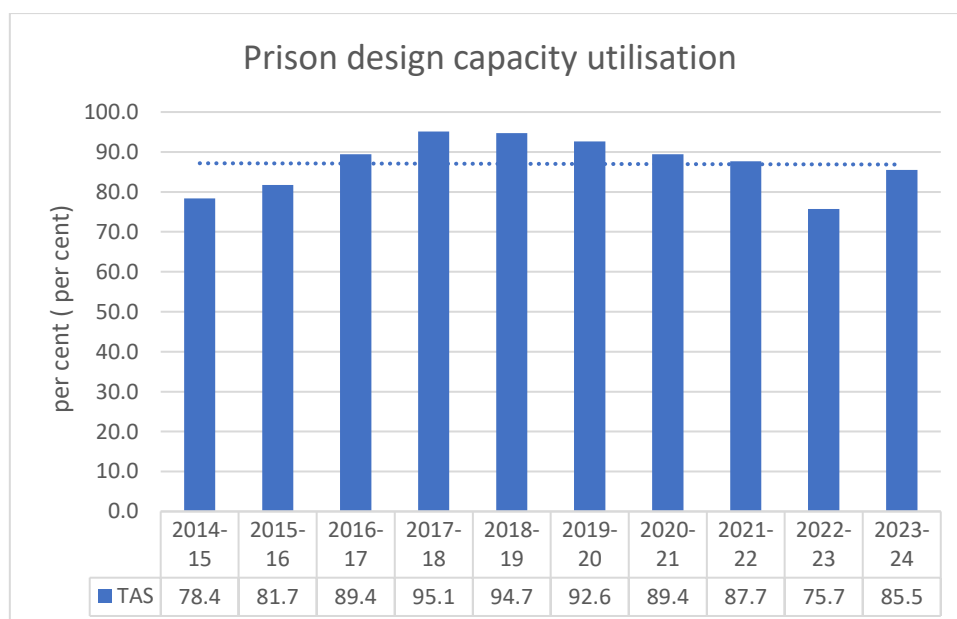


11 Extract from ROGS 2025 Part C Section 8 Table 8A.13 ⁴⁸⁶

⁴⁸⁶ In Tasmania, out-of-cell hours for 2019-20 were based on eight months of data. Out-of-cells hours were not available for December 2019 to March 2020.

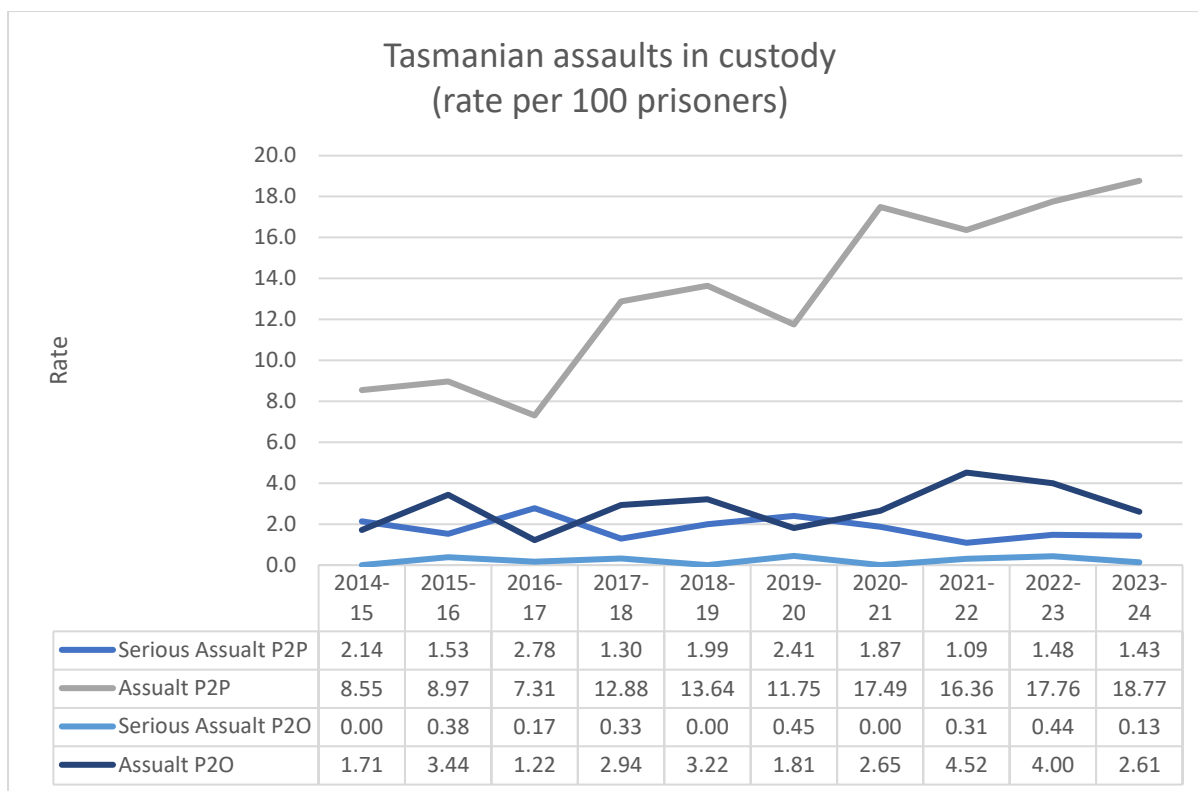


12 Extract from ROGS 2025 Part C Section 8 Table 8A.14

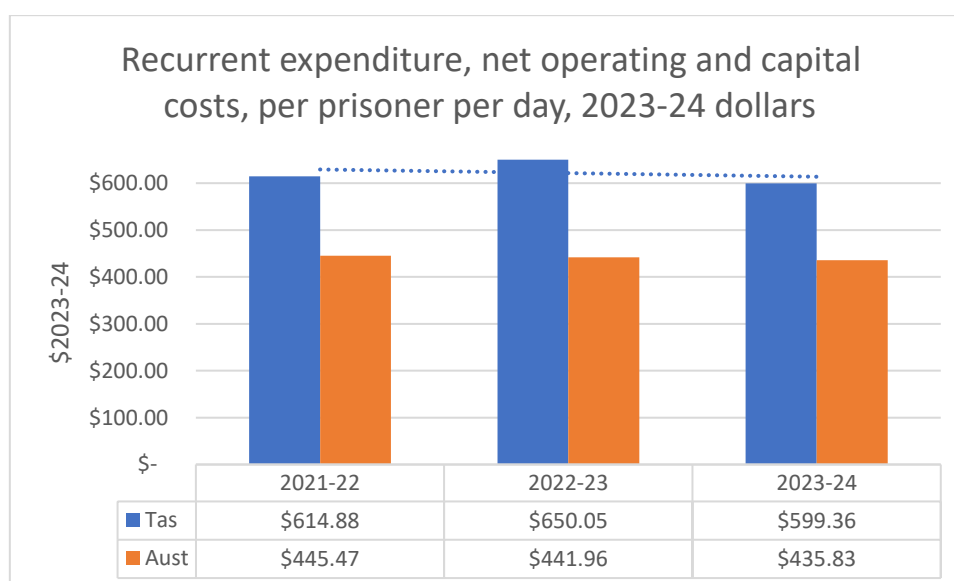


13 Extract from ROGS 2025 Part C Section 8 Table 8A.15 ⁴⁸⁷

⁴⁸⁷ Incomplete data for the reporting period



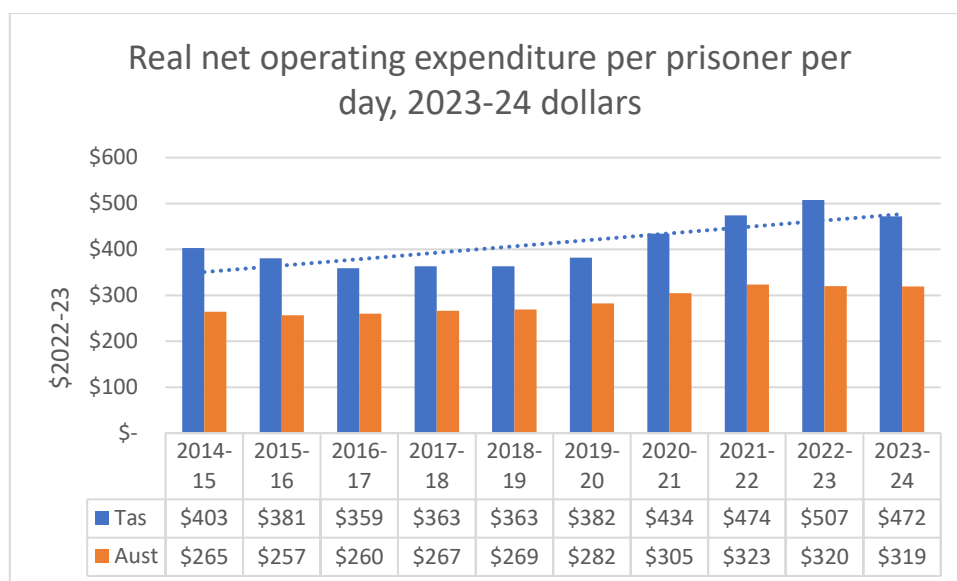
14 Extract from ROGS 2025 Part C Section 8 Table 8A.18 ^{488 489}



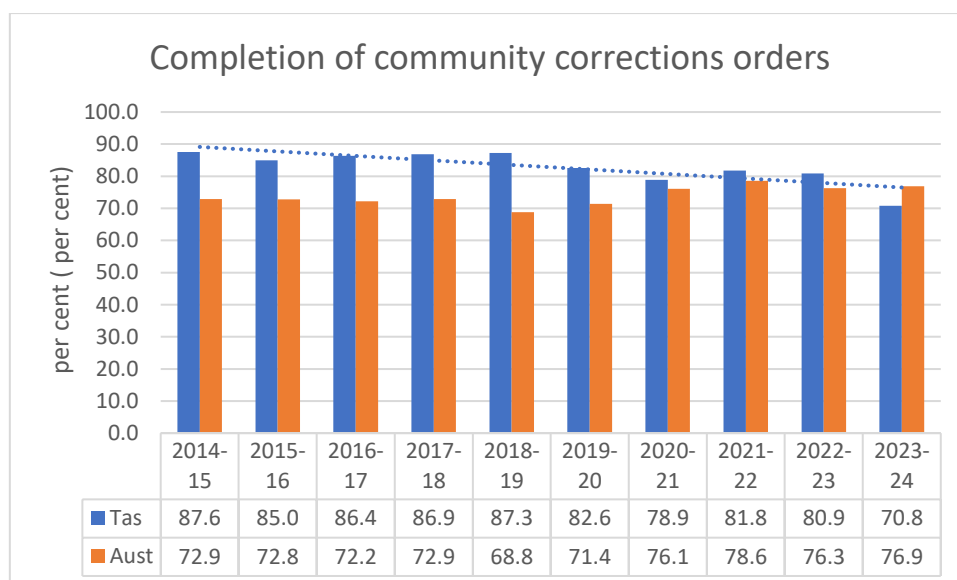
15 Extract from ROGS 2025 Part C Section 8 Tables 8A.1 and 8A.4

⁴⁸⁸ P2P = Prisoner to prisoner, P2O = Prisoner to officer

⁴⁸⁹ Australian averages have not been calculated as this indicator is not comparable across jurisdictions due to different reporting practices and variation in service delivery arrangements for delivering prisoner health care, whereby not all jurisdictions have access to the medical information needed to accurately classify incidents into the assault categories used in this indicator.

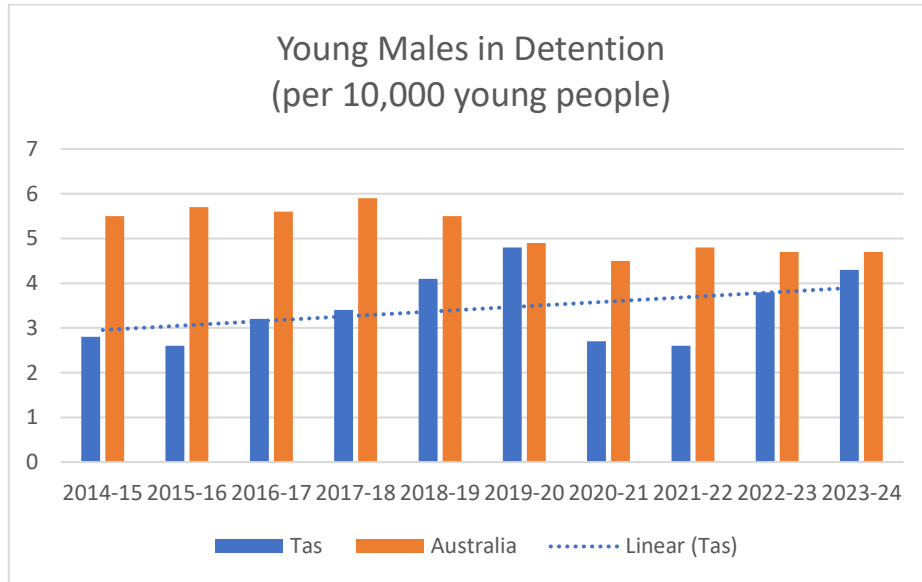


16 Extract from ROGS 2025 Part C Section 8 Table 8A.20

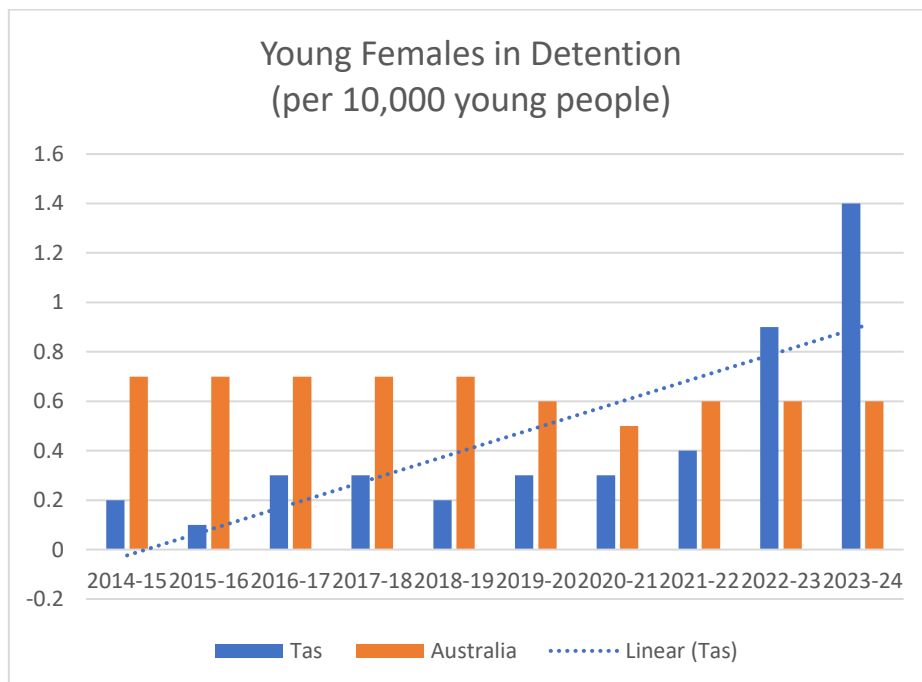


17 Extract from ROGS 2025 Part C Section 8 Table 8A.21

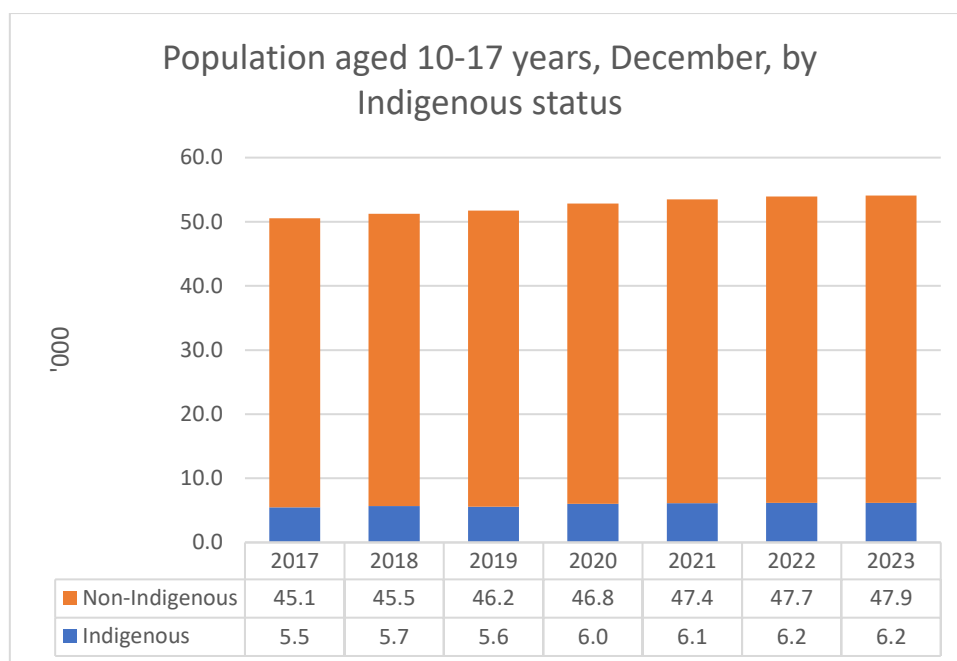
Appendix B – Extracts from Report on Government Services 2025 – Youth Justice Services



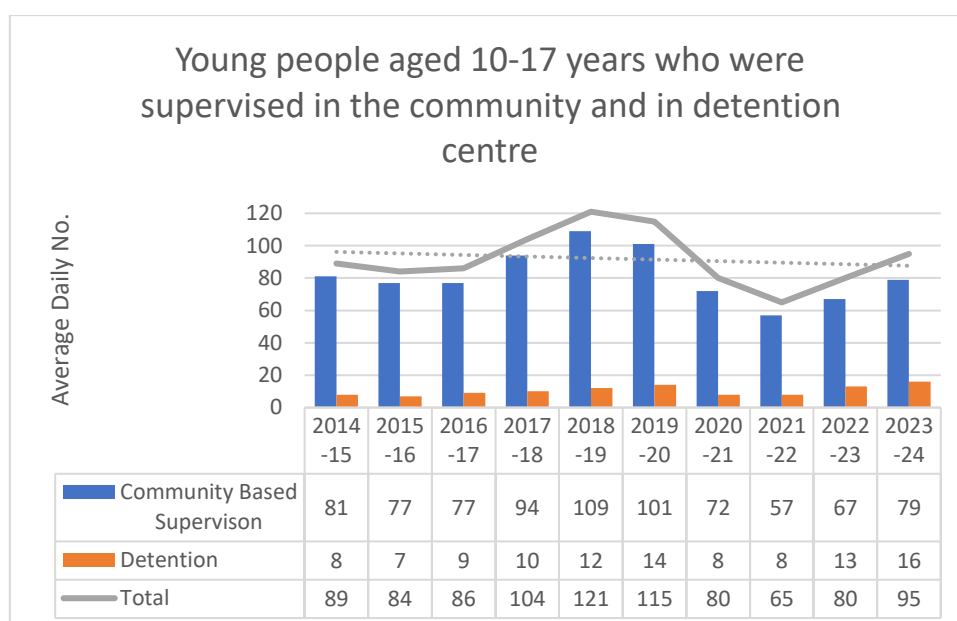
18 Extract from ROGS 2025 Part F Section 12 Table 17A.3



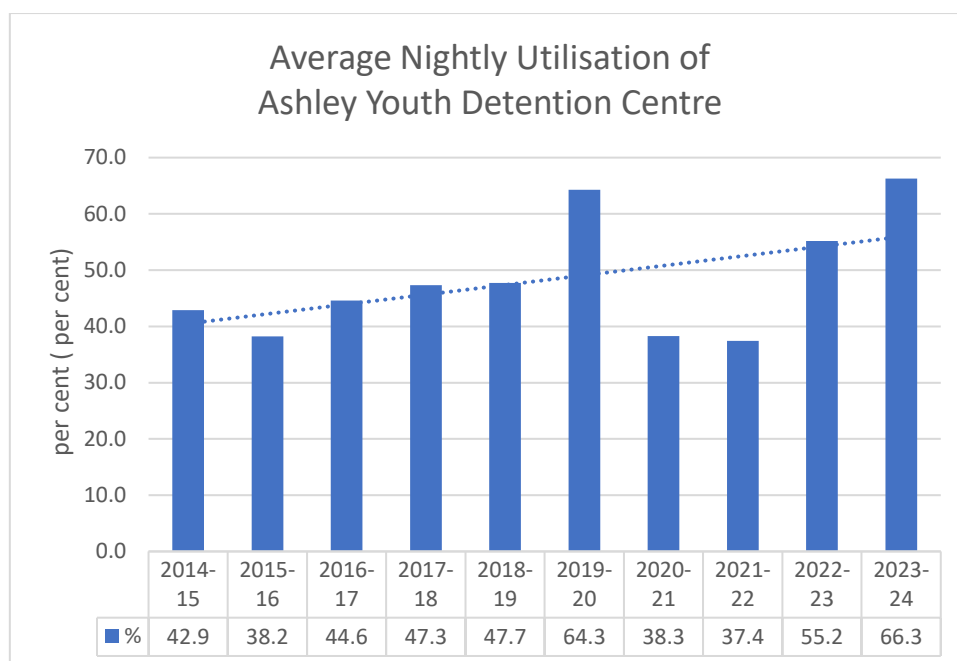
19 Extract from ROGS 2025 Part F Section 12 Table 17A.3



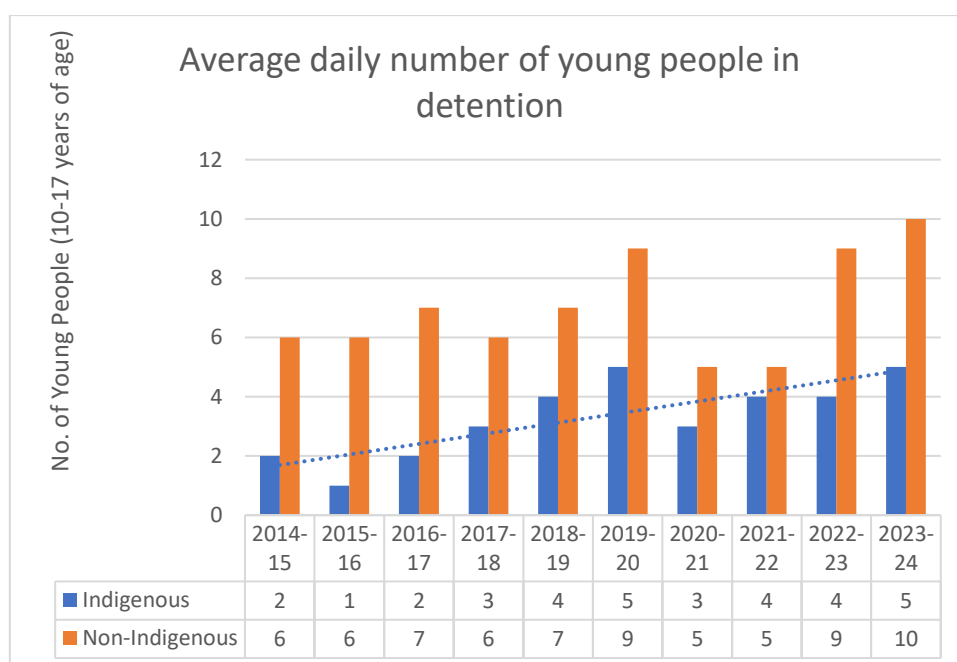
20 Extract from ROGS 2025 Part F Section 12 Table 17A.28



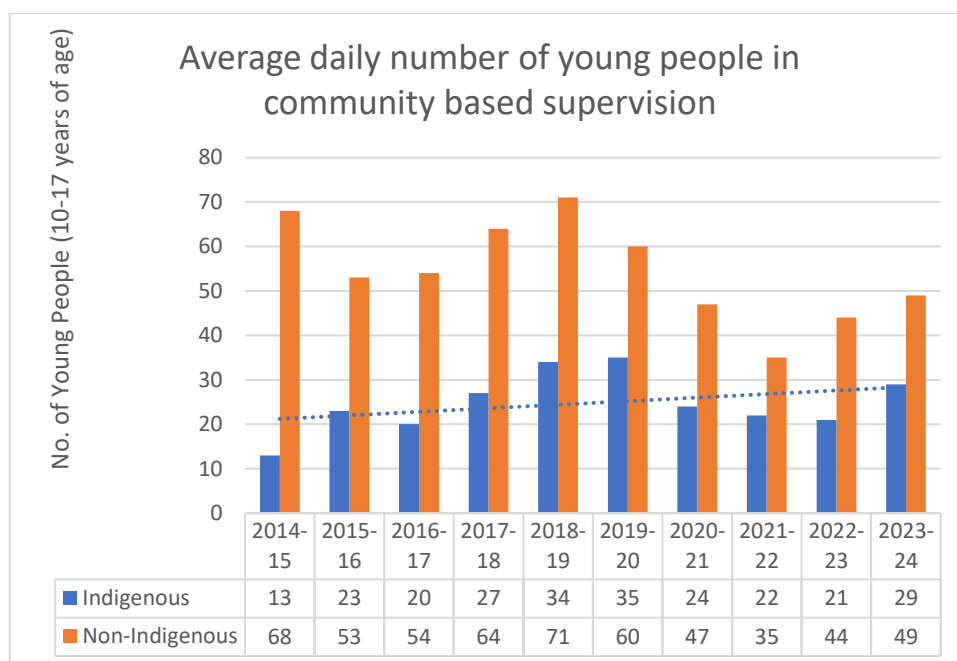
21 Extract from ROGS 2025 Part F Section 12 Table 17A.1



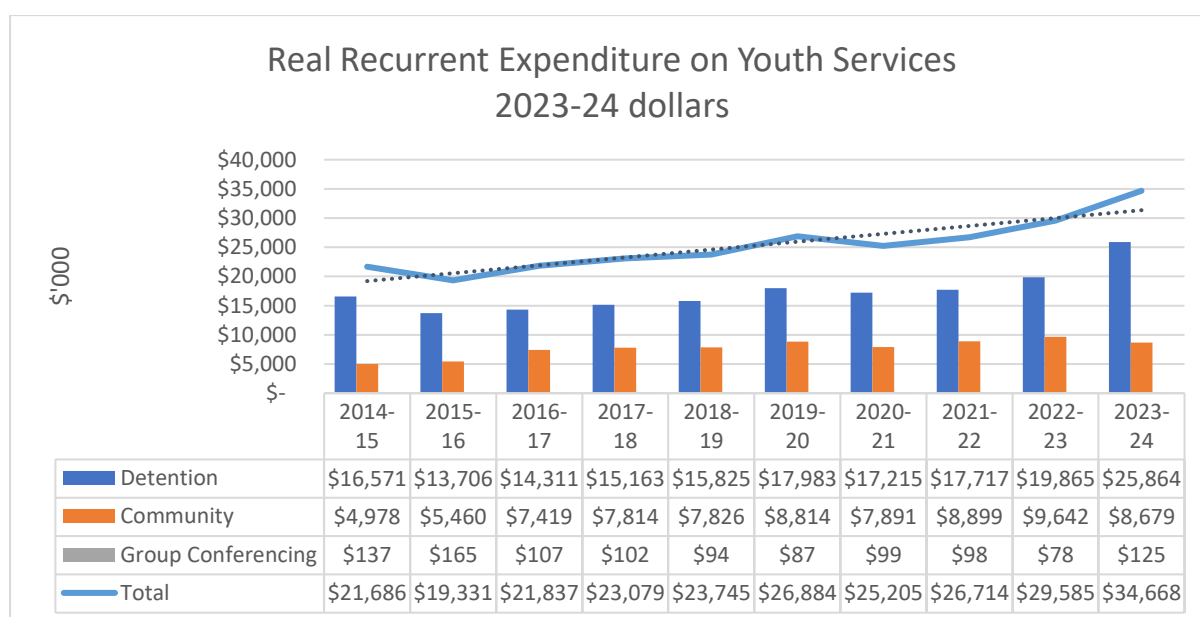
22 Extract from ROGS 2025 Part F Section 12 Table 17A.2



23 Extract from ROGS 2025 Part F Section 12 Table 17A.5



24 Extract from ROGS 2025 Part F Section 12 Table 17A.6

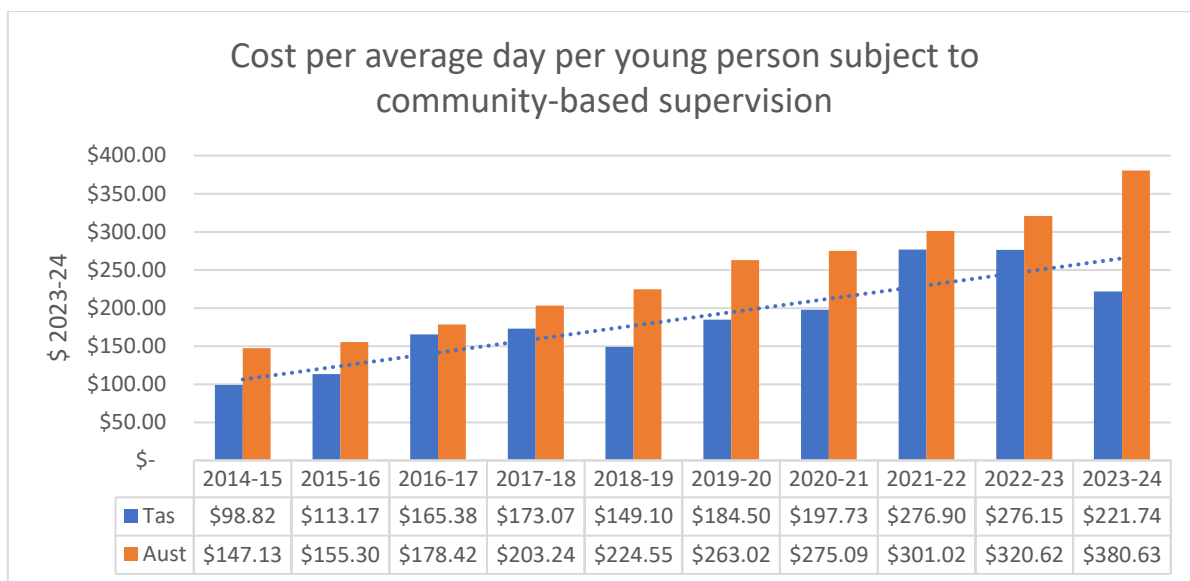


25 Extract from ROGS 2025 Part F Section 12 Table 17A.10 ⁴⁹⁰ ⁴⁹¹ ⁴⁹²

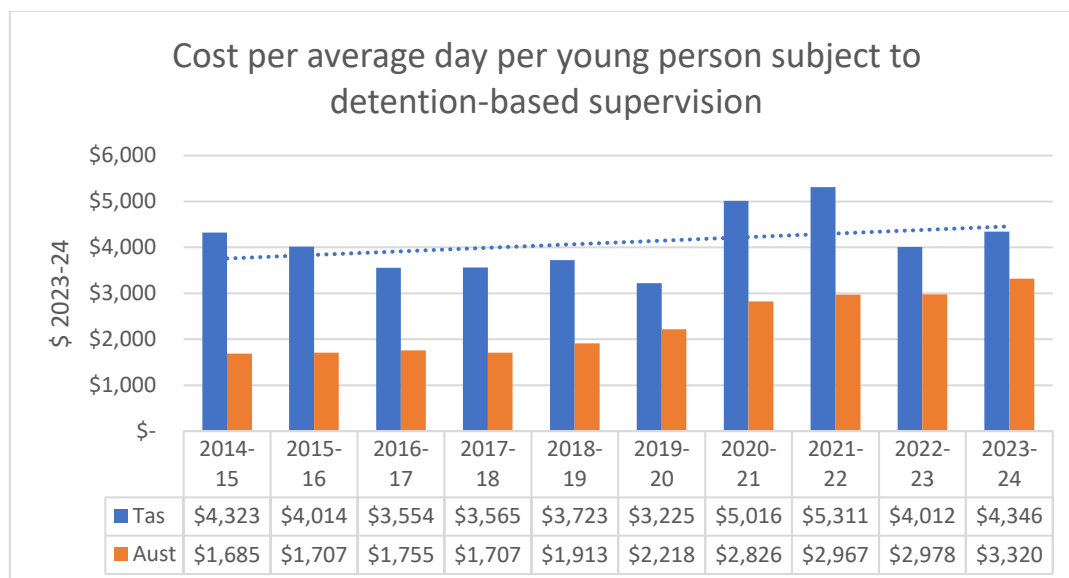
⁴⁹⁰ Total net expenditure on detention-based services increased during 2019-20 partly as a result of increased coverage and overtime during COVID-19 management.

⁴⁹¹ Expenditure data from 2015-16 are not comparable to previous years because of a change to the calculation of umbrella costs. The change was triggered by a departmental restructure in 2015-16.

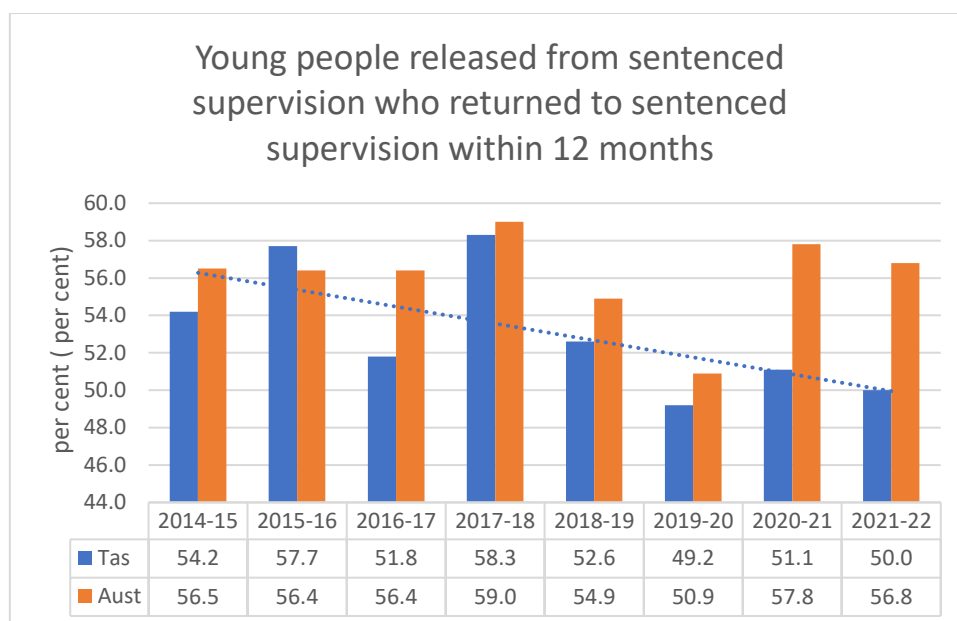
⁴⁹² Group conferencing expenditure data is understated and not comparable to other jurisdictions because only the costs of meetings held by external facilitators are included.



26 Extract from ROGS 2025 Part F Section 12 Table 17A.21



27 Extract from ROGS 2025 Part F Section 12 Table 17A.20



28 Extract from ROGS 2025 Part F Section 12 Table 17A.26⁴⁹³

⁴⁹³ As Tasmanian data are subject to small numbers of young people in detention, trend information should be interpreted with caution.

Dissenting Statement

Hon Rosemary Armitage MLC (Independent Member for Launceston)

In accordance with Legislative Council Sessional Order 5(24) for the First Session of the Fifty-First Parliament, I dissent to the Committee's recommendation that applies to the chapter 'Raising the Age of Criminal Responsibility' i.e., 'Progress the commitment to raising the minimum age of criminal responsibility to 14 years by July 2029'.

My reasons for this dissent are as follows:

- I remain unconvinced of the causal link between lowering the age of criminal responsibility and better outcomes for youths interacting with the Tasmanian Justice system, or that it would ameliorate the commission of crime by young people.
- Raising the age of criminal responsibility does not, on its own, address other factors related to the commission of crime by children including, inter alia: substance abuse, being affected by domestic violence, mental health issues, disability support, disengagement from education, access to stable and secure housing and positive relationships with parents, family and community.
- I believe that keeping the age of criminal responsibility as it is provides more opportunities for intervention before criminal activity escalates and enables a wider range of support services to be activated.



Hon Rosemary Armitage MLC
Deputy Chair

21 March 2025
