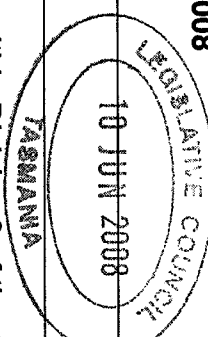


**GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE LEGISLATIVE SELECT COMMITTEE REVIEW
OF ASHLEY, YOUTH JUSTICE AND DETENTION, APRIL 2008**



10/6/08.
Ken P. Parkinson ML

No.	Recommendation	Government Position	Current Status
1	The Youth Justice Act 1997 should be amended to provide access to diversionary programs prior to any plea of guilty.	Not supported	<p>The Act 1997 provides for Diversion within Division 3 of the Act and as part of the tiered diversion and sentencing regulation. In addition the Courts have the ability to order a Community Conference Division 4 (s37).</p> <p>If a young person does not accept responsibility/admit guilt at the point of diversion it is improbable they will participate in a restorative justice process as is intended under the Youth Justice Act 1997.</p>
2	The inter-agency working party be further encouraged to facilitate bail and remand options for young offenders.	In progress	<p>A final report on the outcomes of the JAWG has been presented to Cabinet.</p> <p>A proposal for bail and remand options is being considered as part of the 2008/09 Budget Process</p>
3	Supported accommodation for young people who are held on remand following an appearance in an after hours court should be established in Hobart.	Not supported	<p>Supported accommodation is not intended for young people on remand.</p> <p>Where a young person has been remanded by the courts the expectation is that they will be placed in a secure facility and that bail has been considered and ruled out.</p> <p>The priority for government is to expand bail options available to young people so that they will not be remanded.</p>

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4	The Government should actively encourage and resource non government organisations to provide supported accommodation for young people on remand and for young people exiting any period of custodial detention.	Not supported	Supported accommodation is not intended for young people on remand. Where a young person has been remanded by the courts the expectation is that they will be placed in a secure facility and that bail has been considered and ruled out. The priority for government is to expand bail options available to young people so that they will not be remanded. Accommodation for young people exiting a period of custodial detention is part of the discharge planning process at Ashley however there is merit in considering the scope for improvements to these processes. The matter is being further considered by Youth Justice Services.
5	That Magistrates with a special interest in youth justice be dedicated to the Youth Justice Court.	Not supported	Youth appear before a magistrate as part of a Youth Court. The after hours court is presided over by a Justice of the Peace. It is the belief of the Department of Justice that it is preferable that all Magistrates exercise jurisdiction under the <i>Youth Justice Act 1997</i> , and continue to participate in ongoing professional development that equips them with the necessary skills and knowledge for dealing with youth justice matters. It is impractical in the Tasmanian context to allocate specialist

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			<p>Magistrates to Youth Justice Court proceedings and to appoint specialist youth justice Magistrates from amongst the existing complement of Magistrates would:</p> <ul style="list-style-type: none"> • Reduce the flexibility and immediate availability of Magistrates located in regional areas of the state to adjudicate in youth justice proceedings. There would not be a critical mass of youth justice cases pending at any one time in each of the 4 permanent court locations to warrant a residential specialist youth justice Magistrate, and a visiting youth justice Magistrate would not be immediately available for the small but steady flow of cases filed each month. Equivalent courts in locations around Australasia having a decentralised, regional population all use generalist (not specialist) Magistrates to exercise their youth justice jurisdiction. • Reduce the number of existing Magistrates available to adjudicate in the other jurisdictions exercised by the Court (e.g. adult criminal cases, civil cases, coronial cases and tribunal proceedings). • Reduce the breadth of magisterial experience and variety of perspectives that can be utilised in youth justice proceedings. It may also increase the possibility of idiosyncratic views emerging in magisterial decisions resulting from a limited number of Magistrates specialising in youth justice cases.
6	The Youth Justice Act 1997 should be amended to provide Magistrates with a wider	Under review	<p>The Act currently provides a range of options. The Department of Justice considers that Magistrates already utilise a very wide range of options in sentencing young offenders as prescribed in the Youth Justice Act 1997.</p>

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	range of options in sentencing young offenders.		<p>The Youth Justice Act is scheduled for review during 2008 and this matter will be considered as part of that process.</p> <p>Currently possibilities for sentencing range from detention at one end of the scale to family violence rehabilitation program orders, community service orders, probation orders, fines, conditional release orders, dismissal with good behaviour undertakings, reprimands and unconditional dismissals.</p> <p>The Magistrates undertake regular professional development to ensure that they are fully aware of the range of rehabilitation programs accessible via Youth Justice Community Corrections as part of a probation order requirement to attend such educational or other programs.</p> <p>The Magistrates are kept informed about such programs as the U-Turn program, Chance on Main, White Lion, Anglicare and the Salvation Army's Bridge program.</p> <p>More recently, Magistrates also have available a range of assessment and treatment programs for drug offenders under the Court Mandated Drug Diversion Program implemented in mid 2007.</p> <p>Where appropriate, the Magistrates rely on Youth Justice workers to refer eligible young offenders to appropriate diversion programs as part of a supervised probation order.</p>

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			Magistrates would be very willing to consider any additional sentencing options developed in the future.
7	The Government urgently reassesses its commitment to the community service order system, and allocates appropriate funding.	In progress	<p>3 additional Youth Workers have been recruited to support the program. This has been supplemented in the South with an additional worker to support the level of need.</p> <p>The Community Engagement Strategy has been completed and is promoted with local community stakeholders. This will support local non-government organisations and businesses to engage and identify additional placements for the community service order system.</p> <p>Further resourcing opportunities are being considered as part of the 2008/09 Budget process.</p>
8	The number of youth workers involved in youth justice programs should be increased.	In progress	<p>3 additional Youth Workers have been recruited to support the program. This has been supplemented in the South with an additional worker to support the level of need.</p> <p>The Community Engagement Strategy has been completed and is promoted with local community stakeholders. This will support local non-government organisations and businesses to engage and identify additional placements for the community service order system.</p> <p>Further resourcing opportunities are being considered as part of</p>

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			the 2008/09 Budget process.
9	Early intervention policies and programs should be available for children and young people at-risk of entering the youth justice system, including appropriate assessment for mental health, addiction, brain injury and other impediments that may be the cause of anti social behaviour.	In progress	<p>The shift of emphasis to early intervention and prevention and diversion from the youth justice system is supported</p> <p>Whole of Government initiatives are in place to support early intervention for at risk young people, including:</p> <ul style="list-style-type: none"> • Kids in Mind • Kids Come First • Early Years Foundation <p>Late in 2007, the Government committed an additional \$8 million in funding for family support services</p> <p>There are several areas of DHHS that are actively engaged in early intervention models.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Redesign of the child protection system and family support services to improve capacity of these systems to support young people and their families. • DoE and DHHS have completed a joint pilot project aimed at targeting young people both at risk of entering the youth justice system and those already within the system. The pilot aims to ensure the educational engagement of young

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			people is maximised and attempts to divert young people from the system by providing them with relevant educational experiences.
10	That funding and resources for youth custodial services should be maintained.	Supported	
11	That funding for Community Youth Justice Services and early intervention services should be increased.	In progress	Implementation of new service delivery structures; roll out of a number of service change initiatives and improved training for existing and new staff are already underway. Changes are being considered using existing funding and any increases will be considered by Government within the budget process.
12	That the Government further reassesses its commitment to the principle of 'detention as a last resort' and acknowledges the cost effectiveness of diverting young offenders from incarceration at AYDC.	In progress	Government is committed to the principle of diverting young people from the custodial youth justice system and using detention as a last resort. The redevelopment of the Practice and Service Delivery framework emphasises the benefits of strong diversion services. There are a number of service reform initiatives in process. Implementation over the next 12 months will improve consistency of practice and strengthen conferencing, build community

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			capacity and work to provide a stronger focus on joint supervision and improved accountability within the Community Service Order program.
13	The Government expedites the implementation of all the September 2005 Fanning Report recommendations.	In progress	<p>It is assumed that the Select Committee is referring to the Review of Juvenile Remandees in Tasmania released in April 2006.</p> <p>The recommendation outstanding from this report relates to a bail options program and this matter is being considered as part of the 2008/09 Budget process.</p>
14	There should be an assessment of the efficiency and benefits of alternate strategies such as the diversion of young Aboriginal youth to Clarke Island-based programs.	In progress	<p>The Royal Commission into Aboriginal Deaths in Custody (1987 – 1991) is also relevant, in the context of overall policy in juvenile justice. The Royal Commission recommendations 239 – 241 noted that the role of Aboriginal organisations is central to the development of successful programs which are acceptable to the Aboriginal community. Recommendation 245 also noted that development of alternative custodial options to detention should also be developed in order to ensure that detention in an institutional setting is truly a punishment of last resort.</p> <p>Retention and development of programs such as that provided on Clarke Island is therefore extremely important.</p> <p>A strategy seeking to improve the partnership between DHHS and the Aboriginal community has been developed.</p>

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			<p>The Department is negotiating a new Service Agreement with the Tasmanian Aboriginal Centre, which administers the Clarke Island program.</p> <p>Additional Commonwealth resources have enabled increased support for Aboriginal young offenders at Ashley.</p>
15	<p>Attendance at school and scheduled training courses should be mandatory for AYDC residents, and contact hours should be comparable with educational institutions in the wider community. Funding and resources should be adequate for the educational needs of residents.</p>	<p>In progress</p>	<p>The Departments of Education (DoE) and DHHS are committed to the best use of resources to provide full time education and training options for residents.</p> <p>The capacity of Ashley to deliver programs on site continues to improve.</p> <p>Programs delivered from the DoE operated school on site reflect those in the community.</p> <p>Ashley also provides recreational and social development programs.</p> <p>The Director of Education and Training commenced with Youth Justice in March 08.</p>
16	<p>Education based learning opportunities should be available at the AYDC during those</p>	<p>In progress</p>	<p>This matter is currently under discussion between DoE and DHHS.</p> <p>In collaboration with DHHS, the DoE will explore how learning</p>

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	times when mainstream education officers are on holiday.		opportunities could be provided over holiday periods.
17	TAFE and other NGOs should have access to AYDC in order to provide services and opportunities for the residents.	In progress	<p>DoE and DHHS recognise that there is a variety of providers who can deliver a range of programs for residents at Ashley.</p> <p>However, it is important to ensure that these programs are well co-ordinated in order to provide a cohesive program for each resident and their individual needs (both personal and educational).</p> <p>Strong linkages between DoE and DHHS at pre and post detention times are also critical.</p> <p>TAFE Tasmania has advised that they would welcome the opportunity to provide training to Ashley residents, offering courses delivered against nationally accredited training packages, and linking, where possible, to resident's vocational interests.</p> <p>TAFE also considers that, provided they receive comprehensive induction training, TAFE Tasmania staff may teach at the Ashley Centre.</p> <p>There may also be an opportunity for low risk residents to participate in 'try a trade' days conducted from time to time at venues in Launceston.</p>

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18	Management should be encouraged to introduce programs that re-engage the young offenders commensurate with community expectations.	In progress	<p>The Government supports efforts to re-engage young offenders in the community and the youth justice system is designed to help facilitate this process.</p> <p>In 2003 additional funding was provided for case management into Ashley.</p> <p>This funding has assisted strengthened effort on a uniform case management approach; training and skill development of Case Management staff; improvement in IT and data capture; and development of alternative education and training options and services both within Ashley and the community.</p> <p>The model is currently under review with a desire to strengthen a seamless approach to support the entry and exit of a young offender to and from Ashley.</p>
19	All AYDC employees providing educational and vocational content in courses should be appropriately trained to achieve better outcomes.	Actioned	<p>Government supports a position that all staff working with Ashley residents should receive appropriate training.</p> <p>The Report indicates some confusion between the role of a Program Provider (who runs programs on or off-site) and a Youth Worker (who supervises the young people who are participating in those programs).</p> <p>Ashley currently runs a successful induction and ongoing training program. A significant number of staff have a minimum Certificate IV qualification.</p>

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			<p>Many successful programs are provided by interested local providers and the volunteer sector, as occurs within the broader community.</p> <p>DoE supports training for AYDC staff in relation to providing a culture and an ethos at Ashley that supports and encourages educational/vocational achievement.</p> <p>TAFE Tasmania supports the recommendation.</p>
20	A secure unit on site at AYDC, similar to that which previously existed, should be re-established.	Not supported.	<p>The provision of a secure unit that is staffed and administered according to a different model to the remainder of Ashley is not supported.</p> <p>There is a need to utilise the buildings at Ashley in a flexible way according to the mix of residents at any given time.</p> <p>A more secure unit (Franklin Unit) does exist on site, with limited access to the rest of the facilities on site.</p> <p>There have been significant developments in recent years that have led to better management and behaviour practices on site.</p> <p>There is an agreement between the Department of Justice and DHHS to transfer young offenders in the older age range who pose a security risk.</p>

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21	Subject to eliminating the problems associated with the residency mix at AYDC and an enhanced security regime the educational and training opportunities existing on the school farm should be better utilised for the benefit of residents.	Support in principle	Some horticultural pursuits are being developed on site within the school surrounds. Based on assessed risk young offenders are to have access to some limited activities on the farm. Planning would be required to address this recommendation in full and develop the feasibility of utilising the farm to increase educational opportunities for young offenders. It is likely that full utilisation of the farm would be a costly activity that may divert budget from other core business priorities for Ashley.
22	Communication and coordination between staff and management needs to be improved.	In progress	It is difficult to comment on this statement without a clearer understanding of the rationale and the evidence on which it is based. Issues related to the staffing and management of the Centre are the subject of ongoing review. Work is ongoing to improve management and the organisational health of the Centre.
23	The matter of continuing low morale	In progress	There is limited evidence provided in the Report to evidence the recommendation.

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	among AYDC employees should be addressed through the further enhancement of recruitment and induction processes and also enhancing ongoing practices by providing advanced training and personal development programs for existing staff.		<p>Notwithstanding this there is a commitment to continued and ongoing training for all staff in accordance with the Australian Juvenile Justice Standards.</p> <p>A strong training regime exists at Ashley with compulsory induction and ongoing training.</p>
24	The use of external security staff in a youth worker role within AYDC should be avoided.	Supported	<p>Security staff are only used as a last resort if the pool of available Youth Workers is exhausted.</p> <p>Access to trained staff remains problematic given the location of the facility and the nature of the work.</p>
25	The perimeter fence should remain largely in its present form for the foreseeable future, with the exception of the addition of enhanced strategic surveillance technology.	Supported	<p>Standing Operating Procedures 5 – Perimeter Building Checks and 23 - Fence currently support the security regime of the Centre and the fence.</p> <p>Simply enhancing surveillance equipment on the perimeter will not, in itself, enhance perimeter security.</p> <p>Any enhanced surveillance systems need to be subject to the results of the evaluation of the current CCTV pilot and additional</p>

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			<p>business planning.</p> <p>Expansion of CCTV capability is under consideration within the 2008/09 Budget process.</p>
26	<p>The SOPs should be uniformly and consistently applied, and if any deviation is required, it needs to be justified.</p>	<p>Actioned</p>	<p>SOPs are currently being reviewed. Any changes are communicated and training is provided to staff. Any alleged breach of a SOP is investigated, the matter is addressed as appropriate with the staff concerned and disciplinary action is taken if needed.</p> <p>Protocols currently exist to address breaches of SOPs both on site and within the State Service Commissioner's Directions 3 and 5.</p> <p>Further work is proposed under the development of the Youth Justice Services Quality and Safety Framework to mitigate risk and improve quality of services.</p>
27	<p>The SOPs associated with notification of neighbours following an escape from AYDC should be reviewed and consistently applied.</p>	<p>In progress</p>	<p>A protocol currently exists for notification of local residents should there be an escape. The protocol will be reviewed and arrangements made for it to be applied in a consistent manner.</p>

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28	Only female youth workers should supervise and care for female residents.	Supported	As far as is possible this has been custom and practice however access to qualified female staff remains an issue. Efforts to recruit suitable female staff are ongoing.
29	The Law Reform Commission should assess the value of protecting, by providing anonymity, to certain older-age young offenders who have been convicted of a very serious crime.	Under review	The identity of offenders 10 -17 years of age (18 if the offence was committed when the young person was aged less than 17) is withheld. The Tasmanian Law Reform Commission has advised that they are supportive of protecting and retaining the anonymity of young offenders. The Board of the Law Reform Institute may, however, consider a project to look at whether community interest may be served by releasing the names of some older offenders convicted of serious crimes. This matter will be considered as part of the review of the Youth Justice Act.
30	Ashley Youth Detention Centre should be re-named Ashley Secure Care Centre.	Not supported	Under the principles of restorative Justice this would not be supported. The proposed rename to include secure care centre further criminalises and stigmatises the young offender. The perimeter fence provides only low to medium security status.
31	That the Government ensures AYDC staff can access the services of	Actioned	Access to an independent advocate or support exists within the State Service rehabilitation process and the Employee Assistance Program.

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	an independent advocate in the event of workplace stress and injury.		
32	Follow-up and support programs should be put in place to assist staff who are recovering from the effects of a workplace incident at AYDC.	Actioned	Access to follow up and support programs exists within the State Government and the DHHS return to work program.