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Legislative Council Sessional Committee Government Administration B
Inquiry into Tasmanian Adult Imprisonment and Youth
Detention Matters

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Inquiry into Tasmanian Adult Imprisonment and Youth Detention Matters

This submission is primarily relevant to matters relating to the Tasmanian corrective services and justice system matters relating to youth detention.

Our response is largely based on the lived experience emerging from a recent court case and crime committed by a young person. It was an unusual case and identified a number of major gaps in the system that impacted on both the young person and the family of the victim of the crime.

As background to the case. A young man (aged 16) stabbed and killed a man. Because one psychiatrist's report found the offender to have a degree of autism and some learning difficulties, he was deemed to have special needs. This resulted in the need to have a 'special hearing'. The jury agreed that he had committed the crime but because it was a special hearing he was deemed to be not-not guilty. The case took three years to conclude and required over 30 hearings and identified several gaps in the system.

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

In the case mentioned, the court process went on for three years. Over and over people attended Directions Hearings simply to schedule the next one.

Three years of Directions Hearings, Special Hearings, DPP counsels, psychologists and psychiatrists, communication experts and more, plus the Judge and all her time and support administration, the accused's accommodation and travel to and from Ashley and then William Lopez, often daily –would have resulted in a huge cost to the public purse.

- Many of those sessions were required simply because the defence had not been able to provide a report despite many timely requests.
- At other times, repeat sessions were required because of a lack of available and appropriate detainment options (at one stage the judge and lawyers were literally googling different options as they didn't know where the accused could go at the end of the day).
- Similarly, after the jury had made its decision, there were several months of hearings to decide what would then happen to the young man. In the absence of alternative support or accommodation options it was decided he be released into the community. A decision which then required further hearings and discussion to identify possible supports to enable this.
- The time the court system took to reach a conclusion, resulted in high costs at Ashley. The extended period was put down to the decision that the (then) youth had "special needs". This must apply to many alleged perpetrators.

The lack of a standard procedure for special hearings, the lack of appropriate accommodation options and the length of time the process has taken all added to the costs of the process.

Until the legal system develops smoother and less drawn out processes these costs will continue to rise.

It should also be noted that not all costs relate to dollars. The length of this case caused considerable pain to the family of the victim and cost them dearly.

2. *The use of evidence-based strategies to reduce contact with the justice system and recidivism*

Lack of alternative options such as Restorative Justice.

Currently in Tasmania, Restorative Justice (*a system of criminal justice which focuses on the rehabilitation of offenders through reconciliation with victims and community at large*) is used only infrequently and in relation to relatively minor crimes. In this case, whilst the crime was significant, the victim's family would have welcomed an alternative intervention such as Restorative Justice including Conferencing. It would have been a help to both the families of the victim and the accused; it could provide assistance in understanding more about what happened and to express the impact of the crime on their lives. It may have also given the young person a chance to understand the impact of their actions and to express any regret they felt.

Lack of appropriate support

Due to the lack of alternative detention options, the perpetrator was released back into the community with minimal support as there appeared to be nowhere appropriate to send him. In doing this, Corrective Services, being unaware of the Judge's comments regarding concerns about returning the perpetrator to live in his family home close to the victim's family (two blocks away), have created ongoing traumatic conditions for the victim's family members. They are in constant fear of meeting him in the area.

Without the right kind of support the risk of recidivism is higher.

Lack of alternative restrictive establishments

We are now (March 2023) aware the whole issue has been raised on social media, resulting in an aggressive response from, it appears, the young man himself. This is causing further trauma for the victim's family members who live close by. We can only assume it is lack of funding of an alternative restrictive establishment that results in this young man - found "Not-not Guilty" of killing someone - with obvious resentment and anger issues, being released back into the community.

See # 3 for further details.

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

Lack of housing and support options.

With the offender being released back into the care of his family (which was his situation when he committed the crime) and thus again exposed to the influence of the friends he associated with

as part of the initial crime, concerns are raised re possible recidivism. Whilst some NDIS support is provided, this is not really geared toward a young person who committed a crime, nor does it appear to fully address his needs in relation to his experience with the justice system and his special needs e.g. autism.

Impact of victim's family

Also, as the perpetrator is living within two blocks of the victim's family, the possibility of a chance meeting between him and the victim's family is constant. No information or support was provided to the family regarding this, and it has deeply re-traumatised them to know he is living so close to them.

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

Whilst this question appears to relate specifically to training that would support corrective services staff in the prisons, we would also recommend specialised training of courtroom staff (especially if they come from the prison system). This could enable them to more readily adapt their behaviour in their interactions with people attending court. In particular, to distinguish between potential trouble-makers and grieving families and to be able to adapt court rules and behaviour when needed. For example, despite sitting through hours of hearings in a stuffy courtroom the family were initially unable to take a bottle of water into the courtroom *'because of the possibility they might throw it at the Judge'*.

Whilst there were some clear exceptions, there appeared to be a lack of understanding of the victim's experience by the Court staff throughout this process. The inflexibility by some staff meant additional angst and frustration to family and supporters of the victim who were attending the Court procedures.

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;

Increase the range of options available

As noted previously, once 'sentenced', the only options for this young person were either the Risdon Prison or William Lopez Centre neither of which were deemed appropriate for his needs. There is a need to provide more in depth and individualised support for people who have diagnosis such as autism and learning difficulties. This may be as part of an existing system such as Ashley or Risdon or as a separate institution. This will obviously require additional funding – but, so then, does recidivism.

Increase communication across services

There appears to be a loophole in the legislation which results in direct communication between the DPP and other Government services e.g. Corrective Services. Thus information vital to the party the DPP is acting for, cannot be relayed to said party.

Therefore, there is a need to improve communication and coordination between services such as the DPP and Corrections Services and to provide post release support that is targeted and relevant to the needs of the individual. It is also important that the victim's family is kept informed of issues relevant to them e.g. release proximity.

6. Any other incidental matters

A key issue relating to justice system matters is the experience of the family and/or victims of crime.

Whilst some court support is available, it was limited and strictly bound to the entrenched court processes. Little real or independent support could be offered through this service (Court Liaison Officers) and there is a need for someone who can advocate on behalf of victims and their families, separate from Counsel.

Overall, the family found the three-year experience to be deeply traumatising.

The dot points below may be the result of the very strict legal procedures but it needs to be said they just add to the pain and grief and costs of all/both innocent family members.

Any system that is to be fair, efficient and effective needs to take into account all of the people deeply affected by the crime.

When dollar costs are the only cost being considered, and human costs are ignored, the legal system is definitely "blind" rather than just.

Key issues include:

Lack of consideration of the needs of the family of the deceased

Again, it may be due to the antiquated legal system but the time and resources put into the accused, do not appear to be reciprocated in equal measure to the victims.

A more even-handed approach could include the following:

- Specialised advocacy for the victim's family, including the right for the Victim's Impact statement to be read in court.
- Given the apparent limitations set on the DPP in representing the victims, such an advocate could be a "voice" for the family during court proceedings.
- Independent (of the DPP), Liaison Officers who could provide critical information to the families e.g the release of the perpetrator back to his home environment. Apparent systemic regulations prevented the DPP being able to inform the family of such information. A role such as an independent liaison officer could do much to help bridge the gap between the DPP, Corrective Services, Victim Support and other relevant agencies.

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