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PARLIAMENTARY JOINT SESSIONAL COMMITTEE

RECOMMENDATIONS OF FINAL REPORT OF THE COMMISSION OF INQUIRY

Public Hearing - Friday 28 March 2025

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THE PARLIAMENTARY JOINT SESSIONAL COMMITTEE MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON FRIDAY 28 MARCH 2025

RECOMMENDATIONS OF FINAL REPORT OF THE COMMISSION OF INQUIRY

TASMANIA LEGAL AID

The committee met at 9.00 a.m.

CHAIR - Thanks to you both for appearing before the committee on behalf of Tasmania Legal Aid. This is a public hearing - the Commission of Inquiry Committee overseeing the government's response to the recommendations. We are obviously doing that in concert with the work that the implementation monitor, the honourable Robert Benjamin, is doing as well.

This is a public hearing. Everything you say is covered by parliamentary privilege, but that may not extend outside the room. If there were matters of a confidential nature you wish to share with the committee, you can make that request and the committee will then consider that and try to put those matters toward the end of the hearing rather than throughout.

In terms of the nature of the content we are covering, I just like to make the point that this may be triggering to some members of the committee, members of the community watching and others who may come into the room. With that in mind, I remind people there are support services out there to assist. These include the statewide Sexual Assault Support Service 1800 697 877 or 1800 MYSUPPORT; Lifeline 24-hour crisis support on 13 11 14; A Tasmanian Lifeline on 1800 98 44 34; 13YARN crisis support for Aboriginal and Torres Strait Islanders on 13 92 76 and Relationships Australia Tasmania for more complex, trauma-informed counselling from 9 a.m. to 5 p.m., Monday to Friday, on 1300 364 277. I want to make that before we start, because it's pretty challenging information, some of this.

I will invite you to introduce yourselves and take the statutory declaration. Then I presume you'd like to make an opening statement. We have read your submission and appreciate the effort you put into that to highlight the various areas of interest, particularly to legal aid.

Ms KRISTEN WYLIE, DIRECTOR, and **Ms REBECCA LANCASTER**, ASSOCIATE DIRECTOR, TASMANIA LEGAL AID, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

Ms WYLIE - Tasmania Legal Aid is the provider of the majority of legal services to children and young people in criminal law, child safety, mental health and family law. That places us uniquely to give you some insight about the experiences of children within the justice and child safety systems, in particular, and what works well and what doesn't.

We have always been clear that we commend the government for not only accepting all the commission of inquiry recommendations, but also the urgent action that has commenced to operationalise those recommendations. We also commend the government on the commitment to close the Ashley Youth Detention Centre as quickly as possible.

However, we are concerned by our observations about what appears to be a tough-on-crime approach to children and young people, and the impact that this is having on Tasmanian children. We are concerned about the impacts that a tough-on-crime approach will have upon the successful implementation of the justice-based commission of inquiry recommendations into the future. Police taskforces across the state seem to be picking up children and young people. In fact, Operation Raven in Launceston was created with one of the specific aims of targeting youth offenders.

We are seeing an increasing number of lodgements in the children's courts. Back in 2021 there were 1112. This increased to 1832 in 2023-24. Similarly, in 2023-24 Tasmania had the second-highest rate of criminal lodgements per 100,000 people and was second-highest after the Northern Territory. Tasmania's average is 319 compared to 188 for the nation, so it is significantly higher. Tasmania has had a higher number of criminal lodgements in the Children's Court, much higher than the national average since 2020-21.

From our perspective, on the ground, because we don't have this year's figures yet, it certainly seems that the arrest rates are higher. The demand in the Youth Justice Court has increased, as has the complexity of the matters that are being dealt with summarily.

The spirit of the justice-based commission of inquiry recommendations are all underpinned by there being a therapeutic response. A tough-on-crime response is fundamentally opposed to therapeutic diversionary strategies. If the policy is to specifically target youth offenders, this plays out practically in increases in youth arrests. It increases the number of children in custody, including on remand in Ashley, and this is counterproductive to efforts to divert children and young people away from the justice system.

We commend the decision to close Ashley as soon as possible, and we note the recommendation that an alternate facility be small and home-like with a therapeutic model of care. However, against that backdrop, we are currently seeing these tough-on-crime taskforces and the number of people in Ashley increasing again, with the continuing issue that the majority of the children detained there are unsentenced.

Our view is that the closure of Ashley can't occur out of step with the need to change the age of criminal responsibility. and we're significantly concerned that that is a phase 3 recommendation.

It can't occur without the urgent need to change the *Youth Justice Act 1997*, including how bail is considered, because that is not working for children and young people presently.

It is impossible to achieve without offering comprehensive bail supports. It is impossible to achieve without offering comprehensive and resourced diversionary strategies.

We would like to see an escalation for the date for the change of the age of criminal responsibility, and also for diversionary strategies and resources, access to bail and bail support - as these will decrease the number of children in detention so that the small and home-like facility that's been recommended can be realised. If we don't do it, what we're just going to end up with is Ashley built somewhere else, and nobody wants that.

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We note that the members here are aware, but for the record, detention has a criminogenic effect and leads to further imprisonment. Over half of Tasmanian young offenders are sentenced to new offences, with detention, within 12 months of release from custody.

We still see cases where a lack of adequate support services for children in crisis, and, in particular, lack of supported accommodation, means some children are detained not because the offence they are charged with would warrant detention, but because they are effectively homeless. Perhaps if we can have a private session at the end, we do have a case study that we would like to share with you that goes directly to that issue.

There is a real scope to change this trajectory for children by diverting them away from the youth justice system and, critically, away from detention. To divert children and young people away from the prison system and to remove the criminogenic effect, priorities should be given to:

- introducing child-specific bail laws and principles for a bail support program
- diverting unsentenced children away from prison
- diverting homeless children, including those without other social supports, away from prison, and
- ensuring that children have access to services that meet their complex needs, including disability, being a victim-survivor of family violence, mental health, being a victim of sexual crimes, and drug and alcohol dependence.

If a tough-on-crime approach persists, we will continue to see increased numbers of children in detention and a continuation of the majority of those being unsentenced. The consequences that flow from detaining a child are recidivism and ongoing involvement with the criminal justice system; resultant harms to the child, with entrenched disadvantage; resultant harms to the community arising from recidivism; and the economic impacts that flow from the cost of imprisonment both to the child, but the community more broadly.

We're very happy to answer questions about any of our recommendations or indeed any questions you have about the paper that we submitted.

CHAIR - Thanks for that. It's very helpful information. They're very sensible recommendations based on the evidence you've provided us now and in your submission. Have you had discussions with the government about your concerns, and have you had a response to that? The other part of that is, are you interacting, which I assume you are, with Robert Benjamin in his role?

Ms WYLIE - For the record, I'm a member of the youth justice expert panel, so I do have an opportunity within that forum to raise those concerns, but I'm unable to talk about that role in this context. However, Tasmania Legal Aid takes up every opportunity to make a public submission, so we've made a number of these submissions in the past, including the one into the adult imprisonment options, where we used it also as an opportunity to raise the plight of

children in the justice system. We are, within appropriate forums, raising these concerns at every opportunity.

CHAIR - Have you seen any shift in, perhaps, attitude to the timing of some of these recommendations - acknowledging that the government has accepted all of them? We hear that from other witnesses as well, the timing of some of these seems to be particularly concerning.

Ms WYLIE - The timing is concerning, but no, I don't have a formal response because usually, we put in submissions and sometimes you hear and sometimes you don't. We've been very openly concerned about the delay in increasing the age of criminal responsibility, because I just can't see the numbers shifting without that change being made.

Ms WEBB - I am interested in your thoughts on the sequencing of the recommendations as well - what's in phase 2, what's in phase 3. Clearly, the *Youth Justice Act 1997* update is in phase 2, but things like the bail support program matters, the raising the age, don't come in until phase 3. What would your suggestion be, in terms of sequencing of those recommendations which have a natural connection to each other? Is it that you'd like to see them progressed together as a set?

Ms WYLIE - I honestly think that anything that's diversionary should be occurring first, because the idea is - I appreciate that Ashley has to close and that there's been an urgent recommendation for that to occur, but unless we're diverting children away -

Ms WEBB - The pipeline is still there.

Ms WYLIE - That's right.

Ms WEBB - Diversion - so you mean, like, the bail support program needs to come much earlier than phase 3, and we need to be putting more focus on diversion before we get to the more structural things to do with Ashley closing. What about the connection to updating the act? To what extent do we have to have a legislative basis for these things, to create an imperative for them to happen?

Ms WYLIE - I believe it's essential. The act needs to be amended, in my view, urgently. It doesn't have a therapeutic focus at all. When we look at the way bail operates, and perhaps Rebecca can give some context to that, it shouldn't really just reflect adult bail principles yet, with a few exceptions, it essentially does, and the way it is working isn't therapeutic. Unless we change the bail provisions, completely refresh the *Youth Justice Act 1997*, I don't think we're going to see that cultural shift we need to see to genuinely therapeutic youth justice options.

Ms WEBB - It's sort of going against what seems to be a national trend at the moment, where we're seeing other jurisdictions bringing much harsher, punitive bail laws for adults and children. Do you have any concerns that Tasmania might be diverted away from giving effect to fully going down not just the letter of the recommendations, but the spirit of the recommendations here for reform in those spaces?

Ms WYLIE - I am concerned about that, but what we're doing currently is not working if we have some of the highest numbers in the country. Detaining children is clearly not

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working to drive down youth justice numbers. That's the reason why, no doubt, the government accepted the commission of inquiry recommendations, because there's an evidence base for a different approach to decrease youth crime; also, the outcomes that flow to the youth and the community more broadly by doing it differently.

Mr STREET - Acknowledging that I'm a member of the government in asking this question, why is raising the age of criminal responsibility in phase 3 when it seems like - Meg used the phrase 'pipeline' - what's the justification for having that in phase 3 rather than having it up front?

Ms WYLIE - I don't know. We were hoping it would be phase 1.

Mr STREET - In accepting the recommendations, the government didn't give justification for why certain things were in phase 1, 2 or 3? We just released the plan, did we?

Ms WEBB - To be fair, the phases were built in in the COI report, were they not? Or has there been some adjustment by the government of the sequencing?

Ms LOVELL - The phases were in the commission of inquiry recommendations but -.

Ms WEBB - They could have been adjusted.

CHAIR - In fairness to the government, they have worked on phase 3 in concert with others. I haven't seen any indication that there's willingness to bring forward rising the age of criminal responsibility or the bail laws, as we've seen in Victoria, even more draconian bail laws put in place very recently.

Ms O'CONNOR - Has Legal Aid fed into the government's consultation on the draft bail bill and is there any capacity within that legislation, once it's finalised and come forward to make some adjustments, at least within that act, while there are delays on overhauling the *Youth Justice Act*? Is that a potential opportunity for making bail more readily available to young people and also adjusting what the court looks at when it's determining whether or not the bail should be provided?

Ms LANCASTER - Yes, that's the intention that they'll be incorporating child specific bail provisions in the new bail bill. The Victorian example when they had their bail amendments I think in 2018-19 - sorry, it was earlier than that - there were reforms because they were too hard on minority groups, including youth. Now they've gone back to where they were before because of the pressure of the community perceptions of youth crime and now the more tough-on-youth-crime approach. It didn't work for them once, but they've come back again. In respect to youth bail provisions in a new bail bill, we would all have advocated for remand to be in the exception, not as it's currently drafted, which is that it be a last resort. This is because we have seen instances where if it's the last resort, it's not necessarily exceptional. It might be a last resort because there's nowhere safe for the child to go at the time or they can't go back to their home.

Ms O'CONNOR - As if Ashley's safe.

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I'm interested in understanding the separation between what's happening as a result of policy and practice and what legislative deficits are allowing for. If we talk about something like Operation Raven, that's a policy decision of Tasmania Police or the minister or whoever, and that there are things that could be done, aren't there, in terms of just adjusting policy approaches while there's work undertaken on reforming legislation, which is obviously happening too slowly. Some of these are policy and political decisions that are adding to the problems for children and young people. Sorry about this, but in your engagements with government on this, have you had any sense at all from ministerial to secretary level that there's an understanding policy adjustments could be made that would significantly ease pressure on the system, but also lead to better outcomes for children and young people. Is there any apparent recognition of that at all in your engagement with the government?

Ms WYLIE - A point that we make at every opportunity that we're given is that if you make a change in policy at one end of the system, it inevitably has a flow-on effect right through the system. We see part of our role is to highlight the downstream effects that those policy decisions have - both on the individuals, but also on things like court delay. Clearly if you make a policy decision to be tough on crime and more people are arrested, there's then more pressure on the courts, there's more pressure on prison systems and then there's more pressure on organisations like ours who sit at the very end of the pipeline trying to pick all these people up and help them. The pressure we've seen on our youth justice lawyers in the last 12 months has been immense. We're seeing lists with over 200 complaints listed in them. That's common, and one lawyer in Hobart trying to assist all those people.

Ms O'CONNOR - When you talk about 200 complaints, is that 200 individuals?

Ms WYLIE - No.

Ms O'CONNOR - Okay. Just in terms of -

CHAIR - Can I clarify, is that 200 complaints for one individual?

Ms O'CONNOR - There's a bundle of complaints attached to them.

Ms WYLIE - No. There'll be a number of children in the court; many of them have multiple complaints.

Ms O'CONNOR - In terms of services that are available for children and young people who have been charged. What, if any, services are available for the court to look at, potentially, as diversionary or therapeutic options that you know of?

Ms LANCASTER -. That's really hard to say. I mean, I'm not in the court. My lawyers are and reporting back this seems to be a bit of a disconnect between what we know is available and what's offered in court.

Ms O'CONNOR - There doesn't seem to be much available though, does there?

Ms LANCASTER - No. Well, there's certainly no drug or alcohol facilities for any child in this state and, anecdotally, the one child who we've had, we had to send to Victoria for help

with alcohol and that child was very lucky. They had engaged parents and they had the money to do it. That's a one-off.

Ms WYLIE - I think the lack of supported housing options are really critical. They just aren't any and, as I said, we have an example where a child was sent to Ashley in the middle of the night because there was no safe place. Unfortunately, we've also got an issue with post code inequity around the state. You get to the north-west coast, there's virtually zero services available.

Ms LOVELL - Thanks, Chair. Thank you, both of you. We've talked a bit about the tough-on-crime approach, tough-on-youth-crime particularly and acknowledging that's a policy decision. This is my word, not your word, but that is undermining essentially some of the recommendations of the commission. Do you think it's more than undermining? Do you think it's possible at all for the government to be committed and to implement the recommendations and at the same time have this tough-on-crime, tough-on-youth-crime policy approach? Is it impossible? Is it more challenging? How damaging is that to being able to implement the recommendations?

Ms WYLIE - I think it's very damaging because it sets the culture. If the culture is tough on crime, you can talk about therapeutic interventions and trauma-informed responses til the cows come home, but nothing is going to change. Culture comes from the top and so that's where that change needs to come from.

It was a wonderful cultural gesture to accept without question all the commission of inquiry recommendations and to start implementing. That was great, but we've seen this occur since, which unfortunately has detracted from the gesture that was shown in accepting the recommendations, so I would like to see a change.

CHAIR - Thank you. In your submission under recommendation 12.1, which relates to the closure of Ashley, you talk about the duty lawyer at AYDC and the funding that was provided for that. Have you any figures on the uptake of the service? Is it actually making a difference for the children in there?

Ms WYLIE - It is and we have a few examples of some of the success stories because it hasn't been going for a long time. At the moment, I need to indicate we are having some teething problems being able to access the children on some days. This is because of staffing issues, but the staff at Ashley are working with us to try to overcome those issues. Rebecca will share with you some of the good news stories that have come from being able to put this resource face to face, seeing the children and the young people at the centre.

Ms LANCASTER - We have the majority of youth justice clients across the state, but not all of them. There is going to be some teething and learning as to how we can assist on a duty basis young people who have private practitioner lawyers. One of the difficulties that young people have is accessing their lawyers when they are in Ashley. The ability for the lawyer to be in person has made an immeasurable difference. On the first visit she was able to see three people who were clients of ours across the state in person. The result was three bail applications were successful because you get to talk to the young person, you get to take instructions from them, not over the phone. There is no private room when you call up on the phone and experience has been that there will be kids in the background saying, 'Oh, is that my

lawyer? Is that my lawyer too? Can you tell her this, can you tell her that? Say this to her.' I mean, they are children.

One of them did not want to apply for bail because his friend was in there. He was detained and didn't understand. His friend then subsequently got out and here he is all alone. Our lawyer was able to go up there and talk to him and say, is this really what you want? He was like, I do not want to be here - bail application filed and released. Other examples are the privacy of being able to see the lawyer for any issue, not just what's happening in court - unfortunately a complaint about being assaulted in the facility. That is something that children are not going to tell lawyers over the phone because there is no privacy. Things like the evidence we have to present to them to try to resolve their court matters, trying to do that over the phone means you are trying to explain, 'I have got a statement in front of me that says such and such'. I mean, a child might not even understand what that means. Having that discussion face to face, reading their verbal cues, is making a huge difference to progressing their matters.

Ms WYLIE - Plus being able to show them the body-worn camera footage.

Ms LANCASTER - Yes, the body-worn camera footage, because a lot of evidence against children can be things like shoplifting and they do not understand that the evidence is, 'Well, we can see that, so let's progress the matter and plead guilty'. Having that face to face just made a massive difference.

Ms LOVELL - There is no private room?

Ms WEBB - For phone calls.

CHAIR - There is a private room to meet with a young person when you are there as a lawyer but not on the phone.

Ms LANCASTER - There is not a designated -

Ms LOVELL - For phone calls is what I mean. I thought that had changed.

Ms LANCASTER - It is hard to keep track of the phone system because it keeps changing how phone contacts made with children and young people.

Ms WYLIE - She can explain how it is occurring currently, which is still problematic.

Ms LANCASTER - We can't call in; the child can only call out.

Ms LOVELL - Can you get a message to them?

Ms LANCASTER - You can make appointments, but appointments do not get kept. I know the staff are trying to do the best that they can but sometimes the child - there are instances where they might be asleep at the time of their appointment. They miss their appointment and then they try to call us because we cannot call them. They will try to call because they have access to the phone and can make a call whenever they want. They will be like I will call my lawyer now, but we are not available.

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Ms O'CONNOR - Why can't you call them?

Ms LANCASTER - Because the phone system's changed. It is now the Unity phone system, which doesn't allow us to make a call to be connected to the young person.

Ms O'CONNOR - But can you call Ashley and ask to speak to them?

Ms LANCASTER - We can but that is difficult because there can be a disconnect and staffing levels will dictate the front or administrative section doesn't necessarily know what the children are doing at the time. They might be in their classes at the time and there were instances where the appointment is made, but the case managers aren't told about it. Unfortunately, there are a lot of instances where we don't get that first connection.

Ms WYLIE - There is the example of the one that we couldn't reach the young person before they got into court.

Ms LANCASTER - Yes. A child was detained this week because they were arrested after-hours. They missed the night court cut off, so they were refused bail. They went to Ashley at nighttime and were to appear in court the next morning at 12:30 for a bail application. We tried to make urgent contact with Ashley to speak to the child before court, and we couldn't get through to anybody.

CHAIR - They didn't answer the phone or you couldn't get through to someone who could assist you?

Ms LANCASTER - We did get through to someone and then we were put through to the kitchen, and the kitchen rightly didn't know how to transfer a call. Then we spoke to the child over the video link.

Ms WYLIE - And then called back and then the phone rang out.

Ms LANCASTER - The phone rang out.

CHAIR - Is this a staffing issue? You might not know the answer to that.

Ms LANCASTER - It's difficult for me to say, yes.

CHAIR - In terms of that, there is Budget funding for that for 2024-25. I assume that this is something that's not going to end in 2025.

Ms LANCASTER - No.

CHAIR - Is there adequate funding to provide the service that you need?

Ms LANCASTER - No, it's not ongoing.

Ms LOVELL - It was just for that one year?

Ms WYLIE - It is for three years.

Ms LOVELL - Through to 2027?

CHAIR - Which is still short of the new youth justice facility, potentially.

Ms WYLIE - I suppose that is why it was funded like that because it really depends what the next incarnation looks like and what the needs are.

Ms WEBB - It certainly sounds effective in helping reduce numbers in Ashley by helping kids be bailed.

Ms WYLIE - It's only been in place since late last year - December. We've now recruited to the position and someone will be dedicated to the role in April. I imagine that we'll get some really great results then when we've got a consistent person going in more than once a week. Already, it is making a difference.

Ms WEBB - In terms of what you're funded in terms of that role, what is your assessment of what would be approximately meeting need, for example, if we were to be funding to that level? Is it just the one role?

Ms WYLIE - Yes.

Ms WEBB - Okay, great. Theoretically, that is going to be in place then fully from soon.

Ms WYLIE - The initial proposal included a social work component because there are all those links for case management, but it wouldn't necessarily have to be Legal Aid, as long as there's a service available.

Ms WEBB - It sits alongside quite neatly, doesn't it?

Can I ask a question about a different area, if you don't mind me moving on.

You've talked about the fact of the backlog in the Magistrates Court, the Youth Justice Division. I note that in the recommendation where you talk about specialist children's court - that is recommendation 12.15. It talks about still centring this in the Magistrate's Court and assisting and supporting the Magistrates Court to establish a new division of the court to hear and determine child protection matters and criminal charges against children and young people.

In terms of that recommendation 12.15, compared to what we have now and compared to what you're suggesting in establishing a children's court, where do they all line up together? What's the difference from now? What's the difference you're suggesting to the recommendation?

Ms WYLIE - It would look very different to how it does currently. At the moment we have children going into adult courts and waiting areas where there are adults. There are no separate entrances. There is not a courtroom that is set out differently with children's needs in mind. They are very, very different.

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Ms WEBB - That's what it looks like now when there's just a youth division in the Magistrates Court. Under the recommendation 12.15 where they talk about a new division are they talking about setting something up like what you're suggesting - a children's court that is entirely separate? Is that what that refers to?

Ms WYLIE - Yes.

Ms WEBB - Okay. Is what's being put forward in recommendation 12.15 sufficient or is there something beyond that that you're suggesting when you make the recommendation about a children's court?

Ms WYLIE - I think it is different because I've had the benefit of going to Victoria and seeing some of the setups there which are very child-focused, therapeutic; it's better practice for youth justice.

Mr STREET - What does that look like?

Ms WYLIE - They have a completely separate building or a separate arm of a building that's set aside for youth justice and they don't look like courthouses.

Mr STREET - Less confrontational?

Ms WYLIE - Sort of, lots of relaxed furniture, nice colours, breakout rooms. It's just completely differently set out, which is amazing, but whether or not Tasmania has the resources to be able to achieve that, but at least as a start, being able to have children have separate waiting areas and separate entrances and not coming into contact with adult offenders, would be a really good start.

CHAIR - Just because you want to go in-camera at some point too, do you have anything -

Ms WEBB - I have more, but if we want to keep time for that, I'm happy.

CHAIR - Cassy had one quick question.

Ms O'CONNOR - What sort of crimes are children and young people being - I know you'd have to speak in sort of generalities, but as someone, for example, who pinched chocolates from the chocolate tray in Myer when I was five years old, I know that children can shoplift, for example, and it can be part of a little culture within a group. What sort of charges are being laid against the children and young people that lead to them being in remand in Ashley, and I know there'll be a whole range, but -

Ms WYLIE - Perhaps I'll start and Rebecca can give a little bit more context. Again, going back to raising the age, the most common crimes for children under 14 are stealing, which is such a good argument for raising the age. These are not violent criminals; they are children shoplifting and unfortunately we are seeing children who shoplift being held in custody.

Ms O'CONNOR - Brutalised as a consequence, potentially.

Ms WYLIE - Absolutely, that flow from the shoplifting action is completely incongruous with what occurs to the child and we will give you an example of that in camera later on. There's absolutely no doubt that there are some older children who are on remand for some serious crimes and we don't back away from that, but the majority are petty crimes.

Ms WEBB - Can I have one quick follow up on that. What is the overlap that you're seeing? You might not have data on it, but you might be able to give an anecdotal suggestion of the kids in that cohort who are being picked up for those crimes and finding themselves in situations on remand and being in state care.

Ms WYLIE - The crossover children?

Ms WEBB - Yes, the crossover children. What percentage of the kids are actually also kids in state care?

Ms WYLIE - Perhaps Rebecca can give a bit of context to Cassy's question while I just find that.

Ms LANCASTER - There's a wide range of charges that children are detained for or charged with. It's really the spectrum - the most serious and then the least serious. But one of the issues with the least serious category, if I can call it that, is coming right back to the number of complaints, for example, that we mentioned; there were 200 matters in a court, 212 to be exact. That split across probably 15 children. Because matters are very slow to resolve in the court, it takes a really long time for youth justice matters to resolve for lots of reasons like, we need reports. The longer they're on bail for unfortunately, the longer that they commit further offences, it keeps reducing their capacity to get bail because then the court isn't satisfied that they're not a risk of reoffending. While you may have minor charges before the court, you end up having a lot of them and their prospects of getting bail become reduced because of the amount of time that they're spending in the justice system.

You also, of course, have very serious charges: armed robberies, aggravated robberies, stealing with force is quite frequent at the moment because that's a new provision, and stealing is one of the most common offences and we're seeing a lot of that, at the moment too, which is the next sort of level of seriousness for stealing. Again, it does reduce capacity to satisfy the court that they should be bailed.

Ms WEBB - Is that indicative of the lack of support that's available for kids on bail, that they've been exposed to engaging in further criminal activity?

Ms LANCASTER - I think so, yes.

CHAIR - Did you have the figures there Kristen or not?

Ms WYLIE - Yes. So this comes from Tasmania Legal Aid's Children First report. Pleasingly, because it gets worse from here, 10 per cent of children with a child safety file also had a youth justice file. Two thirds of crossover children first had involvement with child safety and then with youth justice. Crossover children made up 15 per cent of those with youth justice files. Crossover children have twice as many files as other children in the youth justice system

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and crossover children made up 41 per cent of children under 14 charged with offending and accounted for 46 per cent of files for this group.

Ms O'CONNOR - Wow.

Ms WEBB - Nearly half the files for kids under 14 in the youth justice system are kids in the care of the state.

Ms WYLIE - Yes.

CHAIR - We might then, the committee has a standing resolution that if a witness requests an in-camera session with this committee, noting the sensitivity information. We will just stop the public hearing here.

The committee suspended at 9.43 a.m.

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UNITED WORKERS UNION

The committee resumed at 10.04 a.m.

CHAIR - Thank you both for appearing on behalf of the United Workers Union for the public hearing into the commission of inquiry recommendations response from the government.

This is a public hearing. Everything you say today is covered by parliamentary privilege that may not extend beyond the committee hearing. If there were information of a private or confidential nature you wish to share with the committee, you can make that request. We try to put that toward the end of the hearing to keep them entirely separate, otherwise it is all public.

Earlier in the day, I told members of the community who may be watching this about support services for dealing with the quite sensitive topics before us, particularly the abuse of children. That information is also available on the committee website. If anyone in the community needs access to that, they can look there to get it. It is at the beginning of our home page for the committee.

Do you have any questions before we start?

WITNESSES - No.

CHAIR - I will ask both of you to take the statutory declaration and then introduce yourselves. We appreciate and thank you for your submission and invite you to make an opening comment to speak further to that submission, and then we'll have some questions.

Ms AMY BRUMBY, TAS REGIONAL COORDINATOR, and **Mr PHILIP PREGNELL**, CORRECTIONAL SUPERVISOR, UNITED WORKERS UNION, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - If you just describe both of your roles, and then over to you to make an opening statement if you wish.

Ms BRUMBY - My name is Amy Brumby. I am the State Coordinator for the United Workers Union. We cover correctional officers in Tasmania. Apologies for not putting Phil's name on the list today, but I have bought the expert. Phil will do most of the talking because I do not work in a prison.

Mr PREGNELL - My name is Philip Pregnell. I'm a union delegate with the Tasmanian Prison Service for the United Workers Union. I am also a correctional supervisor with the Tasmanian Prison Service. I am currently based at the Hobart reception prison and police watch house.

CHAIR - Did Phil want to make the opening comments?

Mr PREGNELL - Yes, okay. Chair and fellow members of the committee, thank you very much for taking our submission and for allowing us to present today and answer any

questions that you may have. It is amazing work that the committee is doing on a very important topic for Tasmania and for all of Australia.

What we want to present is a section that we believe is missing or is not covered correctly within the commission of inquiry, and that's probably the first two steps in relation to children or youth coming into the justice system. The first step obviously is where they are met with Tasmanian Police, and then they are brought into an adult watch house, and then they are dealt with by Justice under the correctional officers on behalf of Tasmanian Police. We hold them before they go out for interview. We hold them when they come back and before they go to court. If they're remanded, we then hold them until such time as a vehicle can travel down from Deloraine or Launceston, wherever it is to pick them up and take them to Ashley at Deloraine.

That process can be anything from one hour up to three days that they're held within an adult watch centre. That watch house houses up to 25 - some days more - adult detainees, sentenced prisoners, watch house detainees. Some of them are in the worst condition they've ever been in. They may be coming heavily down from drugs. They may be suicidal. They will be screaming, abusing, yelling. This is in a small confinement of the Tasmanian prisons watch house, Launceston or Hobart. Everything that is being heard or can be seen is being heard by these young people -10- to 17-year-olds.

They are going into an environment that is not necessarily trauma-informed. It's not set up for juveniles. It's an environment that should have been stopped and closed, according to past premier Gutwein. December last year, I believe, was the date that he gave for closing Ashley and opening up three reception centres for youth, so they did not have to come in contact with adults.

We, as correctional officers, are also struggling with processes that we have to deal with. Comparing them - adults and juveniles - it's vast in the difference on how you deal with them, how you may search, how you interact and so forth.

This is an environment that is one of the noisiest environments that I've ever worked in in my life. It's in an environment that 99.99 per cent of the population never sees, and that's great, and shouldn't see. I believe it's not a safe environment for these juveniles.

From United Workers' point of view, like Amy has said, we look after correctional officers in Tasmania and other states. We're a union that is made up of mothers, fathers, brothers, sisters, grandparents. We don't like to see what's happening to the future adults in Tasmania. We're putting them into an environment where they can be abused, where they can be set up to fail further on in life.

CHAIR - And witnessing things that are a challenge.

Mr PREGNELL - that no-one should see. I'm not here to describe it, I don't think that's appropriate, but it's just not right. From a United Workers' point of view - like I said, thank you for taking our submission - we'd like to look at that second step where they come into the adult watch house as part of that process when they're dealing with the justice system. That's something that we 110 per cent push should be stopped, and a new environment started.

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CHAIR - Shouldn't the priority here be having a separate reception centre, not even having that interaction?

Mr PREGNELL - Definitely, yes. That's what we've been pushing. I think in the submission there is one letter there where we have written to the minister for corrections. The previous minister for corrections we've dealt with and we're pushing the same subject. It's not new from our point of view. It is something that our members are very committed to, making sure that there is another centre and there is another process available so that we're not putting them into that environment, and the threats that may be happening yelled out under the door to them, what they're hearing.

Ms LOVELL - Thanks Phil and Amy for your submission. I think this is a really critical perspective for people to hear. It is not one that gets heard a lot of, from correctional officers. Just for clarity, Phil, you're using the terminology 'watch house'. Is that the same as reception centre? When you say watch house do you mean remand essentially as people understand it?

Mr PREGNELL - Not necessarily remand. The remand centre is a separate section in the same building or a remand centre over at the Southern Remand Centre, which is the new building over in Risdon. What we're talking about is a watch house, a police watch house that Justice looks after.

Ms LOVELL - Police watch house, so they get detained there first of all and then they come to the reception centre. Is that a separate thing or is that the same thing?

Mr PREGNELL - The watch house is part of the reception centre, but it's a separate section.

Ms LOVELL - In your submission you've talked about how correctional officers are employed to work with adult prisoners, essentially adult detainees or people in custody who are adults. You've identified lack of training, lack of skills, and you talked about that today in terms of dealing with young people, and that that's a very different skill set.

Since we've had some pretty significant changes in the last couple of years, there's been the commission of inquiry, there's been the child and youth safe organisational framework that's been legislated, there's a lot of shifts around dealing with children and young people. Has there been anything for correctional officers in terms of additional training? Any kind of guidance on how to deal with the young people that you're dealing with?

Mr PREGNELL - Very minimal. What we've had is some of us who are in the reception area or work in the watch house, we've had a day of trauma-informed training for juveniles-specific. That's about it. Other than there's been changes to policies and processes that have come out from that inquiry and from the framework as well. They are changes that have just been made and, here you are, here's your new change.

The issue is that we haven't got any youth-trained people in that centre who are there specifically to look after juveniles when they do come in, or available to come in and talk to them and work them through that process. Like I said before, there could be up to 25 to 27 people in a very small environment that we're trying to get out for courts and running nonstop, and so forth.

Ms LOVELL - Can I ask about that process? I understand that normal process is that people are detained in the reception centre, then Legal Aid will come in the morning and make contact with people, and they take care of the process of applying for bail and so forth in court. That happens. There is a process.

Can you talk through the process of how Legal Aid engage, or how you engage with Legal Aid? Do they come in proactively? Do you notify them of who's in custody?

Mr PREGNELL - Yes, there is a process where Legal Aid are advised who's in custody. They contact us or we contact them, or if it's a private lawyer who they have that contact is made. It depends on whether or not the person who comes into us is going to a night court run by a justice of the peace, or whether or not they're going to court Monday to Friday before a magistrate. If they're going Monday to Friday, usually they catch up with a lawyer in the morning and some time during the day; they will then be taken up and appear before a magistrate. If it's the evening, sometimes Legal Aid will come in and see them prior to them going to court, or sometimes they just go to court unrepresented.

Ms LOVELL - Is that process the same for children and young people, and adults?

Mr PREGNELL - Yes. The young people will have some representation there more than an adult will, especially if it's after hours. During the day, yes they have -

Ms LOVELL - That process of notification and engagement initially is the same?

Mr PREGNELL - Yes.

Ms WEBB - I want to follow on from the questions around training and/or lack of training received to equip your members for this role that they're undertaking.

You're presumably having to implement the child and youth safe standards now in this environment. From what you described, I just want to clarify that I understood correctly. You are basically given sets of policies about that and what that looks like, but you haven't received specific training about implementing those standards or what the responsibilities are for people?

Mr PREGNELL - That's correct. What our members are saying to us is that, whilst we have these policies and everything, there's still some confusion. I think that's across the board. Pieces of paper can be read different ways. I suppose it's a matter of having people there who have written those policies or wanted those policies to be brought in, and maybe being there for a while and saying, when a situation happens, like this is this step -

Ms WEBB - Scenarios.

Mr PREGNELL - Scenarios, and so forth. Every day something different happens and we're going, 'Okay, how do we read into this and how do we do this within the framework of our job?'

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Ms WEBB - Would your members have been provided with training about the reportable conduct scheme? I presume now that that environment, because kids are in there, it is part of the suite of environments that are required to report under the reportable conduct scheme about any things that are happening to kids in - I think there's a list of six reportable conduct areas. Do you think your members have been equipped to understand and know their role in making reports under that scheme?

Mr PREGNELL - There has been no specific training that I'm aware of in relation to that, other than here is the framework, read it in your spare time.

Ms WEBB - I'm disturbed to hear that.

Ms O'CONNOR - Terrible.

Ms WEBB - I'm really disturbed to hear that.

Mr PREGNELL - Yes.

Mr STREET - Forgive my naivety, but talk me through - they come into the watch house, then into the reception area, then out to the remand at Risdon. How many people only end up coming through the watch house and the reception area before they're bailed? Do you know what I mean?

Mr PREGNELL - Are we looking at just juvenile or we're looking at adult and juvenile?

Mr STREET - Let's focus on juveniles.

Mr PREGNELL - Juvenile, in the last year, I'd say there was over 400 appearances in Tasmanian prison watch houses of a juvenile. I would say those that went to Ashley after that, just off the top of my head, 10 per cent maybe a bit less. Those figures would be available -

CHAIR - On remand?

Mr PREGNELL - On remand not bailed, from the courts, yes.

Mr STREET - In terms of the infrastructure that exists within the watch house and the reception area, is there an ability to reconfigure what's there to allow for the separation of juveniles from the adult population, or are we talking about an area that's too small to reconfigure, to do any alterations or work?

Mr PREGNELL - It would be way too small. It just wouldn't be practical.

CHAIR - You need a separate facility?

Mr STREET - You need a separate facility to separate them?

Mr PREGNELL - Yes.

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Ms O'CONNOR - Thank you so much for your evidence and the work that you do. When you talk about 400 appearances of children and young people in adult detention centre or adult remand facilities, in your experience is it usual for the Hobart Reception Centre to have a young person in there? Is it frequent?

Mr PREGNELL - Yes. An example, tonight we may have five in, for the next three days, we may have none in, then we may have one, may have three. It depends. There may be something that happened that four or five were involved in, so they will all come in to the watch house, then they'll go out to be interviewed. We'll hold them before interview, then they go out to be interviewed; they may be police-bailed from there, or they may come back and be awaiting a court appearance.

Ms O'CONNOR - You and the other people who work in the Hobart Reception Centre must be dealing with some very frightened children?

Mr PREGNELL - Yes.

Ms O'CONNOR - You described in part in your evidence what it's like in there -

CHAIR - For an adult.

Ms O'CONNOR - For an adult - yes, that's right, good point. Could you just go into a little bit more, almost physical detail of what the place is like? When a, say a 10-year-old who's been picked up shoplifting or an 11-year-old comes in, what do they see? What is the place like for them?

CHAIR - If you're not happy to do this in public, we can do this in camera. I know you did express some concern about going into too much detail here.

Mr PREGNELL - Yes.

Ms O'CONNOR - Well, no-one sees these places and, as a society, at some level, we endorse sending small children in there. To have a clearer understanding of the physical environment that these children are going into would be good. Without breaching any confidentiality or any of your State Service obligations, obviously.

Mr PREGNELL - I understand, thank you. It's a concrete environment with no windows. I suppose that's the best way of describing it. It's a small area that may have a concrete bed in it with a mattress on it. There will be a TV up in the corner, a toilet and a basin. Just a standard basically watch house cell really, which has nothing in it.

CHAIR - Are people in there on their own or are they with others?

Mr PREGNELL - What we try to do, if practical for a young person, is put them by themselves. We think that's safer. Unless they know another person who's in there.

Ms O'CONNOR - Another young person because you wouldn't put a young person in a cell with an older -

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Mr PREGNELL - No, definitely not. Adults - we could have up to 12 in the cell next to them, depending on how busy we are. But, yes, you'll come into an environment that's just concrete basically. Concrete walls, steel doors -

Ms WEBB - Loud doors.

Mr PREGNELL - Loud and echoes through the environment. Yes, I am trying to not be specific if that is OK.

Ms O'CONNOR - Obviously, all people are different and have different approaches, but from the staff's point of view it must be deeply concerning because we have heard there is inadequate training, an insufficient understanding of legislative and regulatory changes. You are dealing with a highly vulnerable cohort. After we have been through a commission of inquiry, it must be really distressing for the kids who are put in there, but also extremely difficult for some of the staff.

Mr PREGNELL - It is. Just dealing with adults in there can be quite confronting full stop when you see them coming in in their worst condition, at some stage, sometimes, worst condition. They can be scared as well. They are not getting home. They might have a child at home by themselves. What am I going to do with that? What am I going to do with this? They are screaming, they are yelling. The psycho hazard of that environment for staff is immense because it is a constant noise for 12 hours or whatever you are there.

Ms O'CONNOR - Of stressed people.

Mr PREGNELL - Stressed, yes.

Ms O'CONNOR - Highly agitated.

Mr PREGNELL - If we are flat out, you can be, and that is the hardest thing for our members is taking the time to breathe. OK, now I have got to go deal with a young person.

Ms O'CONNOR - What does dealing with a young person mean if they are on remand, if they are in there?

Mr PREGNELL - It may be that they want to get out. Why am I in here? That maybe I am hungry, I am thirsty. Everything they need, we need to supply while they are in there. Dealing with that, trying to deal with making sure, like previously, is whether they are getting to their lawyers, they are right for court. They may come back from court and they have been remanded. Then we could have an extended period of time that they are going to have to be there until transport to Deloraine.

Ms O'CONNOR - The people you work with are the only people, presumably, they are really able to talk to in that environment, unless there is some opportunity for their legal aid lawyer. We hear there is not often an opportunity for them to come in.

Mr PREGNELL - For somebody being there a long time, sometimes they may be known by the adults in the other cells. Like, they will yell out what's your name? Oh, I know your

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father and blah, blah, blah. Maybe a negative interaction. We probably tell them don't say anything, which is the safest.

CHAIR - It is easier said than done.

Mr PREGNELL - Yes, it is. It is. Some youth juveniles that come in, come in regularly.

Ms O'CONNOR - They are hardened to it almost, tragically.

Mr PREGNELL - For the young ones, first timers and so forth, it is very, very daunting.

Ms O'CONNOR - Terrifying.

Ms LOVELL - Are there any other services available to young people? Particularly, in those instances where you have had someone in there waiting for transport or something like that, you said up to three days. Are there any other services you can bring in or come in, social work or youth work or any kind of support services for young people?

Mr PREGNELL - Not at this stage. There is discussion, but not at this stage. Like having a youth worker in there to maybe sit outside the cell. It is just what's safe in that environment, because you have still got adults who are going to be moving around outside of the cells for other things and other people. It is what's the safe environment for everyone that works there.

Ms O'CONNOR - Sorry, can I just check there are actual opportunities for physical contact between adult and youth detainees passing around?

Mr PREGNELL - No, if we have a youth out, we make sure there is no adult out 99.9 per cent of the time -

CHAIR - It would be easily fixed with a separate facility.

Mr PREGNELL - Yes, we try to facilitate only a youth is moving at one time.

Mr STREET - Males and females in this one confined area?

Mr PREGNELL - Yes.

Ms WEBB - I noted that you included in your submission the letter, the correspondence you had with the minister that is dated 12 January 2024. It is more than 12 months old now. I just wanted to check on follow-up since that time, because some of the things referenced in this letter back to you from the minister are no longer relevant. That talks about the youth blueprint, which is now developed and in place. It still refers to a northern correctional facility being built and maybe then allowing for the Launceston reception prison to be redeveloped in nicer ways to accommodate youth areas. We have moved on from that to some degree. Have you had subsequent updated interactions with the minister about these matters and any further indication of actual actions that might be taken?

Mr PREGNELL - Not specific to this. We have had interactions with the minister which we try and do on a regular basis, but not on this topic specifically. We have talked within the

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Department of Justice organisation about it to senior people within the organisation and we keep pushing it and raising our concerns. Whilst they are very understanding of our concerns, I think that the result is that until such new environments are built or new processes are put in place that stop the young people coming into an adult watch house, it is going to be hard.

Ms WEBB - We have progressed plans somewhat with the blueprint and we have progressed some of the plans on the new detention facility at Pontville - although that is still in relatively early stages. Is it your understanding those new youth justice facilities in the south will provide an opportunity for this to be located there so it is not the same necessity to have it occurring in the Hobart reception prison and the like?

Mr PREGNELL - The initial blueprint that came out originally was for one new detention centre - the one you are talking about - they are looking at Pontville. There was also to be three - I wouldn't say they are watch houses -

Ms WEBB - Supported bail facilities.

Mr PREGNELL - Yes, environments for where they would go to. There was going to be one in the north-west, north and in the south. That is where they would go to instead of the police watch house - was our understanding - but we have not received any further information.

Ms WEBB - I am not sure if that part of it is still on track.

Ms O'CONNOR - Have you asked the minister about supported bail facilities?

Mr PREGNELL - Not at this stage, no, because the northern prison, which was part of it, I think; the latest statement - not happening.

Ms WEBB - The other thing I have noticed in the letter from the minister was the statement where she says, 'I also look forward to hearing from staff about what is required to ensure that they feel safe and supported in their engagement with young people in reception prisons and elsewhere in corrective services.' Has there been an opportunity for you, as the representative of the staff, or the staff in a more broad sense to provide input or requests about things that would make this a safer and supported environment to be engaging with young people? Has that been sought?

Mr PREGNELL - It has been in conversations with the minister on various other things. As I said before, as well as with senior members of the Department of Justice, we try to do things at the lowest point, I suppose. We will always try to deal with our own management and try to get things done. If not, then if we need to escalate it and so forth, we always try to deal with things at the lowest environment if possible. I think that is the easiest way and only escalate it -

Ms WEBB - Are there any examples you could provide of things you have then requested through those avenues, as you say, at the lowest level first before escalating? Any specific examples of things your staff have requested to make it safer and supported? I guess, those are practical measures we are talking about here.

Mr PREGNELL - Yes, I am just trying to think what I can say.

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Ms WEBB - Yes, okay. That is fine if you can't disclose.

Ms BRUMBY - There have been ongoing requests for training made. The training at TPS is not the best across the board, let alone dealing with children and young people. Every month when we meet with the TPS, it is always part of our agenda - training across the board, including as Phil referenced earlier, abiding by the standing orders, the processes and policies that come out.

Ms WEBB - I have one other question I wanted to ask as well.

CHAIR - Can I ask, before you go to the other thing, in terms of you made requests for this, it is an ongoing challenge in the TPS, generally, but have there been specific requests about training to deal with young people, particularly on the back of the commission of inquiry, that haven't been developed, delivered, available yet?

Mr PREGNELL - The only training we have had, as I mentioned before, is that one day training on trauma-informed practices for young people.

CHAIR - Right. That was about how to deal with young people, not about the reporting requirements and things like that?

Mr PREGNELL - No.

Ms WEBB - Shocking. That other area, which you didn't mention in your submission but it's relevant here, is that there's a bit of an independent oversight blind spot in these areas as well. That's my understanding. For example, the Commissioner for Children and Young People, who would normally be visiting Ashley Youth Detention Centre and providing something of an oversight role there and noting and monitoring things, can't go into these environments, I don't believe?

I'm not sure about to what extent the Custodial Inspector and that monitoring comes into these environments too in relation to kids. Do you have any observations about that area or any concerns about a lack of oversight and monitoring?

Mr PREGNELL - I think it's a fine line between whose area it is. As I said, we look after these people on behalf of the Tasmanian Police force until such time as they go to courts. Then we look after them if they are remanded under the *Youth Justice Act 1997*, until such time as they're transferred to Ashley.

Ms WEBB - If it's regarded as a police environment, then I don't think the Custodial Inspector comes into that space. Then, the Children's Commissioner doesn't either. It's interesting, isn't it? The Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) Tasmanian National Preventive Mechanism (TNPM) inspector would, if they were funded to actually be able to visit anywhere, but again -

CHAIR - I'll take that as a comment.

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Ms O'CONNOR - We've heard evidence this morning from Legal Aid about a number of matters, including the need to reform the *Youth Justice Act 1997*, the way that young people are dealt with in terms of bail. We also heard some really confronting data about the increased number of criminal complaints that are being lodged against children and young people, the increased number of children going into remand facilities and into Ashley. There's obviously been a shift in government policy towards sort of tough-on-crime, as they call it, against young people. In the evidence that Legal Aid gave to us, this has significant potential to derail the successful implementation of the commission of inquiry recommendations, because we're not dealing with children and young people in a therapeutic way in the youth justice system.

Have you seen - Philip particularly, because you're working on the front line there, you'd be seeing an increase in the number of young people who are coming in to the remand facility, particularly in the last year or two?

Mr PREGNELL - It feels like there is an increase, definitely. I would have to get the data. The data would be available to this committee quite quickly, it would be on spreadsheets. We feel that we're seeing more and more definitely coming in and, through that process, over the last one to two years.

CHAIR - Did you want him to provide the data, Cassy?

Ms O'CONNOR - I believe we have some good data from Legal Aid. On average - it's a bit hard to describe - children under 14 who are coming into an adult remand facility are frequently in the Hobart Reception Centre. Would that be fair to say? Children under 14?

Mr PREGNELL - Yes, it would be.

Ms O'CONNOR - Kids as young as 10 and 11 in an adult detention facility sometimes held for overnight, hours and hours?

Mr PREGNELL - Without looking at the specifics and the data, it feels that way. Yes, definitely. There seems to be a missed opportunity, I suppose. Let's say they were remanded in court, then having to be held in a watch house for another, probably up to eight hours sometimes, depending on when a vehicle -

Ms O'CONNOR - Longer?

Mr PREGNELL - Before they're picked up. Let's say they went to an after-hours court on a Sunday. At 7 p.m. they were remanded. They might be picked up at midnight. This is an example, not specifics.

Ms O'CONNOR - Picked up and taken to Ashley?

Mr PREGNELL - Ashley. Then they may be required to be before a magistrate the next morning.

CHAIR - Did anyone else have any further questions? No? Did you want to add anything yourself, Amy?

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Ms BRUMBY - Phil has something that he'd like to talk about as well, but I just want to come back to a point that was made. This is distressing for correctional officers, having to go to work and deal with youths in that environment. It has an impact on their health, their mental health.

CHAIR - We do appreciate your being willing to come and talk about that, Phil, because I'm sure it's not easy for you to do that either.

Mr PREGNELL - I have a strong passion about our youth. Whilst we're talking about them coming into our environment, the issue, I believe, is why they get into that stage in the first place. I know most of the people in this room would have done school sports, something we don't do anymore. We can't belong to a team. A lot of these parents probably can't afford to pay for their children to be part of a sporting team because it's costing hundreds and hundreds of dollars a year to play in your local football, soccer, cricket, whatever it is that was free within the school environment. These young people are wanting to belong to something and, unfortunately, it's not the right environment that they're belonging to. That's where I think a lot of work has to be done.

Just one thing on the ABC - and Chair, I can give you a copy of it and it is available through the ABC. It's in regards to how a 15-year-old in the Northern Territory in the last week, a young female, was held within a police watch house for three days, and how the human rights board is saying it's inhumane and it's breaching the human rights. That's what we're doing on a weekly basis.

Ms O'CONNOR - Daily, possibly, around the state.

Mr PREGNELL - Yes.

CHAIR - You're saying the document you just tabled that outlines that case could easily be a Tasmanian situation?

Mr PREGNELL - Yes.

Ms WEBB - We don't have a human rights act at the state level here to be held to account to, either, which is a shame.

CHAIR - Thank you for your time. We really do appreciate you being willing to share your experiences, which are obviously very challenging, even more challenging for the young people who you're trying to work with. We acknowledge that and thank you for your submission.

Mr PREGNELL - Thank you very much for allowing us to speak today and for the work that you're doing. Really appreciate it.

The witnesses withdrew.

The committee suspended at from 10.42 a.m.

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54 REASONS

The committee resumed at 11.00 a.m.

CHAIR - Thank you both for appearing on behalf of 54 reasons and Save the Children. We have your submission and appreciate that. This is a public hearing of the committee looking into the government's response to the recommendations made by the commission of inquiry. Obviously, this is a very sensitive topic, we'll possibly cover matters relating to child abuse. I have said the support numbers for that; if members of the public watching or anyone else impacted needs those, they're also listed on our committee website for easy access at the top of the page.

This is a public hearing. Everything you say is covered by parliamentary privilege; that may not extend beyond the hearing. If there is anything of a confidential nature you wish to share with the committee, you can make that request. The committee would prefer to consider that toward the end of the hearing, so it's completely separate, if you need to do that; otherwise it is all public. Do you have any questions before we start?

Ms LENNON - No questions.

CHAIR - I'll invite you both to do the statutory declaration, then introduce yourselves and speak about your submission, make an opening statement, however you wish to approach it. Thank you.

Ms CLAUDIA CATHERINE LENNON, ACTING EXECUTIVE DIRECTOR, AND **Ms CLARE MAYA THORNE**, ACTING STATE DIRECTOR, 54 REASONS, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

Ms LENNON - Good morning and thank you for the opportunity to appear today. My name is Claudia Lennon and I'm here with my colleague Clare Thorne. I'm 54 reasons' acting executive director and Clare is the acting state director for Tasmania.

We'd like to acknowledge that we are on Muwinina country and pay my respects to elders past and present. We are representing Save the Children and 54 reasons. Save the Children is the head organisation that 54 reasons is a part of; 54 reasons is the Australian services delivery arm of Save the Children in Australia. Our name is a reference to the 54 articles in the United Nations Convention on the Rights of the Child.

Within our national portfolio of services, we have particularly strong connections to communities and the service system here in Tasmania. For us, this includes our statewide reboot program, which has two streams: supporting young people on bail and transition from detention, which includes integrated through-care support for these young people. We also work with children, young people and caregivers through our other services, which span early years school-age wellbeing programs, including primary and secondary schools, and family support and restoration programs.

We wish to highlight three main points that we believe are particularly relevant to this inquiry based on our experience and expertise. First, it is crucial that the government ensures respect for children's rights is the organising principle for all system-wide reform that affects

children and young people. The commission of inquiry rightly took a holistic approach that emphasises root causes and a whole-of-system approach that centres on children's rights and participation. The temptation that inevitably faces all governments, even with the best of intentions, is to fall back into a siloed and disconnected response through implementation. Right now, we have a wonderful opportunity to deliver on the ambition of a truly child-centred reform process across the state. We should seize this opportunity using a rights-based approach to ensure that we stay truly centred on children and young people in addressing root causes across all of the different government strategies, policies and plans.

Second, the youth justice system must continue to receive particular focus. The commission of inquiry shed a clear light on the harm that is caused by youth justice systems that don't respect children and young people's rights. Its recommendations are highly consistent with a major report that we released in 2023, Putting Children First: A Rights Respecting Approach to Youth Justice in Australia. We should follow the road map for creating a rights respecting youth justice system in Tasmania, and the commission of inquiry has given us that.

Third, the government should invest more strongly in bail support and integrated through-care and transition from detention services. The commission of inquiry made multiple recommendations about this, and our own experience has shown us the value of these services and the unmet need that currently exists for them across the state. Bail, detention, and post-detention are crucial moments in young people's trajectories. These are the moments where the right support can make all the difference. Investing in these services will provide young people with the support they need at critical moments and help reduce re-engagement with the justice system - a goal that we all share.

By prioritising children's rights and adopting a comprehensive rights-respecting approach, we have the chance to make meaningful and lasting changes that truly benefit children, young people, their families and the broader Tasmanian community. As noted, you have our written submission and we look forward to answering your questions.

Ms O'CONNOR - Thank you for your evidence and the work that you do. We had Legal Aid in here earlier today, and they gave some very confronting evidence about an increased number of children and young people coming into the system who are being held in remand. We've heard from the United Workers Union about children as young as 10 being held in the Hobart Reception Centre. We know that numbers are going up in Ashley Youth Detention Centre. All the data now, after the commission of inquiry, is heading the wrong way. Do you have some observations about that? Because there's clearly been a tough-on-crime policy on the part of government -

CHAIR - Tough on youth crime.

Ms O'CONNOR - Tough on youth crime, yes, thank you Chair. On the data it is running completely counter to the objectives of the commission of inquiry.

Ms LENNON - We would say a punishment approach is not actually going to get a safer community. Ultimately, what we want is a safer Tasmanian community and we want children and young people to grow up in safe environments. It's the one goal really around how do we make sure that the approach we're taking is addressing some of those root causes and social determinants.

For us, the ongoing conversation that is just continuing focus down here is missing our opportunity to intervene early so that we can have influence in these trajectories. For us, if we're not taking that rights-respecting approach across the whole system, then we'll never be able to look at that data and see how it can be done differently.

Ms O'CONNOR - So, 54 reasons provides the statewide supporting young people on bail program. Are you able to tell us how much funding you receive for that and how successful diversionary attempts have been, and how you're able to successfully support young people on bail, given the evidence that we've heard about how hard it is for young people to secure bail often because they don't have a home?

Ms LENNON- Absolutely. We would say there's always an unmet need, so we would say, whilst we are funded at the moment, we would say there's absolute opportunity for that funding to increase and that was part of our submission. In the sense of the diversionary aspect of the program, Clare can talk to more detail about that.

Ms THORNE - We employ four youth specialists throughout the state with an FTE of 3.2. We're able to provide services to up to, depending on the need and the complexity, around 30 young people at any one time, but that includes the transition from detention components. REBOOT is the name of both of those programs under the one contract that we have with the government.

The work to be meaningful, it needs to be very individualised, it needs to be often long term if that's required because the change that we are hoping to make does not happen overnight. It's very focused on building those trusting relationships because for young people who we encounter - and it is only at that end of that spectrum, they need to be on bail or in detention to receive this service. There's a lot that's happened before to get to them to the point where we're able to work with them - something that we would like to be different.

CHAIR - That was going to be my question.

Ms THORNE -Yes, so that behaviour obviously is very entrenched and there's a number of issues that come. In many ways, being involved in the youth justice system is a symptom of what has caused that.

Ms O'CONNOR - Of course. Can I ask you, obviously, there needs to be quality assurance as well in this process?

Ms LENNON - Absolutely.

Ms O'CONNOR - We've received some written evidence about a particular service provider in the space, and I wonder if you believe that there's sufficient quality assurance in the space. In our submission from Dr Morag MacSween, we have a question about how JCP Youth, for example, engages with young people in order to divert them from the detention system. There's an opportunity here, for example, for up to three nights emergency respite accommodation in Launceston, where the minister has confirmed that children and young people can be taken from the streets by JCP Youth to accommodation other than by police or child safety. Is that an experience you have? Do you have any observations about that?

Ms LENNON - We don't know JCP Youth's model of care deeply. What we would say is that's -

Ms O'CONNOR - I think that is a problem that we all have.

Ms LENNON - That's not how we operate. The model we work on is evidence-based and based on child participation, voice and upholding rights. We are using evidence-based skills such as motivational interviewing, goal-setting, SMART goals (specific, measurable, achievable, relevant and time-bound). What does that look like? How does that work for the individual? We are listening to children and young people to understand what they need. We actually have our own internal quality assurance processes that also, through our practice and implementation team, help us monitor how well we are doing. We also use standardised tools such as the Youth Star so that we can measure progress with young people. For us there are internal systems that we have in place to ensure we are delivering high-quality work. We are working with the government on what are some of the other self-assessment tools to continue to ensure we do get that quality assurance. I would say experience is that as a service system we should absolutely all be delivering high-quality services. We need oversight over that - both individually as organisations we have to hold ourselves to account - as well as those who get to fund us also need to be able to hold us to account.

Ms O'CONNOR - Do you think there is sufficient oversight?

Ms LENNON - I think there is opportunity for further detail on that, absolutely.

CHAIR - You said that you can only engage under the REBOOT program with children who are on bail or leaving detention. We heard evidence from the United Workers Union representative earlier that there is a not insignificant number of young people, as young as 10 or 11, going into watch houses and being held there for some time - varying amounts of time before they are either bailed or they are placed on remand and go to Ashley - in which case you would be able to engage with one when they leave or if they are put on to bail. There is this period of time.

What seems to be the case is that no-one seems to have entry into that space for the actual protection of the child, as such. The workers are there to do the job with adults and children, but there is no child advocate, no person providing services directly for children. Do you think this is an area that you should be in, or who should be in this space?

Ms LENNON - I mean, absolutely. Anybody who is child-focused should be in the area. We would obviously be well skilled to do that around keeping the focus on children and young people at the centre of all the decisions. I think our experience across the country is we work in systems, in policies and procedures that are operating on what adults think is right. We actually don't centre children and young people. Unless we use that as our organising principle, we will never actually be able to get the right outcomes. Obviously, as an organisation, we are strong advocates for raising the age generally. It is never lovely to hear about 10- to 12-year-olds who are in the system already. Again, it'll go back to our ongoing conversation that if we don't address the root causes; if we don't take whole-of-family approaches through education, through child safety, through those avenues and we continue to look through this siloed approach, we will actually never get sustainable answers.

If we can move away from continuing to look at things through an education lens, a child safety lens, a youth justice lens and we look at it around what is it about the child and young person? What do they need? What does their community need? What does their family need? Then, we will be able to see real change, but the siloed approach will continue to see the same outcomes.

CHAIR - At the moment there is no separate facility for young people to go to that is set to change. It still appears to be a way off. Do you think there needs to be some interim measure put in place to assist these young people in that period of time where there seems to be no dedicated support for that young person?

Ms LENNON - We would say absolutely. Dedicated support needs to be available to every child and young person who is engaged in a service system. Absolutely. Child safety system; youth justice system. If there isn't a dedicated support, then our opportunity to create a different trajectory for these young people is very limited.

Ms WEBB - You talk about engaging with the review team currently looking at the bail support program. I note recommendation 12.1(4) - which I think this aligns with - is a phase three recommendation finishing by 2029. Is it your understanding this recommendation is being progressed quicker than that? What is the timeline of the review being completed and implemented?

Ms THORNE - We haven't been given a definitive timeline, but we have engaged with the consultants who've been appointed and are reviewing the REBOOT program at the current time. That has involved us providing a number of documents, our standard operating models, our service delivery reports and a number of interviews have taken place with our leadership, our staff on the ground. They're looking at interviewing children and young people and their families who are involved or have been involved, as well as either stakeholders and I understand magistrates as well. We are in the middle of that process and we're having regular review meetings with DPAC and the consultants.

Ms WEBB - And so, the intention of that review is to arrive at a decision about scaling the program up. Is that your understanding?

Ms THORNE - That's our understanding as one of the potential outcomes.

Ms WEBB - What other potential outcomes?

Ms THORNE - As the recommendation states, it's a review of the supporting young people on bail program to see what the evidence base is and to see if there's potential for it to either to be upscaled and increased, or if another service -

Ms WEBB - Are there other services being reviewed alongside 54 reasons?

Ms THORNE - We are not aware of any others.

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Ms WEBB - Okay. You talk about significant unmet demand for these services. Can you quantify that in some sense for us? You said you've got 3.2 FTE currently, which is four people around the state.

In terms of unmet need, even broadly, is unmet need there to the extent that could be doubled and we'd still be perhaps not getting there?

Ms THORNE - Yes.

Ms WEBB - We're looking at least the potential for it to be a doubled service and we'd still potentially have unmet need at that point?

Ms THORNE - Absolutely. It is a very individualised service. We are often working with young people for one or two years to make that sustainable change.

If we think about the numbers in Ashley Youth Detention Centre at the moment and then we look at young people who are currently on bail involved in youth justice, those numbers are much higher than 30, understanding that some of the young people at the moment, we first engaged a year or so ago.

Ms WEBB - You are probably having more children who are either referred to you or come into your awareness who you're not able to provide a service to who would qualify for it and be appropriate for it. How is it determined which kids come into your service? How do you triage? Is it first-come, first-served or is there a triaging effort to meet needs?

Ms THORNE - We do have an open referral service which has some real benefits. Young people can refer themselves to the program and youth justice and magistrates are a key service.

What would happen is that would come in through our central and we would basically be looking at our caseload, looking at potential exits and assessing. The only real requirements, and we're here talking I suppose specifically about the bail program, is they be on bail. And we do need to know it's a voluntary service. The young person has to have consented and be interested in having something different in their life, is how we would phrase that.

All of our general referrers - child safety, education - they all know we keep in regular contact with them when we know there is a space coming up. It is really just looking at if we have two people come to us at the same time and we have one spot, then we'd have those consultations with the referrer or the young person themselves and we have to make difficult decisions on that.

We are looking at having some more targeted requirements, but you can't always put that in a tick-a-box.

Ms LENNON - The overarching lens across all of that process though is the risk and safety. For us, making sure we're doing a risk and safety assessment if we've got some conflicting referrals at the one time. That would be our overarching lens.

Ms WEBB - In the submission, you also talk about the recommendation in the final report about establishing and resourcing a statewide 24-hour bail system, which may, if and when we get to it being in place, address some of the issues about children coming into watch houses and spending too much time there before they go to something else.

Do you see that as benefit? If there's a 24-hour bail system in place and an organisation like 54 reasons is delivering it, and a child comes into that system after hours, you would be the ones to come and respond and be able to provide that support. Is that something that you can do now under your current funding, or is it just not there at all?

Ms THORNE - Not under our current funding. No.

Ms WEBB - That's the way that model would work, that you would have workers available out of hours to come and respond?

Ms LENNON - Absolutely, and there are a couple of reasons why we think that would be great. We know, and the evidence is really clear, that opportunity to change is heightened at times of crisis. As soon as we're able to get in the door, then we've probably got a young person at their time where they're thinking, 'Hmm, maybe I could make different choices', and we get to build a relationship from the beginning. Again, if we can't do great relationship-building, it doesn't matter what other evidence or practice we have behind us, it's dead in the water. As soon as we can build strong relationships with children and young people, that is absolutely when we want to get in. If we can do that at the point of crisis, then follow them along their engagement in the system and support them through that, we're going to be able to get better outcomes and sustainable change.

Ms WEBB - Thank you. Is it your understanding that the current review that's happening is looking at assessing the viability of implementing a 24-hour bail service as well, or is that a separate matter under this recommendation?

Ms LENNON - That's a separate matter - that's our understanding.

Ms WEBB - Can I have another one?

CHAIR - I'll come back to Cassy, then I'll come back, if that's alright.

Ms O'CONNOR - Thank you, Chair. Earlier, Claudia, you talked about having an understanding of the service system here now. It would be good to understand, from a child and young person's perspective, what the service system looks like. Are you able to give us some sort of broad observation of the service system as it is now, and where the biggest gaps are?

Ms LENNON - Sure. I want to start with an anecdote that I heard from a practitioner yesterday, because I think it just said everything. She was working with a family and she was out engaging with the 12- and 15-year-old in the family. They have been engaged in a variety of service systems for a long time. A tried and tested technique of a practitioner is to play Uno to, you know, build a relationship. There they were playing Uno, had a great game. Apparently, everything went well. Then the 15-year-old said to her, 'Um, can you let me know, is this a protocol that you all learn at university?'

Ms O'CONNOR - To play Uno?

Ms LENNON - To play Uno. I was, like - out of the voices of the young people who we work with. They are engaged in systems that we think we're doing amazing work in and they're, like, 'Yeah, I've seen this eight times before, but let me play again.'

Ms O'CONNOR - It's a structural question, but thanks, it's a great anecdote. The structure, from when the child or young person first encounters Tasmania Police to when they are granted bail - the smaller percentage who are granted bail on the evidence that's given to us - are you able to explain the structure of the service system for that child or young person? Or is it just all over the place?

Ms LENNON - Well, I'm not trying to avoid your answer, but I would say the actual service system starts way before that young person's been engaged in prior to that minute.

Ms O'CONNOR - Oh, I know that.

Ms LENNON - Again, that's part of why we're not getting effective outcomes is because we're not dealing with this part of the service system as well. When you get to this point, you want to know the steps through the service system from when we've engaged with Tasmania Police?

Ms O'CONNOR - Yes.

Ms LENNON - Okay. Are you happy to take that? I can, but you have more detail.

Ms THORNE - Yes. I suppose, again, it's around if that young person needs to consent, because ours is a voluntary program. Then a lot of what our workers end up doing is some kind of casework with all of the other people in that young person's life.

Ms O'CONNOR - Okay, thanks for that. When you take on a young person like that, are there other services that you may need to refer them to? Are there other, you know, quality-assured services that you might have to work through to get the result?

Ms LENNON - Yes. child safety would be one of our main partners. Homelessness, youth homelessness services, other youth services that young people might have been engaged with. If they're not engaged, how we could connect them in. Headspace, for example, mental health services, CYMHS (Child and Youth Mental Health Services), the service system - health, you know. A lot of the younger people who we're working with have disabilities that haven't been diagnosed. Connecting them in with NDIS - we see that all the time. The stats are really clear about young people engaged in youth justice having significant over-representation around disability. Drug and alcohol continues to be a problem; the mental health services, as we've said. Then, if we are able to do great work, we actually have to take that whole service system and apply it to the adults in that young person's life, because if we don't create change in their environments, then it's very difficult for young people to change. It's like asking any of us to give up chocolate when everybody else in your house just eats chocolate for every meal. It's not a fair expectation, but somehow it's the one that we put on young people.

There's this service system that is around children and young people, and again, we would argue there's opportunity to get better at being centred around children and young people rather than a service system being centred around its own ecosystem. Then there's this opportunity to look at how that engages with the adults in the household. What does that look like for them? And where are the services that are available for them as well? We know that there's opportunity for that to increase dramatically for all of us.

Ms O'CONNOR - My final question on this line of questioning, given the work that you do is with young people who are granted bail, did you make a submission to the government's draft bail bill? Or have you engaged with government on the bail law reform?

Ms LENNON - Not yet.

Ms O'CONNOR - Not yet? Okay. It might be worth just engaging with that, because it is an opportunity, potentially, through that legislation to adjust some of the bail settings for children and young people.

Ms LENNON - We think there are some diversion programs that we'd be able to enhance if we changed some of those features such as youth justice conferencing, for example. They're the sorts of things that we would like to see increase in their use here.

Ms WEBB - I'm interested to hear a bit about the range of circumstances for kids involved in your bail support program and your REBOOT coming out of detention program, about their living arrangements. Do they need to have a family-of-origin sort of accommodation? Do they need to have fixed accommodation? Subsequent to that question is, are you able to support them in their living arrangements in any way, with brokerage funds or things like that? Could you explain that?

Ms THORNE - Absolutely, and you won't be surprised to hear that accommodation is a huge issue for the young people who we're working with. I'd say more likely than not young people who come to us do not have safe stable living arrangements. Shelter hopping is very common, lots of couch surfing, sometimes sleeping rough. It's a major issue. A lot of work that our youth specialists undertake is advocating and working with emergency accommodation - of which we know there is not enough.

It's also advocating and working with child safety, so some of our young people are on orders, some of them are not on orders, but they do not have a safe, secure place to live or safe adults who are able to look after them. The first thing that our youth specialists do is try to find some safe accommodation, sort out some kind of income, so Centrelink, address some of the query disability that has never been diagnosed, and actually feed them. We have some brokerage. It's limited, but that's the sort of thing that our brokerage is spent on. We might speed up a psych report, if we can. Definitely on the basics of food, and if they're lucky enough to get some independent accommodation, then helping them with furniture and those sort of things.

Ms WEBB - Not paying for accommodation per se?

Ms THORNE - We don't have that.

Ms WEBB - Don't have brokerage for that. Two follow-up questions to that, thank you for the detail. What proportion - and it doesn't have to be exact, just give us a ballpark idea - how many of the kids in the program are on orders?

Ms THORNE - Child safety orders?

Ms WEBB - Yes, Child safety orders.

Ms THORNE - Not as many as there used to be. That's how I would answer that question. Sometimes when we're doing some advocacy, we actually think that they potentially should be on orders because there isn't a safe adult to look after them. I couldn't give you exact numbers, and it varies, but yes.

Ms WEBB - Just ballpark, is it 10 per cent? Is it more like half?

Ms THORNE - I'd be really guessing. Maybe 20 per cent, but I'd really be guessing.

Ms WEBB - That's fine. I accept that as a very broad indicator. Now I'm just going to come back to my second question, which is referring to the accommodation. There's no scenario in which your service is funded or has been sought to provide overnight accommodation or funding towards overnight accommodation or anything like that?

Ms THORNE - No.

Ms WEBB - In that sense, is that something that the government has ever come to you to talk about providing, or being able to accommodate into the mix of things that your service does?

Ms THORNE - Not particularly approaching us with that particular - I know that there was a model at one point where it was looking at sort of bail accommodation houses a few years ago. Certainly, we were involved in those consultations around what that could look like.

Ms LENNON - Recently the government has engaged with us around what has been our experience across the country in addressing this need. Not necessarily specifically: 'what is your program doing here? But what are some of the solutions that you operate across the country or you've been involved with in other state jurisdictions that have worked?' The government is engaging in those conversations with us around our learnings across the country outside of Tasmania.

Ms WEBB - Interesting. You mentioned one of the things you might help a young person with is accessing Centrelink. Now, that's only going to be relevant if they're 16 or older. In the circumstances where you're working with someone younger and there is nowhere for them to access financial support, if they're not on orders, what options do you have ensuring that they would have financial viability?

Ms THORNE - Working with their primary carer and trying to - we don't have capacity within that program to provide lots of support to families at the moment because of that, but we certainly have other family support programs [inaudible] that we run. There are others

available that we would refer to so that those carers have some support to be able to provide a safe home for young people. Sometimes that may not be mum; it might be auntie or another community member or extended family, but we do a lot of work working with young people about who they have in their lives and what relationships they can build.

Ms WEBB - Presumably, there might be circumstances in which though a child under the age of 16 years doesn't have a home environment that you've just described -

Ms THORNE - They might be at one of the accommodation options -

Ms WEBB - But with no source income.

Ms O'CONNOR - Minister Jaensch said in parliament last year, when he was talking about follow-up from the commission of inquiry, but also the provision of diversionary programs, bail accommodation, and what I read from this *Hansard* from the minister is that the review is happening because he says,

We do have organisations like 54 reasons, Colony 47, JCP Youth, Anglicare and others who already work with some of the young people and people in similar situations to them.

It does sound like from what he's said here that - he does say:

If we ultimately find that there's not enough capacity there, that is in the not-for-profit sector, we need to build more physical facilities that are suitable for providing a bail house, then we'll do so.

That was actually a commitment to provide three facilities, but he says:

First, we wanted to exhaust the capacity of the NGOs sector to work with us around packages individually tailored to the needs of young people.

It sounds like the capacity is beyond exhausted, doesn't it?

Ms LENNON - The current capacity, but I would say as an NGO sector we have really innovative and creative ideas -

Ms O'CONNOR - If you're funded for it.

Ms LENNON - Absolutely.

Ms O'CONNOR - Can I ask - because he talks about this sort of working on integrated, tailored and brokered packages with NGOs sort of apparently working together a bit. Does 54 reasons work with Colony 47, JCP Youth? Do you work with JCP Youth?

Ms THORNE - We're referring to all sorts of agencies all the time depending on the young person's needs.

Ms O'CONNOR - So you refer to JCP?

Ms LENNON - We haven't referred to JCP at this stage.

Ms O'CONNOR - Thank you. Have you referred to Anglicare?

Ms LENNON - Yes.

Ms O'CONNOR - Colony 47?

Ms LENNON - Yes.

Ms O'CONNOR - Why haven't you referred to JCP Youth?

Ms LENNON - We believe that the models that we are currently delivering are seeking the same outcomes. For us it would be a duplication for us to refer to them about our specific cohort.

Ms O'CONNOR - Is it your understanding that the government is reviewing this sector in order to - have you been given any sort of message in order to sort of build up its capacity? Is the review about the potential for increased resourcing?

Ms THORNE - For the review into REBOOT or just more broadly?

Ms O'CONNOR - It looks like there's a review of the whole system here, but even into the REBOOT program.

Ms THORNE - I'm wondering if that's around - because we are heavily involved in the development of the model of care. And so, that is looking at both non-government and government organisations within youth justice to really lift the expertise, the training, the ways of working to ensure it meets the standard that is trauma-informed and meets all of the recommendations of the commission of inquiry. That is something that we have been heavily involved in, both in the development of the model of care, but also in its implementation, and so we're involved in those meetings currently.

Ms O'CONNOR - When you said earlier you haven't referred yet to JCP Youth and that you provide a similar sort of service, do you actually?

Ms THORNE - Just for the cohort of young people in the sense of those who are on bail and those who are transitioning from detention. As mentioned earlier, we don't know enough about their model of care to say it's exactly the same. But the actual cohort of young people I suppose is where I was saying the duplication sometimes exists.

Ms O'CONNOR - So possibly the service is being delivered differently by 54 reasons than it is by other providers including JCP Youth?

Ms THORNE - Again, I can only talk about the service that we deliver. Yes, and it is evidence-based. It's based on our child rights participation and our frameworks around those. I can talk about the model we deliver. I can't talk about the other models.

PUBLIC

Ms O'CONNOR - A final question on this line of questioning. Did you have to go through a tender process in order to receive the funding for the REBOOT program?

Ms THORNE - Yes, we did.

Ms O'CONNOR - JCP Youth, didn't. They receive \$3.7 million without a tender. I just thought I'd put that out there.

Ms WEBB - It follows on really from that line of questioning and the quote that was made at the start from the minister about before getting to a point of potentially building purpose-built facilities for bail support, that he would look at exhausting the availability in the NGO sector, which I find astonishing because that service system, I'm imagining, can deliver whatever is required as long as the funding is provided, and that's a ministerial decision. So it's entirely in the minister's hands to define the extent of what could be delivered.

I am just going to reality-check that with you. Is it your understanding that across your service and the others that you're aware and refer to and work with, that there would be the capacity there in our NGO system to in fact really effectively meet the need that's there if funding was available to put the right sort of supports around the quantum of kids we're seeing coming through?

Ms LENNON - I would say the NGO sector is well capable to be able to deliver effective outcomes for these young people. Absolutely.

Ms WEBB - and could scale up across that system?

Ms LENNON - Absolutely.

Ms WEBB - I mean we deliver some excellent special care packages, I think around kids in all sorts of situations, some of them involved in youth justice and some involved in our out-of-home care system, et cetera. But that's a scalable service system in your view and it's funding-dependent as the only constraint on how that could be realised?

Ms LENNON - Funding will be a significant constraint. I think as we work together around understanding the pathways, then we'll just come up with creative solutions. What I do know after 25 years in the NGO sector is we can make anything happen because we are focused on children and young people. As long as that is the organising principle around anything that we deliver, I feel very confident we'd be able to get effective outcomes.

CHAIR - What about the skills required? If you were to expand relatively significantly perhaps, to meet these gaps that have been identified, if you like, and hopefully the demand will eventually fall.

Ms LENNON - That would be everyone's great outcome.

CHAIR - That's right, and then we have a different conversation.

Is there a skill shortage in this area and are you finding that when you're recruiting or are you able to respond?

Ms LENNON - At the moment recruitment in Tasmania is going well for us at 54 reasons. I think across the board how we make sure we've got the right people at the right time in the right roles, I think is an ongoing conversation. But for us at 54 reasons we've done some recent recruitment rounds and we have been very lucky to have highly skilled team members join us, which is great. I think again there is significant skill within the sector, how we share that knowledge, how we enhance that knowledge, I think we can do brilliantly as a whole NGO sector.

CHAIR - We hear of some workforce challenges in some areas, obviously. But you're saying it in delivery of the services that you provide, that's not to be a problem at this stage.

Ms LENNON - At this moment, yes.

Ms WEBB - In addition to that, I think we have got a relatively good pipeline of training for people coming through into that space to be employed. Have we not?

Ms LENNON - Absolutely, we do.

Ms WEBB - Can I have another question? I really appreciated in your submission and also in your verbal evidence today, such a centralised focus on rights-based approaches. I think that is absolutely admirable and essential going forward. In your submission, you talk about the Change for Children strategy and action plan from a rights perspective, and we had mentioned a moment ago the youth justice model of care, can you reflect on, in your assessment, how effectively the model of care is centralising a rights-based approach and really making sure that is embedded going forward?

Ms LENNON - We are very pleased that one of the key components of the model of care is listening and hearing and responding to children and young people's voices. For us, if we see real child and young person participation in service systems and designs of model of care in ensuring that we all operate like that, we feel confident around the rights being upheld. What we would say is that there are many rights that belong to children and young people and we would want to see them represented in all models of care across the government that are being designed at the moment.

Ms WEBB - Can you talk about some of those other collateral aspects where it might not be as central a consideration at the moment, from what you are saying? Or perhaps I am misinterpreting, but where are you thinking that needs to extend out to, that it might not be there at the present time?

Ms LENNON - It is more that we know that there is lots of activity happening generally in the government. We have the uplifting care reform, there are lots of action plans. It is ensuring that rights are central in all of those plans, not just the youth justice model of care. It comes back to our point around if we continue to operate in siloed ways, we will never actually achieve the outcomes we are seeking.

Ms WEBB - I agree with your observation. I am just wondering, are you making that observation because you are aware of things being developed in this multitude of strategies and

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plans and implementation action plans and whatnot? Are you aware of where that isn't occurring currently, where there is an appropriately correlating rights-based approach?

Ms LENNON - I wouldn't feel comfortable to say that I know where it is not occurring with a sense of detail.

Ms WEBB - Okay, you are just emphasising the need for it to occur?

Ms LENNON - Absolutely. Yes, emphasising the need. Thank you.

Ms WEBB - I understand. Thank you.

CHAIR - Any other questions?

Ms WEBB - I have another one, if we have got time?

CHAIR - Yes, I just want to give them an opportunity to close off if they want.

Ms WEBB - I wanted to provide an opportunity for you to make any comments. Currently, I believe you are one of a number of organisations working in AYDC at the moment.

Ms LENNON - We are.

Ms WEBB - Potentially, with kids and part of, I guess, the transition, the through-care and transition out. Many people we hear from and many people on this committee are very keen to see that facility closed as per the recommendations and 'as soon as possible' is such an amorphous timeline. Do you have concerns about that environment currently, and are there any observations alongside that you think are important to highlight in terms of opportunities to make that a safer environment, right now, while we are still in the transition time?

Ms LENNON - We do not have any observations right now. When Clare and I visited just a couple of weeks ago, there was a lot of activity that was working towards making it more therapeutic. At this stage, we are publicly on record that we agree that Ashley should be closed and working towards more therapeutic approaches in the community.

Ms WEBB - Can you provide any examples of what you have observed there in terms of the 'making it more therapeutic' aspect?

Ms LENNON - There were some activities around upgrading the recreational facilities. For us, again, ensuring that young people are getting their recreational needs, that right to play again is a child right. We were seeing that actually be actioned out there at Ashley Youth Detention Centre.

Ms O'CONNOR - Can I just ask a follow-up to that quickly, Meg? In evidence that we heard from Legal Aid this morning - I mean, it is good to hear your observations that there is some positive work happening at Ashley - we actually heard some really confronting evidence about the continued use of excessive force against children and young people, some of which is recorded on CCTV, that this is still happening at Ashley. This place, which, for a century has been torturing children and young people, on the evidence, is still damaging children and

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young people, through, at best, a lethargic shift in practice towards a therapeutic approach. Have you engaged with Legal Aid, the Office of the Independent Regulator, for example, on some sort of more detailed work understanding children's experience of Ashley?

Ms LENNON - No, But happy to take it up.

Ms O'CONNOR - Might be worth a chat.

Ms LENNON - Absolutely. Thanks.

CHAIR - Well, thank you.

Ms LENNON - Thank you.

CHAIR - You're obviously very passionate about this area. It's really great.

Ms THORNE - We are, yes.

Ms LENNON - We believe that outcomes for young people and children can change and we ideally want to do ourselves out of a job.

CHAIR - That's the idea isn't it really.

Ms LENNON - Yes and again, if we just keep focusing on children, young people and ensuring their rights are met, we believe we can get great outcomes and we will be out of a job.

CHAIR - Which would be a good outcome ultimately.

Ms LENNON - It would be a great outcome.

CHAIR - I think we're a little away from that just yet. Thank you for your time today and the submission and the evidence you provide was very helpful to the work of the committee. Thank you so much and for your work.

WITNESSES - Thank you for the opportunity.

The witnesses withdrew.

The committee suspended at 11.47 a.m.

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INTERIM COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE

The committee resumed at 12.00 p.m.

CHAIR - Thank you, Isabelle for appearing before the Joint Sessional Committee inquiry into the government's Recommendations of Final Report of the Commission of Inquiry. We appreciate the submission you provided and your appearance here today. This is a public hearing and everything you say is covered by parliamentary privilege. That may not extend beyond the hearing. If there was information of a confidential nature, you could make that request to the committee. Otherwise, it's all public.

If there is confidential information you wish to share, we prefer to do that toward the end of the hearing, so we can keep it entirely separate if you need to do that. I will also acknowledge that we are discussing matters that are sensitive and relate to the abuse of children and the safety of children and note numbers for support lines earlier in today's hearing, but those numbers are also on the committee's website on the front page if anyone needs to access those and that many other places too, but I just don't draw attention to the committee's website for people.

Do you have any questions before we commence?

Ms CROMPTON - No, thank you.

CHAIR - I ask you to take the statutory declaration and then introduce yourself and appreciate you'd probably like to make some opening comments.

Ms ISABELLE CROMPTON, INTERIM COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Ms CROMPTON - For those who don't know me, my name is Isabelle Crompton. I am currently Tasmania's interim Commissioner for Children and Young People. I was appointed in October to that interim role and was acting from July last year onwards prior to that appointment.

I want to thank the committee very much for inviting me to come and speak with you today. I will make some very brief opening remarks and then perhaps we can engage in a conversation and have no doubt you will have some questions for me.

I would like to acknowledge that we're meeting on the ancient lands of the Muwinina people and I wish to pay my respect to Elders past, present and emerging Tasmanian Aboriginal people who might be watching today and any people present. As interim commissioner, I just want to acknowledge we are meeting in a place on a piece of land where Aboriginal people have been raising and caring for and protecting their children for millennia in connection with their country and their culture, more than 40,000 years. It's extraordinary and it's important to ground ourselves thinking about that.

I'll give a very brief opening statement reflecting on what I've said in my letter to the committee, on my submission to the committee and building on some of those matters and then

hopefully I can address any questions you have for me. In my submission, at a high level, I spoke about my contribution to the draft bill which government put out late last year as part of a public consultation process to establish a new Commission for Children and Young People, which is one of the first big priority key reform mentioned in the commission of inquiry's final report.

I spoke briefly about my recent engagement with children and young people, including the work that our office has done to support a group of 19 young people to engage with government in the development of the Change for Children strategy. I also spoke about the engagement piece we led to assist to inform my submission on the draft bill to establish the new commission. Subsequent to providing my submission, I released a report called *'Letting them have a say'*. I believe that would have been circulated to all members of parliament. If anyone hasn't seen that, please let me know and I'll arrange for a copy to be provided to the committee. That report reflects what we've heard from nearly 700 children and young people in response to a provocation. This was to ask them to imagine they were part of this new team, this new Commission for Children and Young people, and asked them what they would need to now and to do to make sure that every child in Tasmania is able to thrive and live a good life.

CHAIR - Isabelle, I might ask if you're happy to table that actual copy, because then it becomes a tabled document for the committee.

Ms CROMPTON - I would be very happy to table it. I brought it for that purpose. To be really honest, I wasn't sure on process.

CHAIR - That'd be really great. If you want to pass it over, and we'll receive it as a tabled paper. Then it forms part of our records. Thank you.

Ms CROMPTON - I also spoke in my submission about the need to prioritise, in my view, non-criminalising and individualised therapeutic responses to the very small number of young people who do come to the attention of police due to their behaviour in this state. I will circle back to that point, because that's obviously been something that the Committee's been very interested in today during the course of the evidence that you've heard thus far.

The three key messages I suppose I hope to get across to the committee today are, in my view, the pressing need to build momentum to shift towards a service system and a legislative framework that truly respects, protects and fulfils the human rights of children and young people, making good on the very strong commitments that have been made following the commission of inquiry's report, and through really important government policy papers, including the Youth Justice Blueprint and the model of care relating to the youth justice system in that really broad sense. This work requires cross-agency and cross-sectoral consistency to ensure that we can actually make good on these rights-based commitments.

The second key message I would like to get across is the need for really considered, deliberative design and decision-making in how recommendation 18.6 is implemented. That's the recommendation relating to the establishment of the new commission for children and young people. In designing a commission that reflects what children across this state need, the commission of inquiry really strongly encouraged us to be bold and ambitious. We don't need to get this done, we need to get it right and fit for purpose for Tasmanian children and young

people, especially for those who are vulnerable and those in contact with Child Safety and Youth Justice systems.

This is potentially a once in a generation opportunity. I think it's really important, with respect to the inherent dignity of those people who shared their stories through the commission of inquiry, and for those who for whatever reason were unable to or chose not to, it's really important that we recognise the integral role that the new commission will play in leading the way in many respects and supporting the way forward in others.

A tie into my third key message is the importance of really authentic engagement with children and young people, in the development, not only of their new commission - and is it is their commission - but also in the implementation of other reforms.

It has been really pleasing to have received support to work, for example, with that group of 19 young people, an extraordinary group of young people, to help inform the Change for Children strategy. I am seeing pockets of excellent practice, but it's about that consistency of approach, again, harking back to the point I made earlier. We mustn't lose sight of why we are embarking on these landmark reforms and for whose benefit they are intended.

Having reflected on the hearing that you've heard this morning thus far, I thought I'd slightly change tack and contribute some information that I have that may be useful in your thinking around some of the data that we're hearing around the youth justice system and the like. I thought I would introduce that and then I'll be very happy to take your questions.

Thinking about that observation that I have made about the need for really important reforms to gain momentum - particularly around raising the minimum age of criminal responsibility, which is recommendation 12.11 - first, I think it's really useful to remember that those commitments are incredibly welcome. They're really important to sustain, and I'm really conscious of what's happening nationally and that the tide has potentially shifted in some jurisdictions and certainly has shifted in others. We certainly don't want that to occur here, but we need to get on with it. We need to start making that lasting change that we have made the commitment to make.

The commission of inquiry really clearly said the best way to avoid young people being abused in youth justice detention is to prevent them from entering detention in the first place. It made a raft of recommendations, of course the committee is well familiar with them, around improved diversionary mechanisms, improved approaches to prevention and supports for children within that community setting.

It was really clear, the commission in its final report, that the means to respond to harmful behaviour of children are through health and child safety and other developmentally appropriate responses. For that tiny cohort of young people who might then see themselves in a custodial environment, a truly therapeutic approach that is rights-compliant is clearly where we want to be.

Data that's released just been released today from the Australian Institute of Health and Welfare, it's their Youth justice in Australia report, indicates that we're not necessarily heading in the right direction. We're seeing a general increase in the proportion of young females coming under youth justice supervision.

CHAIR - Is this Australia-wide?

Ms CROMPTON - Yes. In Tasmania the proportion is now greater than the Australian proportion, 29 per cent to 22 per cent. We are seeing overrepresentation of young Aboriginal and Torres Strait Islander children; the overrepresentation is clear. It's traditionally been a lower overrepresentation here in Tasmania than elsewhere, but it persists and in fact has increased since 2022-23.

We're seeing an increase in the proportion of young people who are in unsentenced detention. We're seeing 76 per cent now of young people in detention on an average day being unsentenced. It's creeping up. I think anecdotally that will creep again -

CHAIR - Is that Tasmania?

Ms CROMPTON - Yes. In terms of age range, going to the 10 to 13-year-olds, 2.4 per cent of young people in detention were aged between 10 and 13 and were unsentenced. Yes, that's a relatively low percent, but to be honest any person under the age of 14 really shouldn't be in that context. In 2022-23, 5.8 per cent of young people in detention were aged between 10 and 13 and unsentenced.

I think reflecting on that, of course those detention rates don't give us the full picture. You've heard data today around the young people who find themselves in a custodial environment in a pre-court context. We know that a significantly larger proportion of young people spend time in reception prisons, sometimes only for a short period -

Ms O'CONNOR - Sometimes for a lot longer.

Ms CROMPTON - Sometimes for longer.

I didn't actually catch the data that was provided to you this morning, but I'm aware that in the last financial year, there were 372 admissions of young people to watch house facilities at Launceston Reception Prison or the Hobart Reception Prison. That's admissions, not necessarily unique young people. My understanding based on the best evidence that I have available to me is that unique number of young people is more in the order of about 140 in the last financial year.

CHAIR - Which is a concern in itself. That means that so many that these young people are cycling back through the system, doesn't it?

Ms CROMPTON - Yes. I'll sort of finish my opening sort of comments now really, but I think it is really important to remember that when we when we talk about that tertiary end of the youth justice system, those young people are coming through an adult doorway - a very adult doorway. The commission of inquiry was really clear that they hadn't really looked at this particular area. They reflected on it in the final report as an area that they didn't examine in great detail, but I believe it's one that we need to be very, very cognisant of. It links, of course, to all of the other points I've made around minimum age reform, around increasing non-criminalising individualised therapeutic responses. It's been the longstanding advocacy of this office that those places are no places for children and young people.

We're engaging in a project at the moment to listen to children and young people with experience of being in police watch houses and reception prisons, with the intention of releasing a report that is specifically focused on that experience as part of our Youth Justice Voices Project.

Ms O'CONNOR - It would be good to follow up on them in five years' time to see what happened as a consequence of their detention.

Ms CROMPTON - That's a really interesting point, and it's quite clear - the experiences are varied, as you would expect - but I think probably not dissimilar from some of the things that you've been hearing in evidence earlier today from the perspective of an adult working in that context. We don't currently have an advocacy function for children who are in pre-court detention.

CHAIR - It seems that nobody really does.

Ms CROMPTON - We have a systems advocacy role, but under our legislation, the current *Commissioner for Children and Young People Act 2016*, the advocacy for individual young people in custody doesn't start until the point at which a young person's been detained under the *Youth Justice Act 1997*.

CHAIR - Which is really sad, because if you can intervene earlier and divert -

Ms CROMPTON - What I should say is that I'm quite confident that the new commission will have that function. That's been my advocacy, and it would certainly be consistent with the recommendation that those young people who are in all sorts of situations late at night and quite often in significant crisis, will very likely have access to an independent advocate, not just legal advocacy. This is advocacy around wellbeing and rights, and ensuring that they have information about their rights and access to services and all the things that we're able to do for young people in the youth justice detention environment.

I'll end there. I'm really happy to take questions, of course.

CHAIR - While you've been talking about the draft act and the work that's been done on that, from your perspective, how do you see it progressing? I know the comment was, 'Get it right, don't just get it done.' Can you update the committee a little bit on the progress, as you see it, and whether there are things that remain a concern to you.

One of the things that has been brought to the committee's attention, and perhaps has been discussed in other forums in previous times, is the dual role of the commission for children - not the advocacy role, with the regulatory role and whether there's a conflict there, and can that be managed through the new bill? If it can, that's fine, but if it can't, it's problematic.

Ms CROMPTON - Sure. Well, big picture: the bill was put out for consultation last year. I was pleased that it was a consultation period of about three, three-and-a-half months, I think. It did enable the Department to hear from a range of different voices, which I think is really important. It also provided time for me to be able to engage with my stakeholders, who

largely are children and young people and, of course, those who support them and work with them and care for them.

One of the things that perhaps created some challenges, and that I've been concerned by, is that, I think because the original commitment was to establish the commission by 1 July last year, which was a very noble ambition, but it really seemed somewhat impractical in terms of how long we know it takes to develop legislation and create the systems changes that are needed to establish what is going to be a whole new agency. As a consequence, I think some of that really deliberative process work you normally see when new legislation is being developed didn't happen, for example, discussion papers or options papers. Also to explore exactly the sorts of questions the Chair just asked about how things fit within this new commission: How do the functions fit together? What should the functions be?

Obviously, we had a really strong roadmap from the commission of inquiry. The final report is quite explicit in the sorts of things that the new commission needs to be able to do, but a whole lot of policy work needs to underpin that in the development of the legislation to make sure it's all going to work together and work well together. To an extent, because we're not starting from a blank slate - we already have an Office of the Commissioner, albeit a small office as a business unit within a department, but we also already have an Office of the Independent Regulator. It's something I'm absolutely and very, very strongly in favour of, and we had significant input into the legislation that underpins that really important role.

There's a degree of complexity in bringing all of that together. There are other statutory offices with roles and responsibilities that touch on areas that the new commission may - or the commission of inquiry would say it should also be doing. Inspections of detention facilities, for example - we already have a custodial inspector. How does that all work together?

Once the bill was put out, we're then into a fairly black-letter law space, and for some people that can be a little bit difficult to engage with. The Department did put out some fact sheets, which were helpful to an extent, but some of those big, underpinning policy questions, like, how do these statutory offices work together? You know, the intent.

Ms O'CONNOR - How do you be an advocate and a regulator at the same time?

Ms CROMPTON - How do you be an advocate and a regulator? I think the draft bill looks to ascribe advocacy functions for individuals to the new Commissioner for Aboriginal Children and Young People and to the new Advocate for Children. I guess it also retains the functions for the independent regulation of the Child and Youth Safe standards and the reportable conduct scheme, under that existing piece of legislation.

Ms O'CONNOR - How does that then fit?

CHAIR - Under the independent regulator legislation, just for clarity.

Ms CROMPTON - Sorry, which is the *Child and Youth Safe Organisations Act 2023*.

CHAIR - It's a bit unclear to me as to how this is going to - The expectation, I guess, is that act will prevail and continue - or will that be subsumed under the larger banner of the new commission's framework?

Ms CROMPTON - The bill, as put out for consultation - I mean, there's some sort of consequential amendments, but nothing significant to the *Child and Youth Safe Organisations Act 2023*. That continues, and the statutory offices that are established under that legislation would continue. However, the end point recommended by the Commission of Inquiry was that the new Commissioner for Children and Young People, established under the new legislation establishing the new Commission, also be the regulator. That's the end point that was recommended by the Commission of Inquiry.

CHAIR - Yes, it's just the potential for conflict there seems to be very real in trying to do two really important but different roles.

Ms O'CONNOR - Especially with the information-sharing issues, potentially.

CHAIR - Yes, but also advocating for a child while also regulating -

Ms CROMPTON - It's the model that Victoria has adopted. The Commissioner for Children and Young People in Victoria is also the regulator.

CHAIR - Does that work well?

Ms CROMPTON - Liana Buchanan gave evidence to the commission of inquiry, as did a senior member of her team. It's quite clear from the commission's commentary that that approach was considered to be robust.

There's something really strong about having a commission for children and young people that not only regulates in the interests of upholding the rights of children and young people within organisational settings, but is also able to advocate for policy reform, shifts and changes.

It's been described to me when I've been exploring precisely that question as a little akin to having different tools in your toolbox. Different issues might arise at times and they might appropriately be dealt with within the context of a regulatory framework. They may not sit particularly comfortably in that framework. It may be more of an advocacy piece or an inquiry piece at a systems level as opposed to looking at those quite specific matters that the regulator looks at within a child-safe context.

The commission, of course, will be about safety, but as we've heard from children and young people, the commission needs to retain a really broad focus on children's rights generally, safety being one of those rights. I know 54 Reasons have spoken about that rights-based approach, being that each right under the Convention on the Rights of the Child are mutually supportive and they're indivisible.

I think the broader frame is a rights-based, children-at-the-centre frame with different statutory functions falling out underneath that. The bill is alert to the idea that there could potentially be a conflict at times and it I think it includes a provision that that speaks about what to do if that occurs. What it also does is it places the advocacy role for individual children and young people on statutory offices, being the Child Advocate and the commissioner for Aboriginal children and young people. The commissioner won't have that function.

CHAIR - The commission is the body.

Ms CROMPTON - Yes, that's right.

CHAIR - The commissioner will have oversight of all of these various functions, but not necessarily delivering those functions - you'll have other bodies that are regulated separately.

Ms CROMPTON - There would be some functions that would belong to the commission, and the different Statutory Officers could use those functions collectively or individually. But then there'll be some very specific functions, particularly advocacy for individual children, where that conflict arguably could be more live, and would be limited to the Statutory Officers who are not the regulator.

Ms WEBB - To be really clear, this is recommendation 18.6 and it identifies it under the commission there are three key statutory roles: one is the commissioner, one is the commissioner for Aboriginal children and young people, and one is the Child Advocate.

Ms CROMPTON - That's right.

Ms WEBB - What you've described, if I'm understanding correctly, is to avoid the idea of the commissioner, that first of those, having an issue of 'which hat am I wearing' - an individual advocacy hat or a regulator hat - individual advocacy won't sit with the commissioner. It will sit with the Child Advocate or the commissioner for Aboriginal children and young people. The regulator hat will sit with the commissioner. Then there's a whole range of other functions that can be, in appropriate ways, put across the three different roles.

Ms CROMPTON - Yes. They're that systems-level work; monitoring, reviewing, bigger picture. Not looking at the specifics of a decision made relating to an individual child, for example, in that context.

In Victoria the commission was recently given an advocacy function for individual children in out-of-home care. Another jurisdiction has not seen the need to separate those out.

CHAIR - As long as it is well-resourced and has enough people to do the different roles and not have to wear two hats at once.

Ms CROMPTON - That's an end point. Obviously, we have a regulator who has been appointed, and so there would need to be a transitional period before we would get to the point where the new commissioner, who would be head of agency equivalent, would ultimately also be the regulator.

CHAIR - I'll go to Cassy. I note that Ella Haddad has joined the meeting as well. She did say she would be late to join. Thanks, Ella.

Ms O'CONNOR - Two fundamental questions - in your submission you talk about raising the age of criminal responsibility. It's come through in a number of submitters. When government ministers have been asked about this in the past - and the Greens have been, among many organisations and people, fighting for this for many years - but government will say,

'Well, the system's not ready for it yet. We're not ready for it yet. It's part of a national approach, rah rah rah'. If we changed the age of criminal responsibility in this parliamentary sitting year, if there was one legislative move that raised the age, in your view, what would be the consequence of that in practical terms, apart from obviously less young people being detained either in adult remand or at Ashley?

Ms CROMPTON - I see that legislative reform as an incredible lever in terms of switching on all of those non-criminalising, therapeutic child-centred alternatives. I think it would focus the mind significantly. It's important to remember we're talking about a very small number of children and young people. I don't have the latest data in front of me, but certainly in the past it would have been fewer than 40 young people across the state who would ever see themselves in that very pointy end of the youth justice system.

Ms O'CONNOR - Within a year, about 40 under 14-year-olds?

Ms CROMPTON - Yes, I think so. I can probably get more specific data for the committee.

Ms O'CONNOR - If you do find that, we'd really value that.

Ms CROMPTON - The advice that the former commissioner gave on the age of criminal responsibility, which is from July 2023, includes data. I can probably see whether I can update some of that.

Ms O'CONNOR - My question is, acting Commissioner, relating to that, in practical terms if we raise the age, then what else happens or would happen quite quickly? What would need to happen?

Ms CROMPTON - In practical terms, what would need to happen is for that very small number of young people who were unable to be supported simply within families, within their communities, we would need an alternative mechanism to ensure that they're receiving the support that they need should that be required.

Ms O'CONNOR - An alternative to putting them in a remand facility?

Ms CROMPTON - Exactly.

Ms O'CONNOR - Isn't that terrible, that we're talking about an alternative to the very worst possible option. I mean, other than they would have a roof over their head?

Ms CROMPTON - We're talking about switching on a whole range of earlier interventions and supports. The whole shift requires that, and the evidence would indicate that over time we all benefit from that.

In terms of the practical reforms that would need to occur there, the advice that the former commissioner provided was informed by some work by the Tasmania Law Reform Institute which talked about the potential to adjust the *Children, Young Persons and Their Families Act 1997* to enable the provision of supports for children and young people who would fall below the new minimum age. It would effectively be a child safety and child wellbeing response

where family, for whatever reason, is unable to assist and where services and supports are required to meet the inherent needs of the child. Very individualised, therapeutic, community-based, and obviously a reception prison would no longer be the place where a young person would be taken. I would argue that no young person should be taken to a reception prison in any event. They should be taken to a safe place that is child-centred and a child-safe place.

There are examples in other jurisdictions of how this can be done. There may still need to be some sort of forensic-based work undertaken, but that would be done in a completely different environment.

Ms O'CONNOR - Thank you for that. We heard evidence earlier today from Legal Aid about practice inside Ashley Youth Detention Centre. It was apparent from their evidence there is likely to be insufficient training of staff in trauma-informed responses, particularly with children in states of distress. But also that there's been evidence on CCTV of the use of excessive force by staff members at Ashley towards detainees, some of whom will be in there on remand. Of course, they haven't even been sentenced.

Ms CROMPTON - The vast majority would be on remand.

Ms O'CONNOR - That's right, 75 per cent or something was the statistic. I think we heard from 76 per cent on any given day.

Ms CROMPTON - It's currently higher than that.

Ms O'CONNOR - Okay. As the Acting Commissioner for Children and Young People, are you aware of these reports of continued use of excessive force towards young people in Ashley and have you taken that to government or to the minister to respond to?

Ms CROMPTON - I will provide a little bit of context for how we come to be in that detention environment, so people are aware. We have a statutory function to advocate for individual children and young people who are detained at Ashley. Sometimes, they can be elsewhere as well, but the majority are at Ashley.

We're on site there probably once every three weeks. The advocate is there more frequently. It's a member of my team who's present and adopts a more relational approach in the sense that she's present and known to the young people.

We advocate on a range of issues including in relation to matters where young people raise concerns around the use of force. In terms of publicly available data, I can refer the committee to our most recent annual report, which includes a summary of the key themes of matters that have been raised with us. The assistance with making complaints was the second most common theme in terms of data that's been reported in our annual report.

In that financial year, there were 143 instances of young people asking for assistance to make complaints.

Ms O'CONNOR - Asking your office? So they knew to contact your office, obviously.

Ms CROMPTON - Yes, they would contact our office either in person, in the sense that we're on site. To be really honest, that's the primary way young people do have contact with us because, as we know from the commission of inquiry, it's really rare for young people to get on the phone or write. That relational approach, I think it would be fair to say, has in a significant part assisted to inform young people about their rights in the detention environment. A really big part of our role is informing them about their rights.

It has also led to, I would say for the large part, a significant trust that if a young person raises a matter with us that we will provide them with information and assistance and if they would like to make a complaint, we will support them to do that.

Ms O'CONNOR - Can I ask, the excessive force complaints would be coming through to you as commissioner?

Ms CROMPTON - I would see them where a young person wants to make a complaint about use of force.

Ms O'CONNOR - Some of which is captured on CCTV, as we've heard.

Ms CROMPTON - With the use of CCTV and body-worn cameras - I would expect that the vast majority of interaction between children and young people and staff would be - where a young person raises a concern on use of force, whether it was appropriate to have been used at all, or whether in their view the force went beyond what they felt was appropriate, then we will assist to raise that. There's a process through which that can be raised and matters are then referred to the incident review committee. They will sometimes will raise those externally as well, so to other statutory bodies or other authorities.

Ms O'CONNOR - The last line on this line of questioning: we have heard enough evidence about a lack of consistent change of practice at Ashley; under-training to indicate that while there might be some sort of measures being taken towards a more therapeutic approach, where numbers are increasing, Ashley is still a place where children are being harmed, potentially on a daily or at least a weekly basis. To your knowledge, has there been any tangible improvement at Ashley since the COI handed down its findings?

Ms CROMPTON - There have been visible shifts and changes. The incident review committee is an example of something that is new. I have a standing invitation to attend and the advocate can attend and advocate for the young person in that context when they are looking at an incident. I mean it's not obviously beyond my role to inquire into the specifics, but it is absolutely within my remit to ensure the young person's experience is known to the review committee. Of course, having that ability to then take a matter outside of the centre, where the young person wants us to and/or if I have a child safety concern, though some of those processes are incredibly welcome and they assist to shine a light, but they are our starting point. I think the bigger question is, as government starts that really important work to develop the new operating model for the new facility, which hopefully will be housing a very, very small number of young people once it is built because we are getting all of these other settings right, that what we are learning in that space, we really need to be starting to roll that out within the current environment as well. I spoke with some departmental reps about that last week. I understand that is the intention, which is good, but it is a closed environment, albeit with greater transparency and a greater presence not only of our office, but also the custodial inspector's

office. There have been pressures in terms of numbers, which have implications, especially when staffing levels are low.

Ms O'CONNOR - This is what a government tough on crime policy delivers is more young people going into Ashley, isn't it?

Ms CROMPTON - There are times, where, there is a palpable sense within the environment that the consistency of approach, notwithstanding goodwill, can be very challenging to achieve. The short answer is on some days when I attend, there is a general sense of young people being engaged in program. Things feeling at least more like what we would expect and sort of headed towards that far more therapeutic, purposeful, child-centred model we would all hope to see. There are other days when staffing levels are low, young people with complex behaviours -

Ms O'CONNOR - Locked in their rooms.

Ms CROMPTON - Spending additional time in their rooms because of that.

CHAIR - You are seeing some positive change, but there is still a way to go?

Ms CROMPTON - I am certainly seeing some positives, but I am also saying the accelerator needs to stay very firmly on maintaining that momentum. There are some good things happening in terms of a new approach to de-escalation training, which is great. It's just been rolled out over the last few weeks, so I'm yet to really see for myself what that actually -

CHAIR - That's for all staff?

Ms CROMPTON - I understand that's for all staff engaging with young people on the floor in terms of youth workers. That's new. It's very welcome. I was briefed on it and had the opportunity to have some input into the training.

CHAIR - Still satisfied that the training is child-focused and principles-based? Yes?

Ms CROMPTON - Yes. It's around an approach that really relies on a whole range of methods and mechanisms to de-escalate so that force is something that is ideally not needed, albeit, and I think it's really important we remember, we are talking about a detention environment where young people are in custody. There's inherently kind of force all around them. Even the merest touch to guide someone could be force on that broader continuum. But, yes, I think there certainly continue to be incidents where if other methods had been rolled out earlier, then force in that other end of the continuum may not have been required.

Ms WEBB - I've got some follow-ups on that area actually, if that's okay. You've described the incident review committee and there being some form of standing invitation for your involvement. I'm interested in that. What is the purpose of your potential involvement there and what's the extent of it?

Ms CROMPTON - That's a really good question. I think the invitation came last year and I clarified exactly that. To be fair, there is, I think, a real shift within the centre towards

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greater transparency and I think the invitation to attend the review committee is a demonstration of that. I've only -

Ms WEBB - The invitation is to attend the meetings and observe?

Ms CROMPTON - As an observer, not as a member of the review committee itself. That would be beyond my statutory function -

Ms WEBB - But you'd be privy to the things that the committee was looking at and then the decisions they would be making?

Ms CROMPTON - I've seen some of those, yes. The other purpose of our office having involvement is to enable a voice for young people where they've asked for advocacy. That's a more active role where the advocate will generally explain the perspective of the young person, especially where there's been a complaint or a concern raised by a young person about what happened.

Ms WEBB - In a more systemic way, not that individual advocacy way, are you provided with data about the incident review committee in terms of how many incidences they are reviewing on a monthly basis and what the results and outcomes of those are? Is there any quality auditing of that process? Monitoring and auditing, is that something you do?

Ms CROMPTON - The functions are kind of split between us and the custodial inspector. We would receive at least some of the minutes arising from the review committee meetings, but data-wise -

Ms WEBB - Sorry, can I just come back to that for a second, we'll come to data. You would receive some of the minutes, but on what basis then is 'some' determined? Is that when you've been involved in the meeting as an advocate for an individual or is that on a randomised basis so that you're monitoring it? What's the function of your receiving of minutes?

Ms CROMPTON - That's a really good question. I think it would be in the monitoring context as a primary purpose, but the incidents from a data perspective, we receive a monthly report from the Department for Education, Children and Young People, which speaks about use of isolation, use of force, or incidents.

Ms WEBB - That's data - the outcomes of that committee's work, essentially the work it's doing and its outcomes. Can I just check, though, in terms of -

Ms CROMPTON - It's probably not as neat - well, no. Any incidents would have gone to the incident review committee for review.

Ms WEBB - In terms of receiving minutes, on what basis is it decided which minutes go to you?

Ms CROMPTON - I think the intention is for them all to come to us, because the advocate is on site, sometimes that might be reported to her as opposed to me.

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Ms WEBB - Reported as in the minutes would be provided to her as the entry point into your system?

Ms CROMPTON - Yes.

Ms WEBB - Then your monitoring function covers reviewing those or having an awareness of those?

Ms CROMPTON - We have a general awareness of those. I don't have a programmatic approach to monitoring those at the moment, but I believe the Custodial Inspector is doing that.

Ms WEBB - To pick up on another topic you mentioned in earlier questioning, the fact that sometimes children will contact your office seeking help to make complaints and your monitoring the subject of those complaints that they're seeking help to make, what proportion of those relate to issues to do with abuse of some sort, physical or sexual or other, in the centre?

Ms CROMPTON - I can't give you current data. I can probably give you a breakdown of that for last financial year, but I don't have it to hand.

Ms WEBB - Thank you. This would probably be an anecdotal reflection that I'm asking of you: I'm interested in whether there is a consistent level of complaints made about various matters of abuse? Are you seeing an escalating level or a de-escalating level, say across the last two years since we've been in this period of post-commission of inquiry while we're making the intended positive changes?

Ms CROMPTON - Since we've had the advocate for children and young people on the ground at Ashley, the requests for assistance to make complaints has significantly increased. It ebbs and flows, and this can only be an anecdotal observation, but certainly where there are higher numbers of young people within the centre and potentially lower numbers of staff, then often there will be an increase in requests for advocacy. That doesn't necessarily mean complaints specifically. This is everything from 'can you please help me to change units? I'd prefer to be in a different unit -

Ms WEBB - I'm focusing here on trying to gauge complaints relating to abuse, physical, or sexual or otherwise, and whether across the time you've had an advocate on site, which is a pretty decent period of time now I believe -

Ms CROMPTON - Three years now.

Ms WEBB - For example, when the data is available for this financial year are you expecting to see that there has been a greater incidence of complaints than the year before?

CHAIR - On those matters -

Ms CROMPTON - Anecdotally, I would expect that it would remain relatively consistent from the previous financial year to this financial year. But it's such an unusual -

CHAIR - I'm sorry, you can't actually leave -

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Ms WEBB - You have to stay for the quorum.

Ms O'CONNOR - Although Ella's on board.

CHAIR - No, she's not, she's dropped out, sorry. Are you okay?

Mr STREET - Yes.

Ms CROMPTON - it's such an unusual environment that I could leave here today and something may have shifted and changed that, I guess is what I'm saying. It depends on a whole range of issues including how many staff are on site.

Ms WEBB - I'm not asking the question because I want justifications for why things might ebb and flow. From my perspective, it's policy decisions and success of implementing those policies that sits behind what you're describing as what might ebb and flow. I'm just interested, are we seeing a consistent or even escalating level of complaints being made about abuse there, because in my mind, my thinking is that's indication that the policy settings and the implementation of those policy settings currently aren't appropriate or effective.

Ms CROMPTON - Anecdotally I would expect it to be around about the same as last year. The first thing I would say is it's a good thing that young people come to us with concerns. That's a positive thing. It's important that they do, so the fact that they're raising matters is, on the one hand, a positive, but on the other, we do continue to hear from young people concerns around use of force.

Ms O'CONNOR - We have heard from a number of submitters about the three-phase implementation of the COI's recommendations and you have spoken briefly about it. If you step back and you look at the three phases from a government's point of view, phase one is the - for want of a better term - it is the low hanging fruit of reform. Although, establishing a commission - this is phase two - have you had any engagement with government on perhaps adjusting some of those time frames? Again, I am just going back to raising the age of criminal responsibility, for example, but some of the substantive reforms that need to be undertaken in order to get the COI effectively implemented are at the back end. They are sort of out about five years from now. Do you talk to government about that? Is it something that you could put forward?

Ms CROMPTON - I speak at different levels. Obviously, in the youth justice space, the Department for Education, Children and Young People and the Department of Premier and Cabinet have each got a foot in this really important reform work. Yes, I have expressed the view that I think the legislative-lever work and all of that sort of systems work should be brought forward. I think it is really important.

I understand why the commission of inquiry suggested the time frame that it did for that sort of end-point legislative reform, but 2029 feels very long way away - and it feels particularly so as we move beyond the time of the commission of inquiry. It is so important that we don't lose sight of why those recommendations were made. I said this in my submission to you, there are reforms that touch on the criminal justice system, or more than touch on the criminal justice system, that arguably take us in a different direction or it is not entirely clear the extent to which

they have taken account of these very welcome, really, they are truly nation-leading now, commitments.

Ms O'CONNOR - Cultural-change drivers.

Ms CROMPTON - Yes. I am strongly in favour of bringing forward that legislative reform work and I believe I am getting a relatively sort of positive ear on that. I think for the rest of the community to be able to see what's happening there is really important. I say that knowing that people in our community are affected by the behaviour of young people who use harmful behaviour. I think it is really important for there to be a community conversation about why those types of reforms, those rights-based reforms, are actually the right way to go.

Ms O'CONNOR - How they can make the difference.

Ms CROMPTON - How they will make a difference and what the evidence base is.

CHAIR - That is an awareness raising thing that needs to happen, isn't it?

Ms CROMPTON - Yes, because, there is a risk that people think that those types of reforms are about not responding and not holding people to account for their behaviour. It is actually the opposite. It is actually about responding earlier, more effectively, on an individualised basis in a non-criminalising way and part of that is around accountability to the extent that some of these young people will have intellectual disability and other developmental disorders that mean that that concept of accountability needs to be thought of in the context of their own experience. This is really about trying to make the community safer for everyone, including, other children and young people. When I come as interim commissioner, I am very cognisant of the need to keep everyone safe in our community and the right of everyone in this community to be safe. But I also know, based on all of the evidence and everything that we've seen, that if we adopt a punitive approach, we will just have to keep using a punitive approach and it ultimately doesn't work.

Ms O'CONNOR - Maybe we'll have another commission of inquiry in 20 years because of all the damage that was done by not effectively reforming at this end.

Ms CROMPTON - It leads to higher numbers of young people in detention and that's precisely what the commission of inquiry was looking to -

Ms WEBB - It's incredibly difficult looking to change that community narrative though, isn't it - at the same time that there are political agendas being driven that are based on a very simplistic tough-on-youth-crime agenda?

Ms CROMPTON - I think going back to what I said at the beginning about the importance of really listening to children and young people, so through that report, which I've now tabled, we heard from nearly 700 children and young people who really do have an interest in their new commission, but also in making real change for their peers and their communities and they really see these difficulties in that truly kind-of comprehensive rights-based framework.

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This is about appropriate accommodation and care for children and young people. It's about assistance when people are doing it tough within families because of cost-of-living pressures. They recognise the structural barriers for many people in their community. Many of those postcards I received even talk about more help for young people who are getting in trouble and we hear from young people themselves within the detention environment and the youth justice system, through our Voices project, the sorts of things that they believe people who get in trouble with the law need.

When they're talking about that, they're not necessarily talking about themselves, they're thinking about their peers and we use a particular mechanism where they can talk about a kind of imaginary young person who might be getting into some pretty serious trouble. The refrain that you hear through the national commissioner's recent report, 'help way earlier' is what we hear constantly from young people across the board. And so it's that kind of message around being really real about prevention and early intervention and then responding when things don't work out.

CHAIR - We might wrap it up with that, but that's a really good note to finish on. Thank you, Isabelle, for appearing before the committee today and we could talk to you for much longer. There may be an opportunity to call you again at a later time as the work progresses. Thank you for your time today.

Ms CROMPTON - Will you follow up with anything?

CHAIR - If there are any questions on notice, we will write to you.

The witness withdrew.

The committee adjourned at 1.03 p.m.