



## WITNESS STATEMENT OF JANISE LEIGH MITCHELL

I, Janise Leigh Mitchell of [REDACTED], Deputy Chief Executive Officer of the Australian Childhood Foundation (**ACF**) and Director of the Centre for Excellence in Therapeutic Care (**CETC**), do solemnly and sincerely declare that:

1. I am authorised to make this statement on behalf of the Australian Childhood Foundation.
2. I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.

### BACKGROUND AND QUALIFICATIONS

3. I have a Bachelor of Social Work from the University of Melbourne and a Master of Social Work (Research), Therapeutic Out of Home Care from Monash University.
4. I have been the Director of the CETC since May 2018 and the Deputy CEO of the ACF since March 2000.
5. Since August 2019, I have also been an Adjunct Associate Professor at Southern Cross University.
6. A copy of my CV is attached to this statement and marked **JLM-1**.
7. In this statement, unless otherwise specified, any reference to:
  - (a) 'the Department' is a reference to the Tasmanian Department of Communities, and
  - (b) 'Ashley' is a reference to the Ashley Youth Detention Centre.

### STRATEGY FOR REFORM OF THE TASMANIAN YOUTH JUSTICE SYSTEM

8. The experience of youth detention in Tasmania in recent decades is not dissimilar to that in other jurisdictions and internationally. Custodial settings in youth justice in many jurisdictions have been the focus of numerous reviews and attempted reforms that have oscillated between a traditional corrections approach and the need to embed research and evidence into more contemporary approaches to youth justice and youth detention.

9. My observation is that over the past 10 or so years, Ashley and the youth justice system in Tasmania has generally lacked a sustained approach to reform. Much of the work undertaken has been started and then stopped as a result.
10. In my view, this is because youth detention sits in a very political environment with a range of countervailing considerations. Politically, the pendulum swings about what the right response is to youth crime and youth justice.
11. In my view, we need to move the conversation to one that is more empathetic and questions what is going on for these kids, what they need, and what our responsibility is to them as a community and as adults to understand and meet their needs. In my view, solving the problem of youth crime is about understanding the drivers for their behaviour. The vast majority of young people engaged in youth justice have histories of significant disruption, disadvantage, abuse and violence. Many have previously been known to or are currently within the remit of statutory child protection services. The needs of young people in detention are complex and require a coordinated and systematic response that addresses the range of needs they have, not only a youth justice response.

#### **THE AUSTRALIAN CHILDHOOD FOUNDATION'S WORK IN RELATION TO REFORM AT THE ASHLEY YOUTH DETENTION CENTRE**

12. Over the past decade, the ACF has had on and off involvement in initiatives to reform Ashley. In summary:
  - (a) In around 2012, an advisory group was established, mainly to review capital works improvements to the Ashley facility. This review was prompted by the death of a young person in 2010. I was appointed to the advisory group as a representative of the ACF. Other members of the advisory group included a representative from adult justice, the Police Commissioner and the Acting Children's Commissioner at the time. I recall that I was the only community, non-government representative in the group. Through my work on the advisory group, I started having discussions with the Department about the need for a practice framework to be implemented at Ashley. I formed the view that, and the ACF formed the view that, it was important to shift the

paradigm at Ashley away from an adult justice-oriented detention approach to more of a needs based, trauma informed approach.

- (b) In 2013, the ACF was asked to develop a proposal for the development of a practice framework for Ashley, building on the notion that Ashley needed to move away from a 'command and control' model of management. This work commenced but was stopped in its early stages, my understanding is it being due to a decision to do a broader review of Ashley.
  - (c) Separately, in around May 2017, the ACF was asked to join a working group to support an internal process to develop an Ashley practice framework. This initiative saw the development of the first version of the 'Ashley Model'. The working group then fell away and we never saw the final iteration of the Ashley Model, which was developed and finalised by the Department itself. ACF had no further involvement in the implementation of the model that was developed.
  - (d) Towards the end of 2019, the Department asked the ACF to review the work done in 2017, on the basis of concerns within the Department that the process undertaken in 2017 had not delivered the most robust and complete model. ACF was asked to either redevelop the Ashley Model or start it again from scratch. To allow a scope of works to be developed for this task, I suggested that the ACF start with a 'rapid discovery phase'. The discovery phase was intended to be the first step in a larger program of work to develop a robust practice framework for Ashley.
13. The rapid discovery phase undertaken from 2019 culminated in the ACF's report titled "*Through the Fence and Into Their Lives: Ashley Youth Detention Centre Trauma Informed Practice Framework*" and dated April 2020 (**Through the Fence Report**). A copy of the Through the Fence Report is attached to this statement and marked **JLM-2**.
14. It was intended that the Through the Fence Report would provide a quick 'lay of the land' setting out what work had already been done; how it was viewed; in what ways did people think it was meeting needs; what else needed to happen — so that we could prepare for the next major piece of work.

15. We proposed that the next piece of work would involve a substantial interrogation of national and international literature and all past reviews and recommendations. We were also intending to do some co-design work with young people and staff and come up with a 'common elements' approach to an Ashley Model that was going to be aligned to previous recommendations of previous inquiries. ACF were not engaged any further beyond this proposal at that stage.
16. More recently in July 2022, the Department reached out to the ACF again and we have been in discussions about the possibility of the ACF being re-engaged to assist with the transition of Ashley into a new operating model. In this context, the Department has informed me that there had been some recent internal efforts to progress the work that the ACF had recommended in both the proposal and the report provided in 2020 and to review/integrate this work and progress further with the recommendations of an options brief developed by the Noetic Group earlier this year. This scope of works is currently under discussion.

#### **THE 'THROUGH THE FENCE' REPORT**

17. In the rapid discovery phase and in preparation of the Through the Fence Report, I:
  - (a) reviewed the documentation about the Ashley Model and the Ashley+ Model;
  - (b) visited Ashley for a series of consultations with staff; and
  - (c) consulted with Departmental staff and police in the North and Hobart to better understand what, if anything, they knew about the Ashley Model, and what they thought about it.
18. I discuss some of the key findings of the Through the Fence Report below.

#### **The Ashley Model and the Ashley+ Model**

19. I was provided with the existing documentation for the Ashley Model and Ashley+ Model together with a learning and development strategy. The Ashley+ Model was developed in 2017/18 as a response to the requirement for a therapeutic operating model at AYDC. It is based upon the Attachment, Regulation, Competence (**ARC**) framework developed in the US. The

Department viewed the ARC framework as representing the closest alignment with the vision for the desired outcomes, saw it as easy to implement, cost effective and having a theoretical basis in complex trauma, attachment and child development.

20. In the rapid discovery phase, we found that the Ashley Model and the Ashley+ Model were not well known or understood amongst Ashley and Departmental staff. Some people had some understanding and some people had none.
21. It was at a time in Ashley when there had been significant turnover in senior management and leadership, so the facility was in a state of flux.
22. Those that didn't know anything about the Ashley Model and the Ashley+ Model were not surprised because they generally felt excluded from processes that affected their work.
23. Those that were aware of the Ashley Model and the Ashley+ Model said that they had no input into it and that had felt frustrating, disempowering and devaluing of the skills and the expertise they had.
24. In my view, the instability of leadership and the fact that the Ashley Model and the Ashley+ Model were developed outside of the Ashley operating environment meant that any implementation efforts had not succeeded.
25. The Ashley Model and the Ashley+ Model also failed to properly articulate how they would be implemented. For example, they included a clinician role to support the staff, but that position was understood and approached differently depending on who was in the role. There was confusion as to what the role was there to achieve and how staff could be supported by it. As a result of the instability of leadership at the time, leadership was unable to garner a consistent approach.

#### **The beneficial impact of therapeutic and intersectional approaches to justice**

26. Many young people in Ashley are dual order clients — that is, they are in both the youth justice and the child protection systems. In many ways, the young people in Ashley are no different to the young people in child protection that are not also in youth justice. Their needs are very similar. The vast majority have experienced significant disadvantage, abuse and violence in their lives resulting in developmental trauma.

27. A lot of the behaviours that these young people run foul of are behaviours that are about trying to survive because they don't have the physical means to survive, or about trying to belong because they aren't well situated within or don't have the influence of more positive relationships. As a result, they gravitate towards groups of other kids with trauma who may be engaging in at risk behaviour because that is a place where they can belong.
28. A trauma lens is a really useful lens for understanding the youth justice space more broadly. That is being progressively recognised internationally. To Tasmania's credit, the Tasmanian system was open to this idea around 10 years ago when many other jurisdictions around the country hadn't quite got there yet.
29. The knowledge base around trauma informed and therapeutic practices is still evolving, and we are learning more and more all the time about how to translate this knowledge into custodial settings for young people.
30. If you work from the principle that a young person's offending or criminal behaviour is a communication of a range of needs they have arising from, for example, the abuse they have suffered or the violation and the vulnerabilities that they have experienced over their life to date, then it assists you to think about different ways to effectively address those needs.
31. The traditional view that staff in youth detention facilities are there as a custodian and their role is simply to control, contain and police, needs to be replaced by a view that sees their role as being to understand and address the young peoples' needs. We need to understand how trauma and significant disadvantage and disruption has impacted them. We need to understand what's driving the behaviours of these young people and we need to understand that their behaviour, even in its most escalated, scary, dangerous and aggressive form, is a form of communication.
32. Young people with multiple and complex needs are never fully understood for all that they bring, all that they can do, and all that they need. We tend to focus more on what they have done. We only ever partially respond to what they need.
33. In my view, we need to take much more of an intersectional approach. By that I mean that we have to understand that young people in youth justice are

young people first and foremost, but in addition to that, they might be Aboriginal, they might have a disability, they might have experienced trauma, they might be victims of abuse and violation.

34. If we adopted this viewpoint and brought all of the key stakeholders (justice, disability, mental health, education and so on) together to support these kids in a way that is coordinated and collaborative, we will get better outcomes than if we try to work separately. These young people have complex needs across every domain of their life and it's going to require a concerted, comprehensive and sustained approach to guide them through the next chapter of their life if we want to change the trajectory from them ending up in adult prison.
35. Any attempt to develop a practice framework for Ashley is going to be limited in its effectiveness if it is not aligned to the practice approach that community youth justice, child protection, mental health services, or disability services, are taking. There needs to be a common language and a common approach to these kids because they are touching these multiple systems. In doing so we are using a shared process of assessment and can make sure that we are looking at the whole child and addressing all of their needs, ensuring that none fall through the cracks.

#### **Leadership, governance and workforce capabilities**

36. The leadership and governance of Ashley has been impacted by a to-ing and fro-ing around the role of Ashley. That is, there has been a lack of consistency in what Ashley is looking to achieve — it has oscillated between wanting to deliver a traditional youth justice response and a more reformist agenda, and it's moved back and forth at different times.
37. My view is that the various governments over the past decade have known that there is a need to improve the facility. However, there has not been a robust and consistent strategy and response. Various recommendations have been implemented in a piecemeal way. While it is good some recommendations have been implemented, we know that practice change implemented in a piecemeal way is less effective.
38. The lack of clear and consistent strategy has also impacted the workforce. If you don't have a clear vision for the sort of model of youth detention you want

to deliver, then it's hard to recruit people with the capabilities to carry and lead that vision forward.

### **Culture at Ashley and the need for organisational congruence**

39. When I prepared the Through the Fence Report, the prevailing culture at Ashley was punitive, marked by a lack of confidence in management, a culture of blame, ineffective risk assessment systems and a lack of support for staff.
40. In my experience, these cultural features are not uncommon in any rostered environment or custodial setting.
41. One of the fundamental things required for a change in practice to be successful is organisational congruence. Everyone up the leadership hierarchy needs to support the change. Unless you have that, leadership is unlikely to be fully engaged and the new processes and procedures will not be effectively brought into practice.
42. In addition to organisational congruence, the desired change needs to be clearly mapped. It needs to be clear what the change management process looks like and what the implementation process looks like. This requires a robust and sustained approach.
43. Depending on which study you look at, research on training and professional development suggests that only somewhere between 2% and 20% of information learned in a training environment is actually translated into workplace practice. For example, in reviewing research into transfer of learning into the workplace, Broad (2000)<sup>1</sup> found that the extent to which learning is transferred into the workplace varies from 5 – 20%.
44. After learning a skill in training, it isn't always easy to just go and apply it on your own. Especially when you are under pressure (and staff in a youth detention facility are always under pressure), it is difficult to change well-practiced and deeply entrenched ways of doing things.
45. Training may give staff different tools to implement a trauma informed practice, but unless leadership creates an authorising environment where it is safe for people to apply their new knowledge and to try different things consistent with

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<sup>1</sup> Broad, M. (2000). Ensuring Transfer of Learning to the Job, in Piskurich, G., Beckschi, P. and Hall, B. (Eds.) The ASTD Handbook of Training: A Comprehensive Guide to Creating and Delivering Training Programs – Instructor-led, Computer-based, or Self-directed, pp430-452. New York: McGraw-Hill.



a trauma informed approach, a theoretical move to a trauma informed practice will not succeed.

46. You need a supervision process that supports staff to apply those skills in practice and you need systems and processes that are going to endorse, support and scaffold that change in practice.
47. For example, if staff receive training that requires them to do 'X' with young people to support them but the policy says they have to do 'Y' a staff member who tries to implement their new skills will be contravening the policy.
48. In the case of implementing a trauma informed practice by responding in an empathetic way or giving a young person options about what to do next, it might be more difficult for a staff member who is equipped with knowledge about trauma informed practice to explain their approach to a more senior staff member who is not equipped with that knowledge, and who has always seen their role as one of only control, security and containment. A trauma informed or relationship-based approach is far more ambiguous than a set of discreet and tangible skills that requires a supportive organisational culture, good staff supervision and opportunities for reflective practice to really engage with it.
49. In the rapid discovery phase, we found that there was a cohort of Ashley staff that were really supportive of a trauma informed approach and who saw it as really useful. There was another cohort of staff that were deeply wedded to the traditional custodial detention paradigm. That created tension in the workforce and a lack of safety for staff both within their teams, and between the teams and their leaders.
50. At the time of the rapid discovery phase, the punitive culture was not just experienced between kids and the staff but between the leadership group and the staff as well.

#### **AFTER THE 'THROUGH THE FENCE' REPORT**

51. As mentioned above, in recent weeks, I have been in discussions with the Department about the possibility of the ACF being re-engaged to assist with the transition of moving Ashley from where it is to where it needs to be.
52. We are presently in discussions about what the scope of the ACF's role might be in implementing the closure of Ashley and then transitioning to a robust

practice and operating model within the new operating environment that the newly commissioned facilities will offer.

### **THE TASMANIAN CONTEXT**


53. In terms of implementing reform to youth detention in the State, there are some unique benefits to the Tasmanian environment, but those benefits also can pose limitations.
54. Firstly, there is a small population of young people in Ashley. This means that there are real opportunities for better engagement with external organisations such as the Tasmanian Aboriginal Corporation and others, for example, around on-Country and other programs.
55. Whilst the physical environment of the Ashley facility has its problems, with a change of culture, it could have been optimised. For example, there could have been a range of vocational and other experiential learning programs offered in and around that site that were never able to be leveraged. When speaking with staff in the rapid discovery phase, some staff would talk about the 'good old days' when they would run agriculture programs or machinery or automotive programs outside the fence as well as inside. It seemed that Ashley used to run programs that promoted a greater connection with the environment, which has been lost over time.
56. If you use a trauma informed lens, those experiential opportunities for kids to connect with staff, develop a more positive sense of identity and engagement with things they can do well, will help them to rewrite the script they have about themselves when they leave Ashley.
57. Tasmania is small enough that most young people that find themselves in Ashley are not a surprise – they are from families known to the system or have already engaged with the child protection system. This means that we should be better able to work upstream to intervene early.
58. The flipside is that small communities and small populations do not have access to the sort of services that larger populations and larger service systems are able to afford and offer, such as access to mental health services.

### **RAISING THE AGE OF CRIMINAL RESPONSIBILITY**

59. In my view, the age of criminal responsibility should be raised.

60. That is because most young people who have experienced trauma and commit crimes have a range of developmental needs and vulnerabilities that often means they are functioning below their chronological age. Most often these young people have been repeatedly let down by the systems of adults around them who have failed in their responsibilities towards them.
61. Instead, we need to respond based on the developmental capacities they're showing us at the time. My view is that the criminal justice system must become more sensitive to the often complex needs of the young people who are presenting before the court, rather than solely based on their age.
62. We need to have better ways of assessing the needs of young people when they do come into contact with the criminal justice system so that we're moving beyond a criminogenic assessment framework towards a more holistic, robust, trauma-informed needs based approach.

I make this solemn declaration under the *Oaths Act 2001* (Tas).

Declared at   
on 17 August 2022



Janise Leigh Mitchell

Before me

