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**TRANSCRIPT OF PROCEEDINGS**

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**COMMISSION OF INQUIRY INTO THE TASMANIAN GOVERNMENT'S  
RESPONSES TO CHILD SEXUAL ABUSE IN INSTITUTIONAL SETTINGS**

**At Kannenner Room, Mövenpick Hotel  
28 Elizabeth Street, Hobart**

**BEFORE:**

**The Honourable M. Neave AO (President and Commissioner)  
Professor L. Bromfield (Commissioner)  
The Honourable R. Benjamin AM (Commissioner)**

**On 7 September 2022 at 10.20am**

**(Day 32)**

1 PRESIDENT NEAVE: I think we've got some appearances to  
2 announce, don't we?

3

4 MS BENNETT: We do. There's a change in representation  
5 for the state and there's a new counsel appearing for  
6 Mr Ryan as well, so I'd ask them to announce their  
7 appearances.

8

9 PRESIDENT NEAVE: Thank you.

10

11 MS MOONEY: Commissioners, if it please, my name is Mooney  
12 and I appear together with my friend, Mr Mackie, for the  
13 State of Tasmania.

14

15 PRESIDENT NEAVE: Thank you, Ms Mooney.

16

17 MR PILL: Commissioners, if it please, my name is Pill and  
18 I appear for Mr Ryan.

19

20 PRESIDENT NEAVE: Before we start, Counsel, I'd like to  
21 remind people about the existence of the restricted  
22 publication order. During previous hearings I explained  
23 that it will be sometimes necessary for the Commission to  
24 make an order which restricts the publication of certain  
25 information.

26

27 The Commission is committed to being open and  
28 transparent, respecting the preferences of victim-survivors  
29 and considering the impact that evidence from these  
30 hearings may have on other investigations, legal  
31 proceedings and the wider community.

32

33 Today this hearing is again focused on a particular  
34 institutional setting, namely Youth Justice and the Ashley  
35 Youth Detention Centre.

36

37 During today's hearing the evidence will explore the  
38 conduct of a range of people. In order to protect the  
39 identity of certain people the Commission's previously made  
40 restricted publication orders in relation to individuals  
41 connected with the Ashley Youth Detention Centre. Some of  
42 them were children who were detained in the Ashley Youth  
43 Detention Centre, while others are people who worked there.

44

45 The Commission made those orders because it is  
46 satisfied that the public interest in the reporting on the  
47 identities of certain people who may be discussed during

1 this hearing is outweighed by relevant legal and privacy  
2 considerations.

3  
4 The orders made previously continue to operate; this  
5 means that anyone, including media and members of the  
6 public who watch or read the information given during these  
7 hearings also must not share any information which may  
8 identify the individuals who are listed in these orders,  
9 including on social media.

10  
11 The information is not limited to their real names and  
12 may include other information which may identify them such  
13 as where they live or work or any engagement with the  
14 Commission.

15  
16 I encourage any journalists who wish to report on this  
17 hearing to discuss the scope of the orders with the  
18 Commission's media liaison officer. Copies of the orders  
19 are placed outside the hearing room and are available to  
20 anyone who needs a copy.

21  
22 Thank you, Ms Bennett.

23  
24 MS BENNETT: Thank you, Commissioners.

25  
26 Commissioners, I appear today with Ms Norton and I  
27 will appear for the balance of this week and next week with  
28 Ms Rhodes.

29  
30 The purpose of the hearings this week is to hear from  
31 witnesses in relation to the Ashley Youth Detention Centre  
32 and Health case studies. As previously foreshadowed, you  
33 will hear from witnesses whose evidence has had to be  
34 rescheduled for various reasons and from witnesses who have  
35 been identified through the further work of the Commission.

36  
37 I'd like to begin by paying my respects to the  
38 traditional and original owners of this land, the Muwinina  
39 people. I pay my respects to those who have passed before  
40 us and acknowledge today's Tasmanian Aboriginal people who  
41 are the custodians of this land.

42  
43 Commissioners, I'll briefly identify at a high level  
44 the issues that we will cover over the coming days. The  
45 Commissioners have previously heard evidence about Ashley  
46 Youth Detention Centre only a couple of weeks ago. I will  
47 not revisit this evidence today. However, the issues

1 raised during that hearing week will continue to be  
2 explored today through the evidence of Mr Patrick Ryan, the  
3 previous Ashley Youth Detention Centre Manager. Mr Ryan  
4 was not able to be present during the Ashley hearings and  
5 so is being called today.  
6

7 In his evidence in the Ashley week, Mr Pervan told the  
8 Commissioners about the recent appointment of the Executive  
9 Director of Youth Justice Reform.  
10

11 We will later today hear from Mr Simcock who is the  
12 Executive Director of Youth Justice Reform and we will  
13 explore with him the work that he and his team are doing to  
14 plan and respond to Youth Justice issues about which the  
15 Commissioners have heard so much, particularly in relation  
16 to the Ashley Youth Detention Centre context.  
17

18 Your Counsel Assisting acknowledge, Commissioners,  
19 that the government made announcements yesterday about the  
20 current reforms about Ashley and we foreshadow now that we  
21 will seek updates about those announcements in due course.  
22

23 It is perhaps useful, Commissioners, to recall the  
24 comments of Ms Ellyard in the course of her closing  
25 reflections in the Ashley Youth Detention Centre week. She  
26 told you, Commissioners, that Ashley has harmed and  
27 continues to risk causing harm to children on a systemic  
28 and ongoing basis. She said further that it is open to the  
29 Commission to find that there is a lack of progress in the  
30 planning for the closing of Ashley, both in terms of  
31 transition planning and building the new facilities.  
32 Without wanting to unfairly diminish the challenge, if  
33 remanded children were taken out of the equation, as we  
34 heard they should, the state is essentially tasked with  
35 safely accommodating what should always be only a handful  
36 of children.  
37

38 Ms Ellyard went on to reflect that, as we speak, the  
39 current state of operations at Ashley sees children locked  
40 in their rooms for up to 23 hours a day, essentially  
41 warehoused, with one hour to do what they wish, usually  
42 call home instead of to do school. They talked to the  
43 Commissioner and her advocate behind locked doors and have  
44 limited access to legal advice.  
45

46 Mr Morrissey stated that isolation, which is no  
47 different to current restrictive practices, is tantamount

1 to torture, yet there appears to be a lack of urgency from  
2 government to change the situation for these children. It  
3 is likely that between now and the closure of Ashley, at a  
4 date yet to be fixed, many people come in and out of the  
5 doors of Ashley.  
6

7 So, Commissioners, it is in the context of those  
8 reflections that we will continue with the evidence in  
9 relation to the operations at Ashley through today.  
10

11 Tomorrow and Friday, Commissioners, we will return to  
12 the Health case study which examined the Launceston General  
13 Hospital and the catastrophic failures of the LGH to  
14 protect children from sexual abuse between 1989 and 2019.  
15

16 The Commissioners will recall that these failures were  
17 illustrated through the cases of Mr Ben Felton, Ms Zoe  
18 Duncan and the conduct of James Griffin, and the impact of  
19 that conduct on many victim-survivors.  
20

21 The themes of culture, responding and investigating to  
22 complaints, complaints systems, record-keeping, visible  
23 leadership, training, among others, will be explored again  
24 with the witnesses to now be called.  
25

26 Tomorrow we resume the evidence of Dr Ayre, the former  
27 Chief Executive Officer of the Launceston General Hospital  
28 whose evidence is primarily relevant to the cases of  
29 Mr Felton and to Mr Griffin. We'll also hear from Dr Peter  
30 Renshaw who is the Executive Director of Medical Services  
31 at the LGH during the entire relevant period and had an  
32 involvement in some degree or other in the three cases  
33 under examination.  
34

35 Commissioners, you may recall that during the Health  
36 week case study issues were raised about the role of the  
37 Human Resources Department and in particular the  
38 disclosures made by Ms Pearn in 2011 that she was sexually  
39 abused by Mr Griffin.  
40

41 Since the hearings the Commission has obtained further  
42 statements and documentation in relation to these issues  
43 and we will explore those issues further with the witnesses  
44 called.  
45

46 Finally, on Friday we will hear again from the  
47 Secretary of the Department of Health, Ms Morgan-Wicks, to

1 explore the themes raised in previous evidence and to learn  
2 more about what the department has done in the interim to  
3 improve the safety of children from a sexual abuse  
4 perspective and what further work needs to be done.

5  
6 Commissioners, we again acknowledge the numerous  
7 victim-survivors who have come forward to the Commission in  
8 relation to all of our case studies and the efforts of  
9 current and former State Service employees who raised  
10 awareness about child sexual abuse occurring in Tasmanian  
11 state institutions or potentially occurring.

12  
13 We are conscious that evidence over the coming days  
14 will, again, be confronting and distressing and we continue  
15 to pursue the evidence to enable you, Commissioners, to  
16 make findings and recommendations that will best protect  
17 children in Tasmanian institutions from the risk and  
18 consequences of sexual abuse now and into the future.

19  
20 Unless there are any questions from the Commissioners,  
21 I propose to call the first witness for today.

22  
23 PRESIDENT NEAVE: Thank you, Ms Bennett.

24  
25 MS BENNETT: The first witness today is Mr Patrick Ryan.

26  
27 <PATRICK RYAN, sworn: [10.30am]

28  
29 PRESIDENT NEAVE: You can take your mask off, yes.

30  
31 COMMISSIONER BENJAMIN: Mr Ryan, you've had some health  
32 difficulties over the last few months we understand; if you  
33 need to take a break for a short period of time, please let  
34 us know.

35 A. Thank you, Commissioner.

36  
37 <EXAMINATION BY MS BENNETT:

38  
39 MS BENNETT: Q. Mr Ryan, you've made two statements to  
40 the Commission; is that right?

41 A. That is correct.

42  
43 Q. There is one that is 283 paragraphs long which I'll  
44 refer to as your first statement.

45 A. Yes.

46  
47 Q. I understand you have a correction to paragraph 209 of

- 1 that statement concerning a list of attendees at a meeting;  
2 is that correct?
- 3 A. Yes, that's correct.  
4
- 5 Q. You've provided a list of what you understand to be  
6 the correct attendees to your counsel who has provided it  
7 to the solicitors who instruct this Commission. Is that  
8 right?
- 9 A. That's correct, yes.  
10
- 11 Q. With the changes to that paragraph 209, are you  
12 satisfied the contents of your statement are true and  
13 correct?
- 14 A. Yes, I am.  
15
- 16 Q. Thank you. You have made a supplementary statement  
17 provided this morning to the Commission; is that right?
- 18 A. That's correct.  
19
- 20 Q. I take it you've read that statement recently?
- 21 A. I have.  
22
- 23 Q. Is that statement true and correct?
- 24 A. Yes, it is.  
25
- 26 Q. Can you tell the Commissioners what formal  
27 qualifications you have?
- 28 A. I have a Graduate Certificate in Police Studies from  
29 the University of Tasmania. What more would you like to  
30 know?  
31
- 32 Q. No, if that's the answer to my question: are there any  
33 other formal qualifications that you hold?
- 34 A. No, that's the formal qualification that I hold.  
35
- 36 Q. What was your role at Ashley Youth Detention Centre?
- 37 A. During my tenure there I was the centre manager.  
38
- 39 Q. When did you start at Ashley Youth Detention Centre?
- 40 A. I started there in January 2017.  
41
- 42 Q. What was your role immediately prior to starting at  
43 Ashley Youth Detention Centre?
- 44 A. I was a police officer. I was in charge of the - was  
45 then called the Victim Safety Response Team, now referred  
46 to as the Family Violence Unit. I was in charge of the  
47 Western Police District which was effectively broken down

1 into telephone code areas: 0364.

2

3 Q. So, you were a police officer for what period of time?

4 A. I joined in 1988, in August, and I took leave without  
5 pay to come to the Ashley job in January 2017 and then  
6 separated from police in - officially in April 2019 after  
7 two years leave without pay.

8

9 Q. So, you remained a sworn officer between 2017 and  
10 2019; is that right?

11 A. Correct.

12

13 Q. Did that bring with it any obligations or additional -  
14 well, any additional obligations by reason of continuing to  
15 be a sworn police officer?

16 A. No, no, the Commissioner, when he did the leave  
17 without pay, invoked a section of the Police Service Act  
18 which removed any powers that I had as a police officer, so  
19 I was not a police officer in any way, shape or form,  
20 effectively.

21

22 Q. So, what drew you to applying to work? I'm going to  
23 refer to Ashley Youth Detention Centre by the shorthand of  
24 "Ashley"; is that convenient?

25 A. Yes.

26

27 Q. What drew you to applying for that job?

28 A. I was a Senior Sergeant and I was attempting to get  
29 promoted to Inspector, there was a process we were going  
30 through with the promotion board, et cetera, and the  
31 feedback I received was to look at more strategic jobs.  
32 Now, I took that further than just within the Police  
33 Service and looked at positions within the State Service  
34 and this particular position happened to be advertised, so  
35 I applied.

36

37 Q. Did somebody approach you to apply?

38 A. No, no-one.

39

40 Q. What was the interview process like? Who interviewed  
41 you?

42 A. So, first of all, of course, having to get to the  
43 interview process, just the usual selection to get to that  
44 far, and I was invited to come to Hobart for an interview  
45 and there was the then Children's Commissioner, then  
46 Director of Prisons, my then Director, and then there was  
47 also an Operations Coordinator from Ashley on the panel.



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Q. You tell us in your statement at paragraphs 13 to 16 that as a police officer you had worked in Early Intervention, in the Action Unit, and that you had acted as a Children's Prosecutor --

A. Correct.

Q. In the Victims' Safety Response Unit Team; is that right?

A. No, I was a Child Prosecutor, if you like, it was first known as Children's Court and then Youth Justice Court, so I did some duties as a - I actually introduced a dedicated prosecutor to the Children's Court/Youth Justice Court role; that wasn't part of my Victim Safety Response Team job.

Q. So, at the time that you accepted the role at Ashley, was that in late 2016 that you accepted the role to commence in early 2017?

A. Yes.

Q. There was a newspaper article at the time that I'd ask to be provided to you. Have you had a chance to have a look at that newspaper article?

A. Yes, I have.

Q. Were you aware of it at the time?

A. When it came out?

Q. Yes.

A. Yes, I saw it when it came out.

Q. It said:

*A senior cop is to be appointed as the next boss of Tasmania's troubled Ashley Youth Detention Centre in a move some hope will see a shift towards tighter discipline.*

It goes on to say:

*Some within the Juvenile Justice System see the appointment as a welcome move away from the broad application of a therapeutic approach introduced to Ashley earlier this year. Insiders believe the approach, which aims to work collaboratively with*

1           *young offenders to address their emotional*  
2           *and social problems has not worked well on*  
3           *the hard core of recidivists now housed at*  
4           *the centre in Northern Tasmania. Mr Ryan,*  
5           *who declined to comment, replaces the*  
6           *current Manager who came from a Child*  
7           *Protection background.*

8  
9           Mr Ryan, it's true that you came from a police  
10          background. Did anyone suggest to you that your  
11          recruitment was connected with a hope that there would be a  
12          shift towards tighter discipline at Ashley?

13         A. No, not at all.

14  
15         Q. No-one ever mentioned to you concerns over discipline  
16         or command and control at Ashley?

17         A. No.

18  
19         Q. And so, did anyone talk to you at the time of your  
20         recruitment about the use of a therapeutic approach at  
21         Ashley?

22         A. Yes, that was very much a theme within the position  
23         description and also during the interview process.

24  
25         Q. And so, what training had you received in what a  
26         therapeutic approach was at that stage?

27         A. I had just my experiences I've outlined in my  
28         statement, my original statement.

29  
30         Q. Did you know what a therapeutic approach to child  
31         detention involved?

32         A. Well, I'd done some research in relation to it  
33         because, as I said, the theme of the position was moving to  
34         a therapeutic approach and there was certainly some  
35         literature out there in relation to it. I recall a media  
36         release from Minister Petrusma's office I think it was then  
37         in relation to moving to this model and some discussions  
38         certainly that the then Children's Commissioner had also,  
39         so I was aware of the focus that it was attempting to go  
40         to.

41  
42         Q. So you did your own research about what a therapeutic  
43         approach might involve; did anyone at Ashley or the State  
44         more broadly offer you training in what best practice looks  
45         like?

46         A. Before I applied or when I applied?

47

- 1 Q. At the time you got the job?  
2 A. No.  
3  
4 Q. Before you started?  
5 A. No.  
6  
7 Q. What about after you started?  
8 A. After I started there was - there would have  
9 certainly - I wouldn't say training; I was working closely  
10 with the Change Manager who was, I suppose, looking and  
11 mapping of what a therapeutic model would look like, so I  
12 was certainly heavily invested in that as to what we could  
13 do and I was also invested in bringing programs and  
14 opportunities to the centre, to Ashley.  
15  
16 Q. So, you said earlier that you applied for the job at  
17 Ashley in response to some feedback that you'd had as a  
18 police officer in performance reviews; is that right?  
19 A. No, it wasn't performance reviews and it wasn't just  
20 because of that, it was a promotion process that I went  
21 through and it had feedback, as they all do; the underlying  
22 theme was, look, I can do the job as a police officer,  
23 there's Inspector levels and a management position and  
24 there's other things to consider at a more strategic level,  
25 so have a look at that and what positions - predominantly  
26 those sort of positions were in Hobart, I didn't  
27 particularly want to move from Hobart, even though I'm from  
28 here. So, I thought, okay, well, I'll look at the State  
29 Service also; I was just considering options basically.  
30  
31 Q. And so, was it an attempt to gain management  
32 experience to assist your career more broadly?  
33 A. Well, yes and no. As it turned out, I transferred  
34 from the State Service to the Police Service, so  
35 undoubtedly the experience that I got as the Manager of the  
36 centre at Ashley could be related back to police and  
37 vice versa, so if I'd stayed with the police I would have  
38 had it on my resumé to be able to use in support of a  
39 promotion application.  
40  
41 Q. So in what sense did you see your experience as a  
42 police officer to being relevant to operating a youth  
43 detention facility?  
44 A. I had some leadership and management skills through  
45 the Graduate Certificate in Police Studies.  
46  
47 Q. Was any of that connected with children directly?

1 A. I'd say so, yes. I was 30 years, or not quite  
2 30 years as a police officer dealing of course in the  
3 Victim Safety Response Team and also Early Intervention  
4 and, you know, my job as a prosecutor as well certainly  
5 related.  
6

7 Q. When you say "related", I just want to understand that  
8 relationship, because one's in a criminal justice context  
9 where - well, can you tell the Commissioners what  
10 difference you see between the two roles as a police  
11 officer and as managing a youth detention facility?

12 A. Well, as a police officer, and certainly as a  
13 prosecutor doing contest mention courts considering  
14 therapeutic jurisprudence, you know, appearing before  
15 Magistrates and considering other options as opposed to  
16 simply having a charge dealt with by way of conviction, or  
17 drug treatment orders and things of that nature, it was  
18 part of my role within the Early Intervention Unit there  
19 were opportunities to attend inter-agency support team  
20 meetings, which I did, and they were from a range of  
21 government offices which dealt with a collaborative  
22 approach of diverting youth from the court system.  
23

24 Also as my time as a prosecutor with the Youth Justice  
25 Courts it was looking at options there, and again as the  
26 Early Intervention Sergeant with dealing with cautions and  
27 conferences and that was, again, the 0364 area looking  
28 after every Youth Justice file that came through to  
29 consider what was being suggested by the attending police  
30 and then managing it appropriately.  
31

32 Q. When you were told you had the job at Ashley did you  
33 receive a briefing about any issues that there were at  
34 Ashley?

35 A. When I started there I had an opportunity to meet a  
36 number of people and I was given some information from the  
37 Directorate around an incident that had occurred at Ashley  
38 just prior to me starting, it related also to a corrective  
39 action plan and then there was just essentially a folder of  
40 knowledge, if you like, around, this is the Department of  
41 Health and Human Services as it was then.  
42

43 Q. So, what was the incident, being careful of  
44 confidentiality, what was the incident about which you were  
45 informed when you took over?

46 A. There had been a major incident at the centre before I  
47 started, and I don't recall the exact date - 2016 it would

1 have been - there was a referral to WorkSafe Tasmania as a  
2 result of it and the corrective action plan came from that,  
3 so they explained that to me.

4  
5 Q. Did you understand that Ashley was a complex  
6 environment?

7 A. Yes.

8  
9 Q. Did you understand that it had a history of being a  
10 troubled environment?

11 A. Yes.

12  
13 Q. What was the nature of the troubled environment that  
14 you understood you were entering?

15 A. Look, certainly that particular - again, as I was  
16 researching for the position, the fact that there'd been an  
17 incident there was in the press and I read some of those  
18 articles. There was some media releases from Government as  
19 well which I'd read. I had from time to time as a police  
20 officer dealt with - looking after young people that needed  
21 to go to Ashley, but that's essentially - I essentially  
22 gathered the information from when I was researching for  
23 the position.

24  
25 Q. So again, you carried out a substantial degree of your  
26 own research about the issues at Ashley; is that fair?

27 A. No, I - a degree, I wouldn't say substantial, no.

28  
29 Q. And you otherwise received a briefing from the  
30 outgoing - did you receive a briefing from the outgoing  
31 manager?

32 A. So, the outgoing Manager spent about, I think it was  
33 just about under a week there just doing the handover.

34  
35 Q. So, in that sense you were told about the serious  
36 incident that had taken place sometime earlier?

37 A. Yes, correct.

38  
39 Q. Were you told of any cultural issues among staff?

40 A. No, but the previous Manager and I did talk about  
41 staffing and how the centre was broken down - broken down  
42 into areas, not broken down, broken down. But no, we  
43 didn't - she didn't talk to me in relation to culture. I  
44 could sense that not everyone was happy and, you know, as I  
45 said, it was less than a week that we had this handover.  
46 We did talk about the staffing levels and certainly the  
47 corrective action plan which was a lot of work that had to

1 start.

2

3 Q. What gave you the sense that not everyone was happy?

4 A. Not during that week.

5

6 Q. I see.

7 A. Certainly people when they were talking with me and

8 saying, "Look, it's good to have you on board, wondering

9 what sort of things might be able to change, looking

10 forward to working with you", those sort of things.

11

12 Q. And so, did you understand that it was a functional  
13 and well operating detention centre at the time you started  
14 there?

15 A. No.

16

17 Q. What did you understand to be the issues that meant it  
18 wasn't a functional and well operating youth detention  
19 centre?

20 A. Well, I had to be there and figure that out, I  
21 suppose, you know, through working there and speaking with  
22 people and getting a feel for how the place was, and what I  
23 may or may not have needed to do in my capacity as the  
24 centre manager.

25

26 Q. Is it fair to say you - and I don't want to put words  
27 in your mouth, I want to understand if this is accurate:  
28 that there was an amorphous sense that something was amiss  
29 but no-one told you precisely what it was?

30 A. No, I don't think so, no.

31

32 Q. Are you able to assist us in understanding what the  
33 problems were at the time you started, that you were told  
34 about?

35 A. Certainly, the corrective action plan, things to look  
36 at there; so there were a lot of things that fell from  
37 that. A lot of those --

38

39 PRESIDENT NEAVE: Q. Can I just clarify: that was the  
40 plan to deal with worker's health and safety issues, wasn't  
41 it, arising out of the previously event that occurred  
42 before you went there? Have I got that right?

43 A. It certainly had a strong WorkSafe focus, but it did  
44 talk - it was over an A4 page of considerations that we had  
45 to respond to and answer. The great majority were focused  
46 directly at the centre, at Ashley, but then there were  
47 other departmental ones as well. I just can't recall each

1 one, but there were a host of them, not just relating to  
2 staff, but the environment, the actual - the buildings, if  
3 you like, some information or some considerations around  
4 staff and residents as well, so it was pretty complex.

5  
6 COMMISSIONER BROMFIELD: Q. Mr Ryan, could you  
7 characterise that corrective action plan as predominantly  
8 being focused on staff safety and physical infrastructure  
9 rather than quality of care?

10 A. Yes, that would be fair.

11  
12 MS BENNETT: Q. Were you aware of any problems for  
13 quality of care of children at Ashley Youth Detention  
14 Centre?

15 A. Just that we were moving to a therapeutic model of  
16 care, which wasn't the case at the time, it didn't have  
17 that platform, if you like.

18  
19 Q. So, at the time you arrived there you understood what  
20 I'd call a command and control model was in place; is that  
21 fair?

22 A. No, I don't think.

23  
24 Q. So it wasn't a therapeutic model; is that fair?

25 A. There were elements of work being done therapeutically  
26 but it hadn't been captured by a process, if you like, or a  
27 procedure and that's what we were working towards.

28  
29 Q. Is it fair to say it was ad hoc? To the extent that  
30 there was a therapeutic approach, it was ad hoc?

31 A. No, I wouldn't agree with that; it just didn't have  
32 that overarching policy or procedure with it. There was  
33 therapeutic work happening, of course, for example case  
34 management, working with young people in relation to their  
35 physical and mental health, activities including and beyond  
36 school.

37  
38 Q. Who was leading the transition to a therapeutic model?

39 A. The Change Manager.

40  
41 Q. Who was that?

42 A. That was [REDACTED].

43  
44 Q. And what was their role within the Youth Detention  
45 facility?

46 A. Change management reporting directly to the Director,  
47 the same Director that I was reporting to.

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Q. And they were involved in all of the aspects of care at Ashley?

A. No.

Q. Did they have any control over any aspect of care at Ashley: control?

A. Certainly - oh, certainly input was - [REDACTED] was part of a centre management group that I set up when I first started there, as I said, reporting to the Director, so there is an element of control available, I'd suggest.

PRESIDENT NEAVE: Q. Can I understand a little bit more what the Change Manager was actually doing?

A. So, it was originally a 12-month contract - the two jobs were advertised at the same time actually, and we started probably within a day of each other, and that was to implement a therapeutic approach at Ashley. Twelve months was nowhere near enough time and [REDACTED] stayed for another six months and then the position basically stopped.

MS BENNETT: Q. Was 18 months enough? Sorry, Commissioner.

PRESIDENT NEAVE: Q. So he had a 12-month appointment and it was extended so he had 18 months?

A. Correct.

MS BENNETT: Q. And he was primarily involved in providing input to those who were operationally running Ashley; is that right?

A. No.

Q. No? Did he have any control or direction powers at Ashley?

A. Well, yes, in a way. Look, it was an autonomous position reporting to the Director, so there were things - you know, I wasn't privy to the briefings that [REDACTED] gave to the Director, but we had discussions of course because we were both trying to work to a therapeutic model. So, essentially it was the ability to have a level of control over, all right, let's roll this out, let's roll that out, for example.

Q. What's the therapeutic model you were working to?

A. There wasn't a therapeutic model rolled out while I



1 was there.

2

3 Q. Would it be fair to say you were seeking to  
4 incorporate elements of therapeutic practice but there was  
5 no single therapeutic model rolled out at Ashley in your  
6 time?

7 A. Not quite. We were working towards introducing a  
8 therapeutic model to Ashley, but one was never introduced  
9 during my time there.

10

11 Q. You say in your statement that --

12

13 COMMISSIONER BROMFIELD: Sorry, Ms Bennett.

14

15 MS BENNETT: Thank you, Commissioner.

16

17 COMMISSIONER BROMFIELD: Q. So, you had 18 months with  
18 the Change Manager. In that 18-month period, what kind of  
19 percentage progress do you think you made towards  
20 developing and implementing a therapeutic approach?

21 A. I think we made some good inroads. You know, I  
22 reflected on some work that I did when I was at Ashley, be  
23 it introducing something as simple as Delta dogs to the  
24 centre. We talked about - because pets are important I  
25 think, certainly some of the young people did too; talked  
26 about, could we adopt a greyhound or two? Just branching  
27 out with some services to see if they'd come on board with  
28 a strategic partnership. It was used and Family Focus was  
29 there. Spoke with Colony 47 and other similar businesses  
30 in relation to working with us strategically.

31

32 I'd looked at opening up another courtyard near the  
33 admissions area and putting in a barbecue and we mocked up  
34 some plans that would give us a level of approval from  
35 council, but it was not long after that the government  
36 announced the \$7.28 million improvement, so that was -  
37 didn't go any further.

38

39 Working with, I think one of - might have been Skills  
40 Tasmania in relation to, can we bring some further  
41 opportunities, you know, thinking outside the square, for  
42 young people. Working really hard on the corrective action  
43 plan which increased the safety and security of staff and  
44 young people. You know, we were - we took out the Work  
45 Safety Award for the whole of DHHS and I'm really proud of  
46 the work we did in relation to the IPAA, Industry of  
47 Professional, something-something - sorry, it just eludes

1 me - you know, the wonderful award that we got for service  
2 delivery on that and the citation's really good to read.  
3 So, we were working really hard to get a therapeutic  
4 environment but it was led by the Change Manager for that  
5 18 months, reporting directly to the Director, and then  
6 following that there were other people that were working on  
7 what a model might look like. I think [REDACTED] was  
8 Ashley+ approach and [REDACTED] from within the department  
9 took carriage and was in the Ashley Model of Care.

10  
11 Q. Sorry, I'm just going to come back again to - I want  
12 to acknowledge I've heard what you've said about the  
13 therapeutic elements, but when you first started talking  
14 about this you distinguished therapeutic elements from a  
15 formalised model?

16 A. Correct.

17  
18 Q. Was the role of [REDACTED] to support the development  
19 of a model?

20 A. Yes.

21  
22 Q. So it was actually a formal protocol, like an SOP of  
23 what therapeutic care means?

24 A. Correct.

25  
26 Q. What percentage of completion do you think you got  
27 towards in developing a written down formalised model in  
28 the 18 months of having a Change Manager at Ashley?

29 A. I can't accurately say because I wasn't given the  
30 documents.

31  
32 Q. So, at the end of 18 months you actually weren't given  
33 anything? You had the therapeutic elements, but you had  
34 nothing to work with?

35 A. We certainly had updates from [REDACTED] in relation  
36 to the Ashley+ approach and I was at some but not all  
37 meetings in relation to it, but I think [REDACTED] --

38  
39 Q. I'm not criticising you here I'm trying to understand.  
40 So, at the end of the 18 months was there a document that  
41 was handed over saying this is the Ashley+ Model?

42 A. No, not to me, not a completed version - or a version  
43 from where [REDACTED] landed, but certainly there were  
44 regular updates to the centre and we had regular - to  
45 Ashley, the people at Ashley and there were regular  
46 meetings, but --

1 PRESIDENT NEAVE: Q. So, were those updates provided to  
2 you by the Director or by the Change Manager? How did  
3 you - obviously you had some of your own ideas?

4 A. Yeah.

5  
6 Q. But you said that Ashley+ for instance or the Ashley  
7 Model of Care, you got regular updates about that. How did  
8 you get them and who was responsible for them?

9 A. So, I would work pretty closely with [REDACTED], our  
10 offices were just next door to each other and ask how  
11 things were going and you know, we were part of the centre  
12 management group so we had that forum, but more often than  
13 not information that would come to me: he might say, "Look  
14 I'm going to update the centre in relation to where we're  
15 at with X or Y" and then I'd get the email at the same time  
16 as everyone else, I'd have discussions with my directors as  
17 well when [REDACTED] was working at Ashley. But, yeah,  
18 ultimately, [REDACTED] was working autonomously and  
19 reporting on this to the Director.

20  
21 Q. So, do you know why you and he were not involved  
22 together in that process, in those updates - or sorry, in  
23 the meetings with the Director? So, from what you say the  
24 Director was working in the department working with you and  
25 was working with him separately; have I got that right?

26 A. Yes, you do, that's just how the statement of duties  
27 was, that both our positions, although we worked together,  
28 reported to the Director and there were always going to be  
29 times where I might report something to the Director  
30 separately to [REDACTED] and vice versa.

31  
32 COMMISSIONER BROMFIELD: Q. Mr Ryan - sorry, Ms Bennett,  
33 I'm following this path.

34  
35 MS BENNETT: No, not at all.

36  
37 COMMISSIONER BROMFIELD: Q. I'm making an assumption,  
38 and you can correct me if I'm wrong here, that at the end  
39 of the tenure of the Change Manager, as the Centre Manager  
40 you were then responsible for, if not doing yourself, but  
41 at least overseeing the completion of the development and  
42 implementation of a therapeutic approach at Ashley and it's  
43 why I'm trying to get an understanding of what you had at  
44 the end of that to work with.

45 A. I understand what you're trying to say but it's a  
46 difficult question to answer because I wasn't in charge of  
47 the Change Management process.

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Q. Yes.

A. That was [REDACTED] as the Change Manager, and then I wasn't - when [REDACTED] finished I wasn't then given that job to take over and complete because --

Q. Were you given anything, like a document --

MS BENNETT: I'm sorry to interrupt, Commissioner, I just want to ask the witness if he could use titles rather than names because it disrupts the flow sometimes. If you could just use the title of the person you're referring to rather than their name?

A. Yep, no problem.

MS BENNETT: I apologise, Commissioner.

COMMISSIONER BROMFIELD: Q. Did your Director give you a document that the Change Manager - and I'll do it as well, Ms Bennett - had partially completed?

A. No, but I do recall the then Director, he mentioned to me that the Change Manager was finishing up and that he had asked for the Change Manager to present all of the material at that time to him, which he did on a USB, so it was quite voluminous, and then that's something that the Director considered. Look, I don't recall the exact discussions that I had in relation to it, there were certainly discussions, which then led to another member from within the department in the, I think it was Quality Improvement Workplace Development, if I'm not using names, the QIWD team, a Manager there who basically took carriage over from - picked up where [REDACTED] left off.

PRESIDENT NEAVE: Q. And that voluminous document on USB, you got a copy of that?

A. No, no, I didn't see that.

COMMISSIONER BROMFIELD: Q. And so, in your tenure as the Centre Manager, did you ever receive a - the formalised procedure of what was a therapeutic model at Ashley?

A. I received - there was plenty of correspondence that would come backwards and forwards, and you saw drafts of things, but no finished product ever.

COMMISSIONER BROMFIELD: Okay, thank you.

MS BENNETT: Q. Let's put the chain of command in

1 context. So, who did you report to?

2 A. Director, it was various titles at the time, Youth  
3 Justice or Children and Youth Justice, but a Director.

4  
5 Q. And where did the Director report?

6 A. To a Deputy Secretary.

7  
8 Q. And who reported to you in your position, just broadly  
9 speaking?

10 A. Yeah, the other managers that were there, like  
11 Professional Services Manager, Operations Manager, there  
12 was a Business Manager that became Assistant Manager, Fire  
13 Safety Security Manager, I think that's about it. It is in  
14 my statement, though.

15  
16 Q. Yes. You give some evidence at paragraph 75 of your  
17 statement that your Director for part of the period, Pam  
18 Honan, was undermining your position?

19 A. That's correct.

20  
21 Q. Ms Honan has given evidence, and she says:

22  
23 *I would say Mr Ryan did not like to be*  
24 *challenged.*

25  
26 What do you say to that characterisation of your  
27 approach?

28 A. Ms Honan did more than just challenge me, and I would  
29 refer you to my statement, my original statement. I  
30 understand that in that position and other positions that  
31 you are going to be challenged by staff, or by young  
32 people, or by anyone, so I accept that.

33  
34 PRESIDENT NEAVE: Q. How did you relate - you had  
35 regular meetings with Ms Honan, or how did you relate to  
36 her?

37 A. I was only working with Ms Honan for a short period of  
38 time.

39  
40 Q. Or her predecessors, I presume, somebody who --

41 A. Was there a model of supervision, for example, do you  
42 mean?

43  
44 Q. Yes.

45 A. Yes, there was. Certain Directors would be on site  
46 more often than others, so you'd see them pretty regularly.  
47 There was a performance development agreement process that

1 I had, as every member of the Department of Communities  
2 had, so I took part in that. There were monthly meetings  
3 with the Directorate, so myself and the other managers, the  
4 Youth Justice Managers as they were and a Family Violence  
5 Counselling and Support Services Manager was within the  
6 Directorate, and they pretty much doubled up as a  
7 supervision, checking in seeing how things are because I'd  
8 submit a monthly report. And then the Director before  
9 Ms Honan spoke to me in relation to providing some more  
10 regular updates as opposed to just a monthly one, and I've  
11 given an example in my statement of a monthly meeting, if  
12 you like, of my input.

13

14 And I formulated just a really quick snapshot of each  
15 week which started with the Director immediately before  
16 Ms Honan and then continued into my work with Ms Honan.

17

18 PRESIDENT NEAVE: Thank you.

19

20 MS BENNETT: Q. Are you able to give the Commissioners a  
21 range of the ages that were generally present at Ashley  
22 while you were the Manager; of the children, that is?

23 A. Look, there probably wasn't an actual average as such;  
24 I mean, the youngest person was 11 and the oldest was 19.

25

26 Q. Was there a split between those who were there on  
27 remand and those who were there under sentence?

28 A. Sometimes, yes.

29

30 Q. So, when there was a split, what was the nature of  
31 that split?

32 A. Once a new admission, the young person was kept in  
33 predominantly the admissions unit, which was Liffey. If  
34 that couldn't be accommodated, then we'd do our best to use  
35 an alternative unit, for example Bronte, which had a north  
36 and a west. So, that's an occasion where a remanded person  
37 was separated from a sentenced person but that was only  
38 for, I think, five working days or thereabouts, and then  
39 essentially it was one centre for everyone and I've made  
40 reference to that in my statement.

41

42 PRESIDENT NEAVE: Q. So, apart from during the  
43 admissions process they were generally remanded and  
44 sentenced?

45 A. All together.

46

47 Q. Were all together?

1 A. Yes, correct.

2

3 MS BENNETT: Q. So, generally those two populations were  
4 managed together but there was a difference at intake; is  
5 that right?

6 A. Correct.

7

8 Q. Moving then to the youth workers, were you involved in  
9 the recruitment of youth workers?

10 A. I may have put myself on the list as a prospective  
11 Chair or panelist, I just don't now recall, but I certainly  
12 wasn't ultimately on any panels in relation to recruitment  
13 of youth workers.

14

15 Q. Are you able to tell the Commission whether there were  
16 any minimum levels of qualification required for those who  
17 were applying for those roles?

18 A. I don't - from memory, I don't believe it had an  
19 essential requirement in relation to education, but you  
20 know, there was a statement of duties of course; I just  
21 don't recall the full details of that statement of duties.

22

23 Q. Who was responsible for the induction of those  
24 workers?

25 A. There was a youth worker induction course which was  
26 formulated and that was discussed at the Centre Management  
27 Group and also for a period of time we had a Learning and  
28 Development Manager which assumed control of learning and  
29 development, and when I first arrived there was a vacant  
30 training coordinator position that hadn't been there for  
31 some time and some staff spoke to me about the need for  
32 training and I said, "Look, I've just got here but I'll  
33 certainly do my best because training I think is  
34 important".

35

36 Q. What did they say to you about the need for training?

37 A. That the position had been vacant for some time and  
38 that training had lapsed.

39

40 Q. You mean that there was an in-house training person at  
41 Ashley?

42 A. Correct.

43

44 Q. And that that position had lapsed and that there was  
45 therefore a gap in the training being provided to the  
46 workers at Ashley?

47 A. Yes, that's correct, it was a 0.6, three-day a week

1 job from memory.

2

3 Q. How long was that gap for?

4 A. Many months, I was told.

5

6 Q. Does that mean that there was no training for those  
7 youth workers in those many months?

8 A. Yes.

9

10 Q. And what steps were taken to plug that gap?

11 A. I spoke with - there was sort of an ad hoc person who  
12 was dealing with - I guess the Professional Services Team  
13 were essentially trying to work with the Operations  
14 Supervisor to provide some level of training but none had  
15 been delivered, and essentially the Operations Supervisor  
16 became a de facto trainer as well and organised training,  
17 and it wasn't long - I don't have the exact date, but there  
18 was - it was certainly highlighted to my Director, who  
19 agreed, and recruited a Learning and Development Manager.  
20 So, that Learning and Development Manager took over the  
21 training requirements for the centre, for Ashley, and  
22 reported directly to the Director.

23

24 Q. We've heard some evidence that inductions were  
25 occasionally disrupted for youth workers; were you aware of  
26 that evidence?

27 A. No.

28

29 Q. Were you aware of the induction of any youth workers  
30 being disrupted?

31 A. There were a couple of youth worker courses that  
32 happened when I was there, some only had a handful of  
33 people and others had more but, no, I don't recall any.

34

35 Q. So, as far as you're aware everyone who was inducted  
36 in the period that you were Manager at Ashley went through  
37 the full induction period?

38 A. I recall there was, in the last recruitment before I  
39 left, and I - perhaps 2019 - that a person who was - who  
40 had indicated, "Yes, I would like to be a youth worker and  
41 I'll attend training", hadn't. But I wasn't told of any  
42 people that hadn't completed the Youth Worker Induction  
43 Course. There was a good mapped out course and it  
44 included, you know, theory and practical work and it did  
45 develop over time too so that, certainly the last course  
46 when I was there the prospective youth workers were  
47 introduced to on site more quickly.



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Q. How long was the induction program?

A. Look, I don't recall specifically; it was a number of weeks though, a number of - five to six rings a bell.

Q. Speaking generally, and I'm going to come to some specific examples soon, but what was the general model of management of the children at Ashley in the period you were managing the centre?

A. We were working towards a therapeutic model of care.

Q. What were the tools available to you to assist in having the children comply or to behave in a way that was consistent with the management of the centre?

A. Are you talking about the Behaviour Development Scheme, system?

Q. What were the tools available to the youth workers to assist the children who were present at Ashley to develop and have a positive experience?

A. Well, certainly we were focused on having relationships with the young people. The youth workers had their training, of course, they were - if you were new you were working with a more experienced youth worker. The management teams were on site, we had Professional Services staff there, we had operational staff there, and they were being - when training came back on board they had regular training as well, but we were all together moving towards a therapeutic model, it was a journey we were all on.

Q. There was no therapeutic model, though, was there?

A. We were working towards one but one had not been completed when I was there.

Q. There wasn't a model that you were working towards, you were working towards having a model; isn't that right?

A. I don't understand the difference.

Q. Well, when you're working towards adopting a model that exists you know what you're trying to achieve and you are seeking to implement a model that exists; is that fair? Do you understand what I mean by that?

A. Not really, no.

Q. Well, you know what a model that is a therapeutic model looks like and you want to implement that model and you'll be able to identify when you have done that, do

1 you --

2 A. We didn't actually have a completed model that, right,  
3 this is the one we're gonna work to.

4

5 Q. So you weren't working towards the implementation of a  
6 model that was in existence, you were working towards  
7 identifying a model of therapeutic practice; is that right?

8 A. Yes, that's correct, but we still were working  
9 therapeutically.

10

11 COMMISSIONER BROMFIELD: Q. And this is the therapeutic  
12 elements then?

13 A. Yeah, correct.

14

15 MS BENNETT: Q. Who was evaluating whether or not you  
16 were providing therapeutic care - a therapeutic model?

17 A. I would imagine, the Change Manager and the Director,  
18 plus also the Centre Management Group who were  
19 considering --

20

21 Q. I might ask you not to imagine and just tell us from  
22 your knowledge and experience who was monitoring and  
23 evaluating whether or not you were providing a therapeutic  
24 model of care?

25 A. Well, certainly I was. We had a number of records  
26 that we could consider, you know, I was a very active  
27 Manager, I'd speak with staff, I'd be in and out of units,  
28 I had an opportunity to inspect, reflect, consider myself  
29 and also speak with other managers in relation to their  
30 roles and how they happened to see things, regular meetings  
31 of the Centre Management Group, discussions with my  
32 Director, and the Change Manager and also the QIWD member  
33 who was working against the - towards the Ashley Model of  
34 Care.

35

36 Q. So, you were responsible for evaluating whether or not  
37 there was a therapeutic model - there were therapeutic  
38 practices in place?

39 A. No-one actually said to me, "I want you to monitor  
40 this". I was required to monitor things and report on  
41 certain things such as - I'm just trying to think of the  
42 registers that we had, and I've just had a momentary blank,  
43 if you could just give me a moment. There was a Use of  
44 Force Register, an Isolation Register, things of that  
45 nature, so - look, I did put out some emails to the centres  
46 acknowledging some good work that we've done and we've  
47 introduced a relationship with Colony 47, for example, to

1 be able to explore some out-of-home residential  
2 opportunities; we've had no incidents this week, for  
3 example, look, "Congratulations to all the work you're  
4 doing on building relationships with young people", things  
5 of that nature.

6

7 Q. Did you meet with young people regularly?

8 A. Yes.

9

10 Q. Do you know their names?

11 A. Yes.

12

13 Q. So, what was the forum within which you were meeting  
14 with them?

15 A. There's a couple actually. Every new admission,  
16 regardless of if they had been in before, I made a point of  
17 going and saying hello, and if I hadn't met them before,  
18 I'd introduce myself every time.

19

20 Q. Did you explain to them when you did that, was there a  
21 traffic light system in use while you were there?

22 A. I wouldn't call it a traffic light system.

23

24 Q. Was there a coloured system, a banded system of  
25 evaluating a child's behaviour in Ashley by reference to  
26 colours?

27 A. There was a Behaviour Development System, but I  
28 didn't - the purpose of meeting the young people was to  
29 introduce myself and let them know who I was and if they  
30 had any questions they could ask, the youth workers are  
31 there --

32

33 Q. So, how would they ask you? Sorry to interrupt you.  
34 How would they ask you, if they had any questions a week  
35 later, how would they get in touch with you?

36 A. They would - well, more often than not I'd be walking  
37 through the unit anyway or alternatively they'd ask the  
38 youth worker, "Oh, could I speak to Mr Ryan?" Sometimes  
39 they put in a written request for, "Can we have X?" And it  
40 might have just simply been sent directly to me, sometimes  
41 I had things sent directly to me like that, but I was  
42 always speaking with young people, I was very visible and  
43 very approachable.

44

45 COMMISSIONER BROMFIELD: Q. Mr Ryan, when you appointed  
46 an Assistant Manager to the centre did you have the same  
47 expectations of the Assistant Manager, that they'd be a

1 visible and active Manager within the centre?

2 A. Yes, I encouraged everyone to get out and - get out of  
3 their offices and walk around the centre, support each  
4 other, support the young people, build relationships.

5  
6 Q. And the Assistant Manager is the person that we're  
7 calling Lester; that's right, isn't it?

8 A. He was an Acting Assistant Manager for a period, yes.

9

10 Q. Acting Assistant Manager. Thank you.

11

12 MS BENNETT: Q. Were you told whether or not there was  
13 any restrictions on Lester's access to young people?

14 A. No.

15

16 Q. So, you understood that he was as free as you to speak  
17 with and have contact with young people at Ashley?

18 A. Correct.

19

20 Q. Indeed, as I understand your evidence, that you  
21 encouraged those relationships; you encouraged the workers  
22 at Ashley to have relationships with the young people?

23 A. Yes.

24

25 Q. So you would have encouraged him to have relationships  
26 with young people?

27 A. Well, yes; no, I wanted everyone to be able to know  
28 the young people that were in Ashley so we could work with  
29 them.

30

31 PRESIDENT NEAVE: Q. I just want to clarify that. So,  
32 you had no awareness that there were some restrictions on  
33 the places where Lester could work and the contact that he  
34 had with young people? You were never advised of that; is  
35 that correct?

36 A. That's correct. Yes, that's correct.

37

38 MS BENNETT: Commissioners, is that a convenient time to  
39 take a short break for the morning? I'm conscious we're  
40 running behind.

41

42 PRESIDENT NEAVE: Yes.

43

44 **SHORT ADJOURNMENT**

45

46 PRESIDENT NEAVE: Thanks, Ms Bennett.

47

1 MS BENNETT: Q. Thank you, Mr Ryan. Have you been  
2 following the evidence of this Commission as it relates to  
3 Ashley?

4 A. Yes, some of it.

5

6 Q. Are you aware that there have been some allegations in  
7 relation to Lester?

8 A. Yes.

9

10 Q. When did you become aware of the allegations as they  
11 concern Lester?

12 A. During the Commission.

13

14 Q. Had you been aware of those allegations during the  
15 time that you were managing Ashley, would you have  
16 encouraged his contact with young people?

17 A. I'm only aware of the allegations quite broadly, not  
18 specifically, but yes, certainly if I was aware of those at  
19 the time I would have - I wouldn't have encouraged Lester's  
20 contact with young people, there would have needed to have  
21 been some intervention.

22

23 Q. What sort of intervention do you think would have been  
24 needed?

25 A. Well, certainly there would have needed to have been a  
26 discussion with my Director; following that, some  
27 recommendations in relation to alternative duties  
28 through to and including just not being on site full stop.

29

30 Q. Putting it plainly, reflecting now that Lester was on  
31 site and that you were not aware that there were  
32 allegations in relation to him, how do you reflect on  
33 whether or not it was appropriate for you to be running a  
34 facility without knowing that?

35 A. Yeah, it is something I should have known, something I  
36 should have been advised of.

37

38 Q. Do we take from your answer that what you would have  
39 done, had you known, was to put in place some steps to make  
40 sure he had no contact with children?

41 A. Yes, that would be reasonable.

42

43 Q. And that, because you didn't know, you in fact  
44 encouraged his contact with children?

45 A. I didn't specifically encourage Lester's - I didn't go  
46 to Lester and say, "Lester, please ensure you have more  
47 contact with young people", it was everyone; I didn't have

1 a separate conversation with individuals.

2

3 Q. No, no, but your evidence is you encouraged all of  
4 your staff, including Lester, to have relationships with  
5 young people; that's right, isn't it?

6 A. That's correct and he already had relationships with  
7 young people before I got there and --

8

9 Q. And you encouraged that to continue?

10 A. Yes.

11

12 Q. And had you known the allegations that you're now  
13 aware of you would have not encouraged him to do that?

14 A. Correct.

15

16 Q. Indeed, you would have kept him away from children; is  
17 that right?

18 A. I think ultimately, yes.

19

20 Q. When you say "ultimately, yes", what do you mean by  
21 that? What's the hesitation?

22 A. We had to have a discussion first and do an  
23 appreciative enquiry in relation to it all. I only know  
24 some broader details; I don't know absolute specifics.

25

26 Q. Am I right to understand that what you know presently  
27 is sufficient to say, well, I would keep him away from  
28 children until I know the full picture?

29 A. Yes.

30

31 Q. Was that the default, in your view, that you should  
32 keep people away from children until you had worked out  
33 whether there was substance to any allegation?

34 A. In a circumstance such as that, yes.

35

36 Q. What about any circumstance where there's alleged  
37 misconduct by a youth worker, for example --

38 A. Well, I had these discussions with my Director, and it  
39 varied from, the youth worker, for example, wasn't to work  
40 with that particular young person anymore but could stay on  
41 site, through to, the Secretary's made a determination that  
42 this person will be suspended.

43

44 Q. Did you have input into - let me go back. Were you  
45 able to direct who had contact with children at Ashley and  
46 who didn't?

47 A. Theoretically, yes, but I wasn't there all the time.

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Q. I think your evidence was that you were an active and present leader at the site; is that right?

A. Yes, during my shift.

Q. Yes, and so, during your shift you could direct who had contact with children and who did not; is that right?

A. It wasn't as - that's a very simplistic way of putting it, I feel, because there were - we had levels of management and supervision and youth workers so, if I had a concern, certainly I could - I could do something about that.

Q. Is one of the things you could do, direct that a person not have contact with children until your concerns were dealt with?

A. Well, I'm not sure that my level would allow that --

Q. So where would you go with those concerns, who did have that responsibility?

A. I certainly have to speak with, and I did speak with HR on occasions on various matters and also with my Director.

Q. So, is it your understanding that you didn't have the power to actually take steps to separate adults about which you had concerns from children?

A. No, that's not true.

Q. All right, so you did have power to separate adults from children when you had concerns --

A. You asked me did I have the power to take steps.

Q. Yes?

A. Yes, I do have the power to take steps, that's correct.

Q. To separate the adult from having contact with children?

A. Yes, I could intervene in a situation like that, yes.

Q. And you could prevent an adult from having contact with a child at Ashley; is that right?

A. I think that would be more of a collective approach with myself, my Director and HR if I'm going to be doing something of that magnitude - unless, look, if there's an emergency situation or something like that I'd act

1 immediately, but if there was a situation where I had the  
2 ability to further consider it and make a collected  
3 decision, then I'd take that option.  
4

5 Q. We'll come back to it in the specific context.  
6

7 PRESIDENT NEAVE: Just before you leave that. You  
8 mentioned that you had had some discussions with your  
9 Director on a couple of occasions, and you said that the  
10 outcomes ranged from, well, this is being investigated and  
11 it may end up with a suspension of the individual, but you  
12 also said, I think, and I may have misheard you, that a  
13 person be directed not to have contact with a particular  
14 child. Did I hear you correctly about that?

15 A. Yeah, that's correct. So that was about protecting  
16 the young person that may have complained about the manner  
17 in which a youth worker had spoken to him or her, and also  
18 to protect the person who was being complained about, I  
19 guess, just to have some separation.  
20

21 Q. So, not necessarily an allegation of sexual  
22 misconduct, this could be some other sort of behaviour that  
23 was inappropriate? Or did you have a conversation about  
24 somebody who you might have had suspicions about or someone  
25 might have complained about inappropriate sexual behaviour?

26 A. No, no-one ever raised anything about inappropriate  
27 sexual behaviour to me.  
28

29 Q. So when you had your conversation with the Director,  
30 the concern a child had raised - or someone had raised a  
31 concern about a particular person's conduct in relation to  
32 a particular child, and in that situation the approach that  
33 you arrived at, having discussed it with the Director, was  
34 that the person would not have contact with that child  
35 while a complaint was being, what, examined or something?

36 A. Yeah, that would happen sometimes but not always, and  
37 my Director or the Senior Executive may not have agreed and  
38 sometimes, I think, didn't agree and made a determination  
39 different.  
40

41 Q. So, didn't agree that the person should not have  
42 contact with the child?

43 A. Sorry, no, didn't mean to mislead you there. If I was  
44 to suggest, there's an allegation that some language was  
45 used which upset the young person, my suggestion or my  
46 recommendation would be - so I'm discussing this with the  
47 Director, "Look, my recommendation would be, we'll take the



1 full details of the complaint, we'll gather any necessary  
2 evidence at the time, report it, and in the meantime a  
3 recommendation is, this particular staff member should not  
4 work with this particular young person".  
5

6 Q. And did you indicate that sometimes that advice that  
7 you gave was not accepted?

8 A. Yeah, sometimes, yeah.  
9

10 PRESIDENT NEAVE: Right, thank you.  
11

12 MS BENNETT: Q. Who had the final say?

13 A. The Secretary.  
14

15 Q. And in that instance was your view overridden by the  
16 Secretary?

17 A. Sometimes.  
18

19 Q. How many times?

20 A. I couldn't give you a number.  
21

22 Q. Was it more or less than 10?

23 A. It would be less than 10; look, I don't recall now how  
24 many complaints that I had. Sometimes a complaint was, "We  
25 don't have enough ham", for example. Sometimes a complaint  
26 was, "I was pretty upset with how that youth worker spoke  
27 to me", so I'm not going to refer, "I don't have enough  
28 ham" to the Secretary, I'll deal with it, but any  
29 complaints in relation to staff I escalated to my Director.  
30

31 COMMISSIONER BROMFIELD: Sorry, Ms Bennett.  
32

33 Q. When you said that on occasions your recommendations  
34 were overridden or a different direction was given, was  
35 that generally more or less conservative than you're  
36 approach? So, say if you'd said, "I don't think that youth  
37 worker should have contact with that staff member", when  
38 you say your decision was overridden, was it to say, we're  
39 not going to limit their access with that young person, or  
40 was it to say, we're going to suspend? What direction?

41 A. Well, thankfully there weren't too many of these  
42 discussions. I guess there became - if there was an  
43 allegation of an excessive use of force, for example, we  
44 review the restraint and thought, well, that could have  
45 been handled better: it became that a staff member involved  
46 would be suspended, so we didn't need to have the  
47 discussion or I wouldn't provide any recommendation, I

1 would simply say, "Look, this has happened. Bearing in  
2 mind what position the Secretary's taken on similar cases,  
3 it would be inevitable that this person would be  
4 suspended", and look, there were two or three within close  
5 proximity, from memory, where people were stood down.  
6 Certainly within my statement, and one of the issues  
7 briefings - or issues briefings that I did in relation to  
8 staff shortages I acknowledged some people were on  
9 suspension.

10  
11 MS BENNETT: Q. Could I take you to perhaps the nub of  
12 Commissioner Bromfield's question which is, can you take  
13 your mind to some of the specific instances where you made  
14 a recommendation about how to respond to a concern that had  
15 been raised about the way in which a staff member at Ashley  
16 had interacted with a child at Ashley. Can you take your  
17 mind to one of those instances.

18 A. M'mm. Yes.

19  
20 Q. Now, was your recommendation more or less  
21 conservative - and of those, one that was overridden by the  
22 Secretary?

23 A. I think there was - I can think of one in relation to  
24 a language, which is, the response was quite similar; the  
25 difference being that the matter was referred to an ED5  
26 investigation as opposed to leaving it with me or at the  
27 centre to deal with.

28  
29 Q. Is it fair, though, that your recommendation was, it  
30 should be left with you at the centre to deal with, and the  
31 Secretary wanted an ED5?

32 A. Well, I'd often provide more than one recommendation,  
33 in fact nearly every time I did provide more than one  
34 recommendation so there was an option presented and that's  
35 the ones that the Secretary ultimately took.

36  
37 Q. So, your evidence has been that you've been overridden  
38 by the Secretary on a number of occasions when it comes to  
39 the management of staff at Ashley. Do you recall giving  
40 that evidence a moment ago?

41 A. What, saying that I was overridden?

42  
43 Q. Yes?

44 A. Well, perhaps if I reflect on that choice of word,  
45 there were recommendations that were put up; sometimes  
46 there was a different - a different pathway taken. I don't  
47 think that I would recommend suspension as one of those

1 for - I didn't recommend suspension as an option for some  
2 of these matters, yet that was what was taken; so it was an  
3 alternative pathway taken so I do apologise if I've created  
4 any confusion but I hope I've ironed that out.

5  
6 PRESIDENT NEAVE: Q. Can I just clarify. You've said  
7 sometimes more than one recommendation is made. Do you  
8 mean that you presented options --

9 A. Yes.

10  
11 Q. Like, "Well, this could be treated as an ED5 or it  
12 could be treated as a situation where the staff member  
13 should be kept away from that particular child", and the  
14 option is then left to the Secretary to decide which of the  
15 two options should be taken? Is that what you're saying  
16 when you said more than one recommendation might be made?

17 A. One recommendation might be that, rather than an ED5  
18 investigation with an independent investigator, that either  
19 myself or the Assistant Manager investigate it and then  
20 report back what we've discovered.

21  
22 Q. I see, and during that period the person wouldn't have  
23 contact with the child?

24 A. Yeah.

25  
26 Q. I don't want to put words into your mouth, I'm just  
27 trying to understand what you --

28 A. Yeah, so we would put some safeguards in place to  
29 protect the young person.

30  
31 Q. So there were cases where you thought you should  
32 investigate or you - one of your recommendations was that  
33 you should investigate and the Secretary said, no, no, ED5  
34 process; what about ones going the other way? That is,  
35 where you put up the two options and neither of them is  
36 accepted or the less punitive for the staff member is  
37 accepted?

38 A. Look, I can't really recall examples. If it was - I  
39 think perhaps more often - no, I can't, I won't go down  
40 there. I would provide the recommendations to my Director,  
41 that was the next level up; I wasn't a direct line --

42  
43 Q. No, no, I understand that, and then your Director  
44 would then - and do you know what went to the Secretary?

45 A. Not all the time, no.

46  
47 PRESIDENT NEAVE: Okay, thank you.

1  
2 MS BENNETT: Q. I want to ask you about an incident  
3 around 13 December 2019, and you refer to it in your  
4 statement around paragraph 242 and following. To briefly  
5 summarise, I understand that to be an incident that  
6 involved over a period of hours with three young people  
7 getting up onto one of the roofs of one of the units inside  
8 the centre and effectively engaging in a standoff for a  
9 number of hours until they were negotiated down sometime  
10 later. Do you recall that incident?  
11 A. Yes.  
12  
13 Q. Is that a fair summary of the incident?  
14 A. It's a very brief summary.  
15  
16 Q. Yes. All right. Were you present on site when that  
17 began?  
18 A. Yes, I was.  
19  
20 Q. And were you present for the duration of the incident?  
21 A. Yes, I was.  
22  
23 Q. Were you managing the response to the incident?  
24 A. Yes, I was.  
25  
26 Q. Who were you directing or liaising with to respond to  
27 the incident?  
28 A. Well, there are other managers that I was - that were  
29 working at the time and I completed an emergency response  
30 to the incident and allocated tasks to various members of  
31 staff, I wrote that up on a whiteboard which I took a  
32 photo of, it's attached to my statement.  
33  
34 Q. You were providing updates on the incident to your  
35 superiors; is that right?  
36 A. Yes.  
37  
38 Q. Who were you providing updates to?  
39 A. To my Director.  
40  
41 Q. And how often were you providing updates?  
42 A. Pretty regularly; I couldn't put a time on it, but if  
43 it wasn't a phone call, it was an email, it was very  
44 regular. It may have - I have a memory that there was at  
45 least every 30 minutes that I would come back, interspersed  
46 with other emails and other phone calls to my Director, but  
47 it was a consistent, regular update.

- 1  
2 Q. So, you had three young people on the roof, and where  
3 were the other children at that stage?  
4 A. Now, as I recall, this one was after the last lunch  
5 session and just, effectively the centre was getting itself  
6 ready to go back into school mode with the programs, so  
7 some may have been - I don't know where everyone was at  
8 that time.  
9  
10 Q. They were going about their usual routine though?  
11 A. That would be fair to say.  
12  
13 Q. When the children went up on the roof what were the  
14 options for you about how to go about - what were your  
15 priorities in terms of responding to that issue, just  
16 briefly?  
17 A. Letting staff know what was going on and actually I  
18 think - well, they'd gone to Code Black. My response was  
19 to prepare an emergency response to it to safely remove the  
20 young people from the roofs - roof, and return the centre  
21 back to order.  
22  
23 Q. What's a Code Black?  
24 A. That's a call for assistance.  
25  
26 Q. And, what's the effect on the management of the Youth  
27 Detention facility as a whole when you call a Code Black?  
28 Does that impact on the other detainees?  
29 A. Can do, yes.  
30  
31 Q. In what way?  
32 A. Well, depends where it is; if it's an isolated - look,  
33 there may have been a wrestle with two young people and a  
34 Code Black's called and it's broken up immediately, it has  
35 no impact on anyone else.  
36  
37 Q. In this instance what was the impact of a Code Black?  
38 A. The situation reasonably quickly became a serious  
39 incident and that did have an impact on the rest of the  
40 centre, insofar as we weren't dealing with the regular  
41 routine of things and we had to ensure that all residents  
42 were safe. I can't give you an absolute specific; it might  
43 have been, "We won't go to the classroom now, we'll stay in  
44 our unit until we find something out", I can't give you  
45 that information.  
46  
47 Q. So, is it the case that there's no set response to a

1 Code Black; a Code Black means we need assistance here, and  
2 then the response to the balance of the young people  
3 depends on the circumstances?  
4 A. That's correct, and we have an Operations Coordinator  
5 as the lead supervisor, we have an Operations Manager  
6 assisting, and then we have an Assistant Manager above that  
7 as well as myself, so Code Blacks were regularly attended  
8 by available staff from Professional Services as well as  
9 from Operations, and then we had to manage, okay, where are  
10 we at, what will we do?

11  
12 Q. So, I take it you wanted to respond to this in a  
13 therapeutic manner; is that right?

14 A. I was responding to it in a safe manner.

15  
16 Q. Okay, what's the difference between those two  
17 propositions?

18 A. Well, I think being safe is being therapeutic.

19

20 Q. So, were you seeking to respond to it in a therapeutic  
21 manner?

22 A. I just don't think that's a fair question.

23

24 Q. Okay. So, you see that there's a distinction to be  
25 drawn between responding safely and responding in a  
26 therapeutic way?

27 A. You can do both.

28

29 Q. And what I'm asking is, did you seek to do both?

30 A. I didn't have in my mission statement to safely and  
31 therapeutically remove the young people from the roofs; but  
32 it was, we were working towards and participating in  
33 aspects of therapy at the centre, so I expected that to be  
34 business as usual; I didn't think I needed to say to staff,  
35 "Please ensure you're therapeutic when you safely remove  
36 these people from the roof".

37

38 PRESIDENT NEAVE: Q. Can I just have a follow-up  
39 question on that. To what extent were the professional  
40 staff involved in this process in, for example, persuading  
41 the kids who were on the roof to come down, talking to  
42 them, helping to de-escalate, all of those situations -  
43 that's my first question and then I want to ask you, what  
44 approach did the operational staff take?

45 A. So, there was Professional Services staff on site and  
46 they do readily respond to Code Blacks, and I recall - I  
47 can't recall who was actually there from the office at the

1 time, but certainly there were people there. Part of the  
2 response was to include everything that was happening and  
3 what will we do, you know, planning strategically there,  
4 immediately after and longer term, so there was always  
5 involvement with Professional Services during that event.  
6 They were on site for a long, long time all through.  
7

8 Q. So they were on site and what were they actually doing  
9 during the event, do you recall?

10 A. I can't give you an answer for everything because  
11 ultimately I was the Commander, for want of a better term,  
12 strategically managing the event inside and outside there  
13 was a forward Commander, to use the terminology, who was  
14 organising the operational response, and then the  
15 Operations Coordinator was looking after the - the normal  
16 routine that was there still had to be managed as well. I  
17 don't - look, there were plenty of conversations. The  
18 staff at that stage, I think, had just done negotiator  
19 training and were working towards that, so I had regular  
20 updates through the managers that were there, but  
21 ultimately they were - they understood what they were  
22 trying to achieve.  
23

24 Q. So, were the Ops Coordinator, and I think the lead -  
25 I've written down Lead Supervisor and Operations  
26 Coordinator; I might not have quite the right titles there,  
27 but the operational people, were they using those  
28 negotiation techniques to try and get the kids off the  
29 roof?

30 A. Yes.  
31

32 Q. They were talking to them and trying to persuade them  
33 to come down?

34 A. Yes.  
35

36 PRESIDENT NEAVE: Thank you.  
37

38 MS BENNETT: Q. Ultimately, the children did come down  
39 off the roof; is that right?

40 A. Yes.  
41

42 Q. What happened next? Were they placed in their rooms  
43 and kept there?

44 A. So, they were - they didn't all come down at once.  
45 So, one of the jobs that were tasked, or that we all spoke  
46 of as a management group was, and as part of my strategy,  
47 we need to know what to do with the young people when they

1 come off the roof, where is it safe to house them, and give  
2 me some - well, discuss and give me some options. And  
3 that - I don't know if it was this example or another one,  
4 but it often entailed - it always entailed, okay, well,  
5 where's everyone else and where can we put people? So  
6 there was certainly those discussions.

7  
8 Q. So, were the children sent to their cells?

9 A. Well, they're not cells, they're called bedrooms, and  
10 they were essentially taken from the roof, and I recall  
11 seeing one if - probably not all, but certainly I was  
12 present when some, probably the first one that came down  
13 was taken into the - one of the residential units: that's -  
14 I didn't go to the unit.

15  
16 Q. You were in charge of responding to the incident; were  
17 you still in charge at the time they came down from the  
18 roof?

19 A. Yes.

20  
21 Q. Were you aware of where the children went when they  
22 came down from the roof?

23 A. There was a plan that we'd agreed on as a group and I  
24 just don't recall the finer details.

25  
26 Q. So were you aware of where the children went when they  
27 came down from the roof?

28 A. Well, I was at the time but I don't recall what they  
29 are now.

30  
31 Q. So you believe you were aware at the time but you  
32 don't know now --

33 A. Correct.

34  
35 Q. -- where the children went when they came down?

36 A. Yes.

37  
38 Q. Are you able to assist the Commission in whether or  
39 not the children went to their bedrooms?

40 A. I don't know if they went to their - well, I don't  
41 know, that's the answer, I don't know, I don't recall.

42  
43 Q. What was the policy or protocol in place should they  
44 have gone to their bedrooms?

45 A. Well, they would be - their welfare would be checked  
46 upon, they would often then see the nurse --  
47



1 Q. Sorry, I'm just going to pause, sorry to interrupt  
2 you. Are you speaking now from what did happen or what you  
3 say should have happened?

4 A. I wasn't in the unit and I don't now recall what  
5 exactly happened after the young people went into the unit.  
6

7 Q. All right, so tell us what should have happened?

8 A. Well, there were a few options that could have  
9 happened: they could have just been taken to their unit and  
10 sat in the common area; they could have been taken to the  
11 unit and put into a bedroom; they could have been taken to  
12 look - a youth worker may have spoken with them and  
13 suggested they have a shower. I remember a similar  
14 situation - or, not so much a similar situation, but I went  
15 into a unit one day and said, "What's such and such doing?"  
16 "Oh, they're having a shower, they're just trying to calm  
17 themselves down for something". And so, if they were cold,  
18 "Here, here's a jumper. We'll put some food on. Look, how  
19 are you feeling? We'd better go and check in with the  
20 nurse", all those sort of things. So, not one answer,  
21 there's just not one answer to it.  
22

23 Q. So, on this day when the children came down from the  
24 roof, you don't know what happened next to them?

25 A. I don't recall now what happened next to them, I'm  
26 sorry, but...  
27

28 Q. And there's been suggestion that they were isolated in  
29 their bedrooms; are you able to say whether that's true or  
30 not?

31 A. No, I'm not, but I did certainly speak with staff in  
32 relation to, if there are isolations to occur, as an  
33 Operations Coordinator you're allowed to do that within  
34 policy and, if it was beyond the 30 minutes that they could  
35 have, that they would need to do - seek authorisation for  
36 extension, so those were discussions.  
37

38 Q. So, you recall having discussion about isolation after  
39 the children came down from the roof?

40 A. Yes.  
41

42 Q. So that was an option that was being actively  
43 considered?

44 A. Well, it was option or response, yes.  
45

46 Q. Yes, it was being actively considered?

47 A. It was, yes.

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Q. And it was one of the available responses as far as you were concerned?

A. Yes.

Q. It was an appropriate response as far as you were concerned?

A. That's a difficult question to answer. It was an appropriate option that could be considered and an appropriate option that could be used, but you know, it had to be given the proper consideration.

Q. It should have been a last resort, shouldn't it?

A. You don't want to isolate people unnecessarily.

Q. So it should have been a last resort?

A. Like I said, we do not want to isolate people unnecessarily.

Q. I'm asking you if it was a last resort at Ashley to isolate children in their bedrooms?

A. In certain circumstances, yes, it is.

Q. Which circumstances? When was it not a last resort?

A. Well, I'm just trying to think of that now, actually. If you're dealing with the management of a young person and you've tried the de-escalation techniques and nothing has worked, a last resort would be to isolate that person; I think that's the best way I can answer that question.

Q. My question is, when was it not a last resort to isolate a child?

A. When you're using your de-escalation techniques.

Q. And, de-escalation techniques in terms of the behaviour management protocol at Ashley, when did isolation come up; where in the scale of responses?

A. Well, isolation was a sometime - well, a fluid decision more often than not in relation to dealing with an event that's unfolded right before you, so it could be an Operations Coordinator at 8 pm making a decision that they need to isolate this young person.

Q. There was a considerable amount of discretion in those who were managing individual children as to when to deploy isolation; is that fair?

A. No, they were working to a policy and procedure which

1 outlined - it's called the Isolation Procedure - so they  
2 would like to work to that.

3  
4 PRESIDENT NEAVE: Q. Presumably they were working to the  
5 legislation too, which actually sets out the provision  
6 about when you can isolate and what you have to do?

7 A. Absolutely.

8  
9 Q. So are you saying that that's what they invariably  
10 did?

11 A. Yeah, the legislation's referenced in the procedure.

12  
13 MS BENNETT: Q. I think the President's question is: is  
14 it your evidence, are you able to tell the Commission that  
15 that is what they invariably did?

16 A. Invariably worked to legislation or invariably  
17 isolated people?

18  
19 Q. Invariably worked to the policy and the legislation?

20 A. Yes.

21  
22 Q. In all instances your evidence is that you can tell  
23 this Commission under oath that in all instances that  
24 policy was complied with?

25 A. Well, I had to review incidents of isolation, which I  
26 did; often there were forms that were incomplete; for  
27 example, the signature wasn't on it or it wasn't attached  
28 to the file, so I would need to review those and ensure  
29 that everything was in order.

30  
31 In relation to the 13 December incident, I was  
32 conducting a review in relation to it and there was a  
33 question in relation to what isolations occurred with these  
34 young people over this period when - over the weekend  
35 effectively, and I don't have the Final Report in relation  
36 to the assessment of that. I didn't conclude my report, my  
37 report was given to an independent investigator to manage  
38 and handle and I don't have the outcomes of that.

39  
40 Q. As I understand your evidence today you don't recall  
41 whether children were isolated on that occasion; is that  
42 right?

43 A. No, I can't recall now, no.

44  
45 Q. And you don't know, therefore, can I suggest to you,  
46 whether or not they were - if they were isolated, whether  
47 that isolation took place in accordance with the policy?

1 A. No, I didn't review the isolation reports, I didn't  
2 have them.

3

4 Q. And so, can I suggest to you that you're not in a  
5 position to confirm for this Commission that the policy was  
6 at all times and all respects adhered to?

7 A. Well, in that example that I gave, that's correct.

8

9 Q. So, what is the procedure that's in place for  
10 isolation at the time of this incident? What was it  
11 called?

12 A. The Isolation Procedure.

13

14 Q. And there is a Blue Program?

15 A. There was.

16

17 Q. Are you familiar with that?

18 A. Yes.

19

20 Q. When did that come into place at Ashley?

21 A. That came into place in, if I'm not mistaken, March  
22 2019.

23

24 Q. Was it a system that had been in place in the past?

25 A. Yes.

26

27 Q. And, when was it in place at Ashley in the past?

28 A. I understand about six years prior it had been used.

29

30 Q. Are you aware of the reason it had stopped being used?

31 A. I had some discussions with the Professional Services  
32 Manager in relation to the Blue Program and --.

33

34 COMMISSIONER BROMFIELD: Q. Can I just - sorry, because  
35 I believe at the time the Professional Services Manager was  
36 a job-share role?

37 A. Yes.

38

39 Q. Was this the person who was in the smaller fraction,  
40 time fraction?

41 A. Correct, 0.3.

42

43 MS BENNETT: Thank you, Commissioner.

44

45 MR RYAN: He explained to me that it was an intensive  
46 support program which hadn't been used for some time but it  
47 was still there available for use if it was thought to be

1 brought back in.

2

3 MS BENNETT: Q. I should say, can you tell the  
4 Commissioners in broad terms what the Blue Program  
5 involved?

6 A. Yeah, look, I've referred to it in my notes, could I  
7 go and try and find that particular one?

8

9 Q. Yes, please?

10 A. There was a whole-of-centre email that I put out which  
11 explained it pretty well.

12

13 PRESIDENT NEAVE: Take your time.

14 A. Yeah, I'm just trying to find which particular - if  
15 somebody could help me with which particular paragraph it  
16 actually related to, I could suggest which question it  
17 related to and I can go to that attachment.

18

19 COMMISSIONER BROMFIELD: Q. Perhaps if you go to  
20 page 106 in your annexures, around about there. I think  
21 that's the section about the Blue Program.

22

23 PRESIDENT NEAVE: I think he's looking for an attachment  
24 though, aren't you?

25 A. Yeah, I'm looking for the attachment. It was an email  
26 attachment that I put onto my statements.

27

28 MS BENNETT: I understand, I'm grateful to my learned  
29 friend, attachment 23?

30 A. Attachment at 23?

31

32 Q. Yes, I'm grateful to Ms Norton as well who found it at  
33 the precise same moment.

34 A. I'll read it to you. This is from you dated 25 June  
35 2019:

36

37 *Hi [name]. I was to mention at CMG that*  
38 *there is a Directorate working group being*  
39 *established for the Blue Program now ...*

40

41 A. I apologise for interrupting, there was an earlier one  
42 that I've found, 7 March. That was the one I was trying to  
43 find. That relates to Question 23 and page 152 of my  
44 attachments.

45

46 Q. All right, with that refreshment of your memory, can  
47 you tell the Commissioners what the Blue Program is?

1 A. Well, I haven't actually read it yet, so ...

2

3 Q. Sure.

4 A. Well, you know, just reading from my email, it was a  
5 program we introduced on a temporary basis with an emphasis  
6 to provide an intensive support program for a young person  
7 and is not and should not be regarded as a punishment  
8 option for difficult behaviour, rather an opportunity to  
9 maintain safety and security as well as allowing a young  
10 person time to settle and to re-integrate.

11

12 I had some additional measures that I introduced, that  
13 I must agree to the program after a CST or an interim CST,  
14 and I attached some relevant documents, including a  
15 communication to young people to be displayed, staff could  
16 speak to the young people in relation to that, but I wanted  
17 the young people and staff to be aware of it and attached  
18 other documents as you can see, all staff communication,  
19 category details.

20

21 Q. Just to pause there. Did Blue Program involve sending  
22 children to their bedroom and not allowing them to leave  
23 for a period of time?

24 A. They did have times in their bedroom, yes.

25

26 Q. What did the Blue Program say about - well, take that  
27 back. That is isolation, is it not?

28 A. No, I don't agree that it was isolation. It was  
29 working under a program.

30

31 Q. So, just to be clear, the child is sent to their  
32 bedroom: is the door open or closed?

33 A. The doors are normally closed.

34

35 Q. And is the door locked or unlocked?

36 A. The door would normally be locked.

37

38 Q. So, the child is locked in their room. Is there  
39 anyone in the room with them?

40 A. No.

41

42 Q. Can I suggest to you that that is isolation?

43 A. The difference that I determined in relation to  
44 isolation or not is that this is working to a program, and  
45 I see a difference.

46

47 Q. So, is it the purpose behind sending the child to

1 their bedroom behind a locked door, if your purpose to  
2 isolate them it would be isolation, if your purpose is to  
3 be therapeutic it would not be isolation?

4 A. No, I'm not saying that at all. The isolation talks  
5 about isolating a person from others outside the regular  
6 routine - when I say "routine" - of the centre. There was  
7 a routine called the Blue Program which was being utilised,  
8 and I understand that people have a difference of opinion  
9 in relation to this, but it was a documented and followed  
10 program which did adapt and grow during the short-term that  
11 it was introduced.

12  
13 Q. So, when an isolation is imposed upon a child there  
14 are certain statutory requirements that arise; is that  
15 right?

16 A. Well, the Act talks to using or not using isolation,  
17 yes.

18  
19 Q. Yes, and you're required to comply with those  
20 obligations when it's isolation?

21 A. Yes.

22  
23 Q. And you would consider that you were not bound by  
24 those obligations when you are putting a child in a locked  
25 room pursuant to the Blue Program: is that fair?

26 A. Well, you need to come back a step. I think all the  
27 rooms were locked regardless of what program you're on.  
28 The bedroom was that young person's bedroom, so it wasn't  
29 just part of the Blue Program. But the routine of the  
30 centre at that stage included the Blue Program, so it had  
31 different - sorry, I'm just trying to find the word - it  
32 had different - "things" isn't the word...

33  
34 PRESIDENT NEAVE: Q. So I think your point is, the  
35 definition of "isolation" means locking a detainee in a  
36 room separate from others and from the normal routine of  
37 the detention centre?

38 A. Correct.

39  
40 Q. I take that to mean, taking them out of the normal  
41 routine of the detention centre. I think what you're  
42 saying is that, because this was a program, like the  
43 teaching program or the health or whatever, it does not  
44 come within the definition of "isolation"; that's what  
45 you're saying?

46 A. Yeah, that's correct, yes, and I did speak at length  
47 with the Professional Services Team and Operational

1 Managers in relation to this; I didn't just determine, no,  
2 it's not isolation, I took advice and had discussion and  
3 that's the position I reached.  
4

5 Q. So the advice was from - who was the advice from? Was  
6 this advice from the Professional Services Team or from  
7 the --

8 A. Yes.  
9

10 Q. -- Tasmanian Government Solicitor or something? So,  
11 the interpretation that's being adopted here that you have  
12 adopted, you say, was based on some advice that it wasn't  
13 isolation because it was part of the normal programmes in  
14 the centre; is that --

15 A. Yeah, that's correct.  
16

17 PRESIDENT NEAVE: Thank you.  
18

19 COMMISSIONER BROMFIELD: Q. And, Mr Ryan, noting the  
20 advice about the past use of this program was for the  
21 person in the Professional Services Manager role and  
22 smaller fraction; the other person, Ms Gardiner, did give  
23 evidence and she said that she raised concerns about the  
24 program particularly in its first iteration?

25 A. Yes, so there were some discussions and I was able to  
26 find some attachments also which are hopefully around the  
27 152 mark, that - you know, and I gave a sort of brief  
28 mention to it to adapting it or growing it because it  
29 hadn't been used for a few years and there was, you know,  
30 the opportunity to adapt it, present it, and yes, we did;  
31 and there was some congratulations from Mrs Gardiner to  
32 staff at the centre for the work that they'd done in  
33 relation to it, and the young people didn't actually stay  
34 on Blue for very long and - actually, Mrs Gardiner was one  
35 of the people that said that it was the best thing that  
36 could have happened in the circumstances, to reintroduce  
37 that Blue Program.  
38

39 Q. I don't believe that was the evidence that she gave  
40 when she appeared.

41 A. No, I understand that. But I would again refer you to  
42 my statement and the attachments, there's certainly an  
43 email on there from Mrs Gardiner saying - congratulating  
44 staff that had been working with it and there are some  
45 emails to me that are attached also that are in relation  
46 to, you know, some work we can do to adapt it, which we  
47 did.



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Q. And again, I'm working from my recollection here, but I believe that Ms Gardiner's evidence was that she felt that she'd worked with the Operations staff to improve the Blue Program as much as she could, but she still was not satisfied that the Blue Program existed; she thought she was doing the best she could within the situation.

A. I don't know, I don't recall that part, I'm sorry.

COMMISSIONER BROMFIELD: Thank you.

COMMISSIONER BENJAMIN: Q. Mr Ryan, you refer to the children's bedrooms. I've been to Ashley a couple of times and my recollection isn't 100 per cent clear, but these were small rooms, they don't have a window which you can look out of, do they? Or do they?

A. No, they do. They're a pretty good size. When I refer back to my time at the Police Academy, they were bigger than that and they all had ensuites, whereas back in 1988 we didn't. They did have - they had a viewing pane in the door which could be covered over and there was also, every unit - every bedroom had an external window.

Q. And they have quite a solid steel door?

A. I'm not sure if it's like any metal encased over a wooden structure as opposed to a solid iron for example, but a substantial door, yes.

Q. And they're lockable from the outside but not the inside?

A. Correct.

Q. I don't recall the beds. I've been to a few detention centres in the last 12 months, and I've been to Ashley before, but my recollection is often they tend to be cement slabs with a mattress on top, is that --

A. These were bespoke ones actually from the staff at - the maintenance staff at Ashley made them up, and they were like an MDF wood type of structure which was attached to the walls, and then the mattress on top. We actually improved the mattresses through my time there as well, they were better, and I suppose a thicker variety of mattresses were available since those ones that had been put in there. They were somewhat showing their age a bit, yeah. They're not just concrete.

Q. They're not particularly attractive places though, are

1 they?  
2 A. Well, yes and no. It's clearly not your bedroom at  
3 home, but you have your bedroom, you have your cupboard,  
4 you have a TV, you have your ensuite, and you could  
5 personalise it to a degree. A lot of the residents took  
6 great pride in their room and were proud to show it to  
7 staff or to visitors, but look, honestly my first  
8 impression when I saw a bedroom was, okay, so it's not too  
9 different to the Police Academy when I was there in the  
10 80s.

11  
12 MS BENNETT: Q. So, can I understand this: the Blue  
13 Program was a response to significant issues that were  
14 arising at the centre so it would be activated in  
15 particular circumstances; is that right?

16 A. Yes.

17  
18 Q. So, not every Monday was Blue Program day, it was  
19 activated where there was an issue where it was felt by  
20 someone that that response was warranted?

21 A. Well, this particular - well, no --

22  
23 Q. No, just generally to understand when it was  
24 activated, who made the decision to activate project - the  
25 Blue Program?

26 A. Well, ultimately that was me.

27  
28 Q. So, how would you communicate to staff that there was  
29 now a Blue Program in effect?

30 A. Well, as a minimum I did, as I did with the email that  
31 I referred to, but I mean, there were discussions with  
32 staff as well.

33  
34 Q. Sorry, I meant, on a day where there's an incident  
35 that has occurred at Ashley and you consider that a Blue  
36 Program response is required, an escalation to a Blue level  
37 is required, that means that the children will be taken to  
38 their rooms: how do you communicate? Who decides that  
39 that's the response?

40 A. Well, I made a determination that only I would  
41 introduce a Blue Program to a resident.

42  
43 Q. Am I using the correct terminology when I say, would a  
44 Blue Program be declared in response to a particular  
45 incident?

46 A. I wouldn't use the word "declared". I guess a  
47 response to an incident may, and on this occasion did,

1 include introducing the Blue Program.

2

3 Q. Yes, and that was your decision on each occasion that  
4 the Blue Program would be used?

5 A. It was only used once when I was there.

6

7 Q. But you're the only person with the authority to say  
8 today we are implementing the Blue Program?

9 A. When I was there, yes, because I caveated it with that  
10 after I must - and I'll just read it out:

11

12 *All Blue Programs must be agreed by the*  
13 *Centre Manager after CST, interim CST.*

14

15 Q. And this is the one occasion when you decided to  
16 declare a Blue Program that you recall?

17 A. Well, I didn't go out and - we might have a different  
18 understanding of what the word "declare" means, but that  
19 was the one occasion that I introduced it.

20

21 Q. Implemented the Blue Program?

22 A. Yeah.

23

24 Q. And that was a standing program that you had told the  
25 staff that you were re-introducing on a temporary basis?

26 A. Correct.

27

28 Q. And this roof incident occurred within the period of  
29 that re-introduction on a temporary basis; is that right?

30 A. No.

31

32 Q. No? All right. This occurred after you decided to  
33 implement it on a more ongoing basis?

34 A. No, it was implemented only once after the March  
35 incident. It was reviewed - we had a three month review  
36 and it was - we were pretty close to it - I think the  
37 residents were all off Blue before the three months were  
38 up, and I had meetings again with senior managers,  
39 Professional Services Manager, 0.3, probably 0.7 as well,  
40 and it wasn't required further, and I didn't reintroduce it  
41 at all.

42

43 Q. So the Blue Program was a policy that operated at  
44 Ashley which could be implemented at your direction; is  
45 that right? Or were children given a Blue status which had  
46 a particular impact? Is that the distinction?

47 A. Well, the colours were considered at CST and then

1 ultimately --

2

3 PRESIDENT NEAVE: Q. Not the Blue Program? Have I got  
4 that --

5 A. Yeah, they still were. But, if it was recommended or  
6 suggested that resident A should be on the Blue Program, I  
7 caveated it with, "Okay, but".

8

9 Q. I'm just trying to understand this. So, CST usually  
10 looked at the colours to which children were assigned?

11 A. Yep.

12

13 Q. And that was a decision after discussion of CST?

14 A. Yes.

15

16 Q. So, children could be Red or Green or Yellow or - I've  
17 forgotten what the other one is - Orange.

18 A. Orange.

19

20 Q. But the Blue Program didn't go to the CST?

21 A. Yeah, it did.

22

23 Q. It did, and a decision was made by you, what, after  
24 hearing discussion at the CST? How did that work?

25 A. No, so I was given the recommendation following CST,  
26 and I spoke to them before CST. So, look, if somebody is  
27 going to be on blue I am going to - I will authorise that  
28 because I felt it important that I be involved in it. So,  
29 they'd do their assessments across the meeting and say,  
30 "Okay, well, I need to talk to you in relation to this  
31 resident who we believe should be on Blue".

32

33 PRESIDENT NEAVE: I see.

34

35 COMMISSIONER BROMFIELD: Q. Mr Ryan, could I then just  
36 check? When I read the emails I had made the assumption  
37 then that the Blue Program was in effect from March 2019,  
38 but that you'd only had children authorised to be on Blue  
39 status after the March incident. So, I thought the Blue  
40 Program was kind of a technical option until the time that  
41 Ms Honan said, "We're not using the Blue Program". Am I  
42 incorrect then?

43 A. It was essentially there, and there was another email  
44 in my attachments here where --

45

46 PRESIDENT NEAVE: Can you tell me the page number?

47 A. I'd have to look for it, I'm not quite sure.

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Q. That's fine.

A. But there was the Director wanting to review it but nothing was completed in relation to that before I finished. So, certainly reviewing --

Q. So you are aware that it was being reviewed but it was still being used or still theoretically available for use --

A. Yes.

Q. -- until you were told by the Director, "No more Blue Program"; is that right? Have I got that right?

A. Nearly. I was not told by - it was Director Brown at the time - he didn't say --

Q. I've read your email to him, and no-one said to you, don't do it at that point. But I think what you've said is there was a later review by Ms Honan?

A. No, no.

Q. Or it didn't happen, it was never really --

A. Ms Honan reviewed the Blue Program that was - I wasn't advised of that.

PRESIDENT NEAVE: I see.

COMMISSIONER BROMFIELD: Q. So you sent an email to the Director preceding Ms Honan, advising him of the Blue Program, we've got that in your annexures. And is your evidence that he said, "We'll review it"?

A. Yeah, there was at some point a conversation, and I thought it was an email, that said, we'll review this. And I think now it was when - unless I'm getting it confused with something else, but I have a memory that there was a discussion with the Director around reviewing that and, you know, at the same time that I was talking with the Professional Services Manager who prompted me, from memory, "So okay we had this only in for a short period of time, we're going to review it, when would you like to do that?" I hope I'm not confusing myself with something else, there was so much information I put forward.

Q. There was an email on 25 June from you to the Professional Service Manager in the smaller fraction saying that it was mentioned at CMG and that there is a Directorate working group being established for the Blue

1 Program.

2 A. Thank you, yes, that's what I was referring to.

3

4 Q. Is that the one?

5 A. Yes, that was the one.

6

7 Q. Mr Ryan, the one time that you authorised children on  
8 Blue status, just from the evidence you've just given, are  
9 you saying that they were on that Blue status for - it  
10 wasn't reviewed until three months?

11 A. No, that was always reviewed weekly at CST and interim  
12 CST as part of the Behaviour Development System, but I  
13 wanted to - I said set a three-month review of its  
14 continued use as a - part of the Behaviour Development  
15 Scheme or not, or development system, BDS.

16

17 PRESIDENT NEAVE: Q. And that was weekly in relation to  
18 the particular people that were subjected to it?

19 A. Yes, definitely.

20

21 Q. But the general policy that you could use a Blue  
22 program was not reviewed until later until the date that  
23 Commissioner Bromfield has put to you; have I got that  
24 right?

25 A. Nearly. We were constantly reviewing it and, as  
26 Mrs Gardiner alluded to with the work that was done to  
27 adapt it, and it was considered as a status for residents  
28 on it or off it or not, at least weekly and often there'd  
29 be interim CSTs, more often than not there was an interim  
30 CST and a CST. And you had MDT processes and case  
31 management processes as well that were always considering  
32 the status of a young person.

33

34 COMMISSIONER BROMFIELD: Q. So what was the longest  
35 period, from your recollection, that a child was  
36 continuously on the Blue Program which had them unit-bound  
37 including periods of time locked in their room as part of  
38 their routine program?

39 A. I don't recall that.

40

41 MS BENNETT: Q. Was there a limit in the Blue Program on  
42 how long a child could be on Blue status?

43 A. I don't recall that specific in the BDS, but it was  
44 reviewed constantly.

45

46 PRESIDENT NEAVE: Q. I understood from your earlier  
47 evidence, and this may be my error, that it was only

1 initiated in relation to that incident, the roof incident;  
2 but were there other children who were on the Blue Program  
3 as well after that incident?

4 A. The one time I introduced it was after that incident.  
5 We'd had one in February very close to that date as well.  
6

7 Q. So there were the three children who were on the roof  
8 who came down and were placed on the Blue Program, and  
9 there weren't any other children or there were other  
10 children? This is what I'm unclear about?

11 A. No, I don't believe that there were any other children  
12 on it.  
13

14 Q. Thank you, that's what I understood your evidence to  
15 be?  
16

17 MS BENNETT: Q. And Commissioner Bromfield suggested to  
18 you that the effect of having a Blue status was that they  
19 were unit-bound; is that right?

20 A. I'd have to go back to it to look, to check, but yeah,  
21 there was - there was certainly a fair proportion being  
22 unit-bound, yes.  
23

24 Q. And there was a portion of time where they were in  
25 their rooms alone?

26 A. Yes, as I understand it.  
27

28 Q. What was the time limit on being alone in their rooms?

29 A. I don't recall.  
30

31 Q. Was it different to the time limits involved in  
32 isolation?

33 A. Well, I don't recall the times that the young people  
34 were in their rooms because - well, I just don't recall;  
35 but I do recall that there were program sheets,  
36 individualised programs for the young people.  
37

38 Q. Was it the case that the isolation policy that you've  
39 referred to earlier didn't apply to children who were on  
40 Blue status?

41 A. Yeah, I considered that the Blue Program, working to  
42 that program was different to an isolation.  
43

44 Q. Can I suggest to you as a matter of fairness, Mr Ryan,  
45 that the only difference from the perspective of the child  
46 would be what you called it; is that fair? The child's  
47 experience would be that they are in a room that is locked

1 both when they are isolated and when they are Blue status?  
2 A. Well, I can't speak for an individual person, but I  
3 certainly did make it known to all young people, encouraged  
4 discussion in relation to it.

5  
6 Q. Sorry, but what would be the difference in the  
7 experience for the young person when they are isolated as  
8 opposed to when they are confined to their room under  
9 status Blue? Is it the same experience for them?

10 A. Well, you would have to ask the young person that.

11  
12 Q. Well, you're in control of the young person at this  
13 stage.

14 A. I can't talk for a young person's - how they may have  
15 felt at that particular time.

16  
17 Q. Is there a difference in the way they are treated when  
18 they are kept in their room?

19 A. Well, if a person's isolated for 30 minutes under an  
20 Operations Coordinator we're not going to necessarily  
21 introduce an individualised plan to cover that;  
22 individualised plans were completed and worked to for  
23 people that were on the Blue Program, so there is a  
24 distinction.

25  
26 Q. So, did you consider the perspective of the child who  
27 is being subjected to isolation?

28 A. Absolutely.

29  
30 Q. And who is being kept in their bedroom pursuant to  
31 Code Blue?

32 A. Yes, absolutely.

33  
34 Q. Did you turn your mind to whether or not there would  
35 be a difference in the experience of a child isolated as  
36 opposed to being sent to their room under Code Blue?

37 A. Yes, and that's why --

38  
39 Q. And what was the difference that you perceived from  
40 the perspective of the child?

41 A. Well, there was heavy involvement with the  
42 Professional Services Team to work with young people, all  
43 young people, and particularly on the Blue Program, which  
44 is why there was so many meetings and discussions and  
45 adaptations to work with the young person, as I said, too,  
46 for the young person to settle in and to re-integrate.

47



1 Q. Is another difference, that there is a different  
2 paperwork requirement for the staff at Ashley?

3 A. Well, if you're working to a Blue Program, there isn't  
4 an isolation form completed that ticks Blue Program, so  
5 that would be different, yeah.  
6

7 Q. Can I suggest to you that there is a lesser form of  
8 scrutiny when a child is locked in their room pursuant to  
9 the Blue Program as opposed to when they are locked in  
10 their room pursuant to the isolation policy?

11 A. No, there's - if you're in your room there's regular  
12 checks that must be undertaken of the young person.  
13

14 Q. There will be no form completed, there's no isolation  
15 form completed if you're on status Blue; is that right?

16 A. Not unless there was a separate incident that would  
17 call for it, but if you're on the Blue Program the program  
18 sheet then didn't have attached to it an isolation sheet,  
19 but you still had the required observations if the person  
20 was in their room.  
21

22 Q. And the statutory obligations that we talked about,  
23 you understood did not apply to a child restricted to their  
24 room under the Blue Program?

25 A. Yeah, I saw a distinction, a difference.  
26

27 Q. Did you report the use of the Blue Program, confining  
28 a child to their room under the Blue Program, did that get  
29 reported to the Children's Commissioner?

30 A. The Children's Commissioner was certainly aware of it.  
31 I can't now remember if I mentioned it to the Commissioner  
32 or if the Directorate did, but there was - I remember and  
33 have attached some correspondence from - to and from the  
34 Commissioner and the department in relation to it.  
35

36 Q. I think the emails that we have suggest that the  
37 Children's Commissioner, on 4 March, wrote to you, and I'll  
38 try and tell you the page that this appears at in your  
39 statement - well, perhaps tell me if you recall this:  
40

41 *I notice a number of residents have been*  
42 *"unit-bound". To help me in my*  
43 *understanding of the situation can I please*  
44 *have a copy of the policy procedure guide*  
45 *in the decision to keep them in their unit?*  
46 *I would also appreciate understanding how*  
47 *long each of them will be in their units*

1           *please. As always, I'm happy to discuss.*

2

3           Is that a request from the Children's Commissioner  
4 about the Blue Program?

5 A. No, that was separate, that was in relation to some  
6 young people - or yeah, yeah, no, I believe that was  
7 separate, that was in relation to young people who were,  
8 not Blue, but were doing unit-bound activities.

9

10 Q. And why were they unit-bound?

11 A. I don't remember specific examples, specific times.

12

13 Q. What does unit-bound mean?

14 A. May I refer to my notes? There's a specific response  
15 that was provided in an email to the Commissioner and then  
16 there were various responses that were - I'll say  
17 "authored" for want of a better word - in relation to an  
18 issues briefing to the Secretary and to the Minister if I'm  
19 not mistaken about what - and another one to the Children's  
20 Commissioner about what unit-bound means.

21

22 PRESIDENT NEAVE: Q. So, can I understand this? A child  
23 who has exhibited behaviour which has caused problems in  
24 the centre could be on the Red Program and that goes  
25 through the committee, the BDS?

26 A. CST.

27

28 Q. CST, thank you, the CST Committee. They could be put  
29 on Blue, in which case they're confined to their actual  
30 rooms, or they could be unit-bound, which means they're  
31 confined to their unit, so they don't go to school or do  
32 things like that? Have I got that right?

33 A. So, unit-bound, it didn't necessarily mean that -  
34 well, it didn't mean that you were there in your unit for  
35 24 hours. There were, for example, we will bring education  
36 to you in your unit as opposed to going to school, but -  
37 and from memory in the report it was predominantly the  
38 school hours, the 9 to 3 sort of timeframe, then after that  
39 there was opportunity to go one-on-one with the youth  
40 worker outside and do things. They weren't simply just in  
41 their unit for 24 hours.

42

43 Q. Okay, and are those differences spelt out? And I'm  
44 sorry, I have read these attachments but I now don't recall  
45 all the details.

46 A. I'm trying to find it too, Commissioner.

47

1 Q. Thank you. There is one very small point I noticed,  
2 and it wasn't an email from you, it was from Lester,  
3 I believe: there was some reference to the food that you  
4 got when you're on the Blue Program, a reference to finger  
5 foods as opposed to dining room food.

6 A. Yes.

7  
8 Q. So, does that mean that the children who were on the  
9 Blue Program got different food, presumably because you  
10 didn't want to give them things to cut up, utensils to cut  
11 things up with?

12 A. Yeah, we were - the best word to use - I guess, they  
13 weren't provided with steel cutlery which was normal.

14  
15 Q. Right, so they got finger food?

16 A. So there was finger food, and then another adaptation,  
17 plastic cutlery was introduced.

18  
19 Q. So at some point of time you could be on Blue and you  
20 only had finger food?

21 A. Correct.

22  
23 PRESIDENT NEAVE: Thank you.

24  
25 MS BENNETT: Q. So in your response to the Children's  
26 Commissioner on 7 March you write:

27  
28 *I apologise --*

29  
30 A. Could you please tell me what page it is?

31  
32 Q. Sorry. I'll read it to you while my instructors find  
33 the page for you. Page 161 or 162:

34  
35 *I apologise for the delay in responding to*  
36 *your requests, there have been a number of*  
37 *recent matters requiring my attention but*  
38 *I am now in a position to respond to your*  
39 *inquiry.*

40  
41 *The unit bound activities for the affected*  
42 *residents was a centre response to the*  
43 *major incident that occurred on site over*  
44 *25-26 March 2019. The procedure to which*  
45 *it relates is the Behaviour Development*  
46 *Scheme and moreover the overarching terms*  
47 *of reference for the Centre Service Team,*

1            *Disciplinary Team and Program Assessment*  
2            *Team.*

3  
4            *As you may recall, CST meets to consider*  
5            *and decide upon such matters every*  
6            *Monday ...*

7  
8            And so on, then it says:

9  
10           *Unit bound activities provide an intensive*  
11           *support program for a young person and an*  
12           *individual program allowing a young person*  
13           *time to resettle and re-integrate into a*  
14           *more regular routine to maintain safety and*  
15           *security for all residents. The BDS has*  
16           *previously recorded this within the Blue*  
17           *Program which I have reintroduced in a*  
18           *temporary capacity caveated that any*  
19           *resident on the Blue Program must continue*  
20           *to be ratified at the CST ICST but*  
21           *additionally approved by the centre*  
22           *Manager. I shall forward a current BDS*  
23           *tomorrow.*

24  
25           Do you recall that email?

26           A. I do, but it wasn't - sorry, it was a different  
27           page number, I didn't have it in front of me.

28  
29           Q. I'm sorry, it's Annexure 33 at page 193 apparently.

30           A. Yeah, I remember it.

31  
32           Q. So, the Blue Program was re-introduced when?

33           A. After the March 2019 major incident.

34  
35           Q. Sorry. This email is 7 March 2019, and in it you tell  
36           the Commissioner that you'd reintroduced the Blue Program.

37           A. I think that was probably the next, the next day.

38  
39           Q. You tell the Commissioner that you had "previously  
40           recorded this within the Blue Program which I had  
41           reintroduced on a temporary capacity", so I read that, that  
42           you had, at the time of 7 March, already reintroduced the  
43           Blue Program?

44           A. Yeah, it would appear so, yes.

45  
46           Q. So, are you able to assist us in when you reintroduced  
47           the Blue Program?

1 A. No, not exactly, I don't recall but, I mean, I've read  
2 that same email that you've just read. But, look, I do  
3 recall meeting - I didn't just reintroduce it without  
4 consulting and meeting with other Senior Managers in the  
5 Professional Services Team.

6  
7 Q. Did you update the BDS, the Behaviour Response System  
8 or the BDS, at the time that you reintroduced the Blue  
9 Program?

10 A. Well, it was in the BDS but we had to update the daily  
11 roll because it then showed some residents on Blue, so that  
12 was communicated.

13  
14 Q. So the Behaviour Development System, did it include  
15 the Blue Program at the time that you temporarily  
16 reintroduced it?

17 A. Yes, that was my understanding.

18  
19 Q. If you go to the email at the top of that chain that  
20 you have in front of you. There's an email - I'll see if I  
21 can provide a copy to you, it's an email of 7 March 2019  
22 and it comes about 10 minutes after the email you've sent  
23 to the Children's Commissioner, it says it's from you to a  
24 range of recipients and it says:

25  
26 *Dear all. Not for general consumption*  
27 *please.*

28  
29 Then you name a staff member and you say:

30  
31 *Can you amend the BDS with the stuff I sent*  
32 *in the other email. When it's done can you*  
33 *please let me know and I'll send it to the*  
34 *Commissioner.*

35  
36 Is that your instruction to your subordinate?

37 A. I don't have that particular document, but --

38  
39 MS BENNETT: We'll provide the document to you.

40  
41 PRESIDENT NEAVE: What document number were we on there?

42  
43 MS BENNETT: I'll give the Commissioners that information  
44 in just a moment. Perhaps if the witness could be shown  
45 that document while that happens? It's DCT.0004.0001.1442.

46  
47 COMMISSIONER BROMFIELD: And we'll give you time, Mr Ryan,

1 to get things sorted.  
2 A. Sorry about that. Look, there were, yeah, I've seen  
3 the email.  
4  
5 MS BENNETT: Q. So you recall seeing that email?  
6 A. I don't have a memory of sending it, but clearly I've  
7 sent it.  
8  
9 Q. And you were instructing your subordinates to update  
10 the BDS to reflect the Blue Program; is that right?  
11 A. There were various copies of the BDS and I wanted to  
12 make sure that the one we actually had for the Commissioner  
13 was the actual current one.  
14  
15 Q. So, was it difficult to find the current BDS?  
16 A. Well, there were just some various copies of it at the  
17 centre at the time.  
18  
19 Q. So, how were your staff meant to know what the current  
20 BDS was if you couldn't find it?  
21 A. You could, it was actually on the intranet under  
22 the --  
23  
24 Q. So why not simply send the Children's Commissioner the  
25 current version of the BDS?  
26 A. I wasn't convinced that it actually had the Blue  
27 Program contained in it and given I had reintroduced it I  
28 wanted to make sure that it was contained in the one sent  
29 to the Commissioner.  
30  
31 Q. So you reintroduced the Blue Program without  
32 incorporated it into the BDS?  
33 A. No, it was part of the BDS.  
34  
35 Q. Well, it wasn't in the document, was it?  
36 A. Well, I - not presumed - I understood that it was.  
37  
38 Q. Then why did you ask your subordinate to make sure to  
39 put it in?  
40 A. To make sure we had the right copy going to the  
41 Commissioner and to ensure that it was there.  
42  
43 Q. And I'm asking you, why did you have concern or doubt  
44 that it was there?  
45 A. Because I'd seen various copies of reports and only  
46 that one, I wanted to make sure that the information going  
47 to the Commissioner was accurate.

1  
2 Q. And so, you couldn't be sure that the  
3 document available to staff on the intranet was accurate?  
4 A. I had faith that it was accurate but I just wanted to  
5 make sure that it was.  
6  
7 Q. Doesn't seem that you did have much faith that it was  
8 accurate, Mr Ryan. How often was that document reviewed  
9 and updated?  
10 A. There were a number of reviews of it; I couldn't tell  
11 you myself. The Professional Services Team would probably  
12 be better situated to give you that advice.  
13  
14 Q. Was it part of your practice to review that document?  
15 A. That and every single policy and procedure was under  
16 review at Ashley. That particular one, the BDS, was a very  
17 large body of work that needed to be done and it wasn't  
18 possible to do that from within Ashley with the resources  
19 that we had available to us.  
20  
21 Q. I just want to check with you, Mr Ryan: you don't say,  
22 "Can you check that the BDS reflects the Blue Program", you  
23 say, "Can you amend the BDS?" You're asking him to amend  
24 the document, not to check that it's up-to-date; do you  
25 accept that?  
26 A. Well, no, the - the doc - look, I can't put it any  
27 clearer: I just wanted to ensure that the document that was  
28 going to the Commissioner was the accurate one that we were  
29 working to.  
30  
31 Q. Yes, and what I want to suggest to you is that you  
32 were working to a program that was not reflected in the BDS  
33 at the time. Do you accept that?  
34 A. No, I don't accept that, and I've made reference to it  
35 within that email, so I've obviously had it at some stage.  
36  
37 Q. Sorry, there was a document called a BDS; that's  
38 right, isn't it?  
39 A. M'mm.  
40  
41 Q. And what I'm suggesting to you is that that BDS did  
42 not include within it the Blue Program?  
43 A. Yes, it did.  
44  
45 Q. So, when you asked your subordinate to update it --  
46 A. There were various reviews of the BDS and a number of  
47 different copies, I just wanted to make sure that we had

1 the one that was accurate to be sent to the Commissioner.

2

3 Q. I've asked you before about Lester; you know who I'm  
4 talking about, about Lester?

5 A. Yes.

6

7 Q. There's been a suggestion in this Commission that  
8 Lester engaged - was involved in searching children at  
9 Ashley. Are you aware of whether that ever took place from  
10 your personal knowledge?

11 A. Look, I wasn't personally aware of Lester searching  
12 young people, but he was an employee that had been there  
13 for quite some time at different roles, so I would accept  
14 that he had done.

15

16 Q. And there was no prohibition on him doing that, was  
17 there?

18 A. No.

19

20 Q. Were all operational staff involved in searching  
21 children as they came in or out of the centre?

22 A. Sorry, can you state the question again?

23

24 Q. Which staff carried out searches of children? What  
25 categories of staff?

26 A. Predominantly operational staff.

27

28 Q. Does that include you?

29 A. I could if I needed to, yes, I could have helped.

30

31 Q. Did you ever do that?

32 A. No, I don't believe so.

33

34 Q. Did you ever see Lester doing that?

35 A. No, I don't recall seeing Lester search.

36

37 Q. There's been a suggestion that there was a search that  
38 was carried out by Lester with your assistance; what do you  
39 say to that?

40 A. Not that I recall.

41

42 Q. Is it possible?

43 A. Well, given how short-staffed we were and things  
44 happening, no, I still don't think so, I just don't have a  
45 memory of searching myself.

46

47 Q. Was there particular training about searching?



1 A. Yes, there's a search procedure.

2

3 Q. How often are staff trained in the search procedure?

4 A. Certainly, it's during the induction, new youth  
5 workers. I can't recall if there was a refresher done on  
6 that or if it was what it was, but as I said all the  
7 policies and procedures were under review and that  
8 certainly was one that was reviewed.

9

10 Q. We've heard evidence that there have been some youth  
11 workers of very longstanding at Ashley; when did they  
12 receive updated training around searching procedures?

13 A. Well, with procedures, when they changed, an  
14 Implementation Plan had to accompany it so staff could be  
15 made aware of it, and depending on the change depended on  
16 what the Implementation Plan might be. For example, it  
17 could be, we'll send an email to staff to alert them of it  
18 and provide a copy to them, through to, there needs to be  
19 one-on-one training. So, the Implementation Plan was -  
20 look, I don't think all the time, but a fair proportion of  
21 time it would be something that I would complete but it  
22 required approval by the senior executives before it was  
23 returned to then action.

24

25 Q. You give some evidence that some initiatives were  
26 stymied in your statement, that some attempts to obtain  
27 some training was stymied. I think it's paragraphs 22 to  
28 30 of your statement. What sort of attempts, what are you  
29 referring to there, what attempts at training were stymied  
30 and who stymied them?

31 A. This is the Sexual Assault Support Service training  
32 that I was attempting to introduce to the centre.

33

34 Q. And, who stymied that training?

35 A. So that was sent to my then Director, who didn't  
36 support it. I'll just try for another glass of water, if  
37 that's okay?

38

39 PRESIDENT NEAVE: Sure.

40

41 MS BENNETT: Q. Mr Ryan, my learned junior reminds me  
42 that Mr Pervan's evidence was that he understood that you  
43 had observed Lester, that you had seen Lester carry out a  
44 search of a child. Is that accurate or is that true?

45 A. I don't recall that at all.

46

47 Q. Does searching at Ashley while you were there, did

1 that involve removing the child's closing?

2 A. Sometimes it did.

3

4 Q. When did it?

5 A. Well, there was a rather prescriptive search procedure  
6 which was subsequently amended which detailed the types of  
7 searches that were to be conducted in certain scenarios,  
8 and look, I don't have it in front of me but I recall that,  
9 if you'd had a contact visit, you'd have a full unclothed  
10 search; if you were a new admission also or you'd been  
11 off-site. As I say, I don't have it in front of me but  
12 those are my memories.

13

14 PRESIDENT NEAVE: Q. One of the matters that was  
15 included, I think, was that any search had to be observed  
16 by a second person?

17 A. Correct.

18

19 Q. But you don't recall observing a search carried out by  
20 anyone else?

21 A. No, not me personally.

22

23 MS BENNETT: Commissioners, I've only got one topic to go  
24 and I'm conscious of the time. I apologise for having run  
25 over time to both the Commissioners and the witness. If I  
26 could seek the indulgence for a further 15 to 20 minutes  
27 after the break, unless the Commissioners are minded to  
28 continue sitting now, but it's been a long morning.

29

30 COMMISSIONER BROMFIELD: Q. Mr Ryan, would you prefer a  
31 break now or would you prefer to finish it now?

32 A. If it's another 15-odd minutes I'd prefer to keep  
33 going, if that's okay?

34

35 PRESIDENT NEAVE: Yes, let's do that.

36

37 MS BENNETT: Thank you.

38

39 COMMISSIONER BENJAMIN: Is our stenographer okay?

40

41 MS BENNETT: I'll speak slowly to ensure I don't tire out  
42 our stenographer.

43

44 Q. You tell us in your statement at about paragraph 184  
45 about an incident concerning Henry. Have a look at  
46 paragraph 184.

47 A. Yes.

1  
2  
3  
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Q. You tell us there at paragraph 184 that:

*There were differing views expressed as to whether the incident should be considered a sexual assault or not, given that there was no contact of a sexual nature between the residents, but only a gesture to that effect.*

Is that right?

A. Yes.

Q. That was a view you had formed at the time, that it should not be considered as sexual assault; is that right?

A. I considered it a sexualised incident but not a sexual assault charge, for want of a better word.

Q. So, what's the threshold, what's a sexualised incident as opposed to sexual assault?

A. Well, that particular - that particular matter I regarded as a sexualised incident as opposed to a sexual assault. There were differing opinions in relation to it and the matter was ultimately referred to police through Child Safety referral who returned it without any charges, so I guess it's open to an interpretation.

Q. Is it fair that you took the interpretation that minimised the seriousness of the conduct?

A. No, no, I didn't; I don't agree with that. The incident was reported and it was taken seriously, it was a detention offence. I spoke at length with people in relation to it and went to the CST meeting when it was announced - but I'll come to CST, there's a lot of differing opinions in relation to this about being able to work together effectively in relation to it, acknowledging though that there were different opinions, and then I've also completed an issues briefing. The issues briefing itself isn't something that's just completed cold, it incorporated and always incorporates discussions, escalation and consideration with my Director.

Q. You've said there are lots of opinions. Your opinion was it was a sexual incident and other people had the opinion it was a sexual assault or an attempted sexual assault; is that right?

A. As I was trying to say, I discussed it and escalated

1 it --

2

3 Q. I'm just going to pause you there and direct your  
4 attention to my question. Did anyone express to you their  
5 opinion that this was a sexual assault or an attempted  
6 sexual assault?

7 A. Yes, there were, there were those opinions, correct.

8

9 Q. And that was an available opinion, was it not?

10 A. Yes.

11

12 Q. And the people who expressed those opinions were  
13 people of long-standing experience, were they not?

14 A. Look, I don't recall exactly who had what opinion at  
15 the time, but what I - what I did do is raise it with my  
16 Director, speak with my Director in relation to it, and  
17 asked my Director to view the footage, which he did.

18

19 Q. My question to you is that there were credible  
20 interpretations of that event that characterised it as a  
21 sexual assault or an attempted sexual assault; do you  
22 accept that?

23 A. Well, what's credible to one person may not be  
24 credible to another, but there was some opinions --

25

26 Q. Precisely, yes. So, people with experience in the  
27 area and who worked in this area expressed to you the view  
28 that this was a sexual assault or an attempted sexual  
29 assault; is that right?

30 A. Yes, I'd agree with that.

31

32 Q. Indeed, in your supplementary statement at paragraph 1  
33 you tell us that:

34

35 *In the footage his trousers are pulled*  
36 *partway down but his underpants remained*  
37 *on.*

38

39 So, as you tell the Commission, your recollection of  
40 viewing the footage is that children bent the victim over  
41 and pulled his trousers down; is that right?

42 A. I don't think I put "bent him over".

43

44 Q. Do you recall seeing that?

45 A. I recall seeing the footage.

46

47 Q. Yes, and your --

- 1 A. No, I didn't seeing any bending over then.  
2
- 3 Q. So, there were inmates who pulled his trousers partway  
4 down?  
5 A. There were residents attempting to pull his pants  
6 down, yes.  
7
- 8 Q. And you say his underpants remained on; is that right?  
9 A. Yes.  
10
- 11 Q. And another review carried out by someone associated  
12 with SERT, reading from that says they reviewed the same  
13 footage and say:  
14  
15 *An inmate starts pulling the victim's pants*  
16 *down and another inmate goes to help. The*  
17 *victim's bare buttocks can be seen briefly.*  
18
- 19 Were you aware of that interpretation of the same  
20 footage?  
21 A. Yes, only subsequently.  
22
- 23 Q. Yes. You would accept, and then it says:  
24  
25 *One of the perpetrators gets a water bottle*  
26 *and seems to be holding it near the*  
27 *victim's buttocks.*  
28
- 29 A. Yes.  
30
- 31 Q. Now, a suggestion I want to make to you is that that  
32 is an attempted sexual assault?  
33 A. Well, that's an interpretation that's open.  
34
- 35 Q. Yes, and can I suggest to you that that is the more  
36 serious interpretation that is open?  
37 A. Well, for someone - I suppose, taking it back a step,  
38 if you were to suggest this is a sexual assault versus,  
39 this is a sexual incident, you're suggesting it's more  
40 serious.  
41
- 42 Q. Yes, it was the more serious of what you considered to  
43 be the two available options: there was the more serious  
44 and there was the less serious; is that fair?  
45 A. Yes, I'd say that's fair.  
46
- 47 Q. And you preferred to characterise this as the less

1 serious?

2 A. I did characterise it as a sexualised incident, not as  
3 a sexual assault.

4

5 Q. I suggest to you that you, in doing that, minimised  
6 the significance of the conduct?

7 A. No, absolutely not. It was - no, look - just, no, I  
8 didn't.

9

10 Q. So, would a sexual assault or an attempted sexual  
11 assault have triggered a different response to a sexualised  
12 incident?

13 A. Well, the matters - the matter would be essentially  
14 attended to in the same manner to commence with - bearing  
15 in mind, this matter wasn't witnessed by staff, it was  
16 uncovered later as a result of some enquiry. Ultimately,  
17 though, the matter would have been recorded on the Ashley  
18 incident paperwork and it would then suffer the usual  
19 process. I can't remember when I was alerted to this, but  
20 an assault - assaults - I was alerted of assaults. Look,  
21 the same process of considering an incident and then  
22 responding to it is the same and there are variables that  
23 then flow from that.

24

25 So, for example, in the case of the major incident, a  
26 variable that flowed from that was that I asked police to  
27 attend.

28

29 PRESIDENT NEAVE: Q. And you did not in this case, did  
30 you?

31 A. When the detention offence was before CST, the  
32 detention offences then come back to me to review, and part  
33 of that review - part of that review talks about notifying  
34 people, and I was aware that the matter was being directed  
35 to Child Safety and to police, but ordinarily I would  
36 always consider any alleged victim and any alleged  
37 offender, so I would task Professional Services Team, okay,  
38 so here's a detention offence, it's going to you for  
39 consideration, please ensure you contact these people, or  
40 during the process draw your mind to requirements to  
41 contact family or police or Child Safety.

42

43 COMMISSIONER BROMFIELD: Q. Mr Ryan, in this incident  
44 the records don't show the communication happening in that  
45 direction; in fact, the records show the Professional  
46 Services staff as the ones raising whether this should be  
47 reported, not yourself. Would you agree with that?

1 A. I can't remember the timeline for it, Commissioner,  
2 I'm sorry, but certainly there was some discussion from  
3 Mrs Gardiner in relation to, she believed the matter should  
4 be referred to Child Safety. I spoke with my Director  
5 about that and, you know, also showed him the footage and  
6 seeking some direction in relation to the matter and, yeah,  
7 I didn't - I advised straight up-front to the Director,  
8 "Look, there is a referral that's gone in", and he said,  
9 "Okay, we'll let our - we will let the processes apply",  
10 which they did.

11  
12 PRESIDENT NEAVE: Q. Just going back to the notion that  
13 Ashley was moving towards a more therapeutic approach, what  
14 do you think the effect on a child would be of being bent  
15 over by two bigger boys, having their pants pulled down to  
16 some extent, and whether or not a technical attempted rape  
17 occurred, certainly you could well understand that the  
18 person would have been frightened that that would occur.  
19 So, what should a therapeutic approach be to an incident of  
20 that kind?

21 A. Well, it was some very - well, you'd need to consider  
22 an approach, not only from - and we did, we considered an  
23 approach from multiple angles: it was the safety and  
24 wellbeing of the young person involved, others that were  
25 there, and the alleged offenders in relation to it. And  
26 often when you had a detention offence there was an  
27 occasion where you would need to speak with the victim in  
28 relation to, what do you wish to do with this? And my  
29 referral to the Professional Services on that point was  
30 routine, "Please speak with the victim in relation to this  
31 matter, please consider police". For this particular one  
32 there was a lot of discussion around it and a lot of  
33 correspondence and reports.

34  
35 Q. You would presumably be aware of the difficulties for  
36 a detainee in saying that they wanted the matter to be  
37 escalated to the police because that would then perhaps  
38 result in reprisal or at least them being known within  
39 other parts of Ashley as somebody who reported to the  
40 police.

41 A. Yeah, I understand that would be difficult for the  
42 young person, but the Professional Services Team and even  
43 all the staff, youth workers, Operations, were really  
44 supportive and, you know, spoke to young people to say,  
45 "Look, we've got some options here, what would you like to  
46 do? We'll support you, we'll help you", but I appreciate  
47 that it would have been difficult, an example like that

1 would be difficult for the young person.

2

3 COMMISSIONER BROMFIELD: Q. We had evidence from a  
4 former detainee at Ashley whose period of detention did  
5 coincide with your management of the centre; one of their  
6 reflections was that there was an occasion in which the  
7 centre made the decision to report to the police about them  
8 but they reflected that that decision was never taken in  
9 relation to sexual assaults perpetrated against them by  
10 other children. They were really, I guess, questioning why  
11 it was that the centre would choose sometimes to make the  
12 report to the police and other times put that  
13 responsibility on the child.

14 A. It's a difficult question to answer, I guess. There  
15 was always support to any young person who was a victim of  
16 anything to report matters, be it the Ombudsman, the  
17 Commissioner for Children, the Secretary, me. No-one came  
18 to me with reports of sexual behaviour against them. With  
19 detention offences, some matters were referred to police by  
20 me, but the far majority were not.

21

22 Q. Do you recall how - you said that there were enquiries  
23 made that alerted operational staff to this incident. Do  
24 you remember how operational staff became aware of this  
25 incident?

26 A. No, not - I don't recall unfortunately, no.

27

28 Q. On the materials that we've been provided it's that  
29 the young people involved advised operational staff that  
30 the victim was self-isolating in their room because they'd  
31 tried to rape them.

32 A. No, I don't recall that.

33

34 Q. That would seem, on that description, that they  
35 considered it to be more than a sexualised incident.

36 A. Well, I don't know if they were reporting what they'd  
37 heard or, you know, I just don't know.

38

39 COMMISSIONER BROMFIELD: Thank you.

40

41 MS BENNETT: Q. Were you aware of a report carried out  
42 into the incident which I've referred to as a SERT report,  
43 Serious Event Review report?

44 A. Yes, I am aware that one was done.

45

46 Q. Have you read that report?

47 A. I've viewed it, I haven't read it in depth.



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Q. It refers to an information briefing or an IB that was prepared for the Secretary about the incident; are you aware of that briefing?

A. Yeah, there were - I've attached quite a number to my statement.

Q. And in that briefing did you report that the victim's pants were not pulled down?

A. Well, I'd have to look at it, but I think I know where you're heading with this, that - I'm not at any stage attempting to minimise any of this or - the footage was there, you could look at it, we did, I showed it to the Director. But "pants were not removed", to me, they're not taken away from you, removed from you. So, look, you can --

Q. Can I suggest that's quite different - pants being pulled down is quite different to pants being removed?

A. I can only explain it the way that I have --

Q. Well, can I suggest to you that the answer is misleading?

A. Am I allowed to answer? Look, I'm sorry, but I'm just trying to answer the question but you keep on providing interruptions to me, and I am sorry if I'm getting a little upset but, no, I didn't minimise this. If there was a different use of words in relation to it, it wasn't my way of attempting to minimise anything.

I've explained the example of, if your pants are removed, they're taken away, was an attempt to remove his pants; it was a discussion that I held at length with staff, with my Director, and I showed my Director the footage. It wasn't just a report to the Secretary, it was a report to my Director which then had to go further and beyond, and it was with the benefit of the reports and with the benefit of the Director looking at the footage.

Q. Did you report that the victim's pants were not pulled down?

A. I would have to go back - look, whatever's written in my information briefs is what I said. What the ultimate information brief was that went to the Secretary, I don't know because all bar one of hundreds that I did and still do went up as I wrote it; they always changed.

1 PRESIDENT NEAVE: Q. So you reported to the Director.  
2 When you say they always changed, do you mean that they  
3 changed between the Director and the Secretary?

4 A. Yes. I'll give you - sorry to interrupt.  
5

6 Q. I don't think this is necessarily an example, but are  
7 you saying that you made reports about incidents to the  
8 Director and what the Secretary got was a reduced or  
9 changed in some way version of what you put up; is that  
10 what you're saying?

11 A. Yes, that did happen. Not every time. As I said,  
12 there was one example where it didn't, but more often than  
13 not they were changed.  
14

15 Q. And what --

16 A. Not the premise or rationale of it, but, no, we don't  
17 need that sentence or we don't need that paragraph.  
18

19 Q. For what purpose was that editing done?

20 A. Well, issues briefings were pretty subjective. I've  
21 done some I've thought, that's pretty good I'm happy with  
22 that, and it's come back saying there's not enough or more  
23 often there's too much. So, it was just a - I did one  
24 subjectively, I guess, or as subjectively as I could; the  
25 next person, being the Director, would think, no, I wish to  
26 change that, or alternatively the Director might have given  
27 it to the Deputy Secretary.  
28

29 Q. Do you see any problem in that process?

30 A. Yes.  
31

32 Q. And would you like to elaborate on what the problem  
33 is?

34 A. Well, what I've initially authored isn't exactly what  
35 the recipient gets.  
36

37 MS BENNETT: Q. Could I take you then to the issues  
38 briefing that we have at Exhibit 16 to your statement, it's  
39 headed, "Issues briefing". For the transcript,  
40 TRFS.0080.0001.0202. You write, under "Background", third  
41 dot point:

42  
43 *Interrogation of the CCTV shows the four*  
44 *residents watching television sitting*  
45 *variously on seats in front of it. Two*  
46 *residents of Ashley then approach the*  
47 *victim and grab him by his legs pulling him*

1           *off his chair and trying to pull his*  
2           *trackpants off. The victim holds onto his*  
3           *pants and was able to keep them up. The*  
4           *perpetrator reached for a 600 ml bottle of*  
5           *water and brought it towards the victim's*  
6           *buttocks for two to three seconds. The*  
7           *incident then ended.*

8

9           Now, was that your report of the incident?

10          A.    Well, I believe that part is accurate, yes.

11

12          Q.    I'm asking if those were your words?

13          A.    Well, I don't have to compare exactly what I've typed  
14               to start with versus what was actually sent out because  
15               they always changed. Not everything was changed. I can't  
16               recall now specifically if they were my exact words.

17

18          Q.    So, you're not sure whether you briefed the Secretary  
19               on the basis that the pants remained up?

20          A.    Ah, I see what you're getting at. So, again, as I  
21               explained before, taking - trying to take the pants off,  
22               you know, completely or not: was there a - you know, now  
23               sitting here with the benefit of hindsight was there a  
24               better way of explaining that? Yes, but it was subject -  
25               so, I was sending this to my Director who I'd spoken with,  
26               who I'd met with, who I'd shown the footage to, so it  
27               wasn't - if there was a miscommunication in that, it wasn't  
28               anything sinister.

29

30          Q.    So, my question to you is, was this your report? Do  
31               you believe it to be your report?

32          A.    That particular part, yes, I do believe.

33

34          Q.    And do you accept that it is not an accurate report  
35               when you say:

36

37               *The victim held onto his pants and was able*  
38               *to keep them up.*

39

40          A.    Well, if I turned my mind back to the actual footage  
41               itself, he had his pants up, part of it was pulled down at  
42               the back.

43

44          Q.    Yes, so do you accept that telling the Secretary that  
45               "he was able to keep his pants up", was inaccurate?

46          A.    I wouldn't say inaccurate, I'd say it could be worded  
47               better.

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Q. Was it worded accurately?

A. At the time I believe it was, yes.

Q. Well, is there a difference to you between a child picking their pants up and having them pulled part down?

A. I think, on the basis of it being a brief, it was not a full investigation, in hindsight and sitting here now it would have been better - better expanded to say "attempted to pull his pants off, was partly successful, but the pants were not completely removed".

Q. So, you don't see anything wrong with your initial reporting to the Secretary?

A. If I had to do it again now I would have done it in the way I've just explained, but I do again say it was to my Director with all the other material available and it wasn't, by the look of it, changed - that part wasn't changed and it was sent up.

Q. Well, you knew it might end up with the Secretary?

A. Yes.

Q. You knew the Secretary wouldn't necessarily have the time or capacity to view the CCTV?

A. No, the Secretary actually did view CCTV.

Q. I'm just asking, were you expecting that the Secretary would rely on your representation of what happened?

A. I believe that the Secretary would - would certainly read the document and take its contents into account, yes.

Q. Did you think it was important to be as accurate as possible in briefing the Secretary?

A. Well, yes, it is important to brief the Secretary properly and, as I said, the issues briefing was a brief and, of the countless times they were returned to change something, it was more often than not because there was too much in there; it wasn't an investigation brief, it was an issues brief in relation to what had happened and, if memory serves me right, I provided information of the CCTV, is there available to view which could be done from Hobart.

Q. Can I suggest to you that you are, even now, minimising the significance of what could be seen as a significant inaccuracy in your briefing to the Secretary: what do you say to that?

1 A. If it was read in isolation by itself, with nothing  
2 else, no other conversations, I would have worded it  
3 differently to include that expanded comment around the  
4 pants, yes, but I can't - I can't answer any further than  
5 that.  
6

7 Q. No, my question to you is different. My question is,  
8 it might be open to these Commissioners to find that, even  
9 now today, you are minimising the significance of your  
10 report to the Secretary and the importance of accurately  
11 reporting to the Secretary around these issues, and I'm  
12 asking you to comment in relation to that proposition?

13 A. Well, I felt that I - at that time I felt that I had  
14 accurately reported the matter to my Secretary, and I  
15 accept that I could have worded that better.  
16

17 MS BENNETT: Please the Commissioners, I have no further  
18 questions. I'll just check with my learned friend.  
19

20 COMMISSIONER BENJAMIN: Q. Whilst Ms Bennett is taking  
21 further instructions, there was some evidence that the  
22 person undertaking the serious incident report was not  
23 provided with all of the documents that she saw. Had you  
24 seen or heard of that evidence?

25 A. I did read that, yes.  
26

27 Q. Do you have anything to say in relation to that?

28 A. No, look, I didn't stop SERT getting access to  
29 anything, I was helping as much as I could in relation to  
30 releasing information. I - when that investigation was  
31 being undertaken I had - I'd left Ashley soon after on  
32 ill-health, so I can't really comment in relation to  
33 specific requests.  
34

35 PRESIDENT NEAVE: Q. Are you aware of any other person  
36 at Ashley who may have attempted, at least, to limit access  
37 to documents?

38 A. I recall, from preparing and reading transcripts,  
39 there was a suggestion in relation to Lester.  
40

41 Q. Yes, I think that's right.

42 A. But I'm not aware of anything in relation to what  
43 discussions were had with Lester.  
44

45 COMMISSIONER BENJAMIN: Q. There was also a suggestion  
46 that they'd asked you for the documents and they never  
47 arrived or didn't arrive?

1 A. Which ones, Commissioner?  
2

3 Q. In relation to this incident, that when the serious  
4 incident report was being undertaken they asked you or you  
5 were asked to provide the documents and they were never  
6 ever sent?

7 A. There was - SERT investigation often required, and I  
8 think this one in particular, a lot of information all of a  
9 sudden: we want it yesterday, so it took a lot of time to  
10 bring information together and if there were deadlines  
11 missed or perhaps they're referring to that, but I  
12 certainly didn't stand in the way ever of releasing  
13 information to SERT. I tried to be as helpful and as  
14 accommodating as I possibly could.  
15

16 MS BENNETT: There's nothing further, Commissioners, from  
17 me.  
18

19 COMMISSIONER BROMFIELD: Q. I just had one small  
20 question, I think. You said that Secretaries did view CCTV  
21 footage. I was wondering if you could recollect whether  
22 that was Secretary Pervan or Secretary Webster or both?

23 A. I recall Secretary - well, I wasn't there, but I  
24 recall a discussion with my Director to say, "The  
25 Secretary's viewed the footage", and this was in relation  
26 to a use of force and that's when a determination came,  
27 "No, I'm going to suspend this person".  
28

29 MS BENNETT: I understand the documents. My learned  
30 friends for the state remind me the documents suggest it  
31 was Mr Pervan, if the please the Commissioners.  
32

33 COMMISSIONER BROMFIELD: Thank you.  
34

35 PRESIDENT NEAVE: Q. In relation to this particular  
36 incident, not just a general review?

37 A. I don't know.  
38

39 Q. But you think?

40 A. I know Secretaries - I only had experience with  
41 Webster when she reviewed some footage.  
42

43 Q. And she reviewed videos in the past, but you don't  
44 know whether Secretary Pervan viewed this particular?

45 A. No, that's correct, I don't know.  
46

47 PRESIDENT NEAVE: Thank you.

1  
2 MS BENNETT: I repeat my apologies for going over time and  
3 thank the Commissioners for their indulgence.  
4

5 **LUNCHEON ADJOURNMENT**  
6

7 MS BENNETT: Thank you, Commissioners, the next witness is  
8 Mr Chris Simcock.  
9

10 <CHRISTOPHER GARY SIMCOCK, affirmed: [2.39pm]

11  
12 <EXAMINATION-IN-CHIEF BY MS BENNETT:  
13

14 MS BENNETT: Q. Thank you, can you please tell the  
15 Commissioners your full name and professional address?

16 A. Christopher Gary Simcock, Kirksway Place, Hobart.  
17

18 Q. You've not made a statement to the Commission, but you  
19 have provided your curriculum vitae; is that right?

20 A. I have, yes.  
21

22 Q. Yes, thank you. Can you tell the Commissioners your  
23 current role?

24 A. My current role is the Executive Director of Youth  
25 Justice Reform.  
26

27 Q. When did you take up that role?

28 A. About three weeks ago.  
29

30 Q. What is the core focus of that role?

31 A. So, it changed on day one slightly. Originally, I was  
32 responsible for the reforming of the Youth Justice System  
33 which was looking at the Blueprint, designing a new  
34 detention centre or detention centres, but I had  
35 responsibility of the Ashley Youth Detention Centre put  
36 under me on the day I started.  
37

38 Q. So, was that three weeks ago?

39 A. Yes.  
40

41 Q. What is your role or responsibilities in relation to  
42 Ashley?

43 A. So, I oversee the operations of Ashley.  
44

45 Q. So, as at today, are you based at Ashley?

46 A. I'm not based at Ashley, no, I'm based in Hobart.  
47

- 1 Q. And, have you visited Ashley?  
2 A. I have, yes.  
3  
4 Q. How often have you been to Ashley so far?  
5 A. I have been there three times.  
6  
7 Q. And, is that once per week?  
8 A. So, I was there for two days this week and a day in my  
9 first week.  
10  
11 Q. Are the children there safe?  
12 A. Safe from?  
13  
14 Q. Safe?  
15 A. I believe they are. As best as you can assure people  
16 that young people are safe, I think they are safe.  
17  
18 Q. What are the variables at the moment that make you  
19 unsure?  
20 A. Well, I think I could never say definitively that you  
21 could guarantee a child's safety all of the time. I don't  
22 think that there is anything that's apparent to me that  
23 would suggest there is any deliberate harm being caused to  
24 the young people in Ashley.  
25  
26 Q. So, what does being responsible for operations at  
27 Ashley mean?  
28 A. So, that is basically any of the operations, any of  
29 the initiatives, any of the improvement programs, just  
30 anything I guess to do with that facility and the staff and  
31 the young people.  
32  
33 Q. So, you are now responsible for the operation of  
34 Ashley Youth Detention Centre?  
35 A. I am, yes.  
36  
37 Q. And, who reports to you?  
38 A. I have two direct reports at the moment: one is the  
39 Director of Custodial who started on Monday, and I have Pam  
40 Honan as well who's on leave.  
41  
42 Q. And each of those report to you?  
43 A. Yes.  
44  
45 Q. And so, you're responsible for the operation of Ashley  
46 and that's not a role that you consider it's necessary to  
47 be present at Ashley to carry out?



1 A. No, I don't think I am required to be there all the  
2 time, but I certainly like to make sure that I am there  
3 quite frequently.  
4

5 Q. How often do you think you need to go there?

6 A. I would suggest that I would be comfortable going  
7 there every week.  
8

9 Q. Before this role - we'll come back to this role in a  
10 moment - before this role you were the Executive Director  
11 of Youth Justice Operations in the Northern Territory; is  
12 that right?

13 A. Yes.  
14

15 Q. And there you were responsible for the design and  
16 delivery of two new Youth Detention Centres, Darwin  
17 \$81 million and Alice Springs, \$24 million; is that right?

18 A. Yes.  
19

20 Q. Are those facilities, those two new youth detention  
21 centres, intended to replace Don Dale?

22 A. Yes, and redevelopment of the Alice Springs Youth  
23 Detention Centre.  
24

25 Q. You're aware there was a Royal Commission into Don  
26 Dale; is that right?

27 A. I think the Royal Commission was into the Youth  
28 Justice System as a whole in the Northern Territory, not  
29 specifically to Don Dale.  
30

31 Q. Yes, including Don Dale?

32 A. Yes, absolutely.  
33

34 Q. And you've read the report of that Royal Commission?

35 A. Yes.  
36

37 Q. Do you know when the intention was announced to build  
38 the two new detention centres that you are responsible for  
39 the design and delivery of?

40 A. For Hobart or for?  
41

42 Q. No, sorry. In the Northern Territory, what's the gap?  
43 When was it announced that there would be two new youth  
44 detention centres?

45 A. So, the new detention centres were announced before I  
46 commenced in my role, so that would have been 2017, early  
47 2018.

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Q. Is that immediately following that Royal Commission?

A. Yes.

Q. And was it in some way responsive to the Royal Commission?

A. Yes.

Q. What was the lead time between the announcement that there would be new Youth Detention facilities and the implementation of those two new detention facilities?

A. The simple answer is that the actual bricks and mortar commenced in 2020, so there was planning and workshops, and I think there was initially trouble finding locations for the new facilities.

Q. So, is it fair that following the Royal Commission there was a recommendation or there were recommendations that there be new facilities or that led to the commitment that there be new facilities, and that that commitment was made around 2017?

A. Yes.

Q. And that it took until 2020 for there to be bricks and mortar on the ground in relation to those two new facilities?

A. Yes.

PRESIDENT NEAVE: Q. So, the bricks and mortar are on the ground for the two facilities; is that right?

A. Yes. Yes, Commissioner.

MS BENNETT: Q. Are they finished?

A. They're not finished, they are both due to be completed next year.

PRESIDENT NEAVE: Thank you.

MS BENNETT: Q. When next year?

A. I think the Alice Springs redevelopment is at the beginning of the year and the Darwin facility is towards the middle to end.

Q. As the Executive Director of Youth Justice Operations, were you primarily concerned with the delivery of those Youth Detention Centres?

A. So, yes, I played a part in the delivery in

1 conjunction with the Department of Infrastructure, Planning  
2 and Logistics.

3  
4 Q. Day-to-day, though, was your role primarily focused on  
5 the delivery of those two centres?

6 A. It wasn't primarily focused because I had the daily  
7 operations of both Alice Springs and Don Dale as well.

8  
9 Q. The Youth Detention facilities?

10 A. The Youth Detention facilities.

11  
12 Q. In both of those places?

13 A. Yes.

14  
15 Q. And there had been some somewhat notorious issues at  
16 both - at Don Dale, at least; is that fair?

17 A. Yes.

18  
19 Q. Are you able to offer reflections to this Commission  
20 about the challenges that you faced in responding to those  
21 issues in Don Dale?

22 A. I can. Don Dale is - well, the actual original Don  
23 Dale is 500 metres down the road from the current Don Dale.

24  
25 PRESIDENT NEAVE: Q. You mean, the new one - has a new  
26 one been constructed or?

27 A. No. So, the current Don Dale that's referred to in  
28 the media is actually the old Berrimah Prison, which ceased  
29 being operationalised for adults. The original Don Dale  
30 facility which the Four Corners episodes referenced is  
31 500 metres down the road.

32  
33 I think one of the main challenges for running the Don  
34 Dale facility was that it was never designed for young  
35 people, and it was very old, and it's not fit for purpose.

36  
37 MS BENNETT: Q. Were there any cultural difficulties in  
38 the operation of Don Dale?

39 A. Yes, there were.

40  
41 Q. And, can you tell us about what those were?

42 A. So, I commenced responsibility for Don Dale in August  
43 2018. Don Dale had gone from - or Youth Justice had gone  
44 from the Department of Corrections in the Northern  
45 Territory had been moved across to the then-Department of  
46 Territory Families, Housing and Communities.

1           Initially, before I started and certainly at the  
2 beginning, there was culture challenges with the staffing  
3 cohort; there was a distrust and there is also a large  
4 element of unknown about the future of Youth Justice.  
5

6           Q.    And why did they present challenges in the operation  
7 of Don Dale?

8           A.    Because I think that some of the staff felt victimised  
9 through the Royal Commission process and they didn't really  
10 have much say in the ultimate destination of Youth Justice  
11 going from Corrections to Territory Families, and I believe  
12 there was a culture of bullying of new staff before they  
13 started in Don Dale, before my time.  
14

15          Q.    In terms of your role - we've talked about the design  
16 and delivery of the new Youth Detention facilities; you  
17 tell us as well that you were responsible for an  
18 operational budget of \$20 million and an infrastructure  
19 budget of \$105 million.

20          A.    So, the infrastructure budget was a shared budget with  
21 the Department of Infrastructure, Planning and Logistics,  
22 but the general overall budget was around \$20 million.  
23

24          Q.    When you say you were "responsible" for that budget,  
25 what do you mean? Were you in charge of the finances of  
26 the Youth Justice finances?

27          A.    Of the detention operations, yes, I was.  
28

29          Q.    Were you on site at those detention facilities on a  
30 day-to-day basis?

31          A.    Yes, I was most days. I went through a number of  
32 periods where I was required in the central office, which  
33 was in Darwin, and most recently I moved out to the Don  
34 Dale facility.  
35

36          Q.    Were you working directly with the children there?

37          A.    Myself personally?  
38

39          Q.    Yes.

40          A.    I would meet and work with some of the young people; I  
41 would know a lot of them by name. I certainly had a good  
42 rapport with a lot of the young people and they could  
43 always escalate - I made it a point that they could always  
44 escalate issues directly to me.  
45

46          Q.    And so, when you were working with the children, was  
47 that part of formal programs, or do you mean - what do you

- 1 mean by when you were "working with them"?
- 2 A. Well, there were some days that I would have a short  
3 staff number and I would, as the Executive Director, do  
4 functions around the centre. So, I would work the  
5 Gatehouse, which sees young people coming through  
6 particularly in, say, Alice Springs, or work with the  
7 superintendents on the floor if required; I did that after  
8 the riots to some extent, but I wasn't really engaged as a  
9 youth worker or Youth Justice officer.
- 10
- 11 Q. Do you have any qualifications connected with youth  
12 work?
- 13 A. No.
- 14
- 15 Q. What about youth social work?
- 16 A. No.
- 17
- 18 Q. Anything at all, any formal qualifications connected  
19 with childhood - with child safety?
- 20 A. I don't, no. Not specific.
- 21
- 22 Q. Do you - Well, general?
- 23 A. No. I participated in a number of courses that were  
24 provided, induction courses and that sort of thing, but I  
25 haven't done a specific qualification in any of those  
26 areas.
- 27
- 28 Q. Have you heard of the Child Safety Principles?
- 29 A. Yes.
- 30
- 31 Q. Can you tell us what you know about them?
- 32 A. So, I guess for me, you know, the important thing is  
33 about trauma-informed practice, child at the centre of  
34 decision-making. I'm sorry, I've got a mental blank.  
35 Sorry, can you please...
- 36
- 37 Q. What are the Child Safety Principles?
- 38 A. I can't refer to them off the top of my head, sorry.
- 39
- 40 Q. Do you know where they come from?
- 41 A. The Child Safety Principles?
- 42
- 43 Q. Yes?
- 44 A. Yes.
- 45
- 46 Q. Where do they come from?
- 47 A. So, they're designed - I think they were designed by

1 experts who had the best interests of children at heart,  
2 but I don't know who definitively did.

3  
4 Q. Are you aware of how they've been rolled out? I'm not  
5 trying to test your memory, but you'd agree with me that  
6 they're a significant part of a Child Safeguarding  
7 Framework; would you agree with that?

8 A. I would agree.

9  
10 Q. Are you aware of their implementation in some  
11 jurisdictions?

12 A. Yes.

13  
14 Q. Okay, what can you tell us about their implementation  
15 in some jurisdictions?

16 A. Well, I'm aware of them, but I can't speak  
17 specifically to how they've been implemented in...

18  
19 Q. You're aware they came out of the Royal Commission  
20 into child sexual abuse, the National Royal Commission?

21 A. Yes.

22  
23 Q. They were a recommendation arising from that  
24 Commission?

25 A. Yes.

26  
27 Q. Have you read the report of that Royal Commission?

28 A. I haven't read every word of the report, there's a lot  
29 of volumes to the Child Sexual Abuse Royal Commission.

30  
31 Q. Possibly Commissioner Bromfield is the only person who  
32 has. But --

33 A. I certainly have all of the case studies and the  
34 volumes at home.

35  
36 PRESIDENT NEAVE: Q. Can I just intervene there? Have  
37 you had the opportunity to read the parts of that report  
38 pertaining to Ashley?

39 A. That specific one? No, I haven't, no.

40  
41 PRESIDENT NEAVE: Okay, thank you.

42  
43 MS BENNETT: Q. Were the Child Safe Principles or  
44 standards, were they part of your role at Don Dale? Let me  
45 put it another way. Leaving aside Don Dale, are they part  
46 of your history to date? You have worked with them in the  
47 past?

- 1 A. I have, yes. To an extent, yes.  
2
- 3 Q. In what context have you worked with them in the past?  
4 A. So, I guess I have worked with them in the capacity of  
5 the specialist assessment and treatment services and the  
6 counselling arms of the agency in embedding them into  
7 operations.  
8
- 9 Q. Which agency is that?  
10 A. So, that would be the Northern Territory.  
11
- 12 Q. I see.  
13 A. So, there's a number of different specialist treatment  
14 of services in the Northern Territory, in particularly Don  
15 Dale Youth Justice.  
16
- 17 Q. And so, were you part of the team that was embedding  
18 those principles or standards into that?  
19 A. No, so that was - that's a specific team that was set  
20 up for delivering those. I had the operational arm and  
21 provided the staffing and the context around that.  
22
- 23 Q. Your experience, broadly, is in - well, reading from  
24 your CV, you say you're:  
25
- 26 *Highly experienced in delivering a broad*  
27 *range of specialist capabilities throughout*  
28 *government organisations.*  
29
- 30 You say you:  
31
- 32 *Specialise in stakeholder management,*  
33 *liaison negotiation, innovative program*  
34 *development. My strategic focus is on*  
35 *program delivery and development, business*  
36 *improvement, cultivating collaborative*  
37 *environments to promote information and*  
38 *knowledge sharing.*  
39
- 40 That's fair, isn't it?  
41 A. Yes.  
42
- 43 Q. And that's the kind of introductory statement that you  
44 used to introduce yourself to your current role at Ashley?  
45 A. Yes.  
46
- 47 Q. And you'd accept from me, wouldn't you, that that

1 doesn't involve a significant focus on your expertise  
2 around the safety and welfare of children?  
3 A. So, that doesn't?  
4  
5 Q. Involve a particular focus on your expertise as it's  
6 connected with the safety and welfare of children?  
7 A. So, that statement, no.  
8  
9 Q. How were you recruited to your current role?  
10 A. I was approached by a recruiting officer in January to  
11 seek interest if I would be keen to apply.  
12  
13 Q. And, what were you told about the role?  
14 A. I was told that it was a youth justice reform.  
15  
16 Q. Did anyone ask you about your expertise? And I'll ask  
17 this question by reference to I assume that there was a  
18 process that you went through there to become recruited; is  
19 that right?  
20 A. Yes.  
21  
22 Q. And what was that process?  
23 A. So, it was an interview with the recruiter, and it was  
24 then a formal interview via phone with the panel, and then  
25 a subsequent interview where I flew down to Hobart to meet  
26 in person.  
27  
28 Q. And, who interviewed you at that final interview?  
29 A. The same people that interviewed me over the phone,  
30 which was the Secretary of the current department, an  
31 Assistant Commissioner of Police and the Head of the Public  
32 Service, and the Secretary of the Attorney-General's  
33 department.  
34  
35 Q. Did you speak at all - in the context of being  
36 recruited, were you asked at all about your skills and  
37 knowledge around the implementation of a trauma-informed  
38 approach in a Youth Detention setting?  
39 A. I would have been asked questions around that, yes.  
40  
41 Q. Do you know if you were?  
42 A. I think - I think I most likely was, but I can't  
43 remember the specific questions.  
44  
45 Q. I understand that. Can you tell the Commissioners  
46 what your understanding is of how a therapeutic approach,  
47 at a high level, operates in a Youth Detention context?



1 A. So, I guess for me it's - I don't classify myself as a  
2 youth justice expert, but I see myself as a conduit for  
3 being the platform for those experts that are therapeutic  
4 experts to come in and advise me on how to deliver  
5 therapeutic services within the detention, and that that is  
6 child-focused and child-centred. So, I'm sorry, does that  
7 answer your question?  
8

9 Q. It does, it does. And is that expertise around you at  
10 present at Ashley, or are you still gathering that  
11 expertise at Ashley?

12 A. So, I am three weeks in, but I have engaged ACF on a  
13 number of occasions now, through a number of different  
14 tasks, to help me with that.  
15

16 Q. That's the Australian Childhood Foundation?

17 A. Foundation, yes.  
18

19 Q. And what assistance have they provided to you?

20 A. So I've asked for - if you're happy for me to break it  
21 down?  
22

23 Q. Please.

24 A. I've asked for an immediate response out to the Ashley  
25 Youth Detention Centre, and that is a four-day a week  
26 commitment from ACF, and that's to look after young  
27 people's safety, work with the staff safety, have a look at  
28 therapeutic practice throughout the centre, and they're  
29 also looking to work with family as well and do assessments  
30 on the young people.  
31

32 Q. Sorry, go on.

33 A. The second part to that is, I have - I'm very  
34 conscious that there has been a practice framework that has  
35 had a number of iterations submitted to the department over  
36 the years and I have made sure that we have funding  
37 available and I will be using ACF to complete that practice  
38 framework.  
39

40 And the third piece of work that I am looking at doing  
41 is having a look at the overall way that we train staff,  
42 what we can provide them, and seeing if there are ways that  
43 we can replicate some of the qualifications with the Youth  
44 Justice workforce that we have done up in the Northern  
45 Territory.  
46

47 Q. So, what is it you've done in the Northern Territory

1 that you're seeking to replicate here?

2 A. So, in the Northern Territory our Youth Justice  
3 officers up there were required to go through a seven-week  
4 induction course, which consisted of a lot of therapeutic  
5 training, relationship training, working with young people  
6 with FASD, restorative justice, working with children with  
7 complex needs, and then further to that it's a requirement  
8 that they complete an ACF specifically-designed Cert IV in  
9 Youth Justice.

10

11 Q. At the time that you were recruited, were you told  
12 that Ashley would be closing?

13 A. Sorry?

14

15 Q. Were you told - at the time that you were recruited,  
16 were you recruited on the basis that Ashley would be  
17 closing?

18 A. I was told that there would be a replace - part of the  
19 role was replacing the Ashley facility, yes.

20

21 Q. What was the timeline that you were given for the  
22 completion of that closure?

23 A. At the time of my interview? With --

24

25 Q. Let's start at the time of your interview, and then  
26 we'll move to how that might have changed.

27 A. So, originally when I was approached in January by the  
28 recruiter, he said that it would be closing. He didn't  
29 give me a timeframe. I can't remember whether it was at  
30 interview when I first learned that the closing would be by  
31 2024 or whether that was through me reading about it in  
32 media. My interview, I think, was in March, and then the  
33 second interview was in April, and then there was a  
34 relatively large distance between actually commencing here.

35

36 Q. What's been the evolution of your understanding since  
37 then? Can you take us through that? What's your current  
38 understanding of when Ashley will close?

39 A. My current understanding is that the government has  
40 committed to closing Ashley in 2024.

41

42 COMMISSIONER BROMFIELD: Sorry.

43

44 Q. There's 12 months in 2024; do you know what end of  
45 2024 we're looking at?

46 A. I think it's in the back half of 2024.

47

1 Q. So, you would consider that you had succeeded if it  
2 was done by December 2024; met the deadline?

3 A. Well, yes, as 2024, yes.  
4

5 Q. Thank you.

6 A. Sorry, it's a difficult question to answer.  
7

8 MS BENNETT: Q. Has anyone in government suggested to  
9 you that it might not be possible to meet that closure  
10 time?

11 A. Has anyone in government from public servants, or  
12 Ministers or?  
13

14 Q. Let's go through them one-by-one. Have any Ministers  
15 suggested to you it might not be possible to close in that  
16 timeframe?

17 A. No.  
18

19 Q. Have any public servants indicated to you it might not  
20 be possible in that timeframe?

21 A. Some colleagues have suggested that it might not be  
22 possible to achieve that.  
23

24 Q. And, are those people senior to you or junior to you?

25 A. I think it would be - I think it would be both senior  
26 or - and junior, I think it's anyone that has an  
27 understanding of the complexity of building a facility like  
28 a detention centre.  
29

30 Q. And you have some understanding of that, don't you?

31 A. I do, yes.  
32

33 Q. And, indeed, your previous experience is that after a  
34 number of years new detention facilities were not ready to  
35 go?

36 A. Yes.  
37

38 Q. Are you able to offer an opinion to this Commission  
39 about how realistic it is that Ashley would have closed and  
40 new facilities have opened by 2024, any time in 2024?

41 A. I think it will be very tight and I think it also  
42 depends on what the final design for the detention centre  
43 or centres is.  
44

45 PRESIDENT NEAVE: Can I just have a follow-up question?  
46

47 Q. So, there are as yet no plans for the design of the

1 centre, is that right, and no land?

2 A. That is correct, Commissioner, and I have asked Noetic  
3 to have a look at a couple of other designs and provide  
4 advice back to us.

5  
6 COMMISSIONER BROMFIELD: Q. Sorry, what does that mean?

7 A. So, I'm very conscious that there had been an  
8 announcement that we would build two new detention centres,  
9 one North and one South. I am not convinced that that's  
10 necessarily the best approach because I'm really conscious  
11 that I don't think we should - and I certainly don't want  
12 to replicate two Ashleys, which we could do.

13

14 I think there's a very large gap around Australia  
15 about what happens to young people once they leave  
16 detention, and certainly there's a lot of work to do before  
17 young people leave detention as well. So, when I think of  
18 that and then hearing the evidence here about bail  
19 accommodation and places for young people, I've asked the  
20 question as to whether Noetic can have a look at some  
21 options for me so that I can make an informed decision and  
22 provide that to government.

23

24 PRESIDENT NEAVE: Q. And those options might include  
25 something like, for example, bail accommodation, might  
26 they? Is that what you've asked them to look at?

27 A. They may, and I've also requested to provide me with  
28 some advice on what a facility could look like for young  
29 people exiting detention as well.

30

31 PRESIDENT NEAVE: Thank you.

32

33 MS BENNETT: Q. So, do I understand correctly that  
34 you're looking at options for how Ashley might be replaced  
35 that differ somewhat to the current intention; is that  
36 right?

37 A. I'm exploring - I feel like it's the responsible thing  
38 to do for me to explore options, because one of my concerns  
39 is, if we build two detention centres and nothing around  
40 the through-care, then we won't potentially achieve the  
41 goal of reducing recidivism and getting really positive  
42 outcomes for young people.

43

44 Q. And so, is there anything about that proposition that  
45 involves not closing Ashley by 2024?

46 A. There is nothing in my planning that sees Youth  
47 Justice continuing with Ashley once we have replacement

1 facilities.

2

3 Q. Yes, but as I understand your evidence, that the  
4 replacement facilities remain in a state of flux because,  
5 appropriately, you are exploring what the best options are;  
6 is that right?

7 A. Yes, that's correct.

8

9 Q. And it's not possible to contemplate the closure of  
10 Ashley before there are replacements available; is that  
11 right?

12 A. It's very difficult, yes.

13

14 Q. And so, until the replacement has been identified,  
15 then the closure can't proceed?

16 A. Yes.

17

18 Q. And the replacement is at a, could I call it, an  
19 embryonic stage?

20 A. Yes.

21

22 Q. How long until you expect to have a recommendation on  
23 what the replacement might look like?

24 A. I believe it - today Noetic were going to come back  
25 with some study for me, 7 September.

26

27 PRESIDENT NEAVE: Q. So that's coming back from whom?

28 A. From Noetic.

29

30 Q. So, Noetic's going to come up with --

31 A. Yes, I met with Noetic in my first week, I think, of  
32 being here and asked them to explore this option and they  
33 are coming back with a paper. Because we'd also requested,  
34 although this was a little bit before I started, some  
35 research into supported bail accommodation as well.

36

37 Q. Well, that might partly answer the question I wanted  
38 to ask you. Is now convenient, Ms Bennett?

39

40 MS BENNETT: Please.

41

42 PRESIDENT NEAVE: Q. I think my concern and the concern  
43 of the other Commissioners is that there are children in  
44 Ashley now, and there will be children in the next, up  
45 until 2024, who will be subjected to the conditions that  
46 currently exist, good or bad, and I'm interested in knowing  
47 whether Noetic's brief or what you're thinking about

1 includes transitional arrangements to do things about the  
2 children who are currently there, 10 of whom were on Friday  
3 on remand, that is, they hadn't been sentenced for  
4 anything.

5 A. Yes.

6  
7 Q. So, has any work been done on the here and now as  
8 opposed to what's going to happen by 2024?

9 A. So, I think we've asked for some exploration into what  
10 is possible for young people looking at remand. At this  
11 current time I don't believe we should close Ashley, and if  
12 I can offer you this sort of explanation and some  
13 experience: keeping aside the history but talking about the  
14 facility itself, as far as a facility goes compared to  
15 brand new builds around the country and certainly what's  
16 designed, it's a far superior centre than I have had in the  
17 Northern Territory in either of my facilities, and I've had  
18 a new starter start with me this week who has shared the  
19 same opinion coming from Banksia.

20  
21 So, I think for me it's about the practice and that's  
22 absolutely something that we can do, and that's utilising  
23 all of the skills that are available through foundations  
24 like the ACF to help us improve the practice. And, I guess  
25 that's my vision, and that's why I don't consider myself as  
26 a Youth Justice expert but I make sure that I surround  
27 myself with the people and the expertise to look after  
28 young people.

29  
30 Q. So, what I understand you to be saying is, it may be  
31 that the 11 children who are there now and any others who  
32 may come and go would perhaps still be in Ashley till 2024,  
33 but the supports and the processes that apply in Ashley  
34 could change well before that date; is that what you're  
35 saying?

36 A. Absolutely. My vision is to very quickly recruit and  
37 recruit specialist staff with specialist skills, increase  
38 the mental health and psychology and clinical access to  
39 Ashley, and increase the training opportunities and the  
40 qualifications for staff coming in quite quickly.

41  
42 Q. And, is that realistic given the difficulties we've  
43 heard exist in Tasmania about recruiting people? I mean,  
44 how will you overcome those sorts of issues?

45 A. So, I've been very lucky that I have had a number of  
46 Youth Justice staff from my jurisdiction put their hand up  
47 to come and work down at Ashley, and I think that's because

1 they appreciate the therapeutic vision and understand the  
2 climate which we're in in Tasmania at the moment because  
3 they've been through it before in the Northern Territory.  
4

5 So, the way I guess I explain it is, we all walk  
6 side-by-side through this together. There will be  
7 challenges with the more specialised clinician staff and I  
8 wonder whether that's an opportunity for us to look at what  
9 levels we're advertising and what incentives we're actually  
10 providing to see if we can attract more people to those  
11 roles.  
12

13 PRESIDENT NEAVE: Thank you.  
14

15 MS BENNETT: Q. Mr Simcock, the Commission of Inquiry  
16 has received evidence of almost continuous reviews of  
17 Ashley over the past decade or more; are you familiar with  
18 that?

19 A. I am, yes.  
20

21 Q. And, have you been given access to those reviews and  
22 reports?

23 A. I have, yes.  
24

25 Q. And, have you read them?

26 A. I've read most of them, yes.  
27

28 Q. So, would you accept that there has been a lot of  
29 planning and not a lot of doing?

30 A. I accept that, yes.  
31

32 Q. It sounds to me as though you have now commissioned a  
33 further report from Noetic?

34 A. I wouldn't say that it's an in-depth report, I would  
35 say it's an annexure; I think at best it will be a couple  
36 of pages.  
37

38 Q. And there are still decisions to be made about the  
39 form of Youth Detention in Tasmania going forward. How can  
40 the Commission have confidence that this is going to be  
41 different to the previous reports and promises of change in  
42 the past? What's different now?

43 A. Well, I am here, and I'm responsible for the Youth  
44 Justice Reform. There is absolutely a commitment from  
45 government and the departments that I work for that they  
46 are going to make significant changes and quite quickly; I  
47 feel that there is 100 per cent support to do that. I

1 think, and rightly so, there's some caution about rushing a  
2 design, but I think it will happen quite quickly. I am  
3 feeling that we won't - we won't be able to sit on a report  
4 for very long at all.

5  
6 PRESIDENT NEAVE: Q. And what about funding?

7 A. Funding --

8  
9 Q. Because we've heard, I think, that in the past when  
10 attempts were made to make changes the resources were not  
11 available, so what sort of assurances have you got that  
12 those resources, the resources that are necessary to have a  
13 genuinely trauma-informed facility or facilities will be  
14 put in place?

15 A. So, Commissioner, that's an excellent question  
16 because, if I were to give an open and honest response to  
17 where this all falls down and what the barriers are for  
18 really developing the change and therapeutic approach, it's  
19 about resourcing and budgeting.

20  
21 I have been given an indicative budget which was  
22 allocated to the program before I started but, without  
23 speaking to Ministers and the Premier myself, I'm very  
24 comfortable that money won't be a barrier here to achieve  
25 what we actually need to achieve.

26  
27 COMMISSIONER BROMFIELD: Q. Mr Simcock, could you  
28 envisage the Youth Justice Blueprint excluding a new build?  
29 Or do you think, we're designing a Youth Justice Blueprint  
30 for Tasmania; is there any kind of possibility that that  
31 won't include a new build as part of it, at least one new  
32 build?

33 A. The Blueprint?

34  
35 Q. Yes.

36 A. No, I don't think that we could achieve the outcomes  
37 of the Blueprint without building a facility.

38  
39 Q. And given your experience in the Northern Territory,  
40 when would we need to have a location and commence building  
41 in order to have children in a new facility by December  
42 2024?

43 A. Well, I'm not a builder, so I'm just speculating here,  
44 and I am very well aware that COVID has also played a large  
45 issue with supply and demand. I would honestly say we  
46 should have a plan and we should have a parcel of land now  
47 to achieve that.



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Q. So, I take it from that response that you're worried about that timeline?

A. I am concerned, yes.

Q. Do you consider it to be a feasible timeline?

A. 2024?

Q. Children in a new centre by December 2024?

A. So, I guess that would depend on - that would depend on what models we looked at. Whether we were talking about assisted bail, we could have young people in there that would normally be in Ashley, but I don't think every young person that's currently in Ashley or will be in that period could be in a new centre, I just think it's too tight.

COMMISSIONER BROMFIELD: Thank you.

MS BENNETT: Commissioner Benjamin, I suspect, wants to...

COMMISSIONER BENJAMIN: Q. And given that this Commission of Inquiry is going to report at the end of April next year, can I take it that some of the recommendations we make may impact on your thinking and government's thinking in relation to how the new detention centre or how Youth Justice should apply, particularly in regard to survivors of sexual abuse?

A. Yes, but if your recommendations are sort of in that May period there would still be scope to make changes to the designs if that was required, so I think it can be quite fluid to an extent.

PRESIDENT NEAVE: Q. You mentioned the bail issue and as I understand it you've asked Noetic to come up with some proposals there?

A. I didn't ask - I didn't ask Noetic, that was done before I started --

Q. I see, yes.

A. -- as an option. I've observed some supported bail, we've had some supported bail in the Northern Territory.

Q. And that would presumably require some sort of facility into which - residential facility into which children could go that are different from a Youth Detention Centre, is that right, have I understood you correctly?

A. Yes, that's right, and it also provides an option for

1 not necessarily government running that facility but NGOs  
2 or Aboriginal controlled orgs or whatever that may look  
3 like under contract.

4  
5 PRESIDENT NEAVE: Thank you.

6  
7 MS BENNETT: Q. Are there any matters that will be set  
8 in stone before this Commission reports that couldn't be  
9 altered?

10 A. Are there any matters?

11  
12 Q. I'd like you to tell the Commissioners if there were  
13 some things which, if it were the subject of a  
14 recommendation - and you might not be able to answer this  
15 exhaustively - but if the Commissioners were to make a  
16 recommendation in April or May next year, is there anything  
17 that they will have missed the opportunity to recommend  
18 given your pipeline of work?

19 A. I don't think so. I think we might - the only thing  
20 that I can really see is a building or buildings, but if we  
21 go ahead and plan before the report is released I am quite  
22 sure that, given it would be starting now, that we could  
23 make some tweaks if there was some recommendations that  
24 that required; but practice and staffing levels and model  
25 of care, no, I don't think that - I don't think that there  
26 will be an opportunity missed, no.

27  
28 Q. You said earlier that Ashley should not close at  
29 present, and as I understood your evidence you said that,  
30 as you understand the issues at Ashley, they concern the  
31 practice rather than the facility, the practices rather  
32 than the physical facility itself; is that right?

33 A. I said, yes, that there is some practice improvements  
34 that we can make for that facility, but the facility itself  
35 compared to others is quite a good facility.

36  
37 Q. So, you don't see that it's the facility itself that  
38 is an issue, you see it as a cultural issue?

39 A. I see that now, much like Don Dale, it's the history  
40 of the facility which you can never, never move away from,  
41 but yes, I believe that, change the culture, change the  
42 practice, and that facility will feel a lot different for  
43 some young people: it won't change for others that have  
44 that historical experience.

45  
46 Q. We heard some evidence last week that an ex-detainee  
47 said that Ashley should not be repurposed as an adult

1 prison because of its past. What's your view about that  
2 proposition?

3 A. I can't really comment on what the Department of  
4 Corrections would like to do with it, but I can certainly  
5 understand the stigma of the facility and where that young  
6 person would be coming from especially if they entered into  
7 the adult facilities and then ended up there; I think that  
8 would be inappropriate.

9

10 Q. You've been very frank that your expertise doesn't lie  
11 in yourself having the expertise around Youth Justice and  
12 therapeutic frameworks; how will you know if you've  
13 implemented a framework that achieves the aims of a  
14 therapeutic approach to Youth Justice?

15 A. So, the way that I would know is, I would have  
16 external parties who are experts in those areas to come and  
17 monitor and provide assessments on the facility. Now,  
18 there can be a role for the Children's Commissioner's  
19 office, or there can be a role from, you know, therapeutic  
20 specialists like the Australian Childhood Foundation to  
21 come in and provide us with reviews.

22

23 Q. Have you met with the Children's Commissioner yet?

24 A. I have met with her and I brief her every second day  
25 at the moment.

26

27 Q. Are those briefings in writing or orally?

28 A. So, I provide a broad daily sit rep which I believe  
29 goes to the Children's Commissioner, and then I verbally  
30 brief her on the current operations of Ashley every second  
31 day.

32

33 Q. And the current operations of Ashley, we've heard  
34 recently that children were in lockdown for up to 23 hours  
35 a day; is that the case presently?

36 A. No, it's not.

37

38 Q. What is the position at the moment?

39 A. So, the position currently at the moment is, we have  
40 young people out and participating in full education and  
41 programs throughout the day.

42

43 Q. Are they confined to their bedrooms at all during the  
44 day?

45 A. No.

46

47 Q. -- in the ordinary course.

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COMMISSIONER BROMFIELD: Q. What about their units?

A. So, there was until recently a restrictive practice in place which was confined to units and extended periods of time within their cells, but for the last few days we've managed to achieve a normal program which is very pleasing.

PRESIDENT NEAVE: Q. That's very good news, but how have you achieved that just as a matter of interest?

A. So, I think, it's hard to say, whether some staff have started to return back into the roster.

Q. I mean, we heard that there was simply insufficient staff to allow that to occur because of people being on leave because of COVID and a whole series of other factors. I think five new youth workers have commenced?

A. Yes, they have, and we have another six retired police officers that have indicated that they'd like to come and help out commencing next week. We've also recruited or we're in the process of recruiting Youth Justice officers from interstate that have experience, but the current situation I think is, we have just seen staff return and I don't want to definitively say that, or whether it's just a lucky roster positioning for the next couple of days, but I think it will be maintained over the weekend as well.

Q. Can I ask you one other question. You mentioned the six retired police officers.

A. Yes.

Q. One of the things we've heard a lot about in relation to Ashley is that a custodial model has dominated over a model which is more therapeutic or trauma-informed. I mean, you're dealing with the short-term situation, but do you have a view about, if you want to bring about culture change, about the use of, for example, police officers in that capacity?

A. So, I understand that question and, you're right, I am dealing with a situation which is a point in time at the moment because I want young people out of cells and flourishing in the centre. My view is that the retired police officers are playing a secondary role within the centre, so my trained youth workers take the lead. I don't see that that is a sustainable option and I am certainly looking to recruit therapeutically trained people to come in and back that workforce up.

- 1           PRESIDENT NEAVE:    Thank you.  
2  
3           MS BENNETT:    Q.    Is the staff-to-resident ratio going to  
4           be changed going forward?  
5           A.    Staff-to-young people?  
6  
7           Q.    M'mm?  
8           A.    Yes, I'm not convinced that we have the staffing model  
9           for that facility right.  
10  
11          Q.    What's the current ratio?  
12          A.    The current as of today?  
13  
14          Q.    Yes?  
15          A.    Eleven young people and seven youth workers and one  
16          Ops coordinator.  
17  
18          Q.    And --  
19          A.    And a Director.  
20  
21          Q.    And what about Professional Services, occupational  
22          therapists, nurses, psychologists?  
23          A.    So, there's one nurse on site, there's one case  
24          manager, there's one practice staff member, and there's  
25          education staff as well.  
26  
27          Q.    So, it's generally one to seven, one youth worker to  
28          seven young people; is that right?  
29          A.    No.  
30  
31          Q.    Sorry, what is it?  
32          A.    There are seven youth workers on today, and there are  
33          11 young people or 12 young people.  
34  
35          Q.    So seven youth workers.    So, should it be one to  
36          three?  
37          A.    One youth worker to three young people?  
38  
39          Q.    M'mm?  
40          A.    I don't necessarily think that that's right either.  I  
41          think when building the roster, having lower numbers of  
42          young people in detention isn't necessarily an indicator of  
43          a smoother running detention centre; what that indicates to  
44          me is that you have more of the more complex young people  
45          that may in some cases require a one-to-one ratio.  
46  
47          Q.    So, you don't have a set ratio in mind going forward?

1 A. Not fixed. I'm three weeks in but I would like to  
2 explore it and I would also like to see - I don't know  
3 whether we've got the case management level right, I don't  
4 know, I would just like to perform a bit of an assessment  
5 on that, but there are certainly young people that I would  
6 like to see with one-on-one care.

7  
8 PRESIDENT NEAVE: Q. Can I ask you a further question  
9 about this, and it's probably a little unfair, but we've  
10 got Health workers, we've got the Education workers, we've  
11 got some Forensic assistance, I understand a psychiatrist  
12 flies over every six weeks. Have you had the opportunity  
13 to discuss those sorts of supports for these young people  
14 and the ones who may come in over the next year, have you  
15 thought about those issues, what sort of Forensic Mental  
16 Health, those sorts of things? Have you had the chance to  
17 talk to any of the people who are currently providing those  
18 services?

19 A. I haven't had the chance yet, Commissioner, but it's  
20 certainly something I'm focused on. I think Australia-wide  
21 there's a lack of specific mental health specialists to  
22 work with these young people. I'm not thrilled by the  
23 concept of teleconference adolescent psychiatrists, and  
24 especially when that's used in the application of assessing  
25 a young person at risk, so I think there's a lot of work to  
26 do on making sure that we can attract people, speech  
27 pathologists and the like, and the adolescent psychiatrist  
28 and specific psychologist stuff, that's a really much  
29 broader issue which I think is not specific to just Hobart.

30  
31 PRESIDENT NEAVE: Thank you.

32  
33 MS BENNETT: Q. Are the children back in school now?

34 A. Yes, they are.

35  
36 Q. And normal school hours have resumed?

37 A. Yes.

38  
39 Q. What are those hours?

40 A. 9 until 3, I think.

41  
42 Q. Are you confident you've got the staff to maintain  
43 normal operations into the foreseeable future? Is this a  
44 short stop? Are you sure that you've got enough staff  
45 going for the next few weeks and months?

46 A. Not including some staff that may be on the way, I  
47 think I have enough staff to maintain the centre

1 operationally and, as best as possible, have normal program  
2 provided to young people but I will need more staff;  
3 there's no doubt I will need more staff.

4  
5 Q. And when do you need them by?

6 A. I would like them as soon as possible.

7  
8 Q. And you're actively recruiting from the Northern  
9 Territory; is that right?

10 A. So, we went out to the Australasian Youth Justice  
11 Administrators Group to seek any support from other  
12 jurisdictions and we didn't receive any back, and so, I had  
13 a number of Northern Territory, Alice Springs based staff,  
14 say that they will come and help out.

15  
16 Q. Is that in the short-term or long-term?

17 A. So, that's long-term. Sorry, long-term in tenure,  
18 will they be here shortly or?

19  
20 Q. No, I meant long-term in tenure, so they'll be here  
21 and they propose to work for you not just for a few weeks  
22 but as an ongoing position?

23 A. No. So, the aim is that they will pack up and move  
24 down here and --

25  
26 Q. Become Tasmanian?

27 A. -- commit to the journey, yes.

28  
29 PRESIDENT NEAVE: Q. Actually, just apropos of that.  
30 I've read the position descriptions for the jobs that I  
31 think are being advertised, the ones that are attached to  
32 your CV, and I notice that they're all fixed term  
33 positions, so that may be something to do with Tasmanian  
34 Government policy, but I couldn't come up with the titles  
35 of those positions but I think you've provided six position  
36 descriptions?

37 A. For the Reform Team?

38  
39 Q. Yes, that's for the Reform Team, I know, not for the  
40 centre or whatever it will be?

41 A. I think for the centre there were sort of fixed  
42 contracts as well, because there wasn't a great  
43 understanding where the centres would land, but I am of the  
44 view that we should be offering full-time ongoing  
45 employment with the view that, depending what model we land  
46 on, that those staff can transfer in and across.

1 Q. And is that so for the Reform Team because, if it's a  
2 fixed term position, you'll need people who will stay until  
3 the reforms are well underway, won't they?  
4 A. That's right. So, my contract was for three years and  
5 I think it's full in alignment with the other recruitment  
6 as well, but I can see that most of those positions will  
7 need to continue well beyond the reform to actually perform  
8 the evaluations and embed it and see it through, yes.  
9

10 PRESIDENT NEAVE: Thank you.

11  
12 MS BENNETT: Q. I think the President has been referring  
13 to some recruitment position descriptions that have been  
14 recently made available and that you provided to us. Did  
15 you draft those position descriptions?

16 A. No, I didn't, no.

17  
18 Q. Have you reviewed them?

19 A. I haven't reviewed the positions, no.

20  
21 Q. So, for example, in the position title, "Manager Youth  
22 Justice Reform", is that your position?

23 A. No.

24  
25 Q. That's a position that will report to you?

26 A. Yes.

27  
28 Q. The primary purpose of that position is said to be:

29  
30 *Provide strategic leadership and direction*  
31 *and planning development, implementation,*  
32 *management and delivery of key strategic*  
33 *programs and initiatives related to the*  
34 *reforming of Tasmania's Youth Justice*  
35 *project including the development,*  
36 *implementation and review of frameworks,*  
37 *policies, systems and processes, support*  
38 *the delivery of key project outcomes.*

39  
40 And it goes on. I have been unable to find in that  
41 position description a reference to --

42  
43 PRESIDENT NEAVE: Expertise in the area of children.

44 MS BENNETT: Yes.

45  
46  
47 Q. Is that an omission from that position description?



1 A. I can't comment on it, that was before my time.

2

3 Q. Are you looking for people with expertise in the  
4 protection and safety of children?

5 A. Yes, we are and we have a practice - I think a  
6 practice position in that Reform Team.

7

8 PRESIDENT NEAVE: Q. So that's the practice management -  
9 I think that's the only one which contains any reference --

10

11 MS BENNETT: We were able to find one that did, and that  
12 was "Practice Manager Youth Justice" which as a matter of  
13 fairness commences:

14

15 *If the Practice Manager of Youth Justice*  
16 *Reform provides trauma-informed practice*  
17 *guidance and professional leadership in the*  
18 *development and implementation of the*  
19 *reforming Tasmania's Youth Justice System*  
20 *project.*

21

22 Now, that's the only position description out of those  
23 that you provided to the Commission that we could find that  
24 referred to trauma-informed practice and guidance.

25 A. Yes.

26

27 Q. Is that a surprise to you?

28 A. It is a surprise. The current organisation chart of  
29 that Reform Team has had a number of positions that weren't  
30 funded. There was originally a position as well for law  
31 reform. So, I don't necessarily think that we've got the  
32 Reform Team set up correctly either, so I guess in a  
33 nutshell what I see part of my role is, is having a look at  
34 the whole system and seeing whether we've got the right  
35 numbers and the right people in positions.

36

37 Q. Can I summarise the position this way: in terms of  
38 recruitment there's a long way to go; is that right?

39 A. Yes.

40

41 Q. In terms of the whole system framework, there's a long  
42 way to go?

43 A. Yes.

44

45 Q. In terms of the identification of a new facility to  
46 replace Ashley, there's a long way to go?

47 A. A new?

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Q. A new model even to replace Ashley, is there a long way to go?

A. No, I think we're close to a model.

Q. In terms of closing Ashley, there's still a number of steps between now and that happening, aren't there?

A. There are.

Q. Is it fair that there's a fair way to go on that as well?

A. Closing Ashley?

Q. M'mm?

A. At this point in time I think there is - I think, if we were to close Ashley immediately and to set up something like houses, we run the risk of not doing that properly and not having the right security around them, and I think it wouldn't be wise because it could derail the momentum that we have now for change and I've seen that happen in the Northern Territory.

COMMISSIONER BROMFIELD: Q. Mr Simcock, would you, in the context of there being many things with a long way to go, I put it to you that the transition plan really needs to be something that's going to hold for the medium-to-long-term to ensure a quality of care to the children who will be in the Ashley Youth Detention until all of these activities are finished?

A. Yes, there would need to be a proper transition plan, yes.

Q. And a transition plan - I mean, at the moment you're saying, "I'm hoping the roster holds for the weekend".

A. Yes.

Q. Do you feel confident that care and attention has been put to developing a sustainable transition plan that's going to last multiple years?

A. To date? I think there's still some work to do on that.

PRESIDENT NEAVE: Q. Can I ask you a supplementary question to that? One approach for the Commission could be to make some interim recommendations about what should be done immediately: one possible option. Do you have any views on whether that would be, in terms of the long-term

1 benefit for the children, whether that would be a good idea  
2 or a bad idea or an unworkable idea?

3 A. I guess - sorry, just so I understand your question --  
4

5 Q. I'm not saying that the Commission is going to do  
6 this, I'm just saying it's a hypothetical. If the  
7 Commission were to consider making some interim  
8 recommendations in relation to the children who are  
9 currently in Ashley and who may come into Ashley up until  
10 2024 about how they should be dealt with, what would be,  
11 from your point of view, the usefulness or perhaps  
12 unproductiveness of that?

13 A. I think, and I'm going to be quite candid here about  
14 that --  
15

16 Q. Yes, I want you to be.

17 A. -- I think the immediate closure of Ashley has the  
18 potential to damage the reforms that we're doing.  
19

20 Q. Right.

21 A. I genuinely believe that. I have been out at Ashley a  
22 number of times now and I feel that we can make great  
23 changes to practice and make young people feel even safer.  
24 I think there's been great progress since, you know, the  
25 last couple of years in that space as well. So, I guess,  
26 that's the one that would concern me the most, because of  
27 the risk around getting it wrong, but yes, there would be  
28 other interim recommendations that could help around  
29 staffing and budget and resourcing and those --  
30

31 Q. I suppose they could be recommendations in our Final  
32 Report, I think, is what you're saying, rather than making  
33 them immediately?

34 A. Yes; sorry, yes. I don't feel that there is budget  
35 resourcing, I don't feel at this point in time that that's  
36 an immediate issue for me, I haven't been given any  
37 indication that the budget's tight, but I think the  
38 evidence that you've heard throughout the whole Commission  
39 of Inquiry, if you were to make interim judgments or  
40 recommendations for us around safeguarding young people and  
41 I would be happy to - I'd be happy to explore them.  
42

43 Q. Okay. I think the other question I wanted to ask  
44 about that was, I think you alluded to some problems that  
45 might have been created in the Northern Territory in  
46 attempting to - I may have misunderstood you - in  
47 attempting to deal with some issues on an interim basis,

1 some dangers in doing that based on your experience in the  
2 Northern Territory. Do you want to allude to that? Did I  
3 understand you correctly, first of all?

4 A. So, they were very much in a very similar position. I  
5 think my first couple of years in running Youth Detention  
6 up there was riots most weekends, every second weekend, and  
7 I think the public started to lose faith in Territory  
8 families who were very therapeutically focused, and there  
9 was an argument, "We should put Youth Justice back into  
10 Corrections". A process like this, there's public sympathy  
11 for young people and I think, if you draw it out too long,  
12 what's happened in the Northern Territory is that it was  
13 drawn out and the community have basically shifted which  
14 resulted in a bail change last year which doubled the young  
15 people into detention.

16  
17 Q. So, you lost the incentive for a therapeutic approach  
18 and the argument was to go back to a more custodial  
19 approach?

20 A. No, so the Northern Territory Government never lost  
21 their vision on therapeutic care, it's absolutely their  
22 focus and it should be, and I think it was just the  
23 public's perception, and then a government that had to act.

24  
25 PRESIDENT NEAVE: Thank you.

26  
27 MS BENNETT: Q. You've spoken, Mr Simcock, about the  
28 momentum for change. There's a new department that will be  
29 formed shortly and Ashley will fall under the auspices of  
30 that department; is that right?

31 A. Yes.

32  
33 Q. Do you see that as having any impact on the momentum  
34 you presently see for change?

35 A. No, I think it's an excellent opportunity for Youth  
36 Justice.

37  
38 Q. Why do you say it's an extent opportunity for Youth  
39 Justice?

40 A. Because, in my view, education plays a really pivotal  
41 role with young people, young people's development and also  
42 some of the achievable outcomes for young people in  
43 detention centres, and I think it opens up a lot of  
44 opportunity for us, especially if we're looking at changing  
45 the lives of the young people in detention. I see that as  
46 a big focus in doing that, so VET courses and certificates,  
47 because I'm very conscious that in a detention centre

1 environment we, certainly in the Northern Territory, and I  
2 assume it will be very much similar down here, we're  
3 expecting young people to participate in a four-walled  
4 classroom where they might not have done that out in  
5 community, so I think it provides great opportunity.  
6

7 MS BENNETT: I have nothing further for this witness, if  
8 the Commissioners please.  
9

10 COMMISSIONER BROMFIELD: Q. I just had one in relation  
11 to the announcement of the review of the security cameras  
12 at Ashley Youth Detention Centre.

13 A. Yes.  
14

15 Q. I noted that the review was due in a couple of weeks,  
16 I think, from memory --

17 A. Yes.  
18

19 Q. -- maybe two weeks, something like that? My question  
20 was not about when the review was due, it was when cameras  
21 would be implemented, installed into the blind spots?

22 A. So, there are a number of things that we have done for  
23 the safety of young people and that CCTV review is one of  
24 them. I can't give you a definitive answer, I haven't got  
25 the report back; that CCTV review is currently in process  
26 now, it commenced Monday. I will get a report back which  
27 is where the blind spots are, and then it would be my goal  
28 to put them in as quickly as possible.  
29

30 Just for your awareness, as an additional safety for  
31 young people in relation to CCTV, I'm putting in a CCTV  
32 control room. It's very obvious to me on my first visit  
33 that there is no-one that's actually --  
34

35 PRESIDENT NEAVE: Looking.

36 A. -- watching the staff and watching the young people  
37 which, to me, is unsafe for both young people and staff,  
38 and it may seem quite a simple analogy, but that's a third  
39 set of eyes that might raise the question as to why are you  
40 walking with this young person to the breezeway and it's  
41 another person asking questions.  
42

43 COMMISSIONER BROMFIELD: Q. When would you hope to have  
44 the cameras installed by then in those blind spots?

45 A. If infrastructure permits and bandwidth permits, I  
46 would want them put in immediately.  
47

1 Q. I mean, I ask these questions because we have heard  
2 from almost every lived experience witness in this inquiry  
3 about Ashley Youth Detention Centre, that more cameras are  
4 one of the things that would assist them in their safety  
5 and in the context of clearly a transition plan being  
6 something that's going to be multi-year. So, as soon as  
7 possible is your goal, did you say?

8 A. Absolutely, yes, it is.

9  
10 COMMISSIONER BROMFIELD: Thank you, I don't have anything  
11 else.

12  
13 COMMISSIONER BENJAMIN: Q. Yes, I have a couple of  
14 questions, if I may. There are allegations from as  
15 recently as 2019, 2020 and 2021 of violence to children,  
16 sexual abuse of children, peer-on-peer, which are ignored  
17 or perhaps dismissed, inappropriate strip-searching, and  
18 the children who go to Ashley are almost universally  
19 children who are traumatised in the first place. For these  
20 children the trauma - for some of these children they're  
21 regular visitors to Ashley, and for them just going back to  
22 Ashley itself is going to be a trauma. How do you  
23 anticipate dealing with that over the next year or two or  
24 three in this transition period?

25 A. Well, I guess for me that would require a really  
26 concerted therapeutic effort with some specialist people  
27 that can deal with that form of trauma, and my view is, if  
28 possible, to try and not have a young person accommodated  
29 or exposed to an area where they had received any trauma  
30 like that as much as possible.

31  
32 COMMISSIONER BROMFIELD: Q. Sorry, to follow up from  
33 that. Sorry, Commissioner Benjamin. What steps have you  
34 got in place now as an assessment to enact that objective?

35 A. There isn't anything that I personally have in place  
36 now being three weeks in, but it's a focus of mine. I  
37 think that's really important. I worked on the National  
38 Child Sexual Abuse Royal Commission, so child sexual abuse  
39 and physical assault, I don't have a tolerance for it in  
40 the centres, so whatever I can do to minimise the risk and  
41 harm and re-traumatisation, that's absolutely what my goal  
42 will be.

43  
44 COMMISSIONER BENJAMIN: Q. Thank you. My second  
45 question, I acknowledge that you've only been in the job  
46 three weeks and you're suddenly before a Commission, so  
47 that's not the easiest of your tasks, I imagine. But I

1 notice that you took, I think you said your final interview  
2 was in March of this year?

3 A. March or April.  
4

5 Q. And then I think you've arrived here mid-to-late  
6 August to start the position?

7 A. Yes.  
8

9 Q. You're saying you're going to bring people in from the  
10 Northern Territory to assist. So, for our purposes, when  
11 will you be able to reasonably say: (1) that you have  
12 sufficient staff for the medium term to ensure that the  
13 children are as safe as they can be and as looked after as  
14 effectively as they can be in that period? (2) How long  
15 before you have the Blueprint, and I think you said you  
16 were close to having a Blueprint?

17 A. Yes, that's gone out for draft consultation.  
18

19 Q. And how long before you could have in place the whole  
20 plans for the short-term to alleviate the current problems  
21 that we've seen over the last few months and into the  
22 future? How long before you could provide us with some  
23 material which says that they were in place in a realistic  
24 timeframe?

25 A. If I can just break that down for my benefit, sorry?  
26

27 Q. Yes.

28 A. So, the staffing complement is --  
29

30 Q. For the staffing to say that the staff are there in  
31 place and the children are safe?

32 A. I think - I'm going out to advertise this week for  
33 ongoing staff; that will be a process. I would suggest,  
34 mid-October would be the earliest that I could have a large  
35 complement of staff. With the six staff that are coming  
36 across, and they range in levels of leadership as well, I  
37 think the young people are safe but won't have - I won't  
38 have a complement of that one-to-one, two-to-one ratio.  
39

40 The Blueprint: we've gone out to the stakeholder group  
41 with a draft that they provided input in and we are  
42 expecting that back mid-September; I think it's only the  
43 Children's Commissioner who's asked for an extension. So,  
44 once - and I think the next step for that is to go back out  
45 to the advocate groups and the broader community group that  
46 had put in recommendations to that. I think that could be  
47 ready to pass on to you in mid-to-late October.

1  
2 PRESIDENT NEAVE: Q. And that would have to be endorsed,  
3 presumably, by the new Minister, the relevant Minister,  
4 because it becomes Education in October, doesn't it, this?  
5 A. It's the same Minister.  
6  
7 Q. Oh, that's right, it is, I'm sorry, yes.  
8 A. And our Minister's very supportive of the whole reform  
9 and wants to do it correctly, so ...  
10  
11 PRESIDENT NEAVE: Okay, thank you.  
12  
13 COMMISSIONER BENJAMIN: Q. And the third one is when  
14 you'll have those short-to-medium term plans, which I think  
15 those two are parts of, in place to be able to let us know  
16 what they are?  
17 A. I would hope that I could have interim plans in a  
18 number of - in as small as a number of weeks.  
19  
20 Q. So, if we said to you, and I'm not saying we're going  
21 to say this because I'm speaking for myself at this stage,  
22 that we would want that by the end of October of this year,  
23 that's something you could reasonably comply with?  
24 A. That's - just so I'm clear: that's an interim plan on  
25 how we're keeping young people safe and including --  
26  
27 Q. The Blueprint and the staffing?  
28 A. -- and also the continuation of Ashley?  
29  
30 Q. Yes?  
31 A. Yes, I could have a draft certainly to you.  
32  
33 COMMISSIONER BENJAMIN: Thank you, those are the questions  
34 I have.  
35  
36 PRESIDENT NEAVE: Thank you very much, it's been difficult  
37 for you having just arrived, having only been here for  
38 three weeks, I think that's right, but thank you very much  
39 for your full and frank answers.  
40 A. Thank you.  
41  
42 MS BENNETT: If we might adjourn until 10 o'clock  
43 tomorrow, if it please the Commissioners.  
44  
45 **AT 4.00PM THE COMMISSION WAS ADJOURNED TO**  
46 **THURSDAY, 8 SEPTEMBER 2022 AT 10.00AM**  
47