



WITNESS STATEMENT OF ANTHONY DANE MCGINNESS

I, Anthony Dane McGinness of [REDACTED] in the [REDACTED]
[REDACTED] Founder and Partner of Future Friendly, do solemnly and sincerely declare that:

- 1 I make this statement on the basis of my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true.
- 2 I make this statement in a personal capacity.

BACKGROUND AND QUALIFICATIONS

- 3 I am the Canberra Founder and a current Partner (Policy Design) of Future Friendly. I commenced in this role in November 2017. I specialise in applying human-centred design and innovation practices to the design and delivery of government services, policies and products.
- 4 Prior to founding the Canberra studio for Future Friendly, I held the following positions at the following organisations:
 - (a) Head of Consulting, Noetic Group, January 2015 to August 2017
 - (b) Principal Consultant, Noetic Group, February 2014 to December 2014
 - (c) General Manager NSW Business Unit, Noetic Group, August 2012 to January 2014
 - (d) Senior Consultant, Noetic Group, January 2007 to August 2012, and
 - (e) Senior Business Analyst, Australian Taxation Office, January 2003 to January 2007.
- 5 I have the following qualifications:
 - (a) Bachelor of Business Informatics, University of Canberra, 2003 to 2007; and
 - (b) Master of Business Administration (Executive), Australian Graduate School of Management, 2010 to 2013.

FUTURE FRIENDLY - OVERVIEW

- 6 Future Friendly provides strategic design and product development services, with a focus on designing policies and digital services to facilitate more effective social service provision and promote social justice outcomes.
- 7 By way of example, I have recently worked with the Australian Capital Territory (**ACT**) Government's Family Safety Hub to co-design a service to support frontline community workers in recognising and responding to financial abuse. I led a process of co-design to bring together government policy makers and non-government organisations to design a pilot program. The design process identified the most impactful space to focus on, ran an innovation challenge workshop to generate ideas, and then designed and prototyped a service to reveal the practical constraints for a feasible, but meaningful solution. It gave us the evidence to move forward to pilot with confidence.
- 8 I also led the development of two Policy Papers for the ACT Government. The papers focused on ways to disrupt the intergenerational transmission of offending, and ways to respond to young people in early adolescence at-risk of offending. In doing so, I led interviews with a range of government stakeholders and ran a series of workshops with non-government stakeholders using journey mapping to develop an understanding of the current service system, service gaps, and opportunities for improvement, all with an emphasis on putting the young person at the centre. We also undertook an in-depth literature review of the evidence-base on effective practice in these policy areas. The Policy Papers presented the findings of our research, consultation and analysis and highlighted key findings that the ACT Government Taskforce should consider in making its recommendations to government.
- 9 Future Friendly adopts a human-centred design approach, which I discuss further below specifically in the context of youth justice.

HUMAN-CENTRED DESIGN AND YOUTH JUSTICE

- 10 "Human-centred design" is focussed on understanding the users of a particular product or service, and putting them at the centre of policy and service design, via research and policy work, drawing on methods such as qualitative interviews, co-design, experimentation and testing of models and future concepts.

Human-centred design in the youth justice context

- 11 In the context of youth justice, human-centred design would be putting the perspective of a child or young person at the centre of designing solutions and responses in the youth justice system. Part of the process of human-centred design is identifying all of the different actors, and their competing priorities, interests and interactions. While there are a number stakeholders relevant to the youth justice system, in the context of my work, I believe that the key “user” is the child or young person.
- 12 As an example, the focus of a design process could be designing an operating model, with embedded service provision to meet educational, healthcare, psychological, social and recreational needs, which is responsive in every respect to the needs and interests of children and young people.
- 13 I have had the opportunity to engage extensively with the concept of human-centred design in the context of youth justice throughout my career.
- 14 In my prior role at Noetic Group, I was responsible for leading the following projects:
- (a) Evaluation of Indigenous justice initiatives administered under the Indigenous Justice Program;
 - (b) Development of the Effective Practice Guide on Youth Justice (November 2017) for the Prime Minister and Cabinet (**Effective Practice Guide**);
 - (c) Conduct of strategic reviews related to the ACT Bimberi Youth Justice Facility, NSW Juvenile Justice System, and Commonwealth Indigenous Justice ‘Prisoner Through Care’ Sub-Program.
- 15 I was also responsible for leading and producing the 2016 Custodial Youth Justice Options Paper for the Tasmanian Government Department of Health and Human Services (**Options Paper**). The Options Paper included a specific evaluation of the effectiveness of the Ashley Youth Detention Centre and discussed options for the reform of Tasmania’s custodial youth justice model. Wherever possible, across these projects, we ensured that we engaged directly with children and young people involved in the youth justice system, ensuring their journey, needs and pain points were a key consideration in our recommendations, and their voice and lived experience helped to shape decisions that would influence them.

- 16 Copies of the Effective Practice Guide and Options Paper are annexed hereto and marked as follows:
- (a) **ADM-1:** A Noetic Group document entitled “Youth Justice Effective Practice Guide” and dated November 2017; and
 - (b) **ADM-2:** A Noetic Group document entitled “Custodial Youth Justice Options Paper – Report for the Tasmanian Government Department of Health and Human Services” and dated October 2016.

ASHLEY YOUTH DETENTION CENTRE

- 17 In 2016, while I was working at Noetic Group, I carried out extensive work with the Tasmanian Department of Health and Human Services, specifically being commissioned to prepare an options paper on different custodial models and options, including the Ashley Youth Detention Centre. The Noetic Group was engaged to conduct this review based on their extensive experience conducting strategic reviews and evaluations of youth justice systems and programs.
- 18 The purpose of the investigation was to identify the custodial youth justice model most relevant to Tasmania’s unique needs, based on the financial benefits, social impact and implementation considerations associated with each prospective approach. Throughout this process, my colleagues at Noetic and I carried out interviews and workshops with senior stakeholders across the Tasmanian Government, staff at the Ashley Youth Detention Centre and young people that were detained at Ashley at that point in time. We also conducted extensive review of available documents, and conducted detailed analysis of different custodial models and options based on available data and research.
- 19 The Options Paper was produced as a result of this research. The Options Paper includes details of the options that were considered and analysed, and ultimately Noetic’s recommendations. The Government did not initially proceed with Noetic’s preferred option of two purpose-built detention facilities.
- 20 The investigation and custodial youth justice model advocated for within the Options Paper were underpinned by trauma-informed practice and a “therapeutic model of care” approach. A “therapeutic model of care” is centred on providing young people with the support and tools to change their behaviour while in custody, and address the underlying causes of offending behaviour. It is focussed on embedding

respectful behaviour, consistent messaging and positive role modelling via delivery of education, s Group's involvement with the Ashley Youth Detention Centre was that there was a blunt jump between the sentencing options available and detention. There was no graduated model. A graduated model gives young people more opportunities to be diverted away from incarceration, and means you can more effectively use detention as a measure of last resort. From my experience working in youth justice, an ideal model would involve incremental steps in sentencing – however, young people at Ashley Youth Detention Centre were less likely to have been given these diversionary options, and more likely to progress quickly from warnings to custody. There are complex factors behind this, and it was not the primary focus of our analysis, but this is likely contributed to by the availability of alternatives and options, and practice by police and the justice system.

- 21 Diversion away from custody is a priority that is embedded in legislation such as the *Youth Justice Act 1997* (Tas) Part 2, which details diversionary procedures to be utilised by police officers including informal cautions, formal cautions , community conferences and community service orders. The design of the service should reflect that – i.e. custody should be a last resort.

Location of Ashley Youth Detention Centre

- 22 It is important to acknowledge that along with the detention of a young person comes separation from their family home, their school and their community. This is disruptive for a young person in any circumstance, but is even more problematic where there is only one youth detention centre in the state or territory. This was the case in respect of the Ashley Youth Detention Centre. It meant many young people placed in Ashley Youth Detention Centre were significantly geographically displaced.
- 23 One of the strongest driving forces behind our recommendations in the Options Paper was the location of Ashley Youth Detention Centre. Having a single youth detention centre in a state the geographic size of Tasmania creates significant dislocation issues for young people. Ensuring young people remain connected to their family and to community services is a key aspect of a therapeutic model of care. Many families do not have the capacity or financial means to travel across Tasmania to maintain connection with a young person placed in Ashley Youth Detention Centre.

- 24 Maintaining connection to the young person's local community is also critical to the delivery of quality Through Care. An effective youth justice system, particularly one founded on the therapeutic model of care, includes planning for the release of the young person from the first day they enter detention. To achieve this, the young person should be engaged in supervised visits, visits to specialist service providers within the community, and activities to maintain their connection to family. This facilitates ease of transition back into the community when their incarceration period ends. The location of Ashley Youth Detention Centre is a significant barrier to this.
- 25 The current location of Ashley Youth Detention Centre also creates challenges regarding the delivery of quality and essential services, attraction and retention of staff to work at the facility, and access to specialists.

ACT YOUTH JUSTICE REFORM

- 26 The ACT is a helpful comparator to Tasmania in some respects. Both jurisdictions have smaller overall populations, with lower numbers of juvenile offenders as a result. This means the fixed cost per person associated with providing a facility that offers the security features and services (such as education, healthcare, counselling and recreation) required is higher than in larger jurisdictions.

Bimberi Youth Justice Facility

- 27 In 2017, as part of the Noetic Group, I led an operational efficiency review of the Bimberi Youth Justice Centre for the ACT Government, with the aim of pinpointing opportunities for efficiencies. One of the key drivers for the review was that the vast majority of the Bimberi Youth Justice Centre was underutilised after years of sustained reductions in the number of young people coming into detention.
- 28 In conducting the review, we found that there was a significant fixed cost involved in operating the centre, regardless of the number of young people utilising the facility. The fixed cost represents the expenditure required in order to deliver a quality service and maintain upkeep and operations (for example, salaries for a high quality permanent workforce). One of the significant fixed costs was a permanent, highly skilled team, considering a casualised workforce (that might help to manage fluctuations in custodial numbers) cannot be utilised to deliver a consistently high quality, trauma-informed, therapeutic model of care.

29 However, after the fixed cost associated with fundamental operations had been factored in, we found that a graduated cost model could follow from there. Namely, the ACT Government could dial up or dial down its expenditure on the facility, on the basis of rates of offending and the number of young people utilising the facility.

30 It should be noted that the underutilisation of a youth justice facility is a counterintuitive signal of success in youth justice – by investing money in the design and implementation of an effective custodial youth justice model, as a community, we are investing in facilities we hope will be redundant one day. Redundant custodial facilities are a sign that we are effectively reducing offending rates, diverting young people from the justice system, implementing graduated sentencing options and reducing recidivism rates.

Delivery of a therapeutic model of care in the ACT

31 At the centre of the ongoing reforms to the ACT Government's youth justice system is the delivery of a therapeutic model of care.

32 A therapeutic model is an approach which addresses the underlying causes of offending behaviour. In the context of detention, this can often mean programs such as cognitive-behavioural therapy (an approach which promotes behaviour change by teaching young people to adjust their underlying thought processes and control anger), alcohol and substance abuse programs, mental health support and high quality training education and training.

33 A key aspect is providing a youth justice facility that is as home-like as possible, providing opportunities to address criminogenic needs. While elements of safety and security are necessary, the facility aims to be rehabilitative at the same time. The goal is to provide young people at Bimberi with quality, tailored therapeutic programs and services that address their psychosocial needs and re-engage them with education. This also extends to the provision of recreational facilities and activities, from quality sporting facilities to arts and cultural programs. In addition to the benefits of these programs to physical and mental wellbeing, it is important to ensure that young people are busy and engaged during detention – we heard that boredom can exacerbate negative outcomes and increase likelihood of negative behavioural incidents occurring.

34 The ACT was also moving towards a single case management model. This meant that youth justice and child protection would both sit within the Community Services

Directorate, and young people would be able to remain connected with the same caseworker irrespective of which system they are interacting with at any given time. Often by the time young people come into community supervision or youth detention, they will already have a caseworker that they have dealt with in another context, such as foster care. This new model seeks to keep the child connected with the same caseworker.

- 35 A single case management model would ensure the young person can remain connected with a trusted caseworker, with whom they have already established rapport, during the period when they are transitioning out of incarceration and back into the community. Often, strong trusting relationships are formed while young people are in detention. If they are unable to maintain these relationships once they return to the community, much of that progress can be lost.
- 36 Another important element of the overall reform is the adoption of trauma-informed practice. This is another operating principle that fundamentally acknowledges that we need to address the underlying trauma that contributes to offending behaviour in some young people before in order to get the best rehabilitative outcomes. There are different ways that a youth justice system can embed therapeutic practices such as effective screening and treatment for young people in detention around trauma-related symptoms and training staff to support cognitive behavioural therapy based approaches to assist young people in self-regulation.

DELIVERING A THERAPEUTIC MODEL OF CARE IN TASMANIA

- 37 I understand that the Ashley Youth Detention Centre will be closed, and two new facilities will be constructed in Tasmania. I welcome this decision, and recommend that a therapeutic model of care is embedded as a central principle in the design and operation of these facilities. There are a number of factors to consider in terms of what this would look like in practice for Tasmania based on my experience.

Construction of facilities and implementation of an integrated model

- 38 Ensuring the new facilities are designed and constructed in as home-like a manner as possible would be an asset. Home-like facilities have successfully transitioned to more dynamic approaches to safety and security. One of the most commonly cited examples is the Missouri Model in the USA which uses small, communal correctional facilities, and has been replicated across San Diego, Orange County and Missouri.

This approach is documented further by the Annie E. Casey Foundation, but has noted that only 15% of young people in detention in Missouri return within two years of release. It is possible and exciting.

- 39 This model would also enable a more integrated model with other local community services. This would involve providing young people with opportunities to gradually “reintegrate” into the local community, as a component of Through Care that is delivered from the outset. One of the benefits of building a smaller home-like facility in Hobart or Launceston is that you could develop these integrated services and work with staff in the community. Under such a model, there would be more capacity for young people to participate in supervised visits to schools, service providers and family members. This idea is similar to a co-location model, where as part of the capital investment in a new facility, the Tasmanian Government might build other community services and facilities the youth justice centre and other community service could both utilise (anything from specialist education services to health services).
- 40 As a young person nears the end of their term, steps could be taken to transition young people back into mainstream education. An integrated model allows caseworkers and youth justice personnel to assist them in building connections with educators outside the youth justice system, so that the young person can maintain this relationship once they leave detention. The same concept applies to health services, such as psychologists and occupational therapists. Integrated Through Care delivered under a therapeutic justice model ensures continuity of care when a young person’s detention ends.
- 41 By way of example, an integrated Through Care model based around educational service delivery could be considered, and I have heard it being discussed in one Australian jurisdiction. It would involve a young people attending a secure facility during the day to engage in tailored classes and returning home at night to be with family. I am not up-to-date on whether this model was adopted, but it was going to be run by a non-government organisation, and be used as a measure of last resort by the Courts to avoid the risk of young people going into a detention-like environment where they otherwise would have been diverted. This flexibility is intended to maintain connection between the young person and the outside community while providing tailored educational services, noting many young people who come into

contact with the youth justice system characteristically have a history of being excluded from the education system altogether.

- 42 It is also important to note that a significant percentage of the young people in detention in Tasmania, and indeed Australia-wide, identify as Aboriginal or Torres Strait Islander. Having youth justice facilities located in major cities would increase the ease with which young people can be connected with Aboriginal or Torres Strait Islander service providers, their community and Elders. Maintaining a connection to culture and Country is difficult in a regional location like Ashley Youth Detention Centre.
- 43 Conversely, delivery of an integrated therapeutic model of care that enables young people to participate in community cultural programs on a supervised basis, and connect with Elders and Country, will provide greater continuity of care inside and outside of detention, improve the quality of service provision. It is important to ensure services are able to be delivered in a culturally appropriate way. At the centre of this should be a principle that programs for Aboriginal and Torres Strait Islander people are designed and run by Indigenous communities and service providers.

Access to community facilities and specialist services

- 44 Use of localised specialists, as part of smaller community based facilities, such as psychologists, social workers, Police, Department of Education and other services and agencies, would be immensely valuable.
- 45 In addition to the benefits of improving access to higher quality, community-based services, this would also likely resolve a number of workforce issues associated with the regional location of the Ashley Youth Detention Centre. Having access to existing community service would help to ensure that relevant specialists are available at all times, compared to the current operational model at the Ashley Youth Detention Centre where a specialist may only be available to drive out and attend the site once or twice a week.

Use of graduated sentencing options

- 46 As discussed at paragraphs 20 and 21 above, one of the issues observed during my analysis of the Ashley Youth Detention Centre was the lack of availability of graduated sentencing options. While there are a range of options available to the Police and the Youth Court (e.g. cautions, conferencing, community orders etc.), too

often young people are sentenced to a period of detention as the court determines a more intensive intervention is required. And the only option is to be held in the single youth detention facility in Tasmania. Additionally, there was little to no discretion in that half a young person's sentence must be served before they can be considered for supervised release. The absence of a through care model means that a gradual reintegration into the community is not effectively supported.

- 47 However, as a principle of effective youth justice, it is critical that young people are provided with numerous opportunities for diversion, coupled with targeted service delivery. As such, use of an integrated therapeutic model of care, where young people can engage more readily with the community under supervision, may assist in facilitating this. Models where young people attend services such as education within the community should also be considered.

Implementation of appropriate processes for young people on remand

- 48 Ensuring the bail conditions put in place for young people are appropriate to the individual's age, cultural circumstances and living circumstances is vital. There is work to be done not only in supporting Magistrates through training and review of decision-making practices, but also in understanding and evaluating policing practices around bail compliance.
- 49 Front end support and reviews of policing practices may assist with diversion as it will ensure a young person is not placed in detention on remand except in the most severe of situations, where the young person presents a significant risk to others or is at significant risk themselves if they are returned home. This may be the case if the home environment is the environment in which the offence took place.
- 50 I am of the view that it is unacceptable that a young person would be held in detention because of a lack of availability of stable accommodation. Responsibility should fall on the State to provide suitable accommodation in these circumstances. Placing a young person on remand in a facility like Ashley Youth Detention Centre would have detrimental impacts. Conversely, placing a young person on remand, in the most essential of cases only, in a facility that is therapeutically designed, home-like, with increased supervision and increased access to services, would lead to better outcomes.

Provision of specialist education and training for youth justice personnel

- 51 It was clear from my conversations with staff working in the Ashley Youth Detention Centre that their role is very challenging. Youth justice personnel are required to strike a fine balance between managing their personal safety needs and building rapport and connection with vulnerable young people. Understanding that these young people have likely experienced multiple forms of trauma in their lives requires significant empathy and understanding. On the flip side, staff also need to be equipped to manage the challenging, and at times physical and aggressive, nature of the behaviours these young people may exhibit from time to time.
- 52 A Certificate IV in Youth Work or equivalent is likely not sufficient to equip staff to deal with the complex needs of young people requiring an intervention as drastic as detention. The Tasmanian Government should engage with other states and territories to understand what other jurisdictions have implemented in terms of minimum training, and even explore drawing on existing education and training programs and materials they might offer. Furthermore, consideration needs to be given to the ongoing training and development of staff once minimum standards have been met to ensure an approach of continuous education and commitment to best practice is adopted.

Difficulties posed by small scale facilities

- 53 It is important to note that creating two smaller facilities in Tasmania may amplify problems around unintended isolation of young people. This is a challenge where youth justice facilities have very low numbers of young people.
- 54 It may be necessary to separate young people falling into particular categories of offence or genders. This can create risk that a child is placed in quasi-solitary confinement unintentionally. Unintended social isolation has extensive implications for a young person's psychological wellbeing in detention, and is essential to consider in the Tasmanian context in particular.
- 55 If this situation occurs, it will be necessary to offset and appropriately manage this in some way. Ensuring the youth justice facilities are home-like and effectively integrated with the surrounding community may assist. Providing the young person with more opportunities for community supervision and family visits may offset experiences of isolation to some extent.

56 Further, finding opportunities for families and communities to be involved in service delivery may also be of assistance. It is recommended that the Tasmanian Government engage further with the ACT Government who has faced similar challenges to understand what lessons they can learn from their similar experiences and context.

Monitoring performance and success of youth justice facilities

57 Once two proposed new youth justice facilities are opened, the question then arises as to how their performance should be monitored.

58 It is important not to place too much weight on any single measure. Many people place an emphasis on recidivism rate – it is commonly cited in annual plans, strategic plans and program evaluations as the primary measure of overall system success. However, big questions remain around how we should define and measure recidivism – it should not be viewed as a simple, binary measure. There are shades of grey and nuances in understanding how and when it should be interpreted.

59 Instead, I would recommend taking a ‘time horizon’ view of measuring performance outcomes. This would involve measuring a number of short term, medium term and long term outcomes. For instance, in the short-term, successful outcomes in the immediate months following release from detention are likely to focus on access to community services and reintegration into the community, while in the medium and long term, we may want to see changes in behaviour, reduction in re-offending rates, or in some cases, even a reduction in the serious of offending could be viewed as a success.

60 For example:

- (a) Measures surrounding in-facility experience – quality of service provision; availability of specialist services; access to skilled and competent practitioners. Ideally, evaluation of this measure would involve real-time operational reporting where you could see at any point in time the availability of services, or meeting key KPIs around service access.
- (b) Measures surrounding quality of Through Care support – creation and implementation of a Through Care plan for every individual; re-engagement with education; pathways to employment; ensuring stable housing. To evaluate such a measure, regular reporting against a KPI (eg, 100% of

young people have a throughout care plan) would be helpful, and execution on what is within it, as well as to conduct program evaluations every 12 to 24 months.

- (c) Measures surrounding long-term outcomes – psychosocial outcomes; recidivism rates; rate of entry into adult criminal justice system. To evaluate such a measure, robust program evaluations should be conducted and if needed, longitudinal studies.

61 Additionally, a strong emphasis needs to be placed on listening to the voice of the young person and their experiences. Monitoring of performance and ensuring feedback from young people is considered and actioned.

Access to community facilities

62 Use of localised specialists, as part of smaller community based facilities, such as psychologists, social workers, Police, Department of Education and other services and agencies, would be immensely valuable.

63 In addition to the benefits of improving access to higher quality, community-based services, this would also likely resolve a number of workforce issues associated with the regional location of the Ashley Youth Detention Centre. Having access to existing community service would help to ensure that relevant specialists are available at all times, compared to the current operational model at the Ashley Youth Detention Centre where a specialist may only be available to drive out and attend the site once or twice a week.

64 The emphasis should be placed on listening to the voice of the young person and their experiences. Monitoring of performance and feedback from young people should be ongoing. There is a tendency to look for 18 to 24 month transformational policies and change, which is not realistic in the youth justice space. It is necessary to implement ongoing monitoring, checks and balances to ensure long term change and quality of service provision.

Proposed 'two facility' model

65 I understand that the Tasmanian Government has proposed a new model of two youth justice facilities – one in the north and one in the south of Tasmania.

66 Two locations will not be ideal for all children and young people, but it comes down to balancing cost and value. The Tasmanian Government will need to do some more up to date modelling looking at demand for youth justice facilities across the state.

67 The advantages of a multiple facility model, though, is that it is more scalable than a single facility model. For example, if you started to see enough demand in the North West of Tasmania, an entirely new youth justice facility could be opened, which is much easier than making big capital investments in big, existing facilities.

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

Declared at 
on 6 July 2022



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Anthony McGinness

Before me

