



**Commission of Inquiry into
the Tasmanian Government's
Responses to Child Sexual
Abuse in Institutional Settings**

WITNESS STATEMENT OF HANNAH PHILLIPS

I, Hannah Robyn Phillips of [REDACTED] in the State of Tasmania, acting State Manager of the Tasmanian Aboriginal Legal Service (**TALS**), [REDACTED], do solemnly and sincerely declare that:

- 1 I make this statement in my personal capacity, based on my experience as a lawyer having worked with youth in Tasmania in the justice and child safety systems for the last eight years.
- 2 I do not speak on behalf of Aboriginal people or Aboriginal communities in Tasmania and do not identify as Aboriginal.
- 3 I make this statement based on my own knowledge, save where otherwise stated. Where I make statements based on information provided by others, I believe such information to be true save where otherwise stated.

BACKGROUND AND QUALIFICATIONS

- 4 I have the following qualifications:
 - (a) Bachelor of Laws (Hons) from the University of Tasmania, awarded in 2011.
 - (b) Bachelor of Arts from the University of Tasmania, awarded in 2011; and
 - (c) Certificate of Practical Legal Training, awarded in 2012.
- 5 I sit on several Boards, including the Police Citizens Youth Club in Launceston (since 2015) and the Launceston Preparatory School (since 2017).
- 6 I am currently employed in the role as Acting State Manager at TALS, a role I have been in since November 2021. I am acting in the role until a Chief Executive Officer is employed. I am also the Principal Lawyer. By way of an overview of my position, I am responsible for the legal practice at TALS and for the overall strategic and operational management of TALS.
- 7 I still undertake casework, and therefore have been a criminal lawyer for the last eight years. I appear in both the Magistrates Court and the Supreme Court. I also have experience in family law, child safety and some minor civil matters.

- 8 My previous legal experience includes:
- (a) Associate at Andrea Trezise Barrister and Solicitor, May 2012 to August 2013 where I was employed as a family lawyer;
 - (b) Executive Assistant, Nursing Directors, Department of Medicine at the Launceston General Hospital, September 2013 and May 2014;
 - (c) Youth Justice Lawyer, Legal Aid Commission of Tasmania (now Tasmania Legal Aid), May 2014 to September 2015;
 - (d) Lawyer, Tasmanian Aboriginal Community Legal Service (TACLS), September 2015 to December 2017 (the predecessor of TALS). At the time, TACLS was run in association with the Victorian Aboriginal Legal Service. I became a Senior Criminal Lawyer at TACLS in December 2017, I was in that role until July 2020; and
 - (e) Principal Lawyer, TALS July 2020 to current, however a Senior Lawyer acted in this position between November 2021 and April 2022, and I was not during that period responsible for the legal practice.
- 9 Most of my practice has been focused in the North and North-West of Tasmania.
- 10 Attached to this statement and marked **HP-01** is a copy of my curriculum vitae.

TASMANIAN ABORIGINAL LEGAL SERVICE

- 11 TALS is a community legal centre that specialises in criminal, civil and family law matters for Aboriginal and/or Torres Strait Islander people living in Tasmania.
- 12 TALS is a member-based, independent, not-for-profit, Aboriginal-controlled, and incorporated organisation.
- 13 TALS aims to provide culturally safe, holistic, and appropriate services that are inclusive and open to all Aboriginal and/or Torres Strait Islander people living in Tasmania. TALS advocates for justice, equality, and human rights.
- 14 TALS is funded through the Commonwealth Government's National Legal Assistance Partnership overseen by the Attorney-General's Department. The National Legal Assistance Partnership is a national partnership agreement

between the Australian Government and all states and territories for Commonwealth funded legal assistance.

- 15 TALS' key partners are Aboriginal community-controlled organisations in Tasmania, the Tasmanian and Commonwealth Governments and relevant agencies, the National Aboriginal and Torres Strait Islander Legal Services and Tasmania Legal Aid.
- 16 TALS applies Commonwealth policy and provides services to people:
- (a) with Aboriginal and/or Torres Strait Islander ancestry;
 - (b) who self-identify as an Aboriginal person and/or Torres Strait Islander; and
 - (c) who are recognised as an Aboriginal person and/or Torres Strait Islander by the Aboriginal and/or Torres Strait Islander community in which they live or have lived.
- 17 To be eligible for TALS services, individuals must either be in receipt of a Centrelink benefit, or, if employed, earn less than \$52,000 a year. To ensure that we offer a culturally appropriate service to as many Aboriginal and/or Torres Strait Islander people as possible, in circumstances where it is clear the client is financially disadvantaged, we may use our discretion to assist.

YOUTH JUSTICE

- 18 I have a passion for helping and protecting young people. I have always naturally been able to engage with children and create a rapport with them. I am a respite foster carer, although have not cared for any children since taking on my current role, I did in the years preceding. I would care for young people generally between the ages of eight and twelve.
- 19 My first role in criminal law was at Legal Aid as a specialist Youth Justice Lawyer in Launceston. I would be the duty lawyer for young people in the Youth Justice Division of the Magistrates Court, which generally was every second Thursday. I had a consistent case load of young people whilst in that role. I did still act for adults, but I was the designated lawyer to assist young people in the Launceston office.

- 20 I would represent young people in respect of many matters, including bail applications, pleas, contest mentions and hearings. I also appeared for young people in the Supreme Court, the most common charge I saw young people charged with that went to the Supreme Court was armed robbery. I did not undertake any trials for young people but did pleas in mitigation after pleas of guilty. As part of the role, I would also advocate for young people to be diverted away from the court system, to either community conferences or police cautions.
- 21 At the time I believe the role was funded by the Solicitor's Guarantee Fund. The role in my view is a very important one, as young people need consistency with counsel to ensure that there is a level of trust and that difficult information does not need to be repeated, compounding any trauma. Having designated Youth Justice Lawyers is fundamental to the effective and efficient running of the Court.
- 22 This representation needs to be extended to out of hours Courts. In the North and North-West, there is no representation for young people out of hours, however we have on occasions appeared if we are particularly concerned for a young person's welfare and have capacity to assist. In the South of the state, it is my understanding the Hobart Community Legal Service do appear out of hours for both adults and young people. I have seen many instances at TALS where bail has been opposed out of hours by the prosecutor, where the young person in my opinion should not be in detention. The prosecutors often do not know what is going on in that young person's life and is faced with files showing escalating offending, which is why it would be opposed. If the young person cannot advocate for themselves and explain their situation, it is likely that they would be remanded in detention until the next day.
- 23 There are two instances in the last few months where TALS has appeared out of hours for young people, as bail was going to be opposed and we saw the potential for detrimental results if the young person went to the Ashley Youth Detention Centre, even for a night. In one of these instances, the youth was 13 and on a child safety order. The young person had around eight different bail conditions across several matters which were all different and were hard for me to understand. If I had not been there, the young person would have had to argue for their own bail, with only the Justice of the Peace, prosecutor, and a

representative of Youth Justice present. Child Safety Service were not present at Court for the young person. The young female was ultimately bailed, but it was late at night and had she had no way of getting home. If we were not there to advocate for this young person, it was highly likely she would have been remanded at Ashley Youth Detention Centre for the night. I ended up driving the youth home after assisting her to obtain her belongings from the police station. This highlights two things; the first is the importance of representation in out of hours Court but also the need to ensure guardians or parents are actively present for young people, when possible, in out of hours Court, in this instance Child Safety Service.

- 24 As part of my role at Legal Aid, I made many trips to Ashley Youth Detention Centre. I have also attended in my various roles at TACLS and TALS. I primarily attended to see clients and have also presented one or two Community Legal Education sessions and would further attend on a Friday here and there when the young people were doing their barista training. It was very important to me in my role at Legal Aid that young people at Ashley Youth Detention Centre knew who I was so that they could contact me if they needed advice or had any questions.
- 25 The preference with young people, particularly in the early stages of the lawyer/client relationship is to build trust, and that needs to be done in person. It is also important to assess the literacy of a client, whether they may need to be assessed by a professional for their case, or whether they have any disabilities as some examples. It is also important to make sure the young person understands what is going on. I would obtain instructions over the phone if it was a brief or simple matter, if I had a good relationship with the client already and did not have concerns about their ability to comprehend or understand the conversation or if there were time constraints and I needed information (ie. for a bail application where I needed to follow up before court).
- 26 The Youth Justice reforms are an excellent opportunity for the Tasmanian Government to consider what is working in other jurisdictions, create a best practice model and to create change for the next generation of young people. There must be options for diversion and intervention, greater options for mental health support, drug and alcohol rehabilitation and support for families.

- 27 As part of the reforms, Aboriginal communities must be consulted to be able to provide answers for their children. There must be genuine partnerships.

CHILDREN ON REMAND

- 28 I do not believe that children belong in detention. There are very rare circumstances where the crime is too serious and detention may be the only option, but this does not occur often. It is my view that many young people are held on remand for reasons outside their control, for example they do not have stable housing, family, kinship support or have an undiagnosed mental health issues or a disability that has led to criminal behaviour.
- 29 Whilst it might be hard now to imagine a system without detention, that is if you look at the young people who have been shaped by the current system; if young people have the support and intervention early, and their behaviour is addressed at the onset, it would not be the same.
- 30 In my experience, young people are often held on remand when it is determined that offending places either themselves or the community in such danger and there is a clear escalation and continuation. There are always examples outside the norm, but that is my main observation.
- 31 Often, young peoples' behaviour is escalating because they do not have appropriate parental/guardian supervision, they are using illicit drugs, or they do not have suitable housing. Even in cases without a clear escalation in offending, I have had many clients who have been denied bail as they do not have a residential address.
- 32 One of the biggest eye openers to me in my time as the Youth Justice Lawyer at Legal Aid was the amount of young people who did not have any family supports at Court and who did not engage in education either in a meaningful way or at all. Youth Justice Court sits during school hours, and there is only one child I remember who ever was in school uniform that appeared in Court.
- 33 There are many reasons a young person may not have appropriate supervision. A few examples include; a parent may be in jail, a parent may be suffering from mental health issues themselves, there may be a family breakdown, violence or a relationship breakdown, or there may be drug and

alcohol issues at play. It may be that the parent has a physical or intellectual disability and do not have supports.

- 34 There are limited options for immediate housing for young people that is appropriate. Whilst there are youth shelters, they are often at capacity and many young people have outlined to me that they would prefer to live on the street or couch surf. A Magistrate or Justice of the Peace is rarely going to bail a young person without a stable address. I have however seen Magistrates be creative in solutions, for example a condition that a young person not be found in a public place during the night-time, so that they are not confined to the one address if no stable residence exists.

CHILD SAFETY PLACEMENTS

- 35 I have had several youth clients who are on child safety orders. Young people I have seen involved in the criminal justice system, aged 12-17 in child safety care often have instability with their placement. I regularly see a young person choose to “vote with their feet” as Child Safety Service would say and live in places not approved by Child Safety Service. Often the young person will return to live with parents or stay with adult siblings, seeking a sense of belonging.
- 36 I have seen situations where young people do not have parents caring for them who are not on child safety orders. When these young people get into trouble, they can be remanded at Ashley Youth Detention Centre because they do not have a parent or guardian and a family member is not considered appropriate by the Magistrate to care for the child. Reasons why a person may not be considered appropriate, is if that person has charges before the Court themselves, or they have had other family bailed to the address before and that person has breached bail.
- 37 In my view, there needs to be emergency support packages available for people to care for young people.
- 38 Young people who are on child safety orders should always be able to have suitable and stable accommodation. I understand that statement may be idyllic but that is the expectation placed on parents before young people are removed.

- 39 I have regularly seen young people on child safety orders without suitable accommodation. It is entirely unacceptable that the State, standing in the place of the parent, would ever be incapable of providing suitable accommodation.
- 40 I am not an expert in Child Safety and understand that staffing levels and funding may have an impact on this, but Child Safety workers seem to be spread very thin. Whilst Child Safety workers are often in Youth Court to support a young person during the day, I do not regularly see them in out of hours Court and there is often a strained relationship between worker and client. I have personally witnessed many occasions where the Child Safety worker will not speak to the child in Court and appear to be there only to see what happens. I am not qualified to say what needs to happen, but it would be good to see young people get along with the person who looks after them.
- 41 I have had Child Safety workers tell me that the young person needs to go to Ashley Youth Detention Centre. I understand this might be from a position that there are not other suitable accommodation options but Ashley Youth Detention Centre is never a suitable accommodation option. It is a detention facility that has been demonstrably unsafe for children for the entirety of my career.
- 42 Alternative accommodation options need to be created so that Ashley Youth Detention Centre is not where young people go if they have problematic behaviours. It is easy to see why a relationship would break down in this case between a young person and their worker, if the person who is supposed to be looking out for them is saying they should be locked up. I am aware of Child Safety workers making submissions to the effect that Ashley Youth Detention Centre is the only possible accommodation with respect to children who are *doli incapax* (incapable of crime), and for whom detention was never appropriate.
- 43 Despite the above looking quite bleak, I have seen many Child Safety workers who care and who are passionate, and I understand they must work within the parameters of their roles, within their risk frameworks, under direction and the current system in which they work.

TRANSITIONING FROM ASHLEY YOUTH DETENTION CENTRE

- 44 Planning for a young person's exit from Ashley Youth Detention Centre is important and requires open communication with all stakeholders. Therefore, having a designated person or people who have those relationships with people at Ashley Youth Detention Centre is important. When I was the Youth Justice Lawyer, I would communicate with staff at Ashley Youth Detention Centre if I was able to say that a young person is likely to get out that day. This allows for Ashley Youth Detention Centre staff to consider how the transition might be made smoother, for example putting their belongings in a bag, including a prescription and any medication giving them a few days/weeks grace to get into a doctor.
- 45 In saying that, things can change very quickly when it comes to Youth Justice, so it can be difficult to make a judgement call as to what will happen. For example, a new matter might get listed last minute, or a bail address may become available. I think it is everyone's responsibility who is working with that young person to make it work and think logically. We need to work in concert with the family and Ashley Youth Detention Centre to make sure everyone is prepared.

ISSUES WITH BAIL SUPPORT PLANS

- 46 Another issue contributing to young people being remanded are the timelines of Bail Support Plans in the South of the State. A Bail Support Plan is a plan for the young person's release, but the young person is kept in Ashley Youth Detention Centre for a few weeks whilst it is being prepared. I have not seen this directly, but it has been reported to me by staff from the TALCS and TALS office and it has also been reported to me by someone who has worked at Ashley Youth Detention Centre. The plan covers things like where the young person will live, who will be there, their support network, schooling etc. I have not seen this in the North and North-West where a written plan is required. I understand this is prepared by Youth Justice.
- 47 It has always been my practice to try and get young people out of Ashley Youth Detention Centre and off remand as soon as possible. To do so, I have requested adjournments of one or two days and gone to Ashley Youth Detention Centre to progress a matter and communicated directly with Youth

Justice and Prosecution in that period to plan. I have even suggested children be given bail with an appointment to come into Youth Justice the following day to work out their supports. If a young person is not going to be getting a period of actual detention as their sentence, they should not be there.

TALS AS A SUPPORT SERVICE

- 48 TALS is funded to be a legal service as well as a legal support service. We identify that often non-legal needs turn into legal needs. We have five Aboriginal Liaison Officers across the state who support clients with non-legal needs. This number has expanded significantly in the last year as we see the positive benefits from the work they do. The staff in these positions engage with community organisations and provide a link between support services, the client and lawyers creating a wraparound environment for the young person to receive legal advice and be supported.
- 49 A young person in detention and young people in the youth justice system are a priority for our service. We will advocate for a young person to get out of Ashley Youth Detention Centre if there is merit in doing so and will do so in the least amount of time possible.
- 50 There is simply not enough funding across the board to support young people in the youth justice system. There are opportunities for several initiatives, for example young people who have several matters in court and who are on bail, could be supported by bail support workers who have relevant training and expertise. They should have access to funds to support a young person during that period to ensure their basic needs are addressed.

DIFFERENT APPROACHES

- 51 Youth Justice should be about getting people in the room and to the table that can offer support to work out why the young person has engaged in problematic behaviours, not how much trouble they are going to be in in my view. For a lot of young people, if you fix the social issues or start to really address what is going on at home, they are not going to be in the Youth Justice Court. This must be done early.

- 52 There needs to be appropriate education and training opportunities for young people, which they can be referred to by support systems involved in the criminal justice system. For example, young men who engage in motor vehicle stealing undertaking training in mechanics to redirect their energy and foster their interests. Greater access to general practitioners, psychologists and psychiatrists who are trained to assist young people would also be beneficial.
- 53 Education in schools from a young age is also extremely important. This could range from teaching young people about consent, what constitutes criminal behaviour, sexting, bullying, impacts of convictions, party offences/joint criminal enterprise as some examples.
- 54 Aboriginal Communities and organisations in Tasmania need to be funded appropriately to provide intervention and education programs for their young people to change their future in a culturally appropriate and considered way.

BURN OUT IN SUPPORT SERVICES

- 55 The lack of support services and system dysfunction has led to highly stressful environments and burn out amongst people who work in the youth justice space. I have seen many workers engaged with young people who have left the system because they have seen failures and feel they cannot make a difference.
- 56 Often this support of young people requires the management of complex care needs, and it is beyond the realms of the position in which is offered to provide the support.

ABORIGINAL YOUNG PEOPLE

- 57 Indigenous Australians are much more likely to experience contact with the Justice System than non-indigenous Australians. Australian indigenous youth were 16 times more likely to be under supervision on an average day in 2019-2020. In Tasmania, Aboriginal youth are imprisoned at five times the rate of non-indigenous youths. Tasmanian Aboriginal youth account for approximately 30% of children under Youth Justice supervision, and 40% of all children in detention, despite only comprising about 10% of the population. This data is

from the Youth Justice in Australia 2019-2020 report released 28 May 2021. Attached to this statement marked **HP-02** is a copy of this report.

- 58 I contact Ashley Youth Detention Centre and ask the number of young people at Ashley Youth Detention Centre every month that identify as Aboriginal and or Torres Strait Islander and the number regularly falls just under half. It is my experience that the number of young people in detention ranges from seven to 13 and there are often four or five who identify as Aboriginal or Torres Strait Islander.
- 59 From what I have seen, Aboriginal young people in Ashley Youth Detention Centre are often facing significant disadvantage, intergenerational trauma, and strong pro-criminal family associations (which is generational) and often is the result of the disadvantage and trauma of past generations that continues through a broken system.

REFORMS TO YOUTH JUSTICE IN TASMANIA

- 60 In my view, the whole youth justice system in Tasmania needs to be reformed to keep children safe.
- 61 In March 2022, TALS made a submission to the Department of Communities in respect of the Tasmanian Government discussion paper, '*Reforming Tasmania's Youth Justice System: A pathway for improving outcomes across the youth justice support continuum*'. Attached to this statement marked **HP-03** is a copy of this submission.
- 62 The submission details a multitude of reforms that could be implemented to improve the youth justice process in Tasmania.
- 63 In my view, the key reforms for all children are to:
- (a) ensure there are pathways to address the reasons for offending rather than the offending itself. This includes:
 - (i) having trained professionals available for young people and families to be referred to without a long wait list;
 - (ii) addressing social disadvantage including Tasmania's housing crisis;

- (iii) ensuring there are mental health treatment options for young people; and
 - (iv) having drug and alcohol rehabilitation and support for young people and their families that is tailored for young people;
- (b) creating programs, education, and training initiatives for young people; and
- (c) closing Ashley Youth Detention Centre and engaging with communities, both Aboriginal and other communities, about how best we can provide therapeutic outcomes to our young people.
- 64 The Child and Adolescent Mental Health Service (**CAMHS**) can assist in some instances; however I have not had young people express to me that the service has provided significant assistance. Many issues have flowed from a young person not wanting to engage and/or not getting to their appointments.
- 65 In my view, the mental health system is inadequate. There is no mental health facility for young people in Tasmania. This means that often young people who have mental health issues and complex behaviours when they are young are sent to Ashley Youth Detention Centre if that behaviour results in criminal conduct. Ashley Youth Detention Centre is used to manage the behaviour and address immediate risk rather than address the underlying issues. This is particularly the case for a young person who does not have the stability to support treatment, for example the regular taking of medication. A properly administered youth mental health facility will prevent children from coming into contact, and under the influence of, known offenders.

ASHLEY YOUTH DETENTION CENTRE

Young people's perceptions of Ashley Youth Detention Centre

- 66 I often had young people express positive views of activities they engaged in whilst at Ashley Youth Detention Centre. It is disappointing that young people can only engage meaningfully in these programs in a secure detention facility. I would often discuss with young people what they had made in art, metal or woodwork and witnessed their sense of pride and excitement about being able to take it home. I could not comment on whether the centre was run well.

- 67 I have had many children in my time that have expressed a desire to be at Ashley Youth Detention Centre. This, in my view, is an indictment on the system. This is both from young people who have been there and who have not. The young people who say this often face significant barriers and disadvantages on the outside. I have no doubt that these comments come from a desire to reduce stress, worry, have a feel a sense of belonging and in some instances escape from a violent or unstable home.
- 68 I have not had negative reviews about the schooling at Ashley Youth Detention Centre. These comments in my view are largely because the learning is at their level, they are around other young people who have low literacy and previous education outcomes, and that they do not feel put in the back corner or “different”. It is disappointing in these instances, that they do not feel they can achieve the same in the community.
- 69 I think young people who have not had the support, or the feeling or sense of belonging, can often feel that they have it in Ashley Youth Detention Centre. This is not right, and it should not be the case. It is maybe that they do not have to worry about drug debts, a household where there is family violence, or how they are going to get food every day. Often, they may be in Ashley Youth Detention Centre with friends and family.
- 70 Once, when I picked up a young person from Ravenswood to take him to Court, he asked for his bail to be revoked. He expressed two reasons, the first was because he wanted to go to a school where he did not feel different and the second is because he did not feel he could avoid getting into trouble where he lived. It is my view that having public housing in pockets, leads to neighbourhoods with high crime rates and little hope for young people who live in those areas with a desire to change.
- 71 I have had young people provided training opportunities in Ashley Youth Detention Centre, including barista courses, white cards and fitness courses. Often it is difficult for young people to engage in these programs in the community because they do not have structure, family support, routine or ability to get to and from where they need to be. They also, in the community, are back in situations of hopelessness, and undertaking a course comes second to the direct impacts of disadvantage.

ACCESS TO CLIENTS

- 72 When I was the Youth Justice Lawyer at Legal Aid, I do not recall being refused access to a client at Ashley Youth Detention Centre.
- 73 I do recall that I used to be frustrated calling Ashley Youth Detention Centre when I was at Legal Aid because pre-arranged appointments were not able to occur because the young person was engaged in other activities. In saying this, I did not push for them to cease their engagement to come and talk to me, because you are not going to get good instructions when you make a young person exit an activity they are interested in. I would simply reschedule.
- 74 I understand from several TALS staff and from the media, that there are real problems in accessing young people at Ashley Youth Detention Centre at the moment due to the restrictive practices that are occurring. Young people are kept in their rooms for hours on end, and from what I have heard the schooling provided has degraded to the point where it is nowhere near sufficient. Young people are confined to their cells to learn, with "learning packs". I suspect many of the children cannot read or have the capacity to learn on their own and likely have behavioural disorders. It is more likely than not that young people at Ashley Youth Detention Centre have some type of trauma background (including diagnosis of post-traumatic stress disorder) and locking them up in their room for hours at a time will have long term and irreversible consequences. This must stop.

HOW YOUNG PEOPLE AND STAFF INTERACT AT ASHLEY YOUTH DETENTION CENTRE

- 75 I have witnessed young people get along with staff at Ashley Youth Detention Centre, but it has appeared more to be a friendship rather than supervision. I have also seen issues with boundaries, which I address in paragraphs 84 to 84 below.

MENTAL HEALTH SERVICES AT ASHLEY YOUTH DETENTION CENTRE

- 76 I have had many young people at Ashley Youth Detention Centre who have had mental health issues. Whilst it may occur without me knowing about it, I have not seen significant treatment being offered to address longstanding

problems. Many of these problems arise from the impact of trauma, but the treatment of the children in detention does not appear to be trauma informed.

- 77 It would be ideal if relationships with trained professionals could be created whilst in Ashley Youth Detention Centre and continued in the community with supports to get the young person to appointments made available. Often young people will be in and out of detention, which would make any treatment regime difficult.

CHILD SEXUAL ABUSE IN ASHLEY YOUTH DETENTION CENTRE

- 78 Whilst I have had a number of adult clients disclose past sexual abuse at Ashley Youth Detention Centre, I have not had a client disclose that they are being sexually abused at Ashley Youth Detention Centre whilst they are there and providing instructions to me.
- 79 I have had third parties make comment of possible abuse that has occurred in Ashley Youth Detention Centre, for example an external support person saying to me about a client, "I think that they have been sexually abused while they've been there".
- 80 From what I have gathered from the third-party information is that more recent abuse has been perpetrated by detainees when there has not been supervision. I recall hearing that an inmate was forcing other young people to give him oral sex in detention. I do not know if this is true, and it was many years ago so my memory of how this information came about is not clear to me.
- 81 I see kids who go to Ashley Youth Detention Centre and come out and they are never the same again. For example, they may appear withdrawn or without motivation. A lot of the time you can only have a feeling that something has happened when they have been out there, but they never want to talk about it.
- 82 Every client that I have had who has raised sexual abuse is reticent to get support about it or to disclose. It is almost like, if you do not think about it, it did not happen. I have no doubt that young people would not want to report due to fear of repercussion and not wanting to have to go through the process of what comes with making a complaint. Young people at Ashley Youth Detention Centre often have a deep reluctance to report due to longstanding social

expectations that you do not speak to Police. This is very prevalent in Aboriginal communities.

SUPERVISION

- 83 I have on occasions seen CCTV from Ashley Youth Detention Centre where I have been concerned about the supervision. Assaults escalate without intervention until the last minute and ultimately it is the young person who appears to be the only person who is punished when they are dealt with in the court system.
- 84 I have not been able to do anything about the lack of supervision because I do not have authority from my clients to speak about it but there has been CCTV shown in court.

CASE STUDY ONE

- 85 I have a client who told me she was sexually abused in the Ashley Youth Detention Centre. She has explained to me that she attended 'Art Therapy' or 'Quiet Time' where she was placed into a dark room and was sensually massaged. She was not sure whether it was a male detainee massaging her or someone who worked there because she could not see.
- 86 She has gone from Ashley Youth Detention Centre to prison and has not broken the cycle of incarceration despite various attempts to do so. She was recently awarded financial compensation through the National Redress Scheme.
- 87 She told me that what happened to her at Ashley Youth Detention Centre made her feel dirty, worthless and it furthered her lack of self-esteem. She told me that when she got out of Ashley Youth Detention Centre she thought "if people who are supposed to care about me don't care, why should I care about myself?" It is not the only reason, but she sees that what happened to her has contributed to her illicit drug use and ultimately continued offending. I often see drug use is a vice to avoid dealing with underlying issues like trauma.

CASE STUDY TWO

- 88 I have had another client, who is now in Risdon, who told me he was sexually abused while in Ashley Youth Detention Centre. He was held down and his anus was penetrated during a “search” by someone who worked there. He has told me that every single time he is strip-searched in Risdon, everything comes back to him about what happened to him at Ashley Youth Detention Centre. It is continued trauma every time he is searched.
- 89 He is a man of few words, and whilst was happy to share brief details, the conversation clearly made him very uncomfortable. He has applied for redress but has not otherwise sought support that I am aware of. He does not like speaking about it, and I suspect it is only because of the lawyer/client relationship that we have had for around eight years that he has opened up to me about it.

BARRIERS TO DISCLOSURE

- 90 In my view, a lot of young people who are in Ashley Youth Detention Centre would be very reluctant to disclose their abuse for fear of repercussions from the other person(s), their family, or associates. Tasmania is small.
- 91 A lot of the time young people have this attitude of “I’m not a dog”. They have been brought up on the basis that you do not snitch. For example, I had someone who was making a police complaint because he alleges, he was sexually abused by police when he was being searched. When asked if he wanted the police to be charged, he said “oh god, no”. His logic was that you do not get people in trouble. That is the attitude he has been brought up with by his parents.

WHAT I WOULD DO IF A YOUNG PERSON DISCLOSED SEXUAL ABUSE IN ASHLEY YOUTH DETENTION CENTRE

- 92 In the event one of my clients disclosed abuse while in Ashley Youth Detention Centre, the first thing I would do is go out there and speak to the young person. I would probably take an Aboriginal Liaison Officer with me and offer them to sit in if the young person was comfortable with that.

- 93 I would outline what were the boundaries of the conversation, in terms of disclosures.
- 94 I would speak to them about the abuse and tell them that it is not ok. I would ask if they wanted me to raise it with someone to try and protect them. If they were not serving a sentence, I would seek their approval to raise it in a closed court and apply for bail. It is difficult to comprehend what would result for that young person if they were not granted bail and were returned to where they were being sexually abused.
- 95 I would explain to the Magistrate that it is a sensitive topic, that something is going to be disclosed and that the young person is not comfortable about it. I would say that it needs to be done in private with all parties not immediately involved to be removed from the Court and I would then raise the matter as part of the bail application.
- 96 If the young person was serving a sentence, I would support them in making a disclosure. If they did not want to, I would see if they were comfortable with me raising with staff there was a safety issue and see if they could be moved to another unit without raising the complaint in its entirety.

ISSUES WITH REDRESS FUNDS

- 97 I have many clients who have applied for compensation through the National Redress Scheme. I have also seen many people in the court system who have been awarded compensation and it has concerned me how the money is spent. Whilst I would not want to stand in the way of a person's autonomy to make decisions about their money, it is concerning when the money is taken to pay a drug debt.
- 98 I cannot give financial advice, but I try and support my clients and tell them that there are people who can give them financial advice. It would be positive to see that they could be allocated some type of case worker that can say "this is the plan when you get out", "these are some good financial decisions – putting it in property, buying a block, buying somewhere where you can be". The problem is, if you have a criminal record and no credit history, you will find it difficult to buy anything and therefore it is used to provide immediate relief in a

time of crisis. People given these funds likely have never had large sums of money before and no experience budgeting.

LACK OF PROGRAMS FOR SEXUAL OFFENDING

- 99 It is my understanding that you can only engage in programs to address problematic sexual behaviour in the Tasmanian Prison System if you are serving a sentence for a sexual based offence. It is my view anyone in Ashley Youth Detention Centre or Risdon who identifies a need or want to participate in a program like that should be able to complete it.
- 100 I am aware that the Sexual Assault Support Service in Hobart is funded to run programs for problematic sexual offending/harmful sexual behaviours in children, but I have not had any experience with this program.
- 101 I am not aware of any programs run at Ashley Youth Detention Centre that address problematic sexual behaviour or sexual abuse. I suspect this is probably dealt with one on one in a therapeutic environment, if at all.

PROGRESSION FROM ASHLEY YOUTH DETENTION CENTRE TO RISDON

- 102 At TALS, I continue to act for many adult clients who I acted for at Legal Aid and TALS when they were children. A lot of the clients I acted for as children, who were detained at Ashley Youth Detention Centre are now detained at Risdon Prison. Institutionalisation is a real issue, to the point where I have clients who have been unable to comply with Parole requirements because they have no experience as a teenager or adult managing their own time because it has been managed for them in custody.
- 103 Whilst I do not have the statistics, from what I have seen, many young people who go to Ashley Youth Detention Centre end up in Risdon. It is the kindergarten for Risdon Prison.
- 104 Young people have not regularly outlined to me a concern about going to Risdon when they have been at Ashley Youth Detention Centre. It seems almost like it is an expected course for them.
- 105 From my perspective, when young people are at Ashley Youth Detention Centre, the system has already failed and if they have significant behavioural concerns and entrenched attitudes that are unlikely to be able to be changed

and they will end up in Risdon Prison. If a young person has been in both Ashley Youth Detention Centre and Risdon, it is very likely that they will be in and out of the revolving door of prison for the rest of their lives.


106 Ashley Youth Detention Centre must be closed as soon as possible. Young people do not belong behind bars, they belong in school and with their families and communities. There is not a single young person that I can think of where I can say that their time at Ashley Youth Detention Centre changed them for the better. Locking young people up causes irreversible damage.

107 Having a therapeutic system and supports in place for young people and their families from an early age is fundamental. Stopping young people engaging in criminal behaviour is not about dealing with the crime, it is about supporting the person.

108 The Youth Justice reforms considering all the above are extremely important. This is a chance to change the system and to create best practices. The Government must raise the age of criminal responsibility and must ensure the safety and protection of all children. This starts with the closing of Ashley Youth Detention Centre but goes so much further than that.

109 Genuine consultation with Aboriginal communities, people with lived experience in the system and with people who have worked in the system will be fundamental to ensuring the change that is needed.


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

Declared at 
on 13 July 2022

.....

Hannah Robyn Phillips

Before me


[Commissioner for Declarations]