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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 19 August 2022 at 10.03am**

**(Day 26)**

1 PRESIDENT NEAVE: Before we start, I just wanted to remind  
2 everyone here present that there are some restricted  
3 publication orders in place. The orders are posted on the  
4 door of this room and if you have any queries about those  
5 issues, please consult our media person.  
6

7 MS BENNETT: Thank you, Commissioners. This morning,  
8 Commissioners, we propose to call two people who have - one  
9 after the other - who have a lived experience of  
10 interacting with the institution of Ashley. Both of those  
11 witnesses will give evidence with a pseudonym and neither  
12 of them will be on the live stream.  
13

14 We expect to finish taking the evidence of those two  
15 witnesses by about 11am, at which point we'll invite the  
16 Commissioners to rise for a break until about 11.20am, and  
17 so, the live stream will now finish until about 11.20 in  
18 the morning, at which time it will come back for our  
19 witnesses that will be appearing then, if that's a  
20 convenient course for the Commissioners.  
21

22 PRESIDENT NEAVE: Thank you very much, Ms Bennett, yes.  
23

24 MS BENNETT: I'll just wait until we confirm the live  
25 stream is now down.  
26

27 Thank you, Commissioners. So, if I could ask the  
28 witness be sworn.  
29

30 <JANE, affirmed: [10.04am]  
31

32 <EXAMINATION BY MS BENNETT:  
33

34 MS BENNETT: Q. I'm going to refer to you this morning  
35 as "Jane", and that's not your real name, is it?

36 A. No.  
37

38 Q. Jane, you've made a statement to assist the  
39 Commission; is that right?

40 A. That's right, yes.  
41

42 Q. And that statement's true, isn't it?

43 A. Yes.  
44

45 Q. You're here today really to talk about your experience  
46 and the experience of your daughter who we're going to talk  
47 about using the name "Ada"?

1 A. That's right.

2

3 Q. And that's not her real name either?

4 A. No.

5

6 Q. So, tell us about Ada when she was a young child?

7 A. Well, she was very bubbly and very outgoing, and she  
8 was a whinger, but she was well-liked at school and she had  
9 a lot of what I saw as leadership quality, because when she  
10 was in primary school, you know, she had a group of friends  
11 and, if they chose to do something wrong, she'd choose not  
12 to and then they followed her, so I saw that quality in her  
13 but that changed later on, but she was very bright.

14

15 Q. And it changed later on, you say; what changed for  
16 Ada?

17 A. Well, it was after we moved down to Tasmania. We were  
18 living for about [REDACTED] years in [REDACTED] in [REDACTED],  
19 which is like a big country town, and we moved down in  
20 about [REDACTED] to [REDACTED]; I thought that would  
21 be good for the kids, and I had [REDACTED] that I was  
22 raising. [REDACTED]

23 [REDACTED] Ada was 11, so they were all starting at new  
24 schools.

25

26 They got very friendly with the locals and met a lot  
27 of kids, and word gets around in Tassie very quick that  
28 there's new girls on the block, and they made a lot of  
29 friends. And Ada looked a lot older than her peers, so she  
30 was trying to fit in with the older kids and I think that  
31 was part of the problem, and so, she had to fit in; she  
32 acted more rebellious than normal to fit in with the older  
33 kids, I think, because they were accepting her as an equal.  
34 And she started skipping school and that was a real  
35 concern, she'd only started Grade 6, so hadn't finished  
36 primary school.

37

38 Q. Her behaviour started to deteriorate a little bit, you  
39 start to tell us in your statement?

40 A. Yes.

41

42 Q. And what did that look like?

43 A. Well, she was - well, besides acting out, skipping  
44 school, she was smoking, she started drinking, she was  
45 quite abusive at home and confronting.

46

47 Q. How old was she when she started drinking?

1 A. About 11, yeah.

2  
3 Q. You say you felt you lost control of her and you  
4 started worrying that you couldn't keep her safe; how did  
5 that evolve?

6 A. Well, to me, getting an education was the most  
7 important thing. I came from old school, you know, where  
8 that was the foundation for your future, and I wasn't sure  
9 how the system worked when I started having problems with  
10 her. I thought there'd be a truant officer and drag her  
11 back to school, you know, because that's what happened in  
12 our day and it was a walk of shame, but that wasn't the  
13 case.

14  
15 So I got involved with the Education Department to ask  
16 for help and I was speaking to a lady there on a number of  
17 occasions and she said she'd come down to my house and talk  
18 to Ada and myself, and I thought, well, she'll emphasise  
19 the fact at that time I could be charged for not having her  
20 at school - that was the law at that time, so I was  
21 accountable, and I tried to explain that to Ada but she  
22 wasn't listening, so I thought someone from the Education  
23 Department would come in and tell her the same thing and  
24 make it very clear.

25  
26 But then two people from the Education Department  
27 turned up. One introduced herself and the other one as a  
28 student, and pretty much the first thing they said, "Well,  
29 let's not worry about schooling, we'll concentrate on your  
30 problems instead", and I thought, well, at that stage that  
31 just gave her permission not to go to school.

32  
33 Q. And so, she continued to drink in a different way; is  
34 that right?

35 A. Oh, yeah, she was drinking. Because she was mixing  
36 with a lot of older kids, as far as I could see they were  
37 supplying her, and they'd often get cheap drinks from the  
38 local pub, you know, there was something called "old mule"  
39 in those days which was 50 per cent alcohol, it was cheap  
40 and nasty and they were purchasing that, plus I think older  
41 people were giving her that as well.

42  
43 Q. And so, you decided to get Welfare involved, you tell  
44 us in your statement, in about 1998; is that right?

45 A. Well, that's right. When the Education Department  
46 said that I'd be accountable for her not going to school,  
47 the two people they sent round were students, they weren't

1 anyone who was fully trained, and not making it clear to my  
2 daughter that, you know, it was that important, it was more  
3 about her problems, so that upset me. And they said,  
4 "Well, if I declare her uncontrollable, then the Welfare  
5 will come in". So, that's when I got in touch with the  
6 Welfare and --

7  
8 Q. And what happened next?

9 A. They helped me put together a court order to put her  
10 on an interim wardship and that goes for three months until  
11 they make a full wardship, and that's what I did. So, they  
12 were sort of in charge, even though she was at my house,  
13 yeah.

14  
15 Q. And around that time there was an assessment, a  
16 psychological assessment that found that Ada's behaviour  
17 was consistent with that of a primary alcoholic, and that  
18 was at the age of 12?

19 A. That's right, yes.

20  
21 Q. She was not long after admitted to hospital with  
22 severe alcohol poisoning; is that right?

23 A. That's right. Well, I think her peers and the older  
24 kids, you know, and because of her age just thought, oh,  
25 she's partying, you know, and didn't take it too seriously,  
26 but she was drinking - that was her choice of abuse, other  
27 kids were doing drugs and that, but that was her choice,  
28 and she and another child ended up - they were unconscious  
29 and they ended up at the hospital and she was on the  
30 interim wardship at that time.

31  
32 And, I got sick of the department talking to the - you  
33 know, over the phone and not really doing anything to help  
34 us, and my daughter wasn't the only one who was in trouble  
35 in, you know, youth in trouble. So, I rang them and I  
36 said, "You come down to the hospital and see what's going  
37 on with our children", you know. So, they came down and  
38 then actually seen the problem, then they started making  
39 phone calls and they wanted to keep her there for five days  
40 at the hospital while they were thinking what to do with  
41 her, but because of my daughter's behaviour, she just  
42 wanted to go and the hospital wouldn't have her, so then  
43 the department, they must have written a few letters or  
44 liaison with different people and they got permission from  
45 a politician, from the Labor Party to give permission to  
46 put her in Ashley while they considered what they could do  
47 with her, because they had nothing planned, and so, they

1 needed to do assessments on her, so they decided - they  
2 transported her to Ashley.

3  
4 Q. So, she was 12 at this stage?

5 A. Yes.

6  
7 Q. Had she been charged with any crime?

8 A. No.

9  
10 Q. So, why was Ashley on the table, why was anyone  
11 talking to you about Ashley?

12 A. Well, she was due to be made a full ward and it was  
13 then the Child and Family Services who were in charge of  
14 her and they made the decisions, and so, they were looking  
15 for elsewhere to put her in more safe - well, I thought  
16 they'd look after her and make her safe and get her an  
17 education. But while they were thinking what to do with  
18 her, they decided to put her at Ashley because they could  
19 contain her there and do their assessments and what else.

20  
21 Q. You tell us in your statement that it's Ada's story  
22 and you don't want to tell her story for her, but she's  
23 told you that when she was being transferred to Ashley she  
24 was restrained during the journey?

25 A. Yeah.

26  
27 Q. What did she tell you about that?

28 A. Well, she didn't want to go, she really wanted just to  
29 go out, and because she was abusive to everyone and she was  
30 struggling, then they - I suppose they had to look after  
31 their safety as well in transporting her, so that was the  
32 way they did it, they restrained her.

33  
34 Q. And so, do you know how long she was in Ashley for  
35 that time, roughly?

36 A. She was there for about two and a half months, but  
37 what they did was, then they got a house where they would  
38 take her during the day and there would be caretakers  
39 there, and I suppose they tried to give her a bit of  
40 schooling there, so she was housed there under supervision  
41 during the day and then transported to Ashley of an  
42 evening. And then a little bit further on they got a  
43 foster care family who would take her sometimes on the  
44 weekends or when it was available, but most of the time I  
45 think she spent the weekends at Ashley.

46  
47 Q. Do you know how she was being managed at Ashley? Was

1 she in with the other children or was she in a separate  
2 space or?

3 A. I never visited her there, and it was only recently  
4 that I actually asked her 'cos I didn't know the layout of  
5 Ashley, and she said that she was put in the - I don't know  
6 whether they're cells or rooms, I guess they're locked up,  
7 each of the people who were there, and she was put in the  
8 end cell, and I think there was rows of the other detainees  
9 and they were all locked up, yeah. So, she was locked up  
10 like everybody else, you know, for --

11  
12 Q. Do you know if there were many other girls there at  
13 the time?

14 A. Not at that time as far as I know; that was the first  
15 time she went there.

16  
17 Q. Were you being consulted about these decisions and  
18 about what was happening to her day-to-day?

19 A. Well, I just wanted her safe and an education, and I  
20 thought, well, that was the best they could do. I felt  
21 like a failure as a mother because I wasn't getting her  
22 what I thought would be - keep her safe and get an  
23 education. So I just had - and by that time she was on her  
24 full wardship so it was their responsibility, but because I  
25 made her a ward, she wasn't forced by the state, I kept  
26 sort of - I kept in contact with their caseworkers and  
27 things, but I didn't - I wasn't allowed to visit her when  
28 she went there for the first time, I just visited her at  
29 the house where she was staying during the day.

30  
31 Q. You weren't allowed to visit her at Ashley?

32 A. No, not that first time during that --

33  
34 Q. The first two and a half months?

35 A. -- months, yeah, but I visited her at the house where  
36 she went, but my other daughter was taken out there to  
37 visit her on occasions.

38  
39 Q. I think you tell us in your statement that you were  
40 told that she ultimately ran away from her daytime house  
41 and after that she went to Ashley a little bit more for a  
42 time?

43 A. Well, after they got a more permanent placement in -  
44 foster care people, a husband and wife, and they set them  
45 up in a house at [REDACTED], and that's where Ada was put  
46 with a more permanent situation with this couple, and they  
47 were lovely, they were like second family to us and I had a

1 lot of contact with them because, you know, I wanted to be  
2 acknowledged as a mother and know what's going on, and we  
3 all put our input in, so that's where she was.  
4

5 But it was a couple of weeks later when she went into  
6 their care, because she was allowed out during the day I  
7 think, and she came home a bit late. What she tells me is,  
8 she saw her bedroom light on and got scared so she just  
9 stayed away, you know, she thought oh dear she's come home  
10 late, so then she just took off for four days. She's  
11 pretty resourceful, she was out of town, but she finds  
12 people and the kids all have a big network.  
13

14 Because during that year I'd joined a group called  
15 Tough Love as well and we were sharing with other parents  
16 experiences with our children, and we found that the kids,  
17 didn't matter how far, even as far as Hobart, they had a  
18 huge network and they all seemed to have connections and  
19 resources, yeah.  
20

21 Q. So, when she didn't return home that night, was there  
22 a consequence for her and her relationship with Ashley?  
23 Did they send her to Ashley after that for a time?

24 A. Yes. So, we tracked her down, me and another mother  
25 and we tracked her down and she kept in contact, she had no  
26 shame, you know, she often rung me and told me what she was  
27 doing, and so, we convinced her that she'd have to go back  
28 and we were told the punishment would be to go to Ashley,  
29 so we said, "Well, you need to go back but don't expect any  
30 visitors during that two-week period", and her caseworker  
31 told me that she would be punished and sent to Ashley for  
32 two weeks, but she'd stay there overnight and she'd come  
33 back to her foster carers during the day but it was a  
34 two-week punishment.  
35

36 COMMISSIONER BROMFIELD: Q. At that point your daughter  
37 had not committed any crimes; is that correct? She'd run  
38 away?

39 A. Yeah, that's all, yeah.  
40

41 COMMISSIONER BROMFIELD: Thank you.  
42

43 MS BENNETT: Q. And she was still 12 years old? Or this  
44 is [REDACTED] of 1999?

45 A. Yes, she was still 12, yep. Oh, I think she'd just  
46 turned 13 probably, yeah, 13.  
47



1 Q. Okay. She was, shortly after, charged with some  
2 crimes; however, in around [REDACTED] of that year she was  
3 charged with some burglary offences; is that right?

4 A. Yes. She came back to me in [REDACTED] 1999, so she  
5 came back into my care. I think after she ran off with -  
6 oh, I think there was a few incidents and they decided to  
7 close down the foster carers, and I said, "Well, I'll see  
8 how it goes back in my home", but we still kept in touch  
9 with those foster carers, and she came back but she got  
10 into trouble with some older kids and she was caught for  
11 burglary, and this is where it went to court, police  
12 charges, and --

13  
14 Q. And she was put on a probation order with a condition  
15 that she not drink; is that right?

16 A. That's right, not drink and there was a curfew, they  
17 made a curfew; she had to be back at 10 o'clock at night,  
18 and she knew that she wouldn't be able to comply with  
19 either of those two conditions.

20  
21 Q. She's about 13 years old at this point and she's been  
22 an alcoholic for a couple of years?

23 A. Yep.

24  
25 Q. She then has as a condition of her probation that she  
26 has to not drink at all; what sort of supports were there  
27 for her to treat her alcoholism?

28 A. Not much, there wasn't any. I don't think it was even  
29 taken seriously because, you know, like her peers and  
30 everything, they just think they're partying and she didn't  
31 have a problem, it was a social acceptance almost.

32  
33 Q. What about the courts or the police or the social  
34 workers?

35 A. There wasn't anything. They offered her counselling  
36 to go to drug and alcohol, but it seemed to me it was  
37 always her choice, you know, and she liked drinking, she  
38 liked smoking, she had no shame about what she was doing.

39  
40 Q. You said earlier that you still wanted input as a  
41 mother; do you feel like your input as a mother was being  
42 valued by the different departments that were having  
43 contact with your child?

44 A. Oh, no, we had quite a few incidents where they'd  
45 allow her to do things that I as a mother wouldn't let a  
46 child do that at that age, and even the foster carers had  
47 their issues with that as well, but the department had the

1 final say and, if my daughter wanted to do something and go  
2 out with her friends or go away, she approached the  
3 department and then it's the department's decision. And at  
4 one stage they let her go on a two-day trip with a girl who  
5 was 17: well, she was part of the problem in the first  
6 place, 'cos she was so much older than my daughter and her  
7 mother was having problems with her, but the department let  
8 her go with this girl plus three males over to the east  
9 coast of Tasmania and they gave her money and we weren't  
10 happy with that either. I didn't sort of find out until  
11 later and I complained to the department and I said, you  
12 know, "You don't even know these people. A mother wouldn't  
13 even do that", and they said, "Well, he was 19 and he had a  
14 driver's licence". I said, "That doesn't give him a  
15 credential of being suitable company for my daughter".  
16

17 Q. You tell us in your statement that Ada has opened up  
18 to you a bit more recently about her time in Ashley. And  
19 again, emphasising that you've told us you don't want to  
20 tell Ada's story for her --

21 A. Yep.

22  
23 Q. -- but I want to ask you from your perspective as a  
24 mother from what she's told you and how it's affected you?

25 A. Well, we've had so many dramas and things go on, you  
26 know, I just let her deal with her own life, but since all  
27 this Commission and all the things coming up about it I  
28 have asked her a little bit but I thought that's her own  
29 personal story and she will tell it in her own way.  
30

31 She was telling me that when she - I don't know what  
32 period it was, I think it was when she was in there in  
33 2000, she did say that they did bring in older people into  
34 Ashley who were above 18 and she said that's when problems  
35 started as well, because I imagine from what I gather there  
36 was a bit of hierarchy with the age groups there, and of  
37 course the ones just under 18 were the older ones and when  
38 they started bringing in a few older ones that caused  
39 problems. But she was - she was pretty tough but she had  
40 to - she's only gone as far as to tell me she had to sort  
41 of fight her - some of the boys off, you know, but I think  
42 she held her ground a fair bit, but because she was the  
43 only girl I think there was quite a bit of supervision for  
44 her. She was put in a house separate from the others but  
45 she still went to school with the other inmates.  
46

47 Q. I think you tell us in your statement that Ada's adult

1 life has been fairly difficult.

2 A. M'mm.

3  
4 Q. What do you want to tell the Commissioners about how  
5 you reflect on your interactions with Ashley and the  
6 infrastructure around it in your experience?

7 A. Well, what I saw was there wasn't enough communication  
8 between different services, and she'd have caseworkers who  
9 would tell her what they were going to do, and it seemed to  
10 happen when either a caseworker went on holidays and  
11 someone else came in and they'd change their decisions and  
12 that's confusing for my daughter and she would get angry  
13 and upset and I think that often set her back.

14  
15 When she was in Ashley for the burglary - or actually  
16 it was for breaching the orders that she got placed in  
17 Ashley, and she was told that she would be given - get into  
18 independent living when she came out and she was happy  
19 about that, that's what she wanted; she had lots of friends  
20 who were in houses and she thought she could have the same,  
21 and they said that she could, and they changed their mind  
22 about a week before she got out. So, it was the  
23 inconsistencies and not being told clearly what was going  
24 on and people changing their minds that caused a lot of  
25 problems I think.

26  
27 Q. What would you like this Commission to do as a result  
28 of your experiences? Is there any comments you'd like to  
29 leave with the Commissioners today?

30 A. I don't think it's just the Family Services, I think  
31 it goes to do with the Education Department, the Justice  
32 System, because we were dealing with them all, but no-one  
33 could do anything about - if you had a problem at school,  
34 no-one else wanted to touch it, and the police had their  
35 hands tied as well, because we'd go to them for help and  
36 they said, "Oh, well, we don't know much about your  
37 daughter, we'll have to wait and get some paperwork before  
38 we do anything".

39  
40 I just think it's a combination: these are youth that  
41 need help, you know, but a combination of all the services  
42 working together and the communication; they're individuals  
43 and their futures, you know, like my daughter, she didn't  
44 finish primary school and she hasn't got an education, and  
45 she was extremely bright but she just didn't get that  
46 education that I would have liked for her and I think there  
47 could have been a lot more done about that.

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47

Q. Thank you.  
A. Just a combination of all the services, I think, and the communication --

Q. Putting her at the centre of all of the services?  
A. Yeah.

MS BENNETT: Thank you. Commissioners, those are the questions that I have for Jane today.

COMMISSIONER BENJAMIN: Q. Yes, I was just going to say, just to understand what you've said: when you finalised and you were finishing you were saying that you wanted Education, Health, Community Services and Ashley to work co-operatively to prioritise Ada's education and health; is that the thrust of what you're saying?

A. Well, that is what is important to a mother as well, you know, and I don't think they - even though I had a lot of communication with them, they weren't listening to me as a mother and they were giving her more than what I'd do for a 12-year-old; they were giving her money, they were giving her, you know, promising her things or letting her go on trips with, you know, even youth that were a lot older than she was and she just didn't have that maturity; she might look older but she was still a child, and there's no way that I wouldn't check on who these people were, trying to approach their parents, you know, and get far more details to allow a child to do that. It's just beyond my comprehension, they weren't giving her a reality of what real family life is about.

Q. Thank you for giving evidence to us and telling us your story and Ada's story. From what you've said Ada still has some demons to tame.

A. Oh, every day.

Q. Would you wish her well from us and hope that she can eventually tame those demons.

A. I will. Thank you very much for your time.

PRESIDENT NEAVE: Thank you very, very much, Jane, for speaking to the Commission. We're very sorry to hear about what you've gone through and what Ada has gone through, and I agree with my Commissioners that we would like to wish her well, so thank you very much.

A. That's all right.

1  
2 MS BENNETT: Commissioners, perhaps if it's convenient we  
3 might simply call the next witness without adjourning. As  
4 we did yesterday, we'll simply have a slight logistical  
5 moment, if that's convenient.  
6

7 PRESIDENT NEAVE: Yes.  
8

9 MS RHODES: If it please, Commissioners, our next witness  
10 is going by the name of "Eve" and she will be giving her  
11 evidence and will be referring to her son who was a former  
12 detainee as "Norman", and she will be taking the oath.  
13

14 PRESIDENT NEAVE: Thank you, Ms Rhodes.  
15

16 <EVE, sworn: [10.34am]  
17

18 <EXAMINATION BY MS RHODES:  
19

20 MS RHODES: Q. Thank you. Eve, that's not your real  
21 name?

22 A. No.  
23

24 Q. But you have prepared a statement for the purpose of  
25 this Commission. Have you had an opportunity to look  
26 through that statement before today?

27 A. Yes, I have.  
28

29 Q. Is that statement true and correct?

30 A. Yes, it is.  
31

32 Q. Thank you. Now, we're referring to your son as  
33 "Norman".

34 A. M'hmm.  
35

36 Q. Can you give the Commissioners a description of how  
37 Norman was as a child before he was 13?

38 A. Okay. Norman was a good child. He did have learning  
39 difficulties. His father had bipolar and schizophrenia.  
40 At 13 he became bipolar himself, so he was experiencing  
41 lots of medical issues, but prior to that he had learning  
42 difficulties, but he was a lovely child.  
43

44 Q. And, were any of these mental health difficulties  
45 present when he was a child?

46 A. Not until he hit puberty, and unfortunately at the  
47 same time his father wasn't coping with his own medical

1 issues with his bipolar and his schizophrenia and he  
2 suicided.

3  
4 Q. But as a child before the tragedy in your family and  
5 the mental health issues presenting, how was Norman as a  
6 young child?

7 A. Nice, happy, great kid, everyone loved him, got along  
8 well with everybody in the community.

9  
10 Q. How is your relationship with Norman?

11 A. Really close.

12  
13 Q. And has it remained that way?

14 A. No.

15  
16 Q. Okay. What's changed?

17 A. Once he was admitted to Ashley a wedge was formed and  
18 we're still recovering from that.

19  
20 Q. Let's talk about when he was admitted to Ashley. How  
21 did that come about, what happened?

22 A. He made some really bad decisions. He was hanging out  
23 with a really bad group of people and he made a bad  
24 decision and ended up being charged with a crime which took  
25 him to Ashley and he was sentenced to be there for three  
26 years, I think he was serving 18 months.

27  
28 Q. You say in your statement that he went into Ashley  
29 when he was 17.

30 A. Yes.

31  
32 Q. So, between the ages of 13 and 17 when the mental  
33 health issues were presenting, how were you as his parent  
34 managing that or helping him through that?

35 A. We were trying every avenue possible: we'd been to  
36 Mental Health Services, we had counsellors, youth workers,  
37 we'd done all sorts of things; trying to get mental health  
38 evaluations, which was difficult because he wasn't  
39 accepting that he had mental issues. But we did end up  
40 finally getting him medicated and on an even keel and  
41 things did start to look up.

42  
43 Q. And that was medication prescribed by a doctor?

44 A. Yes.

45  
46 Q. But there was no formal diagnosis through a  
47 psychiatrist at that point?

1 A. No, that's right, and I had - when we were having  
2 instances where I was having to ring Mental Health Services  
3 we had got an appointment with Clare House. Clare House  
4 spoke to me for 15, 20 minutes and told me there was  
5 nothing wrong with him.

6  
7 Q. But that's not how he presented to you?

8 A. That's not the truth.

9  
10 Q. With his medication, was he constantly taking that  
11 medication?

12 A. Well, he was if he was home, but then he'd take off  
13 with his friends and then he wasn't medicating. So, I'd be  
14 driving around in the car looking for him everywhere,  
15 trying to either get him home or get him to take his  
16 medication, whichever I could facilitate him to do.

17  
18 Q. So you were really supervising his taking of the  
19 medication to make sure he took it?

20 A. Yes.

21  
22 Q. When he took the medication, was there a change in his  
23 behaviour?

24 A. Absolutely, and although he never had a formal  
25 diagnosis it was obvious, and because he's got a genetic  
26 history, it was obvious that it was working for him; the  
27 medication was working, so as far as I was concerned the  
28 diagnosis was correct, you could actually see a remarkable  
29 difference when he was medicated.

30  
31 Q. And, when he was arrested, in your statement you say  
32 he was first held at the Launceston Remand Centre?

33 A. Yes.

34  
35 Q. Did he have his medication with him then?

36 A. No, he didn't.

37  
38 Q. Were you able to provide that medication to him?

39 A. I went up to the Remand Centre and tried to hand over  
40 his medication before he was transported to Ashley. They  
41 told me that they couldn't take it and that they didn't  
42 need it because they had all that stuff there.

43  
44 Q. "Stuff there" being stuff at --

45 A. As in, the medication at Ashley. Now, this was on a  
46 Friday, and of course I rang the next morning and said,  
47 "Has he been medicated, has he had his medication today?",

1 knowing that his head would be absolutely spinning because  
2 he's a child who's going into a detention centre, it's  
3 bound to be scary and he wouldn't be coping mentally very  
4 well. They basically said, "No, we don't have any of that  
5 stuff", and that they also didn't know that he - they  
6 basically said that, "We don't know that he's got bipolar,  
7 so until our psychiatrist who comes from the mainland which  
8 visits every six weeks has a chance to look at him, we  
9 won't be acting on the medication".

10  
11 Q. And this was the first time that Norman had been in  
12 Ashley Youth Detention Centre?

13 A. No. He had been there once for two nights, or one  
14 night even, and then got bailed. It was only an overnight  
15 thing and then got bailed. This was the first time that he  
16 was there for more than a day.

17  
18 Q. What were you thinking at this time, with them saying  
19 that they're not going to give the medication to him?

20 A. Really, really worried for him because I knew that,  
21 without the medication, he would start to unravel, that he  
22 wouldn't be coping, and it was important that he be given  
23 his medication just for his own sake to keep on an even  
24 keel mentally, because he was about to face a judge, he was  
25 coping with a situation that he was unfamiliar with. He  
26 was put into an intake room where other children would walk  
27 past and bang on the windows and say, "Wait till you get  
28 out here". And he was a very small child. Some of these  
29 inmates were bigger than the guards: quite daunting, but  
30 apparently that's part of the course.

31  
32 Q. What do you mean when you say "that's part of the  
33 course"?

34 A. Well, I was told by one of the Youth Justice workers  
35 "Oh, yes, but it doesn't always happen, sometimes they're  
36 just being chirpy and once they get out they're right".  
37 But laying in bed of a night, knowing your child is about  
38 to be put out into the bigger community of Ashley from the  
39 intake area and they're terrified and they've been already  
40 told that they're gonna get it when they get out there,  
41 it's hard to live with, it's hard to sleep.

42  
43 Q. At some point the medication was given to him but not  
44 at the correct dose?

45 A. I had to drive from Hobart to Ashley and actually  
46 present myself at the reception desk and try and hand them  
47 the medication: on this occasion they did take it. They



1 did decide to start giving him his medication, but if you  
2 know anything about antidepressants or certain medications,  
3 they take time to build up in your body: you don't take it  
4 that morning and you feel great that afternoon, it has to  
5 be a build-up of the correct dose over a period of time for  
6 you to have the benefit from that medication.

7  
8 So, although he did end up getting some medication  
9 before he stood in court, he did basically stand in front  
10 of a judge not medicated properly, head spinning, not being  
11 able to think straight.

12  
13 Q. He was remanded again?

14 A. Yes.

15  
16 Q. And he was remanded for some time --

17 A. Yes.

18  
19 Q. -- from your statement because he needed a mental  
20 health assessment; is that correct?

21 A. Yes. So, he had to wait for the psychiatrist to come  
22 over from the mainland to look at - to make sure that he  
23 thought that he was bipolar or not, and what their  
24 reasoning was that, if they stopped giving him medication  
25 and stripped him down medication-wise so that he had  
26 nothing on board, then the assessor would be able to see  
27 him in his natural state without any medications and things  
28 going on so we could really assess whether this child's got  
29 bipolar.

30  
31 So, in that period this child is - he's got his head  
32 spinning, he's been put in lockdown, because I've been  
33 ringing saying I'm scared that something's going to happen,  
34 and having had his father suicide, it was very important to  
35 me that he was kept safe. So, every time I rang they would  
36 put him on 3 minutes observations in a little cell, which  
37 was basically - it was just - it was just to stop me from  
38 complaining, because he had a repercussion every time I  
39 complained.

40  
41 Q. And what was the repercussion?

42 A. That was their answer was, put him in 3 minute  
43 observation, and they'd actually say it to you really  
44 smugly.

45  
46 Q. Just to clarify, you're calling out of concern for  
47 your son?

1 A. Yes.

2

3 Q. And their response to you was, "Well, we'll put him in  
4 observation"?

5 A. Yep, just to make sure he doesn't kill himself there,  
6 that was the answer.

7

8 Q. And would I be correct in saying that your impression  
9 was they weren't doing that for his safety, they were doing  
10 that as retribution for you trying to advocate for your  
11 son?

12 A. Yes, absolutely. If they had any concerns for my  
13 son's welfare they would have been looking at his  
14 medication and him as a whole, not just saying, "Put him in  
15 that little cell, let's just make sure he doesn't kill  
16 himself".

17

18 Q. You were making phone calls; what other steps did you  
19 take as his mother to try and help your son?

20 A. I felt it very difficult to communicate with the staff  
21 because they didn't want to communicate with you, they just  
22 wanted to run everything in-house and they didn't want  
23 anyone from the outside interfering in their things, it was  
24 even difficult to get a conversation with them on the  
25 phone.

26

27 I had been to a doctor because I was personally having  
28 a nervous breakdown over it. She had written letters of my  
29 concerns of the fact that he was always in lockdown, he  
30 wasn't getting outside, he was being medicated, but just in  
31 general their duty of care seemed really lacking and I was  
32 concerned as to how this institution wasn't transparent,  
33 being a children's institution, and that there was no way  
34 of getting information about your own child and how his  
35 welfare was.

36

37 So, I went to a doctor, she wrote him letters - wrote  
38 letters to the centre outlining my concerns. I know the  
39 doctor and her receptionist even rang Ashley and spoke to  
40 them, and they were spoken to in a terrible way, they  
41 probably still remember it to this day.

42

43 Q. And nothing happened?

44 A. Nothing happened, no, they were basically told to back  
45 off, that that's not how things work around here.

46

47 Q. You eventually were able to get some information from

1 Ashley about Norman's time there and you have attached it  
2 to your statement. Just for the benefit of the  
3 transcript and also for the Commissioners, I'm just  
4 referring to Attachment 3, and there is a file note record  
5 of a conversation between you and the nurse on the bottom  
6 of - I think it's about page 3 of the attachment but on the  
7 bottom of the page it says "289" as the page number.

8  
9 In this file note it's recorded that, "Benefits for  
10 Norman is the Ashley structure, and that disadvantages for  
11 Norman is involvement of his mother and GP and their lack  
12 of understanding of Ashley's workings". What's your  
13 reflection on that file note - not necessarily the accuracy  
14 of it, but how does that make you feel as someone who's  
15 trying to advocate for their son to be considered a  
16 disadvantage to (indistinct) --

17 A. Absolutely. I think basically I was trying to get his  
18 medication given to him at the right dosage, and I was  
19 doing everything in my power to try and help my child with  
20 his bipolar, and I was doing lots of ringing and lots of  
21 trying to make sure that this was happening, and the  
22 blocking was - was just awful. They even sent out memos to  
23 each other which I even have a copy of that says that  
24 they're not to speak to this woman, that they're not to  
25 give me any information about my child or speak to me  
26 because it could leave the agency exposed. By this point I  
27 was already writing to Ministers and the Commissioner for  
28 Children. I was putting up red flags everywhere and people  
29 just weren't just listening.

30  
31 Q. You describe in your statement going to Minister  
32 Petrusma and she's writing a letter on your behalf?

33 A. Yes.

34  
35 Q. What was the outcome of that letter being written?

36 A. Nothing.

37  
38 Q. So would it be correct to say that every step that you  
39 took to try and help your son was not being acted upon?

40 A. Absolutely. I tried to - once the communication had  
41 broken down with them at Ashley I had to - I decided I was  
42 going to get a mental health advocate to try and get the  
43 communication going again. They didn't like that at all  
44 because it was - it was basically a pain in their butt. I  
45 suppose a lot of people gave up, but I wasn't prepared to  
46 give up and in my mind this was a government institution,  
47 it was being led by the government, it was being

1 obviously - it is part of the government, so if I'm not  
2 getting any response from them I should be able to get a  
3 response from the government by going to Ministers or going  
4 to Commissioners, but that wasn't going to be helpful at  
5 all, it just did not happen, nothing really was ever  
6 resolved.

7  
8 Q. My learned friend has kindly asked me to correct that,  
9 Minister Petrusma was in opposition at the time, she wasn't  
10 the actual Minister of Children.

11 A. Yes.

12  
13 Q. And that's in your statement, to clarify?

14 A. Yes.

15  
16 Q. So, you wrote to the opposition Minister to see if  
17 something could be done at Parliament?

18 A. Yes, and look, it's 12 years ago and I do think that I  
19 did actually speak to the - tried to get to speak to the  
20 Commissioner of Children, and it's hard to remember now  
21 it's been so long and there were so many - I spent most of  
22 my nights sitting up trying to figure out ways to help my  
23 child.

24  
25 Q. And in the meantime you're still trying to have  
26 contact with him via phone?

27 A. Yes.

28  
29 Q. And how was that, did that continue for a while, was  
30 there any stoppage of contacting him by phone?

31 A. Yes. I'd speak to him regularly, the phone calls did  
32 get less frequent, but the content was different because -  
33 because he was being punished every time I made a  
34 complaint, he wouldn't tell me anything anymore; he  
35 wouldn't tell me how he was feeling because, if I rang up  
36 and said, "Look, I'm worried about how he's feeling or  
37 what's going on", then he would have a repercussion. So,  
38 it formed a big wedge between us, and then all of a sudden  
39 he didn't want me to come and visit anymore.

40  
41 Q. And at the time when he said he didn't want you to  
42 visit anymore, did you know why he was saying that?

43 A. No; no, I didn't.

44  
45 Q. And what have you learned since then as to why he  
46 asked you to stop coming? You don't have to provide  
47 details, just to the extent that you're willing to give the

1 evidence.

2 A. So, when I would go and visit, it's a little bit  
3 upsetting for a parent to know that, just for a child to  
4 come visit its mother in a room, that the guards are going  
5 to fossick through their anus and their genitals on their  
6 way back out. It wouldn't be something that most people  
7 would want to have to happen, and it was - it did feel  
8 awful knowing that that did happen every time I visited  
9 him, but it wasn't until later on that I found out that  
10 there was a lot of bastardisation going on during these  
11 searches, I won't go into details, but it was enough to  
12 make him not want me to visit anymore.

13

14 Q. How did that make you feel as the parent of this  
15 child?

16 A. Well, I felt bad, I also - because I thought it was  
17 just the general shyness of being cavity searched -  
18 searched - because that in itself is daunting for most  
19 people; yeah, it was awful. And had I known it at the  
20 time? Oh, I would have made his life hell because I would  
21 have put in so many complaints, which is why he never told  
22 me.

23

24 Q. Norman has given you permission to speak today?

25 A. Yes.

26

27 Q. And there are certain things that he's asked you not  
28 to comment on.

29 A. Yes.

30

31 Q. So, please just speak to what you're able to.

32 A. M'hmm.

33

34 Q. But, how have you seen his time at Ashley impact him?

35 A. Well, he was savable. He was a child that still could  
36 have been turned around and had a future, but they changed  
37 that and his future's been pretty awful.

38

39 Q. You say in your statement that he came out very angry.

40 A. Yes.

41

42 Q. And that he came out worse than when he went in.

43 A. Well, he didn't act like he did anymore, he wasn't the  
44 same person. He'd been through so many trauma. You - it's  
45 like throwing a child into war. It's like you put someone  
46 in a jungle and they've got to survive, they'll find a way  
47 to survive, but he came out a different person.

1  
2 Q. Having been through that experience, he's still not  
3 able to tell you, speak with you, about everything?

4 A. No, look, he knows how much I love him and he knows  
5 how much all this was affecting me at the time, which is  
6 why he didn't tell me at the time or even immediately  
7 afterwards because he knew how much heartbreak it would be  
8 and he wasn't prepared to - he was also - wasn't ready  
9 himself to divulge what was going on.

10  
11 Q. And, what would you like to say to the Commissioners  
12 about how to improve the situation, how to make it better  
13 for the families?

14 A. And I just want to go back there to the fact that my  
15 child was there when young Craig Sullivan died; he was in a  
16 room not far away and he did listen to his friend die  
17 overnight. That's never left him. And the fact that he  
18 had watched him asking for medical help, asking for  
19 Panadol, asking for ambulances, asking to be taken to  
20 hospital, complaining about never ending headaches. He'd  
21 been assaulted a week earlier, two weeks earlier possibly,  
22 and that, once he was dead, life just went on as normal,  
23 nothing changed in there, no-one was held accountable,  
24 nothing changed. You'd have to be fearful that that could  
25 have possibly been you.

26  
27 And I had problems with them with their duty of care  
28 of trying to get them to provide the right medication.  
29 Now, this was for a child who had bipolar. Could you  
30 imagine if a child had diabetes, heart disease, cystic  
31 fibrosis, imagine them coping? Obviously a child's medical  
32 care should be the top of the list, especially if you're a  
33 child facility, and the fact that this young child had  
34 begged for medical help for days on end and they just  
35 watched him die, pretty much confirmed - it just confirmed  
36 to me that my suspicions of their inadequacy of their  
37 treatment of children was absolutely astounding and people  
38 just weren't listening, and I had hoped that this death  
39 might have opened up some eyes, but it didn't seem to,  
40 things still didn't seem to change. And the children never  
41 received counselling, they never received proper  
42 counselling after that child died, and I think it had  
43 affected him a whole lot, and it affected me too.

44  
45 PRESIDENT NEAVE: Q. I have one little question.  
46 Presumably a lot of the children there actually knew the  
47 boy who died.

1 A. Yes.  
2  
3 Q. Didn't just know him from Ashley but --  
4 A. They knew him, that's right, personally.  
5  
6 Q. They knew him personally?  
7 A. That's right, yes, that's correct.  
8  
9 Q. And so, it would have been bad enough if it was a  
10 strange child?  
11 A. Yes.  
12  
13 Q. But you're saying this was a child that was known to  
14 them?  
15 A. Yes.  
16  
17 Q. They knew this child had died and they received no  
18 counselling or support?  
19 A. Absolutely right, and he had seen the guard stand over  
20 him and make him clean up his vomit on the floor, and  
21 within hours of that he was dead. Now, if they can't feel  
22 guilty that they were so hard-hearted that they couldn't  
23 get medical help for a child who was going to die  
24 within hours ...  
25  
26 PRESIDENT NEAVE: Yes.  
27  
28 MS RHODES: Q. You had parental responsibility for  
29 Norman?  
30 A. Yes.  
31  
32 Q. He was not under any Child Protection, Child Safety  
33 order.  
34 A. No.  
35  
36 Q. And you were not consulted the entire time that he was  
37 there; would that be correct?  
38 A. That's right. Only if I was insisting on it. Only if  
39 I was insisting, and I had to get mental health advocates  
40 and everything to try and hook up meetings to see  
41 psychiatrists and all that sort of stuff, it all had to be  
42 worked out: it was never easy.  
43  
44 Q. And being the parent that you are, what would you like  
45 to see changed at Ashley or a similar facility to have the  
46 parents more involved?  
47 A. Well, I think we've got to stop modelling child

1 detention facilities on adult prisons because you are  
2 actually creating breeding grounds and training grounds for  
3 the next people that are about to go into Risdon and start  
4 ruling the yards; because they learn how to do it right  
5 there and we're handing them the capacity to do that, we  
6 are giving them a facility where they will get to rule.  
7 It's the same, it's like a Risdon, it's like a little  
8 Risdon. So, you've got the child in there who wants to  
9 rule: well, he's only going to rule if there's someone to  
10 rule over, so you're actually giving them perfect  
11 conditions; then you're adding victims that you're going to  
12 throw at them for them to terrorise to practise their  
13 skills.

14  
15 I think there's a very small percentage of those  
16 children who are the ones that we're talking about who are  
17 the bullies, and maybe there needs to be a facility for  
18 extremely violent children, but I think that's a very small  
19 percentage of the children that are in these institutions;  
20 I think the rest of them, if they're not put through the  
21 trauma, if they're not bullied, if they're not becoming the  
22 victims, if they are actually trying to be helped in their  
23 life with their education, their mental health, that things  
24 will be different, but while we're still trying to treat  
25 children like adult prisoners, they're never going to get  
26 any better, they're always going to come out worse because  
27 they have to live that jungle, they have to survive what  
28 you're putting them into, and the environment you're  
29 putting them into is absolutely easy pickings for the  
30 bullies

31  
32 MS RHODES: Thank you very much. Those are my questions,  
33 Commissioners.

34 A. And I actually did end up making a statement of what I  
35 thought what I do and don't accept about Norman's  
36 incarceration, and I basically am saying that I don't  
37 disagree that my child needed to be there; he had done  
38 things against the law and he had been imposed to losing  
39 his freedom and that was probably well justified; however,  
40 he didn't deserve to have violence perpetrated on him, he  
41 didn't deserve to see friends die, and he didn't deserve to  
42 be bastardised.

43  
44 MS RHODES: Thank you.

45  
46 PRESIDENT NEAVE: Thank you very much, Eve, and thank you  
47 very much for speaking to us and for your struggle to look



1 after your son.

2 A. Yes, which I'm still doing now.

3

4 PRESIDENT NEAVE: Of course, and we're very, very grateful  
5 to you for speaking to us. Do you have any questions?

6

7 COMMISSIONER BROMFIELD: I don't have any questions but I  
8 just wanted to extend my apology to you for all you've lost  
9 and for the opportunities lost to Norman for the person he  
10 could have been.

11 A. Absolutely, thank you.

12

13 COMMISSIONER BENJAMIN: I just echo the remarks of my  
14 fellow Commissioners, that's all I can do.

15

16 PRESIDENT NEAVE: Thank you very much indeed.

17 A. Thank you.

18

19 MS RHODES: And, may we rise for an adjournment?

20

21 PRESIDENT NEAVE: Yes, thank you.

22

23 **SHORT ADJOURNMENT**

24

25 MS BENNETT: Commissioners, could I ask the next two  
26 witnesses, Mr Caltabiano and Ms Phillips be sworn?

27

28 <VINCENZO CALTABIANO, affirmed: [11.27am]

29

30 <HANNAH ROBYN PHILLIPS, affirmed:

31

32 <EXAMINATION BY MS BENNETT:

33

34 MS BENNETT: Mr Caltabiano, please tell the Commissioners  
35 your full name and professional address.

36

37 MR CALTABIANO: Vincenzo Caltabiano, of 148 Liverpool  
38 Street, Hobart.

39

40 MS BENNETT: You've made a statement to assist the  
41 Commission; is that right?

42

43 MR CALTABIANO: I have.

44

45 MS BENNETT: Are the contents of that statement true and  
46 correct to be best of your knowledge?

47

1 MR CALTABIANO: Yes.  
2  
3 MS BENNETT: Ms Phillips, can you tell the Commission your  
4 full name and professional address?  
5  
6 MS PHILLIPS: Hannah Robyn Phillips, Level 1, 67-69  
7 Brisbane Street, Launceston.  
8  
9 MS BENNETT: Thank you, and you've made a statement in  
10 your personal capacity to assist the Commission; is that  
11 right?  
12  
13 MS PHILLIPS: I have, yes.  
14  
15 MS BENNETT: Can you tell the Commissioners if you've read  
16 that recently and if its contents are true and correct?  
17  
18 MS PHILLIPS: Yes, I have read it this morning and the  
19 contents are true and correct.  
20  
21 MS BENNETT: Thank you. Mr Caltabiano, can you tell the  
22 Commissioners your position here in Tasmania?  
23  
24 MR CALTABIANO: I'm the Director of Tasmania Legal Aid.  
25  
26 MS BENNETT: Ms Phillips, you're the Acting State Manager  
27 of the Tasmanian Aboriginal Legal Service and you're here  
28 in a personal capacity today; is that right?  
29  
30 MS PHILLIPS: Yes, I've worked in Youth Justice for the  
31 last eight years so I am here to, I suppose, give  
32 information in respect of that.  
33  
34 MS BENNETT: What roles have you held over the last eight  
35 years.  
36  
37 MS PHILLIPS: The first role that I held in Youth Justice  
38 was at the Legal Aid Commission of Tasmania and Launceston  
39 as the Youth Justice lawyer. I then became a lawyer in  
40 2015 at the Tasmanian Aboriginal Community Legal Service  
41 where I have essentially been for the last seven years.  
42 I'm currently the Acting State Manager and also the  
43 principal lawyer at that service.  
44  
45 MS BENNETT: While you presently work at the Tasmanian  
46 Aboriginal Legal Service, you tell us in your statement you  
47 don't speak on behalf of Aboriginal people or Aboriginal

1 communities in Tasmania, you do not identify as Aboriginal;  
2 is that right?

3  
4 MS PHILLIPS: That's correct.

5  
6 MS BENNETT: Why is that important to emphasise?

7  
8 MS PHILLIPS: I don't want to be speaking on behalf of  
9 Aboriginal people and communities given that I'm not  
10 someone who identifies, but I see that the information,  
11 given my experience, is still important to be able to give  
12 in that capacity.

13  
14 MS BENNETT: Is it your experience that people - that  
15 Aboriginal communities and people are not always at the  
16 table, as it were, in terms of consultation and involvement  
17 in this space?

18  
19 MS PHILLIPS: It's my experience that, from what people  
20 have told me in communities, that that is the case and it's  
21 also in the media every day, and the most important thing  
22 is, it's one thing to have consultation, but it has to be  
23 genuine consultation and Aboriginal communities and  
24 Aboriginal people have to be able to be given the time, the  
25 funding and the resources to be able to properly do that.

26  
27 MS BENNETT: Mr Caltabiano, can you tell us about,  
28 broadly, the services that your organisation provide as  
29 they relate to children in Tasmania?

30  
31 MR CALTABIANO: Certainly. So, Tasmania Legal Aid is the  
32 largest provider of Legal Services to children in Tasmania.  
33 We provide services to children appearing in the Youth  
34 Justice System, before the Youth Justice Court throughout  
35 the state, and we also represent children in Child Safety  
36 proceedings through separate representatives: be that  
37 through our in-house staff or private practitioners funded  
38 pursuant to a grant of legal assistance, and more broadly  
39 in the Commonwealth sphere, we provide the independent  
40 children's lawyers who appear in the Federal Circuit and  
41 Family Court of Australia, both again through our in-house  
42 practice and through grants of assistance to private  
43 practitioners.

44  
45 MS BENNETT: Thank you. I think you tell us in your  
46 statement, Mr Caltabiano, that the strategic plan for  
47 Tasmania Legal Aid identifies children as a focus of the

1 organisation. Can you tell us why that's become a  
2 particular focus?

3  
4 MR CALTABIANO: Certainly. In developing the strategic  
5 plan we consulted, not only with our staff and the broader  
6 legal sector, but others within the community and also with  
7 clients, and it became apparent that a critical part of the  
8 community who were often not given a voice, who are not  
9 provided a seat at the table, are children, and for the  
10 range of services that we provide children are often  
11 present either as direct clients or are the subject of  
12 proceedings or are affected by the other things happening  
13 around the adults in their lives, and so, from that  
14 perspective it was vital that we had children at the  
15 forefront of our minds as we develop and deliver services.

16  
17 MS BENNETT: What happens when a child is arrested and  
18 brought before the court for a bail application?

19  
20 MR CALTABIANO: So, Tasmania Legal Aid provides a service  
21 to represent those children who are presented to the court  
22 Monday to Friday during normal business hours, and so, if  
23 that child chooses to instruct a lawyer from Tasmania Legal  
24 Aid we'll provide advice and, as appropriate, make an  
25 application for bail or other arrangements.

26  
27 PRESIDENT NEAVE: This is a Duty Lawyer Service, is it?

28  
29 MR CALTABIANO: This is a Duty Lawyer Service, yes,  
30 Commissioner. There is also a service that is funded by  
31 Tasmania Legal Aid after-hours that operates Friday,  
32 Saturday and Sunday in Hobart and that service provides the  
33 Duty Lawyer Service to both adults and children who are  
34 presented to the court.

35  
36 We are in the process of developing a broader  
37 statewide service that would allow both the expansion of  
38 that current service to a seven-day a week service and also  
39 to provide the option of representing children in the North  
40 and North West of the state who are brought before the  
41 court after-hours.

42  
43 MS BENNETT: Ms Phillips, if an Aboriginal or Torres  
44 Strait Islander child is arrested and taken before the  
45 court, is there any different or other processes that are  
46 activated?

1 MS PHILLIPS: There is, so in the Tasmania Police Manual  
2 they're required to notify the Aboriginal Legal Service as  
3 soon as an Aboriginal or Torres Strait Islander person is  
4 taken into custody and that includes children, so our  
5 service has a 24/7 essential telephone number that the  
6 police call and they speak directly with a lawyer. That  
7 process is for the purpose of, (1) providing legal advice,  
8 and (2) to be able to undertake a welfare check which  
9 obviously came out of the Royal Commission into Aboriginal  
10 Deaths in Custody. We will then provide assistance on a  
11 duty basis as well unless that young person is already a  
12 client to be able to assist them in court.

13  
14 MS BENNETT: What are the proportions of young people who  
15 are coming before the courts who identify as Aboriginal or  
16 Torres Strait Islander?

17  
18 MS PHILLIPS: There is no hiding from the fact that  
19 Aboriginal and Torres Strait Islander children are  
20 significantly overrepresented in the Youth Justice System,  
21 in the Child Protection System, and also as adults. I  
22 regularly check the numbers of Aboriginal and Torres Strait  
23 Islander children in detention, for example, and only two  
24 weeks ago there were 10 children in Ashley and seven of  
25 them were Aboriginal, and that is disgraceful.

26  
27 MS BENNETT: Why do you say that?

28  
29 MS PHILLIPS: It's my firm opinion that young people do  
30 not belong in detention, they belong with their families,  
31 they belong in school and they belong in communities. It's  
32 my position that it's an indictment on the system that it  
33 gets to that point, that a young person who has most likely  
34 had significant disadvantage in their life, and there are  
35 significant social issues, is in a detention facility.

36  
37 There's also no denying that Ashley is essentially a  
38 kindergarten for Risdon and I've seen throughout my career  
39 that is regularly the case, that young people who are in  
40 Ashley end up in Risdon and it is the quicksand of the  
41 Legal System.

42  
43 MS BENNETT: We'll come back to that. Before we do,  
44 Mr Caltabiano, I think Tasmania Legal Aid has carried out  
45 some work identifying cohorts of children who are  
46 overrepresented. What can you tell the Commissioners about  
47 what that work has told you?

1  
2 MR CALTABIANO: So, Tasmania Legal Aid published the  
3 Children First Report which involved an examination of  
4 about 12 years of our data looking at children who had had  
5 engagement with the Youth Justice System, but also in  
6 particular focusing on children who had had experience in  
7 the Child Safety System, and what it identified was that  
8 there was a significant overrepresentation of Aboriginal  
9 and Torres Strait Islander children, there was a  
10 disproportionate representation of girls who had both a  
11 Child Safety background as well as - or engagement - as  
12 well as engagement with the Youth Justice System.  
13

14 What it also identified was that, the earlier that a  
15 child became involved with the Youth Justice System, the  
16 longer that engagement and the more likely that they would  
17 have frequent attendances before the court, so that, in  
18 particular for a child below the age of 14 who also had had  
19 prior involvement with Child Safety, they had on average  
20 twice as many files as other children who we had acted for.  
21

22 I should also add as a point of clarification, as  
23 Ms Phillips has pointed out, the Tasmanian Aboriginal Legal  
24 Service represents a large number of Aboriginal children  
25 who come through the system, and so, despite the fact that  
26 we have another service that's providing services for  
27 Aboriginal children, we see an overrepresentation in our  
28 cohort of Aboriginal children coming through the system as  
29 well, so I think our figures in some ways understate the  
30 extent of that overrepresentation.  
31

32 MS BENNETT: I'm sorry, Commissioner Bromfield.  
33

34 COMMISSIONER BROMFIELD: Yes. I just wanted to ask two  
35 questions from those statistics. Point one I think is just  
36 a clarification. You mentioned, I think, the circumstances  
37 in which girls who did attend, were in detention, the  
38 characteristics of them that were overrepresented, but  
39 I believe that overall boys are overrepresented compared to  
40 girls?  
41

42 MR CALTABIANO: Yes, that's correct.  
43

44 COMMISSIONER BROMFIELD: I just wanted to clarify that.  
45

46 MR CALTABIANO: Yes.  
47

1 COMMISSIONER BROMFIELD: More importantly, though, and I  
2 want to open this up to both of you, we're talking about  
3 Aboriginal overrepresentation in the Justice System and I  
4 just wanted to give either of you an opportunity to make  
5 any comments about, perhaps, the underlying drivers for  
6 that. I'll open that up.

7  
8 MS PHILLIPS: As I think outlined before about the social  
9 issues, many Aboriginal young people, they're from families  
10 where there's significant disadvantage and  
11 intergenerational trauma and we only have to look at  
12 history to be able to see why that is, and without being  
13 able to address those social factors, it is going to  
14 continue to be the case that Aboriginal young people are  
15 overrepresented, but it's my position that communities,  
16 Aboriginal communities themselves need to be spoken to  
17 about what they want for their children.

18  
19 MR CALTABIANO: Yes, I think that it's important that we  
20 remember that our Youth Justice System, that the Ashley  
21 Centre that we'll be speaking about shortly, didn't appear  
22 out of nothing, it comes within an historical context.  
23 And, I note the comments made in the statement by Cassandra  
24 Pybus that's in the Commission's materials which set out  
25 some of that historical context of the development of  
26 Tasmania, and I was minded of that when visiting the Ross  
27 Female Factory which was in effect a prison for women and  
28 where women were detained who had become pregnant out of  
29 wedlock, and children were removed and then basically held  
30 until the age of 14 and were provided out to members of the  
31 community basically as indentured labour.

32  
33 In some respects what we see is some echo of those  
34 attitudes, that history throughout our system - and, I'm  
35 not suggesting that it's conscious, but the evolution of  
36 the system, I believe, is heavily influenced by that  
37 history. And so, when we come to some of those drivers I  
38 think it's true, certainly for the members of the  
39 Aboriginal community who we see overrepresented, but I  
40 think also for a large number of non-Aboriginal children  
41 that we see coming through who are often from more  
42 marginalised and disadvantaged sections of the community  
43 and I suspect it wouldn't be that difficult to trace those  
44 historical connections.

45  
46 PRESIDENT NEAVE: I've got a follow-up question to that.  
47 There is a considerable amount of discretion in the

1 Criminal Justice System starting with police responses,  
2 moving on to what disposition people get when a matter goes  
3 to court, et cetera. Do you think that those discretions  
4 operate in a way that disadvantages poor and disadvantaged  
5 people and/or Aboriginal people; the way the discretions  
6 are exercised? And I'm not suggesting conscious bias, I'm  
7 suggesting perhaps unconscious attitudes that might affect  
8 the way those discretions are exercised?  
9

10 MS PHILLIPS: I do and I will provide an example in  
11 respect of that. To be able to engage in a pre-court, say  
12 diversion, you have to have consent from a guardian or  
13 parent and you also have to admit guilt. There's a  
14 fundamental issue in respect of that. You've got  
15 Aboriginal people who have a significant distrust of  
16 authority generally and that is generational, and a young  
17 person can miss out on that opportunity because of that and  
18 then they're ultimately sent through to the court system.  
19

20 Having to admit guilt to be able to have a matter  
21 dealt with in a diversionary way is also problematic for  
22 that reason because you have young people who may have a  
23 response bias that is, "Yes, I did that", when it may very  
24 well be the case that they didn't or they're trying to  
25 cover for someone else that might be a family member, and  
26 then all of a sudden there's a caution on their record that  
27 then is being used in proceedings in the future.  
28

29 PRESIDENT NEAVE: Thank you. Did you want to add to that,  
30 Mr Caltabiano?  
31

32 MR CALTABIANO: If I may. I think one of the things that  
33 we can point to that indicates that there is a  
34 disproportionate or unequal response, and that's the data  
35 around the conciliation conferences or the out of --  
36

37 PRESIDENT NEAVE: Yes.  
38

39 MR CALTABIANO: -- that occur in the Youth Justice System,  
40 and the conferences are disproportionately for  
41 non-Aboriginal children compared to Aboriginal children,  
42 they don't reflect the similar proportions that you see of  
43 Aboriginal children within the rest of the Youth Justice  
44 System. And so, no doubt that there's a number of factors  
45 that contribute to that, but I think it's worth at least  
46 hypothesising that perhaps there is some other elements of  
47 that disadvantage that contribute to that disproportionate



1 result.

2

3 PRESIDENT NEAVE: Thank you.

4

5 COMMISSIONER BROMFIELD: Can I just check in, because I  
6 think that both of you are making an important point and I  
7 want to do a plain language check because I think it's an  
8 important point for the whole community.

9

10 It sounds to me that both of you are really pointing  
11 out to Aboriginal overrepresentation as a matter of a  
12 consequence of a history of colonisation and Stolen  
13 Generations - I know you didn't use those specific words -  
14 and not about Aboriginality. I just wanted to check that.

15

16 MS PHILLIPS: Absolutely.

17

18 MR CALTABIANO: Yes, that's a fair - that's an accurate  
19 way of putting it, thank you.

20

21 COMMISSIONER BROMFIELD: Thank you.

22

23 MS BENNETT: Ms Phillips, you made a number of trips to  
24 Ashley. Can you tell the Commissioners about why it's  
25 important as part of your work to do that?

26

27 MS PHILLIPS: Yes. So, when I was the Youth Justice  
28 lawyer at Launceston I would regularly go out to Ashley to  
29 be able to see my clients and I also delivered some  
30 community legal education there and, in addition, I would  
31 also just go out on a Friday when they do their barista,  
32 not barrister, training. And, it's important to be able to  
33 gain the trust of young people by being there and showing  
34 that you care first and foremost, but second, to ensure  
35 that the young person really does have an understanding or  
36 assist in the understanding of the court process, and I  
37 would regularly meet clients to be able to go through their  
38 complaints before the court to be able to get instructions  
39 for bail applications, but also just to check their general  
40 wellbeing. But in my role at Legal Aid I think it was  
41 really important, as the Youth Justice lawyer who was  
42 designated to assist youths, that they knew who I was. The  
43 last thing you want is a young person having to tell their  
44 story over and over again, as there is often traumatic  
45 material that you hear, so that you have that trust.

46

47 COMMISSIONER BENJAMIN: I might just interrupt now and ask

1 a question.

2

3 MS BENNETT: Please.

4

5 COMMISSIONER BENJAMIN: So you've been going there now for  
6 how many years?

7

8 MS PHILLIPS: When I started at Legal Aid in 2015 I went  
9 very regularly. In my role currently it's not something  
10 that I do - I haven't been probably for the last two years,  
11 but up until then I would go certainly every - a few times  
12 every year.

13

14 COMMISSIONER BENJAMIN: I'm being told to speak up, and  
15 rightly so. So, from 2015 until about 2020 you were a  
16 regularly visitor?

17

18 MS PHILLIPS: Yes.

19

20 COMMISSIONER BENJAMIN: And, it's not an attractive place,  
21 is it?

22

23 MS PHILLIPS: No.

24

25 COMMISSIONER BENJAMIN: What changes did you note between  
26 2015 and 2020 in terms of gaining access to it and in terms  
27 of your respective or your client's treatment, as you saw  
28 it, over those five years or so?

29

30 MS PHILLIPS: I personally didn't have difficulties in  
31 accessing clients at Ashley; I don't know whether or not  
32 that was because I was well-known there and I would often  
33 book in advance, I suppose, or go, yeah, pretty regularly.

34

35 I would say, and this isn't - not something I've  
36 thought about a lot - but there was an increase in  
37 detention centre incidents in my last few years of going to  
38 Ashley.

39

40 MS BENNETT: What do you mean by that, sorry?

41

42 MS PHILLIPS: For example, people or young people getting  
43 on the roof at Ashley, or assaulting correctional officers,  
44 or assaulting each other, things like that.

45

46 COMMISSIONER BENJAMIN: Did you have any sense of what was  
47 driving that change?

1  
2 MS PHILLIPS: It wasn't something that I thought about at  
3 the time, no.  
4

5 COMMISSIONER BENJAMIN: Thank you.  
6

7 MS BENNETT: What did the kids tell you about their  
8 experiences at Ashley, good and bad?  
9

10 MS PHILLIPS: I always had children tell me that they  
11 liked going to school there; the reason for that is because  
12 they didn't feel different or didn't be made to feel  
13 different, which I think is also an indictment on the  
14 system because they shouldn't feel like that when they are  
15 in the community. Being put at the back of class or not  
16 being able to go, being suspended, things like that, that  
17 didn't happen at Ashley from what they told me.  
18

19 Having three meals a day and the safety of knowing  
20 where you were going to sleep, which again, that is not  
21 something that you should have to go to Ashley to have as a  
22 young person. The additional activities, including art and  
23 mechanics and things like that, they felt a sense of  
24 achievement; something, again, that they didn't have in the  
25 community.  
26

27 You're taking away a lot of the difficulties that a  
28 young person faces every day which is not something that  
29 they should have to go there to do. And, don't get me  
30 wrong, I'm not saying that Ashley is a place to be; in my  
31 view it needs to be closed and it's significantly  
32 detrimental to young people.  
33

34 MS BENNETT: What about your experience makes you say  
35 that? Why do you say it's significantly detrimental to  
36 young people?  
37

38 MS PHILLIPS: Well, young people change when they go there  
39 and it's not for the better. And, you only have to look  
40 and say, there's no success stories out of Ashley that I'm  
41 aware of. I've never seen a young person who's gone to  
42 Ashley come out and go, "That was a really great thing".  
43 What is being said about Ashley is the early stages of  
44 institutionalisation.  
45

46 MS BENNETT: Thank you. Mr Caltabiano, again, your  
47 organisation has done some work around the impacts of

1 Ashley and you tell us about that in your statement at  
2 about paragraphs 57, 58 or so, but what can you tell the  
3 Commissioners about what Tasmania Legal Aid has discovered  
4 or considers to be the case about the impacts of time at  
5 Ashley?  
6

7 MR CALTABIANO: So, I think, picking up on the comments  
8 that Ms Phillips was making, is that, as a general rule  
9 what we see is a graduation from Ashley into the adult  
10 prison system, that there are few success stories; that for  
11 some, at best, the outcome might be a neutral one, but that  
12 lack of the throughput support, planning, the lack of  
13 safety and security for the children often does lead to  
14 children coming out into a community that is - into an  
15 environment that is no more safe for them, that doesn't  
16 meet the challenges that they are facing or assist them  
17 with the challenges that they're facing and that we see  
18 them cycling through, and we see that with the fact that  
19 over 50 per cent, and the proportion fluctuates  
20 year-to-year, but 50 to 70 per cent of the children are  
21 returned to Ashley within 12 months of release. So, we see  
22 that cycle continue and then, as they become adults they  
23 end up within the adult Criminal Justice System.  
24

25 MS BENNETT: When children are returning within 12 months,  
26 what kind of impacts does that have for those kind of  
27 throughput supports that you were talking about?  
28

29 MR CALTABIANO: So it means that children don't have  
30 sufficient time, often even within the institutional  
31 setting or in the community, to develop the network that  
32 they need in order to be safe, in order to address their  
33 needs, whether they're physical health needs, mental health  
34 needs, issues with substance abuse and so on; there's a  
35 disruption, there's a disruption around housing, obviously  
36 the disruption in education, and so, you have this  
37 fragmentation of the children's lives as they switch from  
38 the community into custody, into the community, into  
39 custody.  
40

41 MS BENNETT: As part of that fragmentation I'd like to  
42 address the question of remand and bail. So, starting with  
43 you, Ms Phillips, what's your observation about whether  
44 children are bailed or kept in custody pending the  
45 determination of their charges?  
46

47 MS PHILLIPS: There are, I'm not sure of the exact figure,

1 but there are a significant number of young people who are  
2 on remand at Ashley; the reasons why I have seen that are  
3 that there's been such a significant escalation of  
4 offending that it's seen that they cannot be safe in the  
5 community perhaps, or it might be that they're a risk to  
6 themselves but that is for a number of reasons, including  
7 that they may not have a stable home or accommodation, and  
8 sometimes those young people are on Child Safety orders.

9  
10 There's also that there may be substance use or issues  
11 with substances, and also that there may be undiagnosed  
12 disabilities or mental health issues. There is currently  
13 no mental health facility for young people in Tasmania, and  
14 there's also no drug and alcohol rehabilitation.

15  
16 So, I might be going slightly off track here, but the  
17 legislation says that rehabilitation has to be first and  
18 foremost and that detention's a last resort, but if there  
19 aren't any options for rehabilitation to be able to address  
20 those underlying issues, then it is the last resort: it's  
21 the first resort.

22  
23 MS BENNETT: First and last resort.

24  
25 MS PHILLIPS: That's correct.

26  
27 MS BENNETT: Just to be clear for those watching, children  
28 on remand haven't been found guilty.

29  
30 MS PHILLIPS: No.

31  
32 MS BENNETT: Their charges are pending; that's right,  
33 isn't it?

34  
35 MS PHILLIPS: That's correct. They're entitled to the  
36 presumption of innocence, as anyone, but it means that they  
37 may not be able to comply with bail or may not be a  
38 suitable candidate for bail to be able to be in the  
39 community until those matters have been dealt with.

40  
41 MS BENNETT: Mr Caltabiano, from your perspective, what's  
42 the position of Tasmania Legal Aid about this issue and  
43 children going on remand?

44  
45 MR CALTABIANO: So, I think part of the significant  
46 challenge is that there is no specific bail provisions that  
47 relate to children, so a magistrate is applying the same

1 test and considerations as they would to an adult, and we  
2 can contrast that to other jurisdictions which have very  
3 explicit - and Victoria is one of them - that have very  
4 explicit provisions that are considerations for bail  
5 determination for children, and that includes the  
6 importance of maintaining connection with education, with  
7 family, with culture, and it also makes it very clear that,  
8 (a) custody is a last resort, and that, (b) a child should  
9 not be remanded simply because they don't have a home.

10  
11 I think perhaps the starkest example of how that might  
12 manifest here is that, if there's an 11-year-old child  
13 wandering the streets we would see that as an issue for  
14 Community Services to address and if that child doesn't  
15 have a home, and yet, if the child has committed an offence  
16 we seem to have a different response. And I make these  
17 comments acknowledging that there's a whole range of other  
18 factors around that.

19  
20 And, the other part of it is around the service  
21 provision. I think what we need is a bail system that  
22 provides support for children to be able to maintain the  
23 contact in the community, to be safe in the community, and  
24 for the community to be safe; I mean, that is a  
25 consideration, and we acknowledge that, and so that there  
26 needs to be those supports put into place as well as the  
27 legislative change in relation to the considerations.

28  
29 PRESIDENT NEAVE: Excuse my ignorance on this issue  
30 because I'm not familiar with the bail laws in Tasmania in  
31 detail. There's provision for police bail, isn't there?

32  
33 MR CALTABIANO: Yes.

34  
35 PRESIDENT NEAVE: And that's granted by a JP, is that how  
36 that's done here?

37  
38 MS PHILLIPS: The police can grant bail themselves with  
39 conditions and if they go to court and it's out-of-hours or  
40 on a weekend then a Justice of the Peace can bail, and then  
41 if a Justice of the Peace doesn't bail, the youth will go  
42 to court on the Monday after a weekend or the following  
43 day.

44  
45 PRESIDENT NEAVE: So on Saturday afternoon a child is  
46 picked up, police can decide whether or not to grant bail  
47 but that would obviously depend on whether the child had

1 anywhere to go, presumably. Legal Aid wouldn't be involved  
2 in the decision at that point in defending the child, would  
3 they, if they weren't brought before a court?

4  
5 MR CALTABIANO: Not whilst they are at the police station.

6  
7 PRESIDENT NEAVE: What proportion of cases involve police  
8 bail, do you know?

9  
10 MR CALTABIANO: I don't have the figures, I'm sorry,  
11 Commissioner.

12  
13 PRESIDENT NEAVE: And I just wondered what sort of  
14 training, what principles apply to police bail and what  
15 sort of training police get in that context?

16  
17 MS PHILLIPS: We see it quite regularly because we are on  
18 the telephone to police when a young person is in custody.  
19 Often, and to be fair to Tasmania Police, they do try to  
20 police bail if they can, and it will be taken to court if  
21 they perhaps don't think that the message - and I'm not  
22 speaking on behalf of them, that is just what I've seen -  
23 that the message is not getting through.

24  
25 MS BENNETT: Just a follow-up. Is there a difference in  
26 your experience of the JPs on the weekend or out-of-hours,  
27 are they anecdotally more inclined to hold a child over to  
28 be considered by a magistrate or is it the reverse?

29  
30 MS PHILLIPS: I haven't - I don't know, is the answer, but  
31 from what I've experienced in out-of-hours court when I  
32 have gone to assist, because in some instances if I'm  
33 available to go, I will, I have seen that there are  
34 instances where bail might be opposed and I don't think  
35 that the young person should be held at Ashley overnight;  
36 even a night can make a huge difference.

37  
38 And from my experience in doing that it might be that  
39 the Justice of the Peace doesn't know the child's personal  
40 circumstances, because at that out-of-hours court you've  
41 got a prosecutor, Youth Justice and a young person and the  
42 Justice of the Peace: it's a very daunting situation for a  
43 young person to be able to say what their true situation  
44 is.

45  
46 MR CALTABIANO: If I can add, our practice experience is  
47 that children who - a reasonable proportion of children who

1 have been remanded overnight are then bailed when brought  
2 before a magistrate.

3  
4 PRESIDENT NEAVE: Right, yes. So, police refuse bail and  
5 it comes up before the magistrate on the Monday and then  
6 they're bailed; that's how it works?

7  
8 MR CALTABIANO: Or perhaps more so in these instances  
9 they're being presented before a Justice of the Peace and  
10 the Justice of the Peace has refused and then they're  
11 bailed once they come before a magistrate.

12  
13 PRESIDENT NEAVE: Yes. So, there's a need for some sort  
14 of facility to hold in situations where there's nowhere for  
15 the child to be bailed, having some sort of a bail  
16 facility, a place that they can be safe until they come  
17 before a court would be the best way of doing it,  
18 presumably?

19  
20 MR CALTABIANO: I think there may be a need to examine the  
21 after-hours service and how that's provided and who hears  
22 and determines those applications, and there's also a need  
23 certainly for alternative accommodation to be available for  
24 children so that they can be bailed to an address that is  
25 then safe for that child in the community.

26  
27 PRESIDENT NEAVE: Yes, thank you.

28  
29 MS BENNETT: Just to be clear, if a child can't give an  
30 address, what happens at the bail hearing?

31  
32 MS PHILLIPS: It's not necessarily the case that a young  
33 person would be remanded, but a Justice of the Peace or a  
34 magistrate will want to know that they have somewhere safe  
35 to stay or somewhere to stay. Often I've seen, for  
36 example, if a young person stays between a number of  
37 different family members, that they might do something  
38 creative by not being in a public place between  
39 certain hours, so for example 10 o'clock until 8 o'clock in  
40 the morning so that they can stay at other - or between  
41 houses, but it definitely is the case that an address is  
42 problematic if they can't provide one.

43  
44 MS BENNETT: Based on your experience, accepting it to be  
45 anecdotal, are you able to talk to the Commissioners about  
46 whether or not children have disclosed to you troubling  
47 experiences from their time at Ashley, either



1 contemporaneously or as adults?

2  
3 MS PHILLIPS: Contemporaneously at Ashley, no, but I have  
4 sensed a change in someone's behaviour and based on my  
5 experience, which is I suppose dealing with young people,  
6 they are withdrawn and you can see that something has  
7 changed with their behaviour: I mean, that could be a  
8 number of things.

9  
10 As adults, I have a number of adults who have  
11 disclosed to me that they were abused at the Ashley Youth  
12 Detention Centre and they've been through the National  
13 Redress Scheme.

14  
15 MS BENNETT: Are you able to give the Commissioners a  
16 sense of what those disclosures are in a very broad way,  
17 and I mean in terms of, are we talking about between  
18 detainees' conduct, or what sort of conduct has been  
19 disclosed to you?

20  
21 MS PHILLIPS: There's a female who has outlined to me that  
22 she was essentially massaged by someone that was either a  
23 guard or a detainee, but it was dark and wasn't able to  
24 say. She has explained to me that it made her feel dirty  
25 and changed her opinion, I suppose, of herself and she felt  
26 that, if people who were supposed to be looking after her  
27 didn't care about her, then why should she care about  
28 herself?

29  
30 I've had a male disclose to me that he was sexually  
31 abused while he was being strip-searched at Ashley and he,  
32 at Risdon every time that he gets strip-searched he relives  
33 that trauma of what happened to him, and you can see,  
34 having worked with both of those people for a long time,  
35 the impact that it's had on them.

36  
37 MS BENNETT: I take it that's a negative impact?

38  
39 MS PHILLIPS: That's correct.

40  
41 MS BENNETT: And it hasn't assisted them to rehabilitate?

42  
43 MS PHILLIPS: No, they're still entrenched in the Criminal  
44 Justice System.

45  
46 MS BENNETT: What are the barriers to disclosure of this  
47 kind of abuse, in your view?

1  
2 MS PHILLIPS: The barriers would be that there is a fear  
3 of repercussion and that could be from a number of people:  
4 if they're at Ashley they're not going to say what's  
5 happening to them while they're there and they're stuck  
6 there. There's also really an inability to be able to  
7 disclose anything confidentially or privately really unless  
8 you're in an appointment with a lawyer. There would be a  
9 distrust for the system in that nothing's going to happen,  
10 so why would I raise it? And it may be that there are  
11 attitudes amongst that person's family or broader community  
12 that essentially, to be frank, that snitches get stitches,  
13 so you're not going to speak about it.  
14

15 MS BENNETT: Mr Caltabiano, is this something that  
16 Tasmania Legal Aid has an insight into or is it outside  
17 your sort of scope?  
18

19 MR CALTABIANO: We have a very similar experience. I  
20 understand from our practice lawyers that they will  
21 receive - they have received instructions often from adult  
22 clients who are in the Criminal Justice System who disclose  
23 a history of abuse whilst at Ashley: physical and sexual  
24 abuse committed against them by other detainees and by  
25 staff.  
26

27 And I think, echoing Ms Phillips' evidence around some  
28 of those barriers, the other I think is the one that we see  
29 around disclosure of sexual assault is often a great deal  
30 of shame as well that is a barrier. And then there's the  
31 lack of a safe reporting system which is obviously another  
32 contributor to the failure for people to report at that  
33 time.  
34

35 PRESIDENT NEAVE: You may not be able to answer this  
36 question, Ms Phillips, and you may not want to answer it,  
37 but I was wondering whether that element of shame is  
38 greater in some communities than in others? For example,  
39 is it a strong feature of what Aboriginal and Torres Strait  
40 Islanders feel?  
41

42 MS PHILLIPS: I don't think I can comment, to be honest,  
43 but I think that it's certainly the case that those that  
44 have explained to me do feel a sense of shame, and there's  
45 also that sense that there's a power imbalance often and  
46 that they're not going to be believed.  
47

1 PRESIDENT NEAVE: Yes, okay, thank you.

2  
3 COMMISSIONER BROMFIELD: I also had a question,  
4 Ms Bennett. It's been suggested to this Commission by some  
5 people that allegations made by adults after they've left  
6 Ashley are false and motivated by compensation claims.  
7 Ms Phillips, you've talked about hearing disclosures: in  
8 your personal view, were they credible?  
9

10 MS PHILLIPS: Absolutely credible, and they have often  
11 said it to me after years of feeling or gaining that trust  
12 with me, it's not something that's just said, you know, for  
13 example, in court to get a better sentence because they've  
14 had a hard life - not that that's the way it operates, but  
15 it's certainly not like that, it is a genuine and real  
16 disclosure and you can see it in people's face how much  
17 that has had an impact on them.

18  
19 COMMISSIONER BROMFIELD: Thank you.

20  
21 MS BENNETT: Mr Caltabiano, did you have any comment to  
22 make on that issue?  
23

24 MR CALTABIANO: I think just in a general sense. You  
25 know, we as a community have come to appreciate the  
26 barriers for people who have experienced childhood sexual  
27 abuse in making notifications and often it does take many,  
28 many years for people to have the courage and the support  
29 to make those statements, and I don't think that there's  
30 any reason to doubt that the children that we're speaking  
31 about or the adults who were abused as children within  
32 these settings are any significantly different from the  
33 rest of the community who experience these terrible  
34 circumstances.  
35

36 COMMISSIONER BROMFIELD: And in fact, from both of your  
37 evidence it would appear that perhaps there's even greater  
38 barriers rather than less barriers to disclosure?  
39

40 MR CALTABIANO: Indeed, and I think one of the things that  
41 was touched upon is this element of trust and in particular  
42 when we're talking about children in institutional settings  
43 where there aren't adults that they can trust and have  
44 confidence in, or that fracture that we spoke about earlier  
45 adds just yet another layer in addition to the matters that  
46 Ms Phillips identified.  
47

1 COMMISSIONER BROMFIELD: Thank you.

2  
3 MS BENNETT: Are there other vulnerabilities for children  
4 in detention? And by that I mean children with  
5 disabilities and perhaps other issues that they need to  
6 overcome that contribute to those problems, Ms Phillips?

7  
8 MS PHILLIPS: Sorry, can you just repeat the question?

9  
10 MS BENNETT: Is it your experience that children in Ashley  
11 have a range of issues that they're facing? I'm really  
12 wanting to drill into the prevalence of disability and  
13 other barriers to disclosure or to having a positive  
14 experience in detention.

15  
16 MS PHILLIPS: I think that one of the difficulties is that  
17 often there are no diagnosis of disabilities and the  
18 underdiagnosis potentially has been a reason as to why they  
19 are offending and why they may end up in detention. Anyone  
20 with any type of vulnerability or disability is going to  
21 face an additional barrier to any type of disclosure, but  
22 there needs to be early on in young people's lives the  
23 ability for disabilities to be able to be diagnosed so that  
24 they can be addressed, and that's not what's happening with  
25 many vulnerable people.

26  
27 MS BENNETT: Mr Caltabiano, are you able to say whether  
28 your experience in this and other jurisdictions speaks to  
29 those issues?

30  
31 MR CALTABIANO: Yeah, I think that there's good evidence  
32 to indicate that the children who end up in custodial  
33 settings often have a disproportionate - there's a  
34 disproportionate representation of a number of factors,  
35 whether they're cognitive disabilities, mental illness and  
36 substance abuse issues.

37  
38 The work that was done recently in the ACT where there  
39 was some examination of the files I think found that there  
40 was something in the range of about 60 per cent of the  
41 young people within the custodial setting who had a  
42 moderate-to-severe mental health issue, only half of that  
43 cohort had had a diagnosis prior to going into the  
44 facility, so I think that sort of gives a bit of a sense,  
45 and again, that's consistent with studies that are being  
46 conducted in other jurisdictions.

1 MS BENNETT: Similarly, can you tell us about treatment or  
2 assistance in relation to harmful sexual behaviours for  
3 children in detention. Are there programs available around  
4 that issue that you're aware of?

5  
6 MS PHILLIPS: Not that I'm aware of. I understand that  
7 there is a psychologist that attends Ashley and it may be  
8 that they can address directly with a young person  
9 problematic behaviours, but it's not something that I'm  
10 aware of that is available to young people and I think  
11 that's a broader issue as well. For example, at Risdon,  
12 you're only able to participate in a program if your  
13 offending is linked to a sexual crime.

14  
15 MS BENNETT: Mr Caltabiano, I think you in your statement  
16 talk at around paragraphs 49 and 50 about the availability  
17 of some assistance or support on issues of harmful sexual  
18 behaviours. Can you tell the Commissioners about what  
19 there is in Tasmania and what you've observed in other  
20 jurisdictions?

21  
22 MR CALTABIANO: So, as I understand, there's not a  
23 child-specific program available in Tasmania, but there are  
24 some services that are available through the Department of  
25 Corrections, but they are limited in terms of the scope  
26 that is available for young people.

27  
28 PRESIDENT NEAVE: One of the difficulties of providing  
29 treatment for people while they're in Ashley is that,  
30 presumably, that they're often only in there for fairly  
31 short periods, so the offering of programs on, for example,  
32 harmful sexual behaviour may be difficult in a prison  
33 context - sorry, I should have said the Youth Detention  
34 context - so you would have to have some sort of continuous  
35 program. Am I right in thinking that a lot of children are  
36 in there on fairly short sentences?

37  
38 MS PHILLIPS: That's correct. I would say that the most  
39 common sentences would be between three and six months, and  
40 often young people have been on remand and it may be that  
41 they don't then - and get out and come back, so it might  
42 not be that long, but I think that's the importance of  
43 having a through care model.

44  
45 I mean, it would be absolutely fantastic to have  
46 someone at Ashley that a young person could gain or spend  
47 that time to be able to gain that relationship to then

1 continue that treatment in the community.

2  
3 PRESIDENT NEAVE: Right, thank you.

4  
5 MS BENNETT: I'm conscious of the time - sorry,  
6 Commissioner.

7  
8 COMMISSIONER BENJAMIN: If I could add to that.  
9 Presumably that would also have to operate after they leave  
10 so that there was a continuation of the trust and the  
11 therapeutic relationship that occurs; is that right?

12  
13 MS PHILLIPS: That's correct, and what we often see is  
14 that one of the issues with young people getting mental  
15 health support in the community is being able to access it,  
16 so that there's so many different things going on in a  
17 young person's life, attending an appointment at a set time  
18 is not going to happen.

19  
20 And, something that goes back a few questions ago, but  
21 in the current system it's 10 to 12 weeks to get a report  
22 from Forensic Mental Health for a young person. What  
23 happens in 10 to 12 weeks is a lot, and that's only for the  
24 report.

25  
26 MS BENNETT: I'm conscious of the time, Commissioners, I  
27 wanted to offer our witnesses the opportunity to say what  
28 they would like to say about what needs to change or  
29 recommendations they consider the Commission should take  
30 under advisement, so I'd like to give them the opportunity:  
31 Mr Caltabiano?

32  
33 MR CALTABIANO: Thank you. The Commission heard yesterday  
34 from Professor White and I think he set out six key factors  
35 and I don't propose to repeat those but would endorse the  
36 recommendations he made, but one of the things he spoke  
37 about was, if he had the choice he'd take a bulldozer to  
38 Ashley and bulldoze it now.

39  
40 Perhaps what we need to do is take a metaphoric  
41 bulldozer to our thinking around the Youth Justice System  
42 and our response and that really requires a significant  
43 shift in our approach, so that we are thinking about this  
44 from a child welfare/child wellbeing perspective that  
45 ultimately provides the greatest protection for, not only  
46 the young people, but for the community, and so there's  
47 those early intervention responses that Professor White

1 spoke about.

2  
3 More specifically I think, in terms of a Criminal  
4 Justice response, I think there's a number of key factors  
5 that we ought to be implementing and one is the raising the  
6 minimum age of criminal responsibility to 14 and raising  
7 the age of incarceration to 16, and we've set out the  
8 rationale for that in the Children First Report in our  
9 response to the Youth Justice reform.

10  
11 We spoke earlier about the bail situation, and I won't  
12 repeat those comments, but I think that that's important,  
13 but also in terms of the Youth Justice Act which doesn't  
14 have a child-focused therapeutic approach to the sentencing  
15 of children. So, for example, it talks about "children  
16 being sentenced no more severely than an adult", rather  
17 than acknowledging that a different regime and a different  
18 lens can be and should be brought to the exercise of  
19 sentencing a child.

20  
21 And then I think we spoke in our materials also around  
22 the need for diversion and greater diversion from the  
23 system. So, Tasmania still has a higher than national  
24 average of children subject to community supervision, and I  
25 suggest that perhaps that's through a lack of other  
26 alternatives available through the sentencing process. And  
27 we know that, the more that we can divert children from the  
28 system and stop them escalating up into the sentencing  
29 regime, the less likelihood they are to go onto that  
30 custodial setting.

31  
32 Then I think, if I can continue my wish list on two  
33 other points: one is that we need to think about the  
34 environment in which children come into the court system,  
35 so having a separate stand-alone Children's Court that's  
36 dedicated and skilled and equipped to respond to children.  
37 So, that's not only in terms of a permanent Children's  
38 Court magistrate or magistrates, but also the physical  
39 setting and we've got an opportunity with the Burnie Court  
40 that's being redeveloped to really be a leader in thinking  
41 about the physical environment as well as the court's  
42 structure.

43  
44 One of the things that does give me hope about  
45 Tasmania is, because of our size, and I'm sure you've heard  
46 this, we have the opportunity to do things, to be  
47 innovative, to be courageous about how we do things and to

1 really make a difference.

2

3 PRESIDENT NEAVE: Can I ask you about that because that  
4 was on my list of questions about a separate Children's  
5 Court, and I think one of the things that might be said is  
6 that the size of Tasmania means that you just can't do  
7 that, it's just not practical. Because as I understand it  
8 at the moment there are two, I think, specialist  
9 magistrates or two who normally sit on childrens' issues.

10

11 MR CALTABIANO: Yes.

12

13 PRESIDENT NEAVE: So, in terms of the conditions in  
14 Tasmania, the need to recruit suitable people, the need to  
15 cover all of the areas presumably, at least Hobart and  
16 Launceston but maybe a couple of outlying areas as well, is  
17 it doable to have a separate Children's Court?

18

19 MR CALTABIANO: Well, I guess it depends on how you  
20 conceptualise it. If we think about it not only as the  
21 Youth Justice Court but the Child Safety System, and we've  
22 already identified the overlap, I would suggest that there  
23 probably is a sufficient volume to have one or more  
24 magistrates who might be dedicated to doing this work.

25

26 I was on a panel forum discussion late last year with  
27 the current President of the Children's Court of Victoria,  
28 and I don't wish to necessarily put words into his mouth,  
29 but what I understand him saying is, his experience from  
30 sitting as a Magistrate who occasionally sat in the  
31 Children's Court jurisdiction as opposed to being  
32 exclusively in the Children's Court brought home for him  
33 that significant difference in your thinking and attitude:  
34 it's much harder to switch from an adult setting to a child  
35 setting and not bring some of that experience that you've  
36 just had into that setting as opposed to your sole focus  
37 being, how do we respond appropriately to children?

38

39 PRESIDENT NEAVE: Thank you.

40

41 MS BENNETT: Ms Phillips?

42

43 MS PHILLIPS: I could go on about this all day.

44

45 MS BENNETT: I understand I've opened up a can of worms.

46

47 MS PHILLIPS: I'll keep it as three very distinct points,



1 but I certainly agree with everything that's just been  
2 said.

3  
4 Number one is, the age of criminal responsibility has  
5 to be raised to 14, and we have a really unique opportunity  
6 to be a leader: it's not about waiting for other states and  
7 seeing who does what first; we have to do it and we have to  
8 do it now. Raising the age of detention to 16 is a must.

9  
10 And, in addition, there is a real opportunity with the  
11 reforms that are currently happening to get genuine  
12 consultation - not 30 minutes - an hour with people who  
13 work in this space; it is, they have the capacity and the  
14 information and knowledge to be able to know what needs to  
15 happen. So, it's about getting the relevant experts on  
16 board to say, what do we need to change, and engaging with  
17 Aboriginal communities is one of those things.

18  
19 MS BENNETT: Thank you. Commissioners, those are the  
20 questions for these witnesses, save to thank them for their  
21 evidence.

22  
23 COMMISSIONER BENJAMIN: Thank you.

24  
25 PRESIDENT NEAVE: Do you have any questions?

26  
27 COMMISSIONER BENJAMIN: No, no, I just wanted to thank  
28 them, and I do.

29  
30 PRESIDENT NEAVE: Thank you very much indeed, that was a  
31 very helpful and interesting session. Did you have any  
32 questions?

33  
34 COMMISSIONER BROMFIELD: No, it's fine, I'll hold myself  
35 and give people lunch.

36  
37 MS BENNETT: The Commissioner is not giving anyone a lunch  
38 because there is another witness before lunch, if it please  
39 the Commission. So, again, given the logistics of today,  
40 could I ask our witness if they'd be content to swap over  
41 now and we can roll straight into the next witness prior to  
42 lunch, if it please the Commissioners.

43  
44 PRESIDENT NEAVE: Thank you very much indeed.

45  
46 MS BENNETT: The next witness is Samuel Baker.

1 Could I ask the witness to be sworn or affirmed

2  
3 <SAMUEL CHARLES BAKER, affirmed:

[12.25pm]

4  
5 <EXAMINATION BY MS BENNETT:

6  
7 MS BENNETT: Q. Mr Baker, could you please tell the  
8 Commissioners your full name and professional address?

9 A. My full name is Samuel Charles Baker and my  
10 professional address is Meander Valley Road, Deloraine,  
11 Ashley Youth Detention Centre.

12  
13 Q. Thank you. You've made a statement to assist this  
14 Commission; is that right?

15 A. Yes.

16  
17 Q. Have you read that statement recently?

18 A. Yes.

19  
20 Q. Are its contents true and correct to the best of your  
21 knowledge?

22 A. Yes.

23  
24 Q. Thank you. Can you tell the Commissioners about your  
25 educational background and current position?

26 A. Yes. I'm currently the acting principal at Ashley  
27 Youth Detention Centre, I've been there since March of  
28 this year. Previous to that I've been acting principal in  
29 other schools and assistant principal for around 10 or  
30 12 years. I've worked in mostly [REDACTED] suburbs of  
31 [REDACTED] High School,  
32 [REDACTED], and I've had quite an extensive history, I  
33 suppose, in working in those schools around therapeutic  
34 care, around positive behaviour supports, around supporting  
35 staff to understand about regulation and how we maintain  
36 calm predictable environments.

37  
38 Q. Before starting your role at Ashley, did you have any  
39 qualifications or training in Youth Justice?

40 A. No.

41  
42 Q. And, have you had since?

43 A. No.

44  
45 Q. What were you told when you took on the role? Let me  
46 go back: did you receive an induction when you took on the  
47 role?

1 A. Yes. So, I had a handover from the previous principal  
2 which was really important. I had a safety induction with  
3 site coordinators there. I was able to meet with  
4 management and look at role descriptions across the  
5 facility to understand how the facility works and who I  
6 need to engage with about what particular structures or  
7 processes.

8  
9 Q. Can you paint a picture: where is the school  
10 physically located?

11 A. The school sits across the northern boundary of  
12 buildings. It makes up around five physical classrooms in  
13 a row plus an office and administration area. It is part  
14 of that greater diamond-type shape of the centre. The  
15 school is accessed by the main courtyard. Most parts of  
16 Ashley Youth Detention Centre open up onto that main  
17 courtyard. If someone was to come into the school - or  
18 come into the courtyard the school would look generally  
19 like any other part of Ashley, you won't be able to  
20 actually tell that the school is located there.

21  
22 Q. So, the other sides of the diamond, some of those are  
23 where the children sleep and some are where they eat --

24 A. What we refer to as their units, yes. So, the three  
25 units that are currently being used open up onto that  
26 courtyard as well.

27  
28 Q. And they're all inside the fence, so to speak?

29 A. This is all, the school is inside, yeah, the perimeter  
30 fence.

31  
32 Q. In the classroom though you've got, what's the ratio  
33 of teacher to student?

34 A. The most amount of students that we have in one class  
35 at one time is four, and it would normally have a teacher  
36 and a TA if the group was four. We could potentially have  
37 two teachers depending on availability on that particular  
38 day or the needs of the students, so that can change.  
39 There is one subject which is run on Friday which is called  
40 Team Sport where on generally most occasions youth - the  
41 young people that are green on the BDP would access that as  
42 a whole group.

43  
44 Q. Just to pause for the people following along at home,  
45 green on the BDP, what does that mean?

46 A. The Behaviour Development Plan is a reward schedule or  
47 a token economy that is run throughout Ashley Youth

1 Detention Centre. Young people accumulate points from  
2 various things, school is one aspect of that, and those  
3 points - and then those points are accumulated, we can make  
4 a percentage which gives you a colour, the colour runs like  
5 a traffic light system from green down to red, and if you  
6 are green and closer to green then you can engage with more  
7 privileges, but you also get other token economy awards,  
8 you would have some money or vouchers to spend on various  
9 things to promote the behaviours we want to see, I imagine,  
10 and also to make - no, basically to promote the behaviours  
11 we want to see and encourage people to do what is expected  
12 of them and needed of them so we can all remain safe in  
13 that space.

14  
15 PRESIDENT NEAVE: Q. Did you say only children on green  
16 get to do the Team Sport subject; did I hear you correctly?  
17 A. Yes, that's correct.

18  
19 MS BENNETT: Q. So, the other --  
20 A. Oh sorry, no. Green, yellow and orange young people -  
21 I did say that - but young people who are red wouldn't  
22 engage.

23  
24 COMMISSIONER BROMFIELD: Q. What would they do instead,  
25 while everyone else is doing the Team Sport?  
26 A. They are in their units. So that would mean, they  
27 could be in their room, I'm not sure what happens in the  
28 unit, I'm normally at Team Sport. There is the option to  
29 engage in a work pack from school if that's what they'd  
30 like to do. It's not any more punitive other than they  
31 miss out. So, certainly there's no other punitive measures  
32 put in place for that young person; they still would engage  
33 with their workers back there; that could be social games,  
34 it could be some kind of sport in their courtyard, it could  
35 be table tennis, it could be lots of other things that  
36 interest that particular person individually.

37  
38 Q. I suppose to me it sounds like they do miss out though  
39 on the number of hours of educational programming. Whether  
40 it's in a one-on-one or with a team, they're actually not  
41 getting as many hours of educational programming then when  
42 they're on red because there's things they're excluded  
43 from; is that correct?

44 A. That would be correct, yes.

45  
46 COMMISSIONER BROMFIELD: Thank you.  
47

1 MS BENNETT: Q. And them being on red might have little  
2 to do with their behaviour in school?  
3 A. It could be because of incidents based in their unit,  
4 yes.  
5  
6 Q. And you might have no knowledge about that at all?  
7 A. I would have knowledge of it, I am part of the group  
8 that meet weekly that look at the incidents, that look at  
9 the points system.  
10  
11 Q. So, who's in that group?  
12 A. Part of that group is the operation - is, or there's  
13 management as part of that group. There are people from -  
14 is it all right if I look at my acronyms?  
15  
16 Q. Please?  
17 A. People from ATS which is case management, the Ashley  
18 Support Team.  
19  
20 Q. So, is that youth workers or who is that?  
21 A. That is part of communities, at the moment - I don't  
22 know their job titles exactly, but they're people that work  
23 within the centre to support young people to transition  
24 back out to support them to have access to health and have  
25 their needs met to ensure that they're well catered for  
26 while they're there.  
27  
28 Q. So, children who are on green, yellow and orange --  
29 A. And red, yes - oh, yes.  
30  
31 Q. No, no. The ones who are on green, yellow and orange,  
32 they attend school as normal?  
33 A. Yes, there are subjects that they can't attend.  
34  
35 Q. What subjects can't be attended?  
36 A. Presently, if you are red you can't attend woodwork,  
37 you can't attend art and you can't attend what we call Fit  
38 Gym, which is essentially a gym where they do fitness and  
39 conditioning work.  
40  
41 Q. Sorry, for green, yellow and orange, just leaving  
42 aside red for the moment.  
43 A. Yes, they can attend those.  
44  
45 Q. They attend everything?  
46 A. Yes.  
47

1 Q. And it's only red who are excluded from some subjects?

2 A. That's correct.

3

4 Q. And they're the subjects you've identified?

5 A. Yes.

6

7 Q. Are they otherwise, though, attending school?

8 A. Yes they attend all of their core subjects, they  
9 attend health, Aboriginal studies, STEM, everything except  
10 those subjects that I mentioned.

11

12 COMMISSIONER BROMFIELD: Q and, sorry --

13 A. Yes.

14

15 Q. So, for example, Fit Gym, the kids on green, orange,  
16 yellow, they might be attending Fit Gym. The kids on red  
17 when Fit Gym happens, are they returned back to their unit  
18 or may they engage in some physical activity that doesn't  
19 involve equipment? What happens there?

20 A. They are generally unit based. If there was only one  
21 student in that particular class or if there were two  
22 students and they were both on red, then we would be able  
23 to provide an alternative; it might not be in the Fit Gym  
24 but we may be able to do PE in another setting. If there  
25 is one person who is red in that group then they would be,  
26 yes, in their unit and it would be up to Programs, which  
27 another person runs Programs when school isn't around, they  
28 may coordinate something for them, they might be offered a  
29 work pack from school or they might engage with the youth  
30 workers on a task or an activity that they enjoy back in  
31 that unit.

32

33 Q. You said at the beginning that some of your experience  
34 prior to coming to this was really about regulation and  
35 creating calm and predictable environments?

36 A. Environments, yes.

37

38 Q. And, thinking about those kids who are on red, from a  
39 trauma perspective, they're likely to be quite elevated in  
40 their behaviour.

41 A. Yes.

42

43 Q. From your experience, would engaging in things like  
44 physical activity, compared to quiet time in the unit, what  
45 would be better for regulation?

46 A. It depends on the student; regulation really does  
47 depend on the students. For some students there is no

1 doubt that being physical and active would support them to  
2 regulate. For other students, particularly those that are  
3 impacted by sensory challenges, they might find that it's  
4 more regulating to be based in their unit with a person  
5 that they're more familiar and have a better relationship  
6 with. It does vary from each young person.

7  
8 COMMISSIONER BROMFIELD: Okay, thank you.

9  
10 MS BENNETT: Q. And, if you form the view that it would  
11 be better for the young person to participate, for example,  
12 in physical activity, can you override the red and say,  
13 "Look their education, access to their education, their  
14 right to their education really requires that they engage  
15 in this class"; is that going to work?

16 A. I can support adjustments where adjustments can be  
17 made around staffing or the availability of DoE staff. So,  
18 with the BDP it's very clear that, if you are red, you  
19 don't access certain things and that's for the safety of  
20 the people they work with and the safety of the young  
21 people themselves. At times I have seen students that are  
22 red that wouldn't be safe at that point because they're so  
23 disregulated to be in the space that they are. Obviously  
24 the spaces that we are talking about, a woodwork room has a  
25 lot of things, items that have to be out that potentially  
26 could be used in an unsafe way --

27  
28 Q. I'm going to interrupt you and bring you back to my  
29 example, which was, a child who is red: you form the view  
30 that this child would be assisted in their regulation by  
31 the physical exertion of attending the PE class with their  
32 classmates. That's your view as an educator?

33 A. That they could be, yes.

34  
35 Q. And then, would you be entitled to override the red  
36 and say they're going to attend with their classmates  
37 because that's in their educational interests?

38 A. No, I wouldn't be entitled to do that.

39  
40 Q. Okay, so how would you communicate that? You'd  
41 accept, I assume, that all kids have a right to be  
42 educated?

43 A. Yes.

44  
45 Q. And you're plainly going to do everything you can to  
46 make sure that kids have access to that education?

47 A. I believe in the processes and policies, that's what I

1 do.

2

3 Q. And so, what's the process for you to say to the staff  
4 at Ashley that are part of a different department, as I  
5 understand it; that's right?

6 A. So, I work with Communities and Health.

7

8 Q. Yes, you're a member of the Department of Education?

9 A. That's right.

10

11 Q. And you work with the Department of Communities?

12 A. And Health, yes.

13

14 Q. And Health. But you answer to the Department of  
15 Education hierarchy?

16 A. Yes.

17

18 Q. And you follow those policies and procedures?

19 A. And I follow the centre's policies and procedures  
20 because I'm part of that group as well.

21

22 Q. And so, what's the policy or procedure for you to say,  
23 this child, to access their education, this child needs X?  
24 What's the procedure to escalate --

25 A. Can you repeat your question, please?

26

27 Q. What's the procedure for you to escalate a concern  
28 that a particular child needs a particular privilege or  
29 intervention to access their education?

30 A. So, there's various meetings across the week. We have  
31 a weekly review meeting which is where the points are  
32 allocated and the colour of the young people is determined.

33

34 PRESIDENT NEAVE: Q. And you go to that meeting?

35 A. I attend that meeting every week, yes, that's a  
36 standard meeting. Where young people are very close with  
37 points we look at their history, recent history, we look at  
38 how they've engaged, we look at the particular incidents,  
39 the intensity and the frequency, and then if they are very  
40 close to moving up, every opportunity where we can we try  
41 to move the children, the young people, into a colour that  
42 best supports the outcomes for them. So, essentially we  
43 want everyone to be green, we want a calm predictable  
44 environment, we want a safe environment for people who work  
45 there, we want a safe environment for the children.

46

47 Q. You can express that view at the meeting, what happens



1 if you're at the meeting, one person says, no, this kid is  
2 going to go troppo if they're moved off red, they're not  
3 ready yet and you say, I think they should be having access  
4 to Fit Gym or whatever it might be. So, in the end that's  
5 discussed at the meeting.

6 A. While we have robust discussions and that's  
7 encouraged, generally based on what is written in the BDP  
8 which to me is my understanding of something that we have  
9 to follow through with, we work with a set of definitions,  
10 that generally we come to a consensus of where that young  
11 person is together. If I was singularly determined to move  
12 that person to orange, well, it would be very hard because  
13 there would be a majority potentially that say no or  
14 otherwise.

15  
16 MS BENNETT: Q. And is there a Health representative at  
17 that meeting?

18 A. I've had Health representatives come in to talk about  
19 particular things; if young people have a health concern  
20 that would potentially impact their behaviour or put them  
21 at risk, then that Health representative has come in to  
22 speak at those. We also use the notes from Health, so  
23 they're often communicating with us around their work with  
24 young people and so that information is taken into  
25 consideration as well.

26  
27 Q. So, do you feel that you've got proper access to  
28 information about the child's medical history, any  
29 diagnoses, intellectual disabilities, behavioural  
30 disorders?

31 A. Yes, I get all of that information before the young  
32 person comes into the school setting.

33  
34 Q. And, does any Allied Health professionals maintain  
35 contact with you and the youth workers at Communities as  
36 you're determining this colour code?

37 A. At the WRME in the weekly review meeting where we look  
38 at the BDP, the Behaviour Development Plan, there might be  
39 information there that they may present but those  
40 individuals wouldn't be there, but there are other  
41 opportunities for me to access those individuals or meet  
42 with individuals in a Case Conference setting within the  
43 week as well.

44  
45 Q. So, do you ever find any barriers to accessing that  
46 information that you need --

47 A. No.

1  
2 Q. -- around Health and?

3 A. I don't. A perfect example this week was one young  
4 person had a [REDACTED] concern --  
5

6 Q. I'm going to pause you there, there are so few  
7 children at Ashley, I'm just going to pause you because we  
8 are live-streaming, sorry about that. Can you generalise  
9 your comment? I don't want to stop you from giving your  
10 evidence?

11 A. Where there is a unique health situation that comes  
12 forward, if the notes aren't clear enough for me to make an  
13 assessment of what they can engage with safely, I might go  
14 and have a conversation with Health about that and come up  
15 with recommendations together to inform my staff.  
16

17 Q. Do they assist with the development of the reasonable  
18 adjustments that you talk about in your statement.

19 A. Well, the information is always there, so yes, it  
20 would. If they talk about a particular diagnosis or if  
21 they have - they are the first people to meet, generally  
22 meet some of these young people and do a health assessment.  
23 If there appears to be some anxiety or risk there, then  
24 their reports to me are really clear about that and then I  
25 can make adjustments around who works with them, where they  
26 work, what size the groups are; we can work on that  
27 information together to make sure that there is less chance  
28 of being disregulated once they enter school and they can  
29 be safe.  
30

31 Q. How many hours a day are kids attending school?

32 A. So, school starts at 9 o'clock, there are two breaks,  
33 one for recess and lunch, and it finishes around 2.30.  
34

35 Q. And what's attendance like, do you know, just speaking  
36 very generally, I understand it's a shifting population.

37 A. Generally, if young people are able to access school,  
38 so that is, they aren't red for a particular subject or if  
39 they are healthy, attendance is 100 per cent generally.  
40

41 Q. You tell us in your statement that attendance can be  
42 impacted by rolling lockdowns. Can you tell us about how  
43 that can impact on people's access to their education?

44 A. So, unfortunately this year we've had to have to move  
45 to restricted practice. So restricted practice occurs when  
46 the Ashley Youth Detention Centre can't staff enough youth  
47 workers to be able to transition young people around the

1 school safely, and that includes transitioning them to  
2 school for lessons.

3  
4 Q. Just to be clear though, once they're in the classroom  
5 there's no youth workers in the classroom?

6 A. The youth workers are in the classrooms. We are not  
7 allowed to be left in a space with the young people without  
8 a youth worker present. That's the detention rule.

9  
10 Q. I see, and what's the ratio?

11 A. Of youth workers to young people? Again, it's like  
12 school, it depends on their needs. If someone's  
13 experiencing challenge then they may have more youth  
14 workers present with them, or if the group is larger they  
15 may have more youth workers with them.

16  
17 Q. So when we're not in rolling lockdown are the kids  
18 attending the whole time 9 till 2.30?

19 A. Generally, yes. We've had some changes recently  
20 where, because of shift changes, they might miss the first  
21 class and come from 10.20 after recess and onwards.

22  
23 Q. And then, while you're in rolling lockdowns you, as I  
24 understand your evidence, and this is about paragraph 58 or  
25 so of your statement, you can only attend one unit at a  
26 time; is that right?

27 A. Generally when we've had restricted practice there is  
28 one young person out of their room in the general unit at a  
29 time and we send staff across when that occurs, normally  
30 for an hour or 45 minutes, just to - ideally to sit down  
31 and do work one-on-one with that student, but often there's  
32 other things that that student prioritises in that time,  
33 phone calls and things, which we understand; so, we might  
34 enjoy social games, we might offer them additional work to  
35 do. They may request specialist work that they've started  
36 in art or other areas to continue with.

37  
38 Q. I'm sorry, I just want to understand: where is the  
39 child at this point?

40 A. The young people are housed in units and within their  
41 units there are rooms. Those rooms open out onto a  
42 communal space.

43  
44 Q. Yes.

45 A. The young person would be in that communal space.

46  
47 Q. Like a living room?

- 1 A. Yes, I suppose you could call it like a living room.  
2
- 3 Q. So one child could come out to the living room at a  
4 time?
- 5 A. Generally speaking in restricted practice that's  
6 right. Restricted practice, to my understanding, occurs  
7 when there's a certain ratio of youth workers only  
8 available. If there are extras added it still mightn't be  
9 enough to access school but it might mean that one or two  
10 young people could be out at a time. Generally it is just  
11 one person.  
12
- 13 Q. So there's one person in that communal area, the  
14 others are locked in their rooms?
- 15 A. Yes.  
16
- 17 Q. And that one child is out for an hour and 40 minutes?  
18 A. Sorry, an hour or 40 - or 45 minutes. Then the two  
19 times, generally it's around an hour.  
20
- 21 Q. Roughly an hour, they'll sit with a teacher?  
22 A. They can sit with a teacher.  
23
- 24 Q. And they might decide not to?  
25 A. They might prioritise phone calls, which is  
26 understandable, they might prioritise food --  
27
- 28 Q. They can't make phone calls in their rooms? They  
29 don't have phones; they've got no access to phones?
- 30 A. I haven't been into a young person's room.  
31
- 32 Q. Haven't been into one of those rooms?  
33 A. No.  
34
- 35 Q. They didn't take you on a tour when you arrived?  
36 A. I have seen in the vacant unit what the rooms look  
37 like but I haven't been into a young person's room. It's a  
38 young person's room, I'd have to be invited in their, it's  
39 their space.  
40
- 41 Q. Of course, I understand that. Just to go back, the  
42 child gets one hour out of their locked room, they can  
43 choose to make phone calls, play games or engage in their  
44 education, but absent that under those conditions that's  
45 their opportunity to access their education; is that right?
- 46 A. Yes, there are other things that they'd have done. If  
47 they'd like to do a workout then we can often use the

1 breakout courtyards to do that as well.

2  
3 Q. I'm just trying to drill into it. So, each child gets  
4 a maximum of an hour a day?

5 A. They can.

6  
7 Q. They might and that's their window to access their  
8 education while they're in a rolling lockdown phase; is  
9 that right?

10 A. Yes, there are also work packs that they can have in  
11 their units to do - in their rooms, sorry, they can use  
12 when they're not in the units. Like I said, we have  
13 devised some fitness plans and things to support them with  
14 those goals as well that they can use in the units.

15  
16 Q. I'm not being critical of you.

17 A. No, it's okay.

18  
19 Q. I understand the position. As an educator of  
20 long-standing, is that enough to deliver the curriculum to  
21 these kids?

22 A. We'd like every child to be in school all day every  
23 day: that's our goal.

24  
25 Q. Can I suggest to you it's not enough to deliver the  
26 curriculum to these kids, that their opportunity to be  
27 educated is being curtailed by a lack of access to  
28 educational activity?

29 A. I'd agree with that statement.

30  
31 Q. I've got the Commissioners looking at me as if they  
32 want to ask me a question - but no. I just want to return  
33 to the review meetings for a moment and you were talking  
34 about the robust discussion you were having in the review  
35 meetings; do you remember that evidence?

36 A. Yes, I do.

37  
38 Q. Is there any power imbalance between the attendees at  
39 that meeting?

40 A. No, it's very respectful. I think everyone has a  
41 really firm understanding of the roles that everyone plays,  
42 and it's a challenging environment to work, and I  
43 appreciate the work that my peers do and I'd like to think  
44 that they appreciate mine.

45  
46 So, we're fairly consistent in our - not so much our  
47 views because we're working with a document, we mightn't

1 agree with the document completely but that's the document  
2 we work within. But we're very clear in what that document  
3 says, and what the definitions are and what the points  
4 systems are and how it works.

5  
6 Q. That's not a document that's educationally informed,  
7 is it? It's not a pedagogical document, is it?

8 A. In some respects it is a token economy and token  
9 economies are used within schools quite a lot. It is a  
10 reward schedule and reward schedules are used in schools a  
11 lot. Would a school isolate someone based on an incident?  
12 Yes, they can. If it was a physical assault in a  
13 mainstream school, I'd imagine that person is suspended for  
14 a set of time rather than one subject. So, I'm not  
15 defending the BDP at all --

16  
17 Q. I'm trying to ask, what do you think of it? You're an  
18 educator, what do you think of it from your perspective?

19 A. I think there's some level of necessity to determine  
20 whether someone is safe to be in a space with other people  
21 to work. I think that the BDP provides some level of  
22 safety to those that work within the school and the centre.  
23 Is it perfect? No. Are any of the systems that we work  
24 within perfect? No, they can always be improved and that's  
25 the challenge. That's the challenge of working in our  
26 space: how do we make it better? That's the challenge of  
27 this, what will the outcomes be, can we actually do this  
28 really, really well, or will we determine that Youth  
29 Detention is something that isn't beneficial to society?

30  
31 Q. You talked about work packs before, you speak in your  
32 statement about the adjustments that you make to the  
33 individual learning plans of each child. Are the work  
34 packs adjusted in the same way, for example, to take  
35 account of a child's intellectual disability or other  
36 limitation?

37 A. The work packs are designed for the young people to be  
38 able to complete independently with success. There  
39 wouldn't be a lot of point in providing them a work pack  
40 that has too great a learning risk that causes greater  
41 disregulation, so it's consolidation of work that they  
42 potentially have already done in the class.

43  
44 Q. What I'm trying to ask, is it tailored to the child?

45 A. They're generic, but what we do is, they are levelled  
46 so, you know, generically levelled and we have high, low,  
47 medium that we provide students, so there is I suppose

1 different levels of ability within Ashley and we try and  
2 best target those packs to those ability levels.

3  
4 COMMISSIONER BROMFIELD: Q. Just because of the learning  
5 pack, I've assumed that it's a paper-based written pack.  
6 A. That's right.

7  
8 COMMISSIONER BROMFIELD: It is. Okay, thank you.

9  
10 MS BENNETT: Q. You mentioned before programs outside of  
11 school, so fitness programs and other things outside --  
12 A. They're part of school, yes.

13  
14 Q. And there are some that are being provided outside of  
15 the school environment; is that right?

16 A. That's right, there's a Programs Coordinator and their  
17 role within the centre is to provide programs external to  
18 school times, weekends, school holidays when school isn't  
19 up and running.

20  
21 Q. Where do they sit within the departmental system?

22 A. So, they are part of Communities. I meet every  
23 morning with Programs, so they write the timetable for the  
24 entire centre. I meet with them to look at any resourcing  
25 challenges that either area of Communities or DoE may face  
26 each morning, so if we have relief - obviously the names of  
27 the people taking classes are different, we make  
28 adjustments so those young people are prepared and  
29 understand that they have someone different. If for some  
30 reason the location is different and it needs to be  
31 changed, we meet and make adjustments to that timetable so  
32 people understand where they have to go to.

33  
34 Q. We've had some evidence today that it can be a  
35 disconnecting experience for children to move into Ashley  
36 and into the Ashley School and then back home to their home  
37 school. Has that been your experience?

38 A. Yes. Well, when young people come into school we  
39 obviously get a report that's prepared for us about what  
40 has it looked like previously; generally that report will  
41 say that that young person has not engaged with school, and  
42 it's normally 12 months, it's often longer. So, we know  
43 that these young people come into the centre and they're  
44 disengaged from school already, and then we work with that  
45 young person to try and determine their educational goals,  
46 so we provide a curriculum that's able to support them with  
47 confidence and engagement, and then we, through our case

1 management meetings, try to connect with Youth Justice and  
2 sometimes the schools to support these young people to have  
3 access and better relations when they go out to maintain  
4 education.

5  
6 The hardest barrier is that the vast majority of our  
7 people, I can say the vast majority, actually apart from  
8 three in my experience that I'm thinking of off the top of  
9 my head, don't want to go back to school when they leave  
10 Ashley and that's a really big barrier for us. It's very  
11 difficult to have these conversations with someone who is  
12 adamant they are not going to attend school outside.

13  
14 MS BENNETT: Commissioners, those are the questions I have  
15 for Mr Baker, save to thank him for attending to give his  
16 evidence, unless the Commissioners have further questions.

17  
18 COMMISSIONER BROMFIELD: None from me, thank you.

19  
20 COMMISSIONER BENJAMIN: Nothing from me.

21  
22 PRESIDENT NEAVE: Thank you very much indeed, Mr Baker.

23  
24 MS BENNETT: Commissioners, perhaps we might now take that  
25 lunch break. If I could adjourn until perhaps an hour?

26  
27 **LUNCHEON ADJOURNMENT**

28  
29 MS BENNETT: Commissioners, the next witness is Mr Barry  
30 Nicholson, if I could ask that he be sworn in.

31  
32 **<BARRY ERNEST WILLIAM NICHOLSON, sworn:**

33  
34 **<EXAMINATION BY MS BENNETT:** [2.03pm]

35  
36 MS BENNETT: Q. Mr Nicholson, could you tell the  
37 Commissioners your full name and professional address?

38 A. My full name is Barry Ernest William Nicholson and my  
39 work address is the address of the Clive Hamilton building,  
40 New Town, St John's Park, yes.

41  
42 Q. Mr Nicholson, you've made a statement in response to a  
43 notice issued by this Commission?

44 A. Yes.

45  
46 Q. Have you read your response recently?

47 A. Yes, I have.



1  
2 Q. Are its contents true and correct to the best of your  
3 knowledge and belief?

4 A. Yes, they are.  
5

6 Q. Thank you. Mr Nicholson, could you tell the  
7 Commissioners what your role is in connection with Ashley  
8 Youth Detention Centre?

9 A. I'm the Group Director of the - I'm sorry - Group  
10 Director for Forensic Mental Health Services and  
11 Correctional Primary Health Services. Correctional Primary  
12 Health Services provide Health Services into the Ashley  
13 Youth Detention and I'm the Senior Operational Manager of  
14 the Service.  
15

16 Q. So your service, the service which you oversee,  
17 provides Health Services into Ashley; is that right?

18 A. Correct.  
19

20 Q. You are part of the Department of Health?

21 A. Correct.  
22

23 Q. So, you yourself are not located at Ashley Youth  
24 Detention Centre?

25 A. No, I'm not.  
26

27 Q. What is the level of the person who reports to you  
28 ultimately who's actually present at Ashley?

29 A. The Nurse Unit Manager for Ashley Youth Detention who  
30 oversights the Health area and also has responsibilities  
31 for the Launceston Remand Centre as well which actually  
32 forms part of the Health Services that Correctional Primary  
33 Health provide across the state and in the north; that's  
34 the configuration.  
35

36 Q. What staff are assigned to Ashley even if they're  
37 assigned to other areas as well, what staff in your --

38 A. There are nursing staff that are there seven days a  
39 week on a 12-hour shift, so they provide nursing care,  
40 first level sort of nursing interventions and undertake the  
41 admissions. We have a medical officer who is there on a  
42 sessional basis each week, and also in support of the  
43 Health Service we have on-call arrangements for the Ashley  
44 area that is actually provided by the manager as well as -  
45 it is predominantly the manager who provides that, and we  
46 also have medical on-call which actually is facilitated  
47 within the Correctional Primary Health Service medical

1 staffing.

2

3 Q. So that's within the Department of Corrections -  
4 Communities, is that still within your department?

5 A. Yes, it is still within my department, yes.

6

7 Q. Let me just break that down. So, you've got your  
8 nursing staff who are present on site at Ashley; is that  
9 right?

10 A. Correct.

11

12 Q. How many nursing staff full-time equivalent do you  
13 have?

14 A. 3.5.

15

16 Q. And they're there in 12-hour shifts?

17 A. Correct.

18

19 Q. So, is someone there 24 hours?

20 A. There's someone there 12 hours a day and then there  
21 are on-call arrangements in place after-hours.

22

23 Q. Which 12 hours have nursing staff?

24 A. 7 till 7.

25

26 Q. Then you have a medical officer there each week, so  
27 that's a session each week; is that a doctor?

28 A. Yes, it is.

29

30 Q. And is that one day per week?

31 A. It's actually broken up into sessions, so they're  
32 there actually on two occasions. So, they will be there -  
33 it's something like a Tuesday and a Thursday.

34

35 Q. The nursing staff solely work at Ashley?

36 A. Correct.

37

38 Q. The medical officer has other responsibilities and  
39 goes to Ashley twice per week?

40 A. Correct.

41

42 Q. The same officer?

43 A. Yes.

44

45 Q. Then you have on-call arrangements and that's  
46 presumably local to the area and the person can be called  
47 to Ashley in case of need?

1 A. Yes.

2

3 Q. And then you have a medical on-call separate to that?

4 A. Correct.

5

6 Q. Are those both doctor arrangements or are they  
7 nursing?

8 A. The medical on-call is provided by medical staff, yes,  
9 so there's two sets of on-call.

10

11 Q. Why are there two different sets of on-call, sorry?

12 A. Because the manager on-call would be for staffing  
13 and/or sort of matters related to the Health Centre that  
14 may need to be facilitated by the person who's after-hours.  
15 Typically it is actually about manning - it's really often  
16 about staff replacement and matters associated with that.

17

18 Q. So, is one of those on-call really an administrative  
19 role, not a frontline health worker?

20 A. It has that as a significant component of the on-call,  
21 but it's not the only aspect; they might well be the first  
22 line of contact that, for instance, if the centre  
23 after-hours had concerns might call that person as a first  
24 line of contact.

25

26 Q. And they might be able to arrange an on-call person to  
27 attend - a doctor on-call to attend?

28 A. Yes, they would be able to coordinate what - depending  
29 on the nature of that call, they would be able to  
30 coordinate what needed to happen.

31

32 Q. So, you have nurses there 12 hours a day every day?

33 A. Yes.

34

35 Q. Everyone else needs to be called in; is that right?

36 A. Well, we've got the medical staff and we have also the  
37 psychologist who's based within the Community Forensic  
38 Mental Health Team, and they - that's sort of a one -  
39 that's a 1FTE position, and that is a position that's  
40 actually located at the Ashley Youth Detention.

41

42 Q. What's the hours of coverage for that psychologist?

43 A. They would be daytime hours and daytime hours really  
44 are from spread - or the span is from 7 till 7, so you work  
45 really within a sort of flexible arrangement within that,  
46 but essentially you still have to complete your hours to  
47 cover off on that daytime spread, and that would be to suit

1 clinics or MDTs or, you know, whatever the requirements of  
2 the psychologist, and they would vary day-to-day as to what  
3 those would be.

4  
5 Q. So, is the psychologist providing therapeutic support  
6 to the children at Ashley?

7 A. Correct, as part of the Health Centre Team.

8  
9 Q. And is the psychologist there presently or is that  
10 position vacant?

11 A. The position has been vacant, yes, and as I've noted  
12 in my statement, we've actually had three, I think five  
13 recruitment processes that we've actually undertaken. This  
14 time around has actually been much more successful and we  
15 are expecting to be able to make an announcement from the  
16 outcome of recruitment that's actually occurred at the  
17 beginning of this month.

18  
19 Q. So, how long's that - I don't want to focus on the  
20 particular position, but are we to take from that that  
21 there are some difficulties in recruiting people to a  
22 position like the psychologist to attend at Ashley?

23 A. Yes; yes, there are.

24  
25 Q. What are those difficulties as you understand them?

26 A. Some of those difficulties are the fact that  
27 psychologists actually have many options really open to  
28 them as to where they can work and what type of work they  
29 undertake. They can work, as we've found, a mixture of  
30 private and public; some choose to actually become quite  
31 specialised in what they do and can actually go off and  
32 undertake in the realm of NDIS work for instance, that's  
33 become quite significant and it has impacted.

34  
35 I think the other and very evident reality is that  
36 there has been a lot of publicity now about the Ashley  
37 Youth Detention and that has affected our ability to  
38 recruit.

39  
40 Q. To what extent do your staff rely on youth workers to  
41 triage and call in medical help after-hours when there  
42 aren't any nurses present?

43 A. The youth workers and the centre senior, who would be  
44 on in the evening, they would be the first line of contact  
45 that a youth would have.

46  
47 Q. And that goes indeed even if the nurse is present at

1 site, isn't it, that they would usually be filtered through  
2 the youth worker; is that right?

3 A. Correct.

4  
5 COMMISSIONER BROMFIELD: Q. I have just a clarification  
6 question. The psychologist, when they are appointed, who  
7 do they report to?

8 A. They are part of the Forensic, Community Forensic  
9 Mental Health Team and that is actually where the  
10 psychology complement is actually based. Their base would  
11 actually be within the northern unit, so that's based at  
12 Henty House in Launceston, but their place of operation or  
13 work would be at Ashley.

14  
15 Q. And that unit sits within your group, doesn't it?

16 A. Yes.

17  
18 Q. So ultimately through the line management hierarchy it  
19 comes up to you?

20 A. Yes.

21  
22 Q. And the medical - the RNs I understand their structure  
23 - the medical officer, they're also an employee of  
24 Tasmanian Health Service?

25 A. Yes, and --

26  
27 Q. Do they sit within the group, the Directorate, sorry,  
28 I'm not sure what it is?

29 A. Sure. They sit within the Correctional Primary Health  
30 complement, medical complement, and their place of work is  
31 actually Ashley Youth Detention so that's where they are  
32 employed or engaged.

33  
34 Q. And that Correctional Primary Health, that sits within  
35 the remit of your role as Group Director?

36 A. Yes.

37  
38 Q. So ultimately all of these positions kind of, through  
39 their different line management, end up with you at the top  
40 of the forensic group?

41 A. Not quite. So, I'm the Senior Operational Manager for  
42 the group, and there is actually a Special Director who is  
43 actually responsible for the clinical governance. So, the  
44 medical staff would actually and do report to the Special  
45 Director.

46  
47 Q. And does that Special Director report to you or do

1 they have a medical line of reporting?

2 A. They have a medical line, so their reporting line is  
3 through to the Statewide Medical Director and that's --

4  
5 Q. Does that have a dotted line to you?

6 A. Yes, very much so.

7  
8 COMMISSIONER BROMFIELD: I like to draw pictures. Thank  
9 you.

10  
11 PRESIDENT NEAVE: Q. I have another question. You have  
12 an associate with the Wilfred Lopes Centre?

13 A. Correct.

14  
15 Q. And I don't quite understand how that all fits  
16 together?

17 A. Wilfred Lopez is an inpatient unit and that's actually  
18 part of the Forensic Mental Health Services, and Forensic  
19 Mental Health Services is actually part of - we refer to  
20 them as streams, so they're part of the group which  
21 actually has the Forensic Mental Health Services stream  
22 within that, so that's where the Wilfred Lopez sits.

23  
24 I have provided three structures which actually sort  
25 of, you know, one sits across the other, across the other,  
26 with ultimately the Department of Health really showing the  
27 various reporting lines as they sort of filter through to  
28 the Operational Group.

29  
30 Q. And you also have a fly in - might not be the right  
31 expression, but a fly in/fly out psychiatrist from  
32 Victoria?

33 A. We do, a child psychiatrist, yes.

34  
35 Q. Who comes, what, every six weeks too; is that right?

36 A. Correct, provides sessional, yes.

37  
38 PRESIDENT NEAVE: Right, thank you.

39  
40 MS BENNETT: Q. So, a child at Ashley who wants to  
41 access some medical assistance, they need to go through  
42 their youth worker and ask for Health Services; is that  
43 right?

44 A. Typically that is actually how it occurs. That is the  
45 typical arrangement.

46  
47 Q. Do you have any insight into whether or not those

1 requests are always accommodated?  
2 A. It's my understanding that those requests are  
3 accommodated.  
4  
5 Q. What's the process for making sure that's the case?  
6 A. In terms of? The staff at Ashley within the Health  
7 Centre would only be aware of a request when a request is  
8 actually made.  
9  
10 Q. The youth workers don't report to you?  
11 A. Correct.  
12  
13 Q. Nor do they report to any medical staff?  
14 A. That's correct.  
15  
16 Q. So, do you have any way of having any insight into  
17 whether or not matters are being appropriately escalated  
18 from a medical perspective?  
19 A. We would be reliant on the Ashley Centre actually  
20 making the requests known to us.  
21  
22 Q. And, who is it who's responsible of the staff for  
23 administering medications? For example, if someone needs  
24 epilepsy medication, who administers it?  
25 A. Nursing staff.  
26  
27 Q. Yes, only?  
28 A. Only nursing staff.  
29  
30 Q. The Commission has received - is that the case today,  
31 as we sit here now, only nursing staff will be permitted to  
32 give medication to children?  
33 A. Well, it is my understanding that the nursing staff do  
34 provide the medication.  
35  
36 Q. I understand they do; is it that they must, only they  
37 provide medication?  
38 A. I know that previously there had been youth workers  
39 with an endorsed part of their engagement were able to  
40 provide - because the medication that is provided at  
41 Ashley, which is actually not unique, it's actually the  
42 same in other settings, where it's actually been actually  
43 dispensed by a pharmacist into what we call a Webster pack,  
44 you know, with the medications you might have on any day of  
45 the week and at the time that the medical officer has  
46 prescribed it, that is actually already dispensed, so in  
47 many ways it doesn't actually require a trained person to

1 actually facilitate that medication.

2  
3 Q. That's my question. So, let's take the example of  
4 epilepsy medication, it's been dispensed, presumably the  
5 child doesn't keep it in their cell with them or in their  
6 unit with them?

7 A. No.

8  
9 Q. Do you know where it's kept?

10 A. I would expect that it's actually kept in a locked  
11 area within the unit.

12  
13 Q. Yes, and so, when the child comes to need that  
14 medication in accordance with their schedule, who is it who  
15 can give them that medication? Who's authorised?

16 A. That would be someone who's appropriately endorsed to  
17 actually get that medication.

18  
19 Q. And could that be a youth worker?

20 A. It could be a youth worker who's actually been  
21 endorsed.

22  
23 Q. And what's the nature of the endorsement?

24 A. It's actually that they've undertaken a level of  
25 training that actually means that they understand the  
26 nature of the medications that they're actually handing  
27 out. It's more - it's actually of the same standard of  
28 someone who's actually in the community who has their  
29 medication and the youth worker in this case is actually  
30 able to hand that medication out.

31  
32 Q. I just want to understand the endorsement. Who gives  
33 the endorsement?

34 A. I'm not actually able to answer that, I'm sorry.

35  
36 Q. Is it something that is contained within your  
37 department? Is it something that the Health Department has  
38 oversight over as to who can dispense the medication?

39 A. It's actually been quite a long time since that part  
40 of it has actually - that I'm actually familiar with. I'm  
41 not able to answer that.

42  
43 Q. Yes, thank you.

44  
45 PRESIDENT NEAVE: Q. Can I just have a hypothetical.  
46 So, you have a child in Ashley who has to regularly receive  
47 anti-epileptic medication or diabetes medication or



1 something along those lines: in those circumstances it will  
2 be, it may be, a youth worker who is endorsed to do that?

3 A. It's also very likely that it's actually the nurse  
4 who's actually on duty for 7, 12 hours a day who - when the  
5 medication is prescribed. The prescribing is actually  
6 taking into account, you know, that 12-hour span of duties.

7  
8 Q. So the nurse will, what, visit the child in their unit  
9 or the child will go to the nurse's unit? How does that  
10 work?

11 A. They attend.

12  
13 Q. I'm sorry?

14 A. They attend the unit.

15  
16 PRESIDENT NEAVE: They attend the unit. Thank you.

17  
18 MS BENNETT: Q. Mr Nicholson, we asked you in your  
19 statement to comment on some correspondence which I  
20 understand you had no involvement in and so is not part of  
21 correspondence directed to or received by you, and I'm  
22 referring here to the matters addressed in your statement  
23 at paragraph 26 and following. If I could take you to that  
24 part of that statement I see you have in front of you.

25 A. Yes.

26  
27 Q. If I could summarise, and please tell me if I'm  
28 summarising this fairly.

29 A. Sure.

30  
31 Q. This is a situation where a clinical psychologist at  
32 Ashley raised concerns with her manager about two detainees  
33 who were displaying harmful sexual behaviours, and she  
34 expressed her concern about how Ashley Youth Detention  
35 Centre officials were managing the two detainees' behaviour  
36 in a number of respects including their location at Ashley.  
37 Is that a fair summary?

38 A. Yes, it is.

39  
40 Q. I'll ask the operator to bring up a document,  
41 DOJ.0001.003.3501. This is a letter of 2019 which, again,  
42 I emphasise was not directed to you, I just wanted to  
43 identify the nature of the issues that were identified by  
44 that clinical psychologist. I just realised I can't see  
45 any screens. Yes, sorry, DCT.0004.0007.7648. There were  
46 two doc IDs and I had a 50/50 chance.

1 That's the letter that we were just referring to  
2 directed to the custodial manager at Ashley and copied to a  
3 range of other direct managers for the psychologist.  
4 That's right, isn't it?

5 A. Correct.

6  
7 Q. That psychologist is an employee of the Department of  
8 Health, and she's directing this to the person with the  
9 authority within Ashley to effect the change that she  
10 considers to be clinically necessary; is that right?

11 A. Yes.

12  
13 Q. Could I ask the operator to zoom in on the dot points  
14 there? Just have a read of those matters. These are the  
15 risks of harm and traumatisation that this clinical  
16 psychologist is identifying in respect of a particular  
17 child at Ashley, including:

18  
19 *Chronic sense of being unsafe, risk of*  
20 *vicarious trauma to AYDC residents in*  
21 *general who are aware of the incidents of*  
22 *intimidation and sexualised behaviour ...*  
23 *aware of the lack of sanctions associated*  
24 *with these incidents.*

25  
26 And it goes on. Now, those are legitimate clinical  
27 concerns for a clinical psychologist to raise, are they  
28 not?

29 A. Correct.

30  
31 Q. I'll ask the operator to bring that down again. Those  
32 are legitimate and appropriate concerns for a clinical  
33 psychologist to raise, aren't they?

34 A. Yes, they are.

35  
36 Q. And you would expect them to raise if they had those  
37 concerns?

38 A. Yes.

39  
40 Q. And they are acting consistently in their duties in  
41 doing that?

42 A. Correct.

43  
44 Q. What should the response be to concerns of that kind  
45 being raised by a clinical psychologist?

46 A. Are you asking for a response from the Ashley Youth  
47 Detention Centre?

1  
2 Q. No, no, no. In the Ashley context what was your  
3 expectation based on the relationship between Health and  
4 Communities, what should happen when a clinical  
5 psychologist is raising concerns of this kind, what process  
6 should be triggered?

7 A. Those concerns should have been taken seriously.  
8

9 Q. And so far as your review of the documents suggest,  
10 were they taken seriously?

11 A. In the information that has been provided to me that  
12 is clearly not the case.  
13

14 Q. There's a reference in the - it's Attachment F to your  
15 statement, I won't ask for it to come up on the screen,  
16 it's an email that ultimately responds, and this is from  
17 within the Department of Health. It notes an email  
18 of January 2020, it says:

19  
20 *I have organised a meeting tomorrow so that*  
21 *we can explain to [the clinical*  
22 *psychologist] the differences between*  
23 *working as a guest in a custodial setting*  
24 *as opposed to working in the general*  
25 *community.*  
26

27 Do you recall reading that email?

28 A. On my return?  
29

30 Q. Yes.

31 A. Yes, on my return. I was not there at - or in the  
32 workplace at the time that email was actually written.  
33

34 Q. No, I understand. This never made it to you and this  
35 is not a matter that I seek to --

36 A. No, no, no, I understand that.  
37

38 Q. I want to understand your reaction to that response.  
39 Are your psychologists and health workers guests in the  
40 custodial setting?

41 A. No, they are not.  
42

43 Q. And, are you there under sufferance from the  
44 Communities Department?

45 A. No, and I would refer to the Memorandum of  
46 Understanding where it actually clearly outlines the role  
47 that both agencies have and that they work and agree to

1 work in a collaborative way for the benefit of the children  
2 that are actually at the Youth Detention Centre.

3  
4 Q. And that Memorandum of Understanding has been in place  
5 for how long?

6 A. Originally it was, the one that actually originated  
7 out - well, Forensic Mental Health Services taking carriage  
8 of it back in 2011 and that has actually been reviewed a  
9 number of times since, and just most recent - well, in  
10 fact, in the latter part of 2020 it was also reviewed  
11 again. It's very clear in that Memorandum of  
12 Understanding, it sets out who has responsibilities for how  
13 the services work together, but it is one of respect - it  
14 actually states that - it's very clear that we do need to  
15 respect the respective roles that we have in order to  
16 provide our services and how we should work together with  
17 regard to those services and, by implication, the regard  
18 for our employees that are actually trying to do that.

19  
20 Q. So, the Memorandum of Understanding or a version of it  
21 has been in place since 2011?

22 A. Correct.

23  
24 Q. Who gets the final say? If the clinical psychologist  
25 says that it is medically unsafe for this child to be  
26 located in this place, this particular unit or in this  
27 particular area of Ashley, what carries the day? Does the  
28 Department of Corrections get to say, "That's not  
29 convenient from a staffing point of view or we're not able  
30 to accommodate that from a discipline point of view"?

31 A. The wellbeing, the safety and wellbeing of the  
32 children is the central concern, is the uppermost concern.  
33 Any health practitioner, which my background is as one of  
34 that as well, it's central to that as part of holding  
35 professional registration, is that that's actually  
36 uppermost, it's the core principle really of your practice.  
37 So, yes, you have a duty of care to actually raise that as  
38 a concern, and [REDACTED] did that.

39  
40 Q. And ought her concerns have resulted in her request  
41 being agreed to? Is that what should have happened?

42 A. There really - there should have been a case review.  
43 There should have been a review that actually looked at the  
44 care and management of the particular individual or  
45 individuals: that's what should have happened and it should  
46 have actually had the governance in place to actually  
47 permit the authority then of what actually happened out of

1 that case review to then implement what needed to happen.

2  
3 Q. And, who's the final decision-maker about what happens  
4 to that child? Who has the final say about where they're  
5 located that night? Let's take this example as an  
6 assumption as a hypothetical. Clinic psychologist says  
7 it's not safe because of risk of sexual abuse that they be  
8 located in this unit. That night will they sleep in that  
9 unit? Who says, who decides?

10 A. That is not a straightforward process, but ultimately  
11 the safety and concern of the youth, of the child who's  
12 actually based at Ashley Youth Detention, there is a Health  
13 component to that that actually does take the care and  
14 concern as the primary focus of what is needed to happen.

15  
16 So, if that was actually the outcome of an urgent case  
17 review that actually lands on, the child is not safe in  
18 this location, then it can be and should be escalated up  
19 through the governance. So, this is where I mentioned  
20 before about, we have a Special Director who actually  
21 oversights; that Special Director reports in to the  
22 Statewide Medical Director; there is also the Chief  
23 Psychiatrist of Tasmania that's also a part of that. So,  
24 there are a number of pathways in which this can actually  
25 be addressed where there is and understood to be an  
26 absolute risk to the individual.

27  
28 Q. What's the end of the path? Who is at the end of the  
29 pathway?

30 A. The Statewide Medical Director would have the powers  
31 to make decisions in regard to that. It would be based on  
32 clinical information that has come up from the complex case  
33 review that actually has been informed by the Special  
34 Director and by the meeting itself that's actually occurred  
35 where there's been clear recommendations.

36  
37 Q. So that's a reasonably laborious process; is that  
38 fair?

39 A. It might sound like it is, but it can actually be a  
40 reasonably efficient meeting, and a meeting can be called  
41 very quickly, especially now, because when we have all of  
42 the sort of telehealth means and all that sort of stuff.  
43 Then, when we're talking about 2019, yes, there may have  
44 been logistical issues achieving that.

45  
46 Q. So, accepting that you don't have firsthand knowledge  
47 of what happened in the instance that we've asked you

1 about?

2 A. Correct.

3

4 Q. It's fair to say, though, that nothing resembling the  
5 processes that you've described happened in this instance?

6 A. No, but I have actually put in my statement about it,  
7 about steps that I think would be a reasonable pathway to  
8 take if that was a situation that reoccurred or that was  
9 something that staff actually found themselves confronted  
10 with and that they weren't able to obtain the outcome that  
11 they thought needed to happen.

12

13 Q. Do you have any theory as to why it didn't occur in  
14 this instance?

15 A. The correspondence tells me that there was an  
16 under-appreciation of what was actually occurring.

17

18 Q. That the Memorandum of Understanding wasn't being  
19 adhered to?

20 A. Yes.

21

22 Q. And, is the Memorandum of Understanding something  
23 that's the subject of training and explanation to the staff  
24 who are on the ground at Ashley?

25 A. Certainly for the Health staff with the Nurse Unit  
26 Manager, yes, they - or they are across what that MOU --

27

28 Q. The Nurse Unit Manager?

29 A. Correct.

30

31 Q. And you couldn't say whether anyone else receives  
32 briefings or training around it?

33 A. Staff are aware of the MOU.

34

35 Q. You said there was an under-appreciation of the MOU:  
36 by who?

37 A. No, I said there was an under-appreciation of the  
38 seriousness that [REDACTED] was actually raising, and on that  
39 I'm guided by the letter that actually she wrote to  
40 Mr Ryan.

41

42 Q. And it would appear that the recipients of the letter  
43 under-appreciated the issues that she was raising; is that  
44 right?

45 A. Yes.

46

47 MS BENNETT: Those are the matters, Commissioners, that I

1 sought to raise with this witness in the time available.

2  
3 COMMISSIONER BROMFIELD: Q. I just had one follow-up.  
4 In a hypothetical case like this, if the kind of respectful  
5 relationship and the expertise of your Health professionals  
6 on site breaks down, essentially would you expect that the  
7 Tasmanian Health Service, that it would essentially  
8 escalate up the line and the Health Service would advocate  
9 for their Health client with other organisations and the  
10 MOU?

11 A. Yes, that would be my expectation. There is an  
12 escalation pathway within the MOU that actually states what  
13 that pathway should be. It's not something that is  
14 actually done very often but it is a pathway nevertheless.  
15 It's been in the MOU really for quite a considerable period  
16 as really a fundamental principle within the MOU, that  
17 actually there are ways in which matters of concern can be  
18 addressed.

19  
20 COMMISSIONER BROMFIELD: Thank you.

21  
22 PRESIDENT NEAVE: Thank you very much, Dr Nicholson.

23  
24 MS BENNETT: Commissioners, again, I'll ask if we can  
25 switch witnesses without adjourning.

26  
27 PRESIDENT NEAVE: Yes.

28  
29 MS BENNETT: And I'll ask my learned colleague,  
30 Ms Ellyard, to call the next witness.

31  
32 MS ELLYARD: Thank you, Commissioners, the next witness is  
33 Ms Pam Honan and there's an appearance to be announced on  
34 behalf of Ms Honan, so perhaps I'll invite her counsel to  
35 make his appearance while Ms Honan comes into the witness  
36 box.

37  
38 MR J ZEEMAN: Yes, thank you. My name is Zeeman and I  
39 appear on behalf of Ms Honan.

40  
41 MS ELLYARD: Good afternoon, Ms Honan, I'll ask you to  
42 wait there and I'll ask you to have the oath or the  
43 affirmation administered.

1 <PAMELA HONAN, affirmed:

[2.33pm]

2  
3 <EXAMINATION BY MS ELLYARD:

4  
5 MS ELLYARD: Q. Good afternoon, Ms Honan, could I ask  
6 you to tell the Commission, please, your full name?

7 A. My full name is Pamela Honan.

8  
9 Q. What's your current occupation?

10 A. I'm the Director of Strategic Youth Services.

11  
12 Q. In that role you relevantly have responsibility for  
13 Ashley Youth Detention Centre?

14 A. Yes, I do.

15  
16 Q. How long have you held that role?

17 A. I have been in that role since 28 October 2019.

18  
19 Q. I think it might have changed names over time, but  
20 you've had that responsibility for Ashley since that date?

21 A. Yes, I have.

22  
23 Q. You've made a statement in response to a request that  
24 was made of you of the Commission. Do you have that  
25 statement with you?

26 A. Yes, I do.

27  
28 Q. Are the contents of that statement true and correct?

29 A. Yes, they are.

30  
31 Q. You've attached a number of documents which you would  
32 wish to have considered as part of your evidence?

33 A. Yes, I do.

34  
35 Q. And for the purposes of making your statement you  
36 answered questions that had been posed and you reviewed  
37 documents that related to the topics you were asked  
38 questions about?

39 A. Yes, I have.

40  
41 Q. Thank you. Can I begin by asking you: it's clear from  
42 your statement and work history that, prior to October  
43 2019, you'd worked in roles that were perhaps adjacent to  
44 Ashley but you'd never had any role that required you to  
45 work directly in relation to Ashley. Is that fair?

46 A. Yes, it is.



1 Q. Prior to taking up your role in relation to Ashley,  
2 did you have any awareness of the operations of Ashley and  
3 any reputation, good or ill, that it had?

4 A. I don't think the centre's ever had a good reputation,  
5 I think that's commonly known, but not specifically, no.  
6

7 Q. When you say you "don't think it ever had a good  
8 reputation", I take it from that you mean it had a bad one.  
9 What was the bad reputation about as far as you were aware  
10 prior to becoming directly involved?

11 A. I knew that there had been a dark history, I guess I  
12 would summarise it historically, and that there had been a  
13 series of escapes that had become public knowledge probably  
14 10 years earlier than that, yep.  
15

16 Q. Had you ever had any knowledge or involvement in the  
17 Abuse in State Care Scheme that might have caused you to  
18 have an awareness of allegations about the experiences of  
19 young people at the former Ashley Boys' Home?

20 A. Not directly.  
21

22 Q. So when you refer to "the dark history", are you  
23 referring to the boys' home?

24 A. Yes.  
25

26 Q. Just to orient the role that you perform in relation  
27 to the roles that other people play in the hierarchy in the  
28 Department of Communities, who sits immediately below you  
29 in the Ashley hierarchy?

30 A. The centre manager.  
31

32 Q. And so, although I understand from your statement that  
33 you do go on site from time to time, is it right that the  
34 centre manager is the highest ranking official permanently  
35 located on site at Ashley?

36 A. That's correct.  
37

38 Q. And he or she, and in recent past it's been a he,  
39 reports to you?

40 A. Correct.  
41

42 Q. And who do you report to in relation to Ashley?

43 A. The Deputy Secretary.  
44

45 Q. And so, you're the link then, as it were, between  
46 management on the ground and the Deputy Secretary?

47 A. Correct.

1  
2 Q. Can I ask you, have you had the opportunity to  
3 familiarise yourself with any of the evidence that has been  
4 or is going to be given in this tranche of hearings about  
5 Ashley?

6 A. Two statements were provided to me earlier than coming  
7 in - earlier this afternoon to coming in and that's about  
8 it.

9  
10 Q. Are you aware of the evidence that was given  
11 yesterday, for example?

12 A. Sorry, yes, I did; I did watch what's been given, yes.

13  
14 Q. And so, you as I understand it would have been aware  
15 of the evidence that was given by former detainees about  
16 their experiences at Ashley?

17 A. Not yesterday's, but this morning's, yes.

18  
19 Q. Did you hear the evidence of the two current Ashley  
20 workers who gave evidence yesterday?

21 A. Yes, I did.

22  
23 Q. Did anything surprise you about the evidence that they  
24 gave?

25 A. No.

26  
27 Q. It would be fair to summarise their evidence, without  
28 doing any injustice to them, as evidence being of a very,  
29 very difficult working environment for them?

30 A. Absolutely.

31  
32 Q. And an environment where they feel, I think it would  
33 be fair to say, quite unsupported, putting it mildly, by  
34 management?

35 A. I think those particular workers may have that view,  
36 other workers may have a different view, but I would still  
37 support that it is at times an unsafe environment, yes.

38  
39 Q. And certainly, if we look to your statement and in  
40 answer to a question at paragraph 32 and 33, if you want to  
41 take yourself to those sections, you were asked some  
42 questions about your observations of the present workplace  
43 culture at Ashley and the challenges and operational  
44 pressures that operate on Ashley. As I understand it, you  
45 would say that in the recent past things have gone up and  
46 they've gone down again?

47 A. Correct.

1  
2 Q. At the moment if you were asked to summarise what the  
3 working environment is like for staff at Ashley, how would  
4 you summarise it?

5 A. I would say the current environment and the current  
6 workforce that remains would be decimated, is a word that  
7 springs to mind: I think that they would feel very  
8 unsupported, stigmatised and very vulnerable.  
9

10 Q. And perhaps to unpack those things, there are a lot of  
11 people who until recently worked at Ashley who aren't  
12 working there anymore either because they've stood down or  
13 they've left; is that right?

14 A. Correct, yes.  
15

16 Q. And as I understand it, that's contributed to  
17 persistent staff shortages?

18 A. They're high numbers, it's difficult to fill that many  
19 positions quickly, yes.  
20

21 Q. And that has increased pressure on the staff that  
22 remain?

23 A. Indeed it has.  
24

25 Q. And, as I understand it, there's also concerns arising  
26 from the notoriety and media coverage that's attaching to  
27 Ashley at present?

28 A. Correct.  
29

30 Q. What's been done to support staff in particular in  
31 relation to the fact that Ashley's under scrutiny at the  
32 moment and perhaps there might be a degree of guilt by  
33 association imputed to anybody who works there?

34 A. There's been a number of health and wellbeing  
35 activities, there's a Health and Wellbeing Officer on site.  
36 A number of staff have been accessing support services  
37 through EAP and also private counselling that the  
38 department has supported. I've certainly increased my  
39 presence on site to talk to people and just be a point  
40 where people can come to and express how they're feeling; a  
41 lot of the time that is frustration and anger, but it's - I  
42 think it's important they have an opportunity to talk to  
43 somebody about that that can support them a little more.  
44

45 My role predominantly is supporting more of the  
46 managers than it is the youth workers on the ground, yeah.  
47

1 Q. And so, when the two workers yesterday described  
2 themselves as feeling unsupported - and I take your  
3 point that there may be others who don't have that view but  
4 it's clear --

5 A. They do.

6  
7 Q. -- that the workers yesterday had that view; the lack  
8 of support that they perceive, I take it, you would say is  
9 a lack of support from the managers on site?

10 A. I'm not sure if that's the way that they communicated  
11 it the right way or not, but I would say that they - they  
12 may well be thinking it bigger picture: lack of support  
13 more broadly from government, from the agency, from the  
14 public; not just managers, I think it's bigger than that.

15  
16 Q. Did you have any role in the way in which staff who  
17 were asked to give evidence to the Commission were  
18 supported or assisted to prepare their statements or given  
19 time to undertake that process?

20 A. It would have been nice to know who they were because  
21 we could have been more supportive. I had no idea who the  
22 witnesses were that were coming forward to provide  
23 evidence, so was not in an informed position to provide  
24 them with additional support.

25  
26 Q. So as I understand it, you're saying that, had you  
27 been made aware that a person had either chosen to come  
28 forward or who had been served with a notice by the  
29 Commission and needed support or time to prepare their  
30 statements, support would have been offered?

31 A. The staff that were served with a notice have  
32 certainly received support and phone calls, et cetera,  
33 which --

34  
35 Q. Well, the witnesses yesterday were both served with  
36 notices.

37 A. I didn't know that.

38  
39 Q. So that would seem to suggest a breakdown at some  
40 point along the chain of support that you think was being  
41 offered?

42 A. I would agree with that. And I don't know all the  
43 staff that were provided with support - notices, as I've  
44 just said, so having that knowledge would have been useful  
45 to be able to be more proactive and touching base with them  
46 and saying, are you okay, do you know what you can access?  
47 I think all staff - all staff were provided with a lot of

1 information by email, but also recognising this is a  
2 workforce with not a lot of time, accessing and processing  
3 emails may not have been, you know, something that they  
4 did.

5  
6 Q. Can I ask you then the same question. I've asked you  
7 your reflections on what it's like to be a staff member at  
8 the moment at Ashley. What's it like to be a detainee at  
9 the moment at Ashley having regard to what we understand to  
10 be the flow-on effects for detainees from the staff  
11 shortages and other difficulties?

12 A. I would imagine it would be pretty challenging being a  
13 detainee full stop, but being a detainee in an environment  
14 where staff are feeling incredibly pressured and  
15 scrutinised and are low on the ground, they would be seeing  
16 and feeling that level of pressure.

17  
18 Q. Because as I understand the evidence that's been given  
19 including some evidence today, children are spending far  
20 more time than would ordinarily be the case in their units  
21 or in their rooms?

22 A. That's on an occasional basis. Even with staff  
23 shortages, there's been a lot of creativity in shifting  
24 the hours of youth workers and bringing other staff that  
25 are suitably qualified on site to support the workings  
26 alongside youth workers.

27  
28 For example, at the moment youth workers are - they're  
29 concentrated between the hours of 10 and 4 on site, and  
30 the hours of school have been shifted one hour forward, so  
31 that there are more staff on site so that the detainees can  
32 be out and engaged in programs and other activities as per  
33 normal, as opposed working from a 7 to 3, 3 to 10  
34 structure.

35  
36 Q. So, as I understand it evidence is going to be given  
37 by other witnesses, including relevantly Mr Watson, that it  
38 has been necessary because of staff shortages for young  
39 people to be in their units much more than normal --

40 A. I'm not refuting that, I'm saying as of now, as of  
41 today, those are recent changes that we have done around  
42 changing work hours, et cetera, to try and bolster more  
43 time out of units, but there has absolutely been times  
44 where we have had restricted practices, yes.

45  
46 Q. Thank you. At paragraph 26 of your statement you were  
47 asked to describe the relationship as you perceived it

1 between the management at Ashley and management at the  
2 Department of Communities, bearing in mind that the role  
3 that you hold is in effect the contact or pivot  
4 point between management and the Department of Communities.  
5

6 I'm drawing your attention to paragraph 26.1 in your  
7 statement just for your reference. Can you tell us, when  
8 you took up the role which was to engage with and then  
9 report up the line about Ashley, what was the sense you had  
10 of how you were received and what the relationship between  
11 management and the department was?

12 A. It was pretty guarded. I felt that there was a - that  
13 the centre operated as a satellite. It certainly wasn't -  
14 it was very inward facing, there wasn't a lot of connection  
15 with, not just the department, but other services in the  
16 community. It was very closed, very wary, and defensive, I  
17 would say, yep.  
18

19 Q. As I understand from your statement, you had the sense  
20 that there was great care taken to only send good news up  
21 the chain and perhaps not be open and frank where there  
22 were difficulties being experienced?

23 A. That's certainly my impression; the longer I was  
24 there, the more evident that became.  
25

26 Q. And were you able in the period of time that we're  
27 talking about to form a view about how that had come about,  
28 that that was the attitude of management at Ashley and  
29 perhaps the lack of a good relationship between Ashley and  
30 the department?

31 A. I think what I was being told, but then what I was  
32 hearing and seeing on site suggested something quite  
33 different, and also, the relationships on site between the  
34 different services did not suggest that it was a  
35 collaborative working arrangement across the centre. There  
36 was a lot of siloing.  
37

38 Q. That's siloing across the centre but does that explain  
39 why it was that there was this closed and guarded attitude  
40 on the part of management upwards?

41 A. I think it's indicative of, not just across but up as  
42 well, yes.  
43

44 Q. The Commission has heard from a number of current and  
45 former employees at Ashley and members of professional  
46 bodies and associations that have had contact or perhaps  
47 continue to have contact with Ashley, and a number of

1 concerns have been expressed by some of those people about  
2 the potential for reprisals or detrimental action against  
3 them either personally or professionally if it were to be  
4 known that they had assisted the work of the Commission or  
5 had come forward in some way.  
6

7 Thinking about your role, what's been said either by  
8 you or by other management within the Department of  
9 Communities to staff about whether or not they're entitled  
10 to assist the Commission if they want to and whether or not  
11 they'll be subject to any consequences if they do?

12 A. It's actually been encouraged. You know, I've always  
13 encouraged, the department has sent a lot of correspondence  
14 out, there's been meetings on site to try and encourage  
15 people to bring - and if they've got worries to talk about  
16 them, to go to the Commission. I actually had a worker  
17 speak to me quite recently who was concerned about  
18 something she had found herself implicated in that was not  
19 representative of where I think she saw that information  
20 going, and I suggested that she speak with the Commission  
21 directly; that she didn't need to come to me, this was a  
22 worry she had about something that was happening here, she  
23 needed to go direct to the Commission.  
24

25 So, I'm disappointed to hear that and I'm hoping that  
26 it's more of a legacy of the past than of the current, but  
27 if that's not the case, then we certainly have a lot more  
28 work to do in terms of building a trusted and respectful  
29 workplace, yeah.  
30

31 Q. So I take it that, I mean, you're not disputing that  
32 people have those concerns; you're disappointed that they  
33 have them, but you're not --

34 A. Well, if they have, they have, and yeah, without  
35 knowing more about that I can't address it, but I would be  
36 disappointed to think if there was a lot of people that  
37 felt that way.  
38

39 Q. But if there were, that would certainly suggest, as  
40 you've indicated, that perhaps the rebuilding or the  
41 renewal that you and others are working on at Ashley still  
42 has a fair bit for it to go?

43 A. Absolutely, these things don't happen overnight, we're  
44 talking about years and years of a poor culture.  
45

46 Q. Yes.

47 A. We're starting to make a difference.

1  
2 Q. At paragraph 33 and following you've talked about the  
3 main challenges and operational pressures confronting those  
4 who are working at Ashley and you've indicated there's a  
5 lot of uncertainty about the future and various other  
6 things, but more foundationally it's difficult work, isn't  
7 it, the work that people at Ashley do?

8 A. It certainly is.  
9

10 Q. You may not have had the opportunity to be aware of  
11 this evidence, but in an earlier week of hearings the  
12 Commission heard some evidence from Elena Campbell who  
13 reflected on the complexities of working with the kind of  
14 children who find themselves in Ashley, and in particular  
15 she commented that that cohort of children were  
16 overwhelmingly likely to have experienced traumatic and  
17 difficult backgrounds: would you accept that?

18 A. Absolutely.  
19

20 Q. And that therefore any work with those children and  
21 anyone working with those children would need to be  
22 trauma-informed?

23 A. Yes.  
24

25 Q. And it was her view that it was work that would  
26 require a high degree of, not just initial training, but  
27 ongoing support and training so that people working with  
28 those children could do so in an effective way?

29 A. I would agree.  
30

31 Q. Would you agree with me that historically that hasn't  
32 been the skillset of people working at Ashley?

33 A. Totally.  
34

35 Q. And it's never been, from the time of its instigation  
36 around 2000, that's never been the skillset?

37 A. Agree.  
38

39 Q. And that's not to be critical of the individual people  
40 working there, but that has been, we can see from the  
41 earliest days, really a fundamental mismatch between the  
42 difficulty of the work that was being asked of people and  
43 the skills and training that they had available to bring to  
44 that work?

45 A. Correct.  
46

47 Q. Would you accept, too, and perhaps this is implicit in



1 what you said earlier about Ashley having a bad reputation,  
2 that the cultural issues that you came to identify at  
3 Ashley when you took over your role in 2019 have been  
4 cultural issues for a long time?

5 A. Correct.

6  
7 Q. And there's been a longstanding cultural issue at  
8 Ashley particularly with regard to the way those working at  
9 Ashley see their role in relation to children?

10 A. Yes, I agree with that.

11  
12 Q. And there have been a number of reports, some of which  
13 no doubt you've had the opportunity to read, which have  
14 observed on the lack of a therapeutic approach to children?

15 A. Yes.

16  
17 Q. A much more prison-oriented approach?

18 A. Yes.

19  
20 Q. And that's been the case until the very - your  
21 statement would suggest it's not the case now, but if it's  
22 not the case now, it's a very recent change?

23 A. Yes, correct.

24  
25 COMMISSIONER BROMFIELD: Sorry, Ms Ellyard.

26  
27 Q. Ms Honan, I note that you talked about change  
28 takes years and years and you're in the beginning of the  
29 journey. We can see from your statement a lot has been  
30 done in terms of practice framework, development and  
31 revision of policies. How much do you think, and noting  
32 all that's been going on at Ashley, how much do you think  
33 things have really changed on the ground in terms of  
34 trauma-informed practice? Where do you think you are on  
35 that journey --

36 A. In the early stages. I think people understand the  
37 concepts of it, they know more about what not to do and  
38 more about building a relationship and dealing with young  
39 people in a more relational way. I think they also  
40 recognise that it's not the behaviour of the person, the  
41 young person, it's more about what's behind that. The  
42 breakdown is probably in having the skillset and the  
43 clinical oversight and guidance about working with that.

44  
45 Q. And would you think it was fair to assume that,  
46 without that skillset, that when those behaviours manifest,  
47 that staff may be falling back on some of those more

1       punitive practices?

2       A.    I wouldn't disagree with that, yep.

3  
4       COMMISSIONER BROMFIELD:   Thank you.

5  
6       MS ELLYARD:   Q.    Indeed, I think one inference that can  
7       be drawn from some of the evidence yesterday from the  
8       workers who gave evidence, and this is not in any sense a  
9       criticism of them, that there's a degree of fear that  
10      workers have which they bring with the work that they have  
11      to do with some of these young people?

12     A.    Yes.

13  
14     Q.    And that might, in part at least, reflect the lack of  
15     a skillset and confidence in that skillset to work with  
16     young people in the way in which they would wish to do?

17     A.    Absolutely.

18  
19     Q.    And so again, following on from the fact that there's  
20     been these long-standing cultural issues and long-standing  
21     mismatch of workforce, it follows from that, doesn't it,  
22     that we can say with some certainty that Ashley hasn't been  
23     a place that has been operating in accordance with the  
24     expectations under the Youth Justice Act, that is, as a  
25     place of rehabilitation for young offenders?

26     A.    Correct.

27  
28     Q.    And to bring it more specifically to the work of this  
29     Commission, would you accept from the materials that you've  
30     reviewed that it's been a place where children have been  
31     physically abused? Not all children, but quite a lot?

32     A.    There's - absolutely, yep.

33  
34     Q.    That there's been an ongoing pattern of what I would  
35     call emotional abuse or disregard in the way in which  
36     children have been treated by at least some workers?

37     A.    Yes.

38  
39     Q.    And would you also accept that there's clearly been an  
40     ongoing pattern of sexual abuse of some residents by some  
41     workers?

42     A.    I would agree.

43  
44     Q.    And also, it would appear, an ongoing problem of  
45     harmful sexual behaviours being displayed by detainees  
46     towards other detainees?

47     A.    I would agree.

1  
2 COMMISSIONER BROMFIELD: I'm sorry, can I just on that  
3 one.  
4

5 Q. Those behaviours where they have been displayed have  
6 not been responded to in the way that we'd want them to be?

7 A. Are we talking historically or are we talking since  
8 I've been in the role? I guess I'd like to clarify that.  
9

10 MS ELLYARD: Q. I'm asking whether you would accept  
11 historically?

12 A. Yes.  
13

14 Q. We're going to come to some specific issues arising  
15 from your recent tenure. Firstly, to break it down and  
16 taking Commissioner Bromfield's point, have you come to be  
17 aware in the time that you have been in the role that  
18 there's historically been regular instances of harmful  
19 sexual behaviours displayed by detainees towards other  
20 detainees?

21 A. Yes.  
22

23 Q. And have you come to be aware of that behaviour  
24 persisting and not being addressed with appropriate  
25 interventions?

26 A. Look, if it's historic, I don't know.  
27

28 Q. Historic might only mean four years ago; I mean, we're  
29 not talking about the distant past. I appreciate you've  
30 only been in the role --

31 A. Three years.  
32

33 Q. -- since 2019. Do you feel able to say, sitting where  
34 you are now, that there has been over the life of Ashley a  
35 failure to address harmful sexual behaviours through  
36 appropriate interventions?

37 A. Yes.  
38

39 MS ELLYARD: Thank you. Commissioners, I note that it was  
40 intended to have a break in the middle of Ms Honan's  
41 evidence, and now would be a convenient time if it's  
42 convenient for the Commissioners.  
43

44 PRESIDENT NEAVE: Yes.  
45

46 **SHORT ADJOURNMENT**  
47

1 MS ELLYARD: Thank you, Commissioners. Thank you,  
2 Ms Honan.

3  
4 Q. Ms Honan, at paragraph 22 and following of your  
5 statement you answer some questions about the different  
6 work units or streams of staff within Ashley and how you  
7 saw them operating together, and just to summarise, there  
8 was the Operations Team who were the people who we might  
9 call the youth workers and their supervisors who were the  
10 ones who were responsible for day-to-day work with the  
11 children and the operation of the centre; is that right?

12 A. Yes.

13  
14 Q. Then there's the professional services team whose role  
15 was, as I understand your evidence, to provide therapeutic  
16 supports and services, including perhaps specific  
17 interventions to do with behaviours of concern that might  
18 arise?

19 A. Yes.

20  
21 Q. And they would also be the ones planning for the  
22 children's trajectory beyond Ashley when they were due to  
23 be released?

24 A. Yes.

25  
26 Q. There was also the Health Team, and we've had some  
27 evidence already about that, and the Health Team would  
28 include both physical health in the form of nurses but  
29 there is also, subject to availability, a psychologist as  
30 well who would form part of the Health Team?

31 A. Yes.

32  
33 Q. You've answered some questions in your statement about  
34 your observations of how those various teams interacted  
35 together and the extent to which they did or didn't work  
36 well. As I understand it, your perception was that they  
37 didn't work well together, and at paragraph 31 of your  
38 statement, as I understand it, you identify at least part  
39 of the concern being related to the command and control  
40 culture that was led by the then manager. Is that right?

41 A. That's correct.

42  
43 Q. In your assessment, thinking about the beginning of  
44 your time from October 2019 onwards, can I ask you to  
45 explain how that management culture as you saw it was  
46 causing the lack of coordination and cooperation across the  
47 teams?

1 A. My understanding and observations were that there was  
2 goodwill at a lower level, but at a more senior level there  
3 were tensions, and it was very much about those other  
4 services meeting the needs of the operational staff rather  
5 than meeting the needs of the young people that were in  
6 detention. And, if there were things put forward - and  
7 sometimes I believe that some of those suggestions by some  
8 of those staff may not have been easy to operationalise,  
9 they were blatantly disregarded as opposed to perhaps  
10 having a conversation around other ways that things could  
11 have been done, so there became very much a shutdown  
12 command, disregard.

13  
14 Q. And so, instead of there being a balance between the  
15 relevant expertise that was to be brought by the various  
16 teams, it sounds like it was very much dominated by the  
17 operations part of the structure?

18 A. I would say, yes, but that was also being directed by  
19 the then manager and acting assistant manager.

20  
21 Q. Because they were not respectful of or didn't take  
22 advantage of the advice and suggestions that were being put  
23 forward by, for example, the Professional Services Team?

24 A. I would agree with that, and also that there was a  
25 lack of understanding about therapeutic interventions and  
26 trauma-informed responses by them.

27  
28 Q. Perhaps I'll ask: how quickly after you took on your  
29 role did you become aware that that was the operating  
30 context of Ashley?

31 A. I think, within a month or so; certainly within six  
32 weeks.

33  
34 Q. As I understand it from your statement, the first time  
35 you had cause to have any concerns about the treatment of  
36 children in Ashley was - and you say this at paragraph 30  
37 of your statement - when some matters were brought to your  
38 attention by a person who's been called "Alysha" for the  
39 purposes of this hearing when she contacted your executive  
40 officer to report some concerns that she had?

41 A. Yes.

42  
43 Q. And, in particular, her most immediate concern at the  
44 time was that there had been a sexual assault perpetrated  
45 on a detainee by other detainees which Alysha felt hadn't  
46 been responded to?

47 A. Correct.

1  
2 Q. Was that something that you had previously been aware  
3 of, that alleged event?

4 A. The alleged incident occurred in the August of  
5 that year. At that time I was acting in a Deputy Secretary  
6 capacity, and I had seen a briefing in regards to that  
7 incident, yes.

8  
9 Q. But, would I be right in understanding that the  
10 concerns raised with you by Alysha perhaps raised the  
11 possibility that you hadn't previously been fully informed  
12 about what that incident had involved?

13 A. Correct.

14  
15 Q. And, as I understand it, and we'll come to the details  
16 shortly, there was a referral for a review by the Serious  
17 Event Review Team?

18 A. Correct.

19  
20 Q. As I understand it, not long after that you also  
21 became aware of concerns about the way detainees were being  
22 treated because of an incident that occurred on 13 December  
23 involving three detainees getting onto the roof for a  
24 period of time?

25 A. Correct.

26  
27 Q. And an issue came to your attention about whether or  
28 not practices in relation to isolation had been  
29 appropriately followed?

30 A. Correct.

31  
32 Q. And we'll come in some detail to those matters, but  
33 can I go first then to the question of the incident that  
34 you'd been made aware of which Alysha reported to you, and  
35 that involved a child who we're calling "Henry". Can you  
36 go to paragraph 59 of your statement and perhaps, just to  
37 summarise, the incident involving Henry was an allegation  
38 that Henry had been sexually assaulted by two other  
39 detainees who we're referring to as "Albert" and "Finn",  
40 and the allegation ultimately was, and I think the finding  
41 of the SERT Team ultimately was that Henry had been  
42 sexually assaulted by the other two boys using a bottle.  
43 Is that right?

44 A. No, that's not the finding.

45  
46 Q. No?

47 A. There was an attempt to do that which was not

1 successful in terms of, he wasn't sexually assaulted with  
2 the bottle but there was an attempt to sexually assault him  
3 with a water bottle, yes.

4  
5 Q. And there was CCTV showing the interactions between  
6 the three boys?

7 A. Correct.

8  
9 Q. And, as you've said, you received a briefing at the  
10 time of the incident and in part that briefing noted that  
11 there was a disagreement between professional services  
12 staff and operational staff about how serious the incident  
13 had been?

14 A. Correct.

15  
16 Q. And there was a reference to the fact that there had  
17 been a report made to Child Safety Services and the police  
18 because the professional services staff member believed  
19 that what had occurred was an assault or an attempt at  
20 assault?

21 A. Correct.

22  
23 Q. But operational staff took a different view?

24 A. Correct.

25  
26 Q. And, in part, it's fair to say, isn't it, that the  
27 briefing that you received at the time was incomplete in  
28 the sense that it didn't give you the full picture of what  
29 had happened?

30 A. It misrepresented what happened.

31  
32 Q. To give one obvious example, for example, the briefing  
33 that you had received in your capacity as the Acting Deputy  
34 Secretary suggested that the child's pants had remained up  
35 at all times when that wasn't true at all?

36 A. Correct.

37  
38 Q. His pants had been pulled down and that was visible on  
39 CCTV footage?

40 A. Correct.

41  
42 Q. And so to that extent you and others who were going to  
43 be receiving the briefing were misled?

44 A. Correct.

45  
46 Q. And as a result of the SERT Review which revealed  
47 that, amongst other things, there were very substantial

1 recommendations made about the way in which the centre  
2 should operate?

3 A. Correct.

4  
5 Q. And as we understand it, it was quite a long time for  
6 those recommendations to be put into place?

7 A. They were significant reforms which required a  
8 complete overhaul of policies and procedures, reporting,  
9 documentation, training, so yes, they were extensive.

10  
11 Q. And one of the things that came out of the SERT Review  
12 was some reflections on Albert and Finn, the two young  
13 people displaying the harmful sexual behaviours and the way  
14 in which they were being managed by Ashley staff at that  
15 time; do you agree with that?

16 A. Correct.

17  
18 Q. And perhaps pausing for a moment and reflecting again  
19 that the role of Ashley as a Youth Detention Centre is to  
20 be a place where young people receive support and  
21 rehabilitation, a young person displaying harmful sexual  
22 behaviours in Ashley is a young person who is in need of  
23 help and support?

24 A. Correct.

25  
26 Q. Appropriate targeted interventions to address the  
27 causes of the harmful sexual behaviours they're engaging  
28 in?

29 A. Correct.

30  
31 Q. On top of that, of course, they also may pose a risk  
32 to other people whose interests need to be protected?

33 A. Correct.

34  
35 Q. But fundamentally they're a child with a need that  
36 needs to be met by the detention centre?

37 A. Correct.

38  
39 Q. And, what seems to have emerged clearly from the SERT  
40 Review is that staff told the reviewers that some of them  
41 were intimidated themselves by Albert and Finn?

42 A. Correct.

43  
44 Q. And Albert and Finn were long-term residents of the  
45 Franklin Unit?

46 A. Correct.



1 Q. And what was said to the reviewers was that some staff  
2 frankly acknowledged that they let Albert and Finn have a  
3 say in who their unit mates would be, who would come and go  
4 from the unit with them?

5 A. My understanding, it was more about who they wanted to  
6 staff it, not necessarily about who they wanted in the  
7 units.

8  
9 Q. So, the evidence was that Albert and Finn were allowed  
10 to choose who their youth workers were?

11 A. They certainly influenced, and their staff, the staff  
12 that were supervising them, I think, were intimidated, yes.

13  
14 Q. And there was also information provided to the  
15 reviewers by staff who were interviewed that sometimes  
16 other children were placed in the Franklin Unit with the  
17 expectation that Albert and Finn would influence or control  
18 their behaviour?

19 A. I'm not aware of that being the case.

20  
21 Q. If that were true it would be very concerning,  
22 wouldn't it?

23 A. Absolutely.

24  
25 Q. It would never be appropriate for the other children,  
26 older children who might pose a risk to younger children,  
27 to be used as a management tool by staff?

28 A. Absolutely.

29  
30 Q. What you've said in your statement, and this is -  
31 pardon me, I'll give you the reference - it's  
32 paragraph 66.2; you were asked for your reflections about  
33 how a situation involving Henry and Albert and Finn would  
34 be managed differently bearing in mind that part of this  
35 arose through Henry being placed in a unit when he was  
36 vulnerable to Albert and Finn. But one of the things you  
37 said in response was that things would be different now,  
38 whereas at the time of that incident there weren't really  
39 any consequences for Albert and Finn acting as they did in  
40 attempting to sexually assault Henry; now you would expect  
41 there would be consequences?

42 A. Indeed.

43  
44 Q. What might those consequences be as you understand it?

45 A. In determining unit placement and consequences to  
46 inappropriate behaviours, this is a - the process used to  
47 discuss and resolve these kinds of complexities is what we

1 call the weekly review meeting, previously that was the  
2 CST. So, it's a collaborative process. Where there are  
3 risk factors involved there is now also what we call a RAPT  
4 process, which is a risk assessment process. So one of  
5 them looks at the operational issues and decisions that  
6 need to be made, and where there are risks concerned there  
7 is another group that convenes to consider those risk  
8 aspects and how to either address them or mitigate them.

9  
10 So, in this instance there would have likely been a  
11 decision around these boys either being separated and  
12 managed differently, which doesn't appear to have ever been  
13 considered, putting sanctions in place so that they  
14 recognise that those behaviours were not okay and not to be  
15 continued, and I think the centre is better positioned to  
16 do things like that now with a lot of the revisions that  
17 they've made particularly around what we call the Behaviour  
18 Development Program which is a lot more effective and  
19 incentivised. It also goes a long way to rewarding  
20 positive and pro-social behaviours rather than punishing  
21 unacceptable behaviours. Those things weren't in place at  
22 that time, so it was more about trying to contain and  
23 manage the behaviours the best that they could, which  
24 wasn't very effective.

25  
26 Q. No. What about interventions for them in relation to  
27 the behaviours that they're displaying?

28 A. I agree, there doesn't appear to have been referrals  
29 to other services if those services weren't available  
30 within the centre. At this stage, when we see these kind  
31 of behaviours there's a direct line with the Sexual Assault  
32 Support Service, and every week we have what we call - it's  
33 a check-in with a clinician from the Sexual Assault Support  
34 Service to talk about what might be observed, any concerns  
35 that practitioners and workers have on the ground to get  
36 advice about how to respond, how to intervene to make sure  
37 that that's being guided the right way.

38  
39 Q. I don't know if you were here for the evidence of the  
40 previous witness, but part of the evidence there, and  
41 there's other materials about this as well, is that there  
42 were attempts made by the then psychologist, [REDACTED], and I  
43 think there's also material suggesting that the former  
44 Professional Services Manager, Ms Gardiner, as well, sought  
45 to arrange programs of interventions for these two boys,  
46 but it would appear on the materials that those efforts  
47 weren't supported by management at the time. Are you aware

1 of that?

2 A. Yes I am.

3

4 Q. What are your reflections on that?

5 A. I don't know understand why that wasn't picked up. To  
6 me that would have been - these were highly skilled  
7 practitioners, why their advice was disregarded is not  
8 okay.

9

10 Q. It seems to suggest a lack of appreciation for the  
11 seriousness of harmful sexual behaviours?

12 A. Absolutely.

13

14 Q. And indeed, I think in the briefing that you  
15 originally received there was a suggestion that it was  
16 horsing around or adolescent behaviour and things of that  
17 kind?

18 A. Yes.

19

20 Q. And that's not an appropriate way to describe an  
21 attempted sexual assault?

22 A. It was minimised.

23

24 Q. And so --

25

26 PRESIDENT NEAVE: And attempted rape, probably,  
27 technically.

28

29 MS ELLYARD: Yes.

30

31 Q. And so, what would happen if, heaven forbid, two  
32 children in Ashley today or tomorrow attempted to do as  
33 Albert and Finn did, and assume it was observed and came to  
34 the attention of staff, how would you expect staff right  
35 now to respond to such an incident?

36 A. In the first instance, the victim would be protected,  
37 there'd be a referral to police, the victim would be  
38 supported with clinical support. There would be a referral  
39 to a service for the alleged perpetrator, but there would  
40 definitely be safety precautions around any other youth  
41 being placed with that young person that perpetrated the  
42 offence, and I felt safety put in place for the person who  
43 was the victim, and a referral to the Advice & Referral  
44 Line.

45

46 Q. Are you confident that all of that would be possible  
47 notwithstanding some of the staffing stressors and

1 pressures that we've heard about and that you've reflected  
2 on?

3 A. Well, some of those things are outside of the service  
4 and I think that's something that's quite different now to  
5 what was three years ago as well; that there is an  
6 acceptance that the centre can't do everything and carry  
7 all of the risk, that there are external services and a  
8 wider system out there to support the young people in the  
9 centre both before they come in, whilst they are in there  
10 and when they exit, so there is an acceptance of bringing  
11 outside services in much more.

12  
13 Q. Can I turn then to ask you about a subsequent incident  
14 that you became aware of as it was unfolding and that's the  
15 incident that occurred on 13 December, you refer to it at  
16 paragraphs 61 and following in your statement. But to  
17 summarise, this is an incident that evolved over a period  
18 of hours with three young people getting up onto one of the  
19 roofs of one of the units inside the centre and effectively  
20 engaging in a standoff for a number of hours until they  
21 were negotiated down sometime later.

22 A. Yep.

23  
24 Q. As I understand your statement, you received updates  
25 on this event from Mr Ryan, the manager, as the event was  
26 unfolding?

27 A. Correct.

28  
29 Q. Was that standard practice, that you would be updated  
30 in real-time in that way?

31 A. Yes.

32  
33 Q. What were the categories of matters that you needed to  
34 know about in real-time?

35 A. When the incident occurred, when - it was just a  
36 standard thing that every 30 minutes he would give me an  
37 update. If there was nothing to update we'd negotiate, it  
38 might be this could be happening for an hour, I'll let you  
39 know if anything changes; if not I'll touch base with you  
40 again in an hour. It was just a regular, a report about  
41 what was occurring, yeah.

42  
43 Q. At that time, and as at December you hadn't been in  
44 the role very long, but was that an unusually serious  
45 incident for you to be hearing about, an incident of three  
46 young people on the roof damaging property and refusing to  
47 come down?

1 A. Well, it was the first incident that I'd been exposed  
2 to. I believe there had been previous ones.

3  
4 Q. And so, as I understand it, at the time you didn't  
5 have any concerns about that incident and how it was  
6 managed, but a few days later information came to your  
7 attention that gave you concern?

8 A. Absolutely.

9  
10 Q. And what was that information and the concern that you  
11 had?

12 A. The on-call manager that weekend had been asked to  
13 sign isolation forms for the three detainees that had been  
14 involved in the standoff. However, what would be a normal  
15 practice is that, when there is a need to extend isolation  
16 you would call the on-call manager and you would discuss  
17 the reasons for that and they would need to be satisfied  
18 for that before they would authorise it, and that hadn't  
19 occurred for the entirety of that long weekend.

20  
21 Q. And so, you came to understand, as I understand it,  
22 that these three young people, once they came down off the  
23 roof, had been placed in their rooms and kept there?

24 A. A combination I think of being kept in their rooms or  
25 kept in their units; it wasn't very clear, there was mixed  
26 understandings of what had actually occurred, but they had  
27 certainly not been part of a normal routine and had a lot  
28 of time out of their rooms.

29  
30 Q. You used the word "isolation", so isolation's a  
31 specific term with some clear legal expectations around  
32 when a young person in Ashley can be isolated?

33 A. Correct.

34  
35 Q. And in particular, not just anybody can decide to do  
36 it, to isolate a young person?

37 A. Correct.

38  
39 Q. And, where it's done by someone with authority, it's  
40 for an initial 30 minute period; is that right?

41 A. That's correct.

42  
43 Q. And then, if there are extensions, they need to be  
44 approved by a person with the appropriate delegation?

45 A. Correct.

46  
47 Q. And thinking about something happening over a long

1 weekend, staff on site didn't have authority of themselves  
2 to continue isolation unless they got approval from the  
3 manager who was on-call?

4 A. Correct.

5  
6 Q. And they hadn't contacted the on-call manager?

7 A. No.

8  
9 Q. And the young people had remained in a combination as  
10 you said of perhaps isolation, perhaps something falling  
11 short of isolation, but pretty close to it for multiple  
12 days?

13 A. Yes.

14  
15 Q. Then, as I understand it, compounding that was a  
16 concern that there was documentation that was going to be  
17 signed that was perhaps retrospective?

18 A. Yes.

19  
20 Q. And so, what action did you take when those matters  
21 came to your attention?

22 A. I spent some time the next day at the centre having  
23 conversations with staff about their experience of it and  
24 what they had been asked to do - oh, actually I don't know  
25 if it was the next day, but it was shortly thereafter. I  
26 was satisfied that there were issues. I had asked for the  
27 documentation on a number of occasions from the manager --

28  
29 Q. And when you say documentation, you mean documentation  
30 demonstrating that practices and rules in relation to  
31 isolation had been followed?

32 A. Yes. After an incident occurs there are a number of  
33 things that are filled in and then there is what we call an  
34 incident review; that may take a few days or a few weeks,  
35 but in this instance it took several weeks. The documents  
36 still didn't - were still not presented, so I was quite  
37 uncomfortable with the lack of information being provided,  
38 so I decided to dive deeper and speak to staff about their  
39 experience and what was going on, and then I was not happy  
40 with the information I was provided and I suspected that  
41 something untoward had occurred that weekend and I sought  
42 authority for an independent investigator to be appointed.  
43 It was a significant event and there were a number of  
44 people that needed to be spoken to, so I felt that it  
45 needed to go outside of the centre and outside of the  
46 agency to be fully explored for the potential implications  
47 that could come from it.

1  
2 Q. And, as I understand it, and as you say at  
3 paragraph 63.4 of your statement, the review ultimately  
4 took a long time to be conducted, perhaps longer than you  
5 would have wished?

6 A. Indeed.

7  
8 Q. And was finally not available until over a year later,  
9 and your own reflections were that you had a particular  
10 concern about Mr Ryan, the manager, and Lester, as we're  
11 calling him, the assistant manager at the time?

12 A. Correct.

13  
14 Q. What were the concerns that you had about the way in  
15 which the question of isolation and its aftermath had been  
16 followed up by them?

17 A. It was evident to me very quickly that proper  
18 procedure had not been followed. The biggest - the concern  
19 thereafter was the fact that there was an attempt to mask  
20 it instead of actually being up-front and saying, "Listen,  
21 we didn't follow procedure, this is what's happened" and  
22 taking some ownership of that and rectifying it. There  
23 seemed to be a complete disregard of ownership or  
24 responsibility for that.

25  
26 Q. One of the things that emerges from the review is, it  
27 appears that some of those staff who were on duty over that  
28 weekend and keeping the children in their units or in their  
29 rooms understood themselves to be enacting a practice that  
30 had been in place at the centre in the past, which is  
31 called the Blue Program; is that right?

32 A. That's correct.

33  
34 Q. And the Commission has heard already about the  
35 Behaviour Management System that was in place at that time  
36 and children could be on, I think green or yellow or orange  
37 or red, with red being lowest, but there had historically  
38 been another category of blue which was also, I think,  
39 referred to from time to time as "unit bound"; is that  
40 right?

41 A. Correct.

42  
43 Q. Had you known about the existence of blue or unit  
44 bound before this incident in the investigation that  
45 followed?

46 A. I wasn't familiar with that, but I had heard the term  
47 "unit bound" used, yes.

1  
2 Q. Have you since come to understand what unit bound  
3 meant?

4 A. Yes.

5  
6 Q. And what did it mean?

7 A. Unit bound is where a young person is allowed out of  
8 their room but they are still contained within the confines  
9 of a locked unit.

10  
11 Q. And are they allowed to associate with other  
12 detainees?

13 A. I'm not clear about that, to be honest; I think at  
14 times it might be that that's selective, that's  
15 restrictive, but certainly not part of normal routine.

16  
17 Q. And it sounds like a form of isolation by another  
18 name.

19 A. I agree.

20  
21 Q. And so, not a practice that should have been used?  
22 A. Absolutely not.

23  
24 Q. And, is it used at the moment?  
25 A. No.

26  
27 Q. And what gives you confidence that it's not being used  
28 now since, as I understand it, it may not have ever been  
29 formally referred to in policies and standard operating  
30 procedures?

31 A. I think there's several aspects to it. One of them is  
32 that the staff that were authorising it and condoning it as  
33 a legitimate practice are no longer there. The staff that  
34 are there, i.e. the new managers have - it's been very  
35 clear with them and from them with staff. There is much  
36 clearer documentation and accountability around practices  
37 and procedures, and as an independent, I guess, litmus test  
38 and validation that these practices are no longer used  
39 we're fortunate to have the Commissioner for Children have  
40 an advocate that's also on site three days a week often,  
41 sometimes a little less but often frequently; the  
42 Commissioner herself is up there on a monthly basis and I  
43 have every confidence that the young people would speak up  
44 if this was a practice that was occurring.

45  
46 Q. Now, of course, I mean we understand that there may be  
47 an extent to which children are being kept in their units



1 because of issues associated with staffing shortages and so  
2 forth which I think we understand from the evidence  
3 yesterday is still occurring?

4 A. Correct.

5  
6 Q. But what you're saying is that the use of unit bound  
7 or prolonged isolation as a behavioural tool or a  
8 behavioural response is no longer happening?

9 A. Correct.

10  
11 Q. Can I turn then to ask you some questions about  
12 another incident of which --

13  
14 COMMISSIONER BROMFIELD: Before you do, Ms Ellyard.

15  
16 MS ELLYARD: Yes.

17  
18 COMMISSIONER BROMFIELD: Q. I just wanted to clarify,  
19 and I'm sorry I only read your statement last night so it's  
20 not concrete for me. The SERT Review, I can't remember, it  
21 was a SERT Review, wasn't it, into the use of isolation and  
22 the attempt to falsify documents, was that actually  
23 completed? Did you get an outcome from that? I know it  
24 took a long time.

25 A. This is the one about the incident on December --

26  
27 Q. Yes, independent review, using the wrong language,  
28 aren't I?

29 A. Yes, that was the James Cumming investigation, but it  
30 took well over a year to complete because the primary  
31 witness in that that needed to be interviewed was on  
32 worker's comp and didn't engage, so they couldn't complete  
33 it for quite some time, and then I was provided a copy of  
34 it in May 2021.

35  
36 MS ELLYARD: We do have that document, Commissioner, and  
37 can make it available.

38  
39 PRESIDENT NEAVE: Q. And that was separate from the SERT  
40 Review which was into another event, as I understand it?

41 A. That's correct.

42  
43 COMMISSIONER BROMFIELD: I'm confusing the two, that's  
44 fine.

45  
46 MS ELLYARD: Q. Perhaps to be clear, the review which  
47 you commissioned which was conducted by the independent

1 investigator was a review commissioned with a view to  
2 considering whether or not there had been any behaviour  
3 that should be the subject of disciplinary consequences on  
4 the part of the staff involved; is that right?

5 A. Correct.

6  
7 Q. So, can I invite you to turn to paragraph 65 of your  
8 statement, Ms Honan, and this is where you've answered some  
9 questions about a child who we're calling Ray. Again, to  
10 summarise, an incident came to your attention about the  
11 placement of Ray in the Franklin Unit in circumstances  
12 where the professionals through the Multi-Disciplinary Team  
13 had recommended that he not be placed there and, once  
14 placed there, he was assaulted by other detainees.

15 A. Correct.

16  
17 Q. You had this reported to you by Alysha?

18 A. Correct.

19  
20 Q. And you then thereafter sought a briefing from Mr Ryan  
21 in his capacity as the manager?

22 A. Correct.

23  
24 Q. Were you satisfied with the briefing that he gave you?

25 A. The reasons for the placement in the first instance  
26 were as a result of the December 13 standoff --

27  
28 PRESIDENT NEAVE: Q. I'm sorry, I didn't hear what you  
29 said, were a result of?

30 A. The December 13 standoff.

31  
32 PRESIDENT NEAVE: Right, yes, thank you.

33 A. This young person, Ray, had been involved in that,  
34 there was some damage - sorry it wasn't that incident, it  
35 was another incident --

36  
37 Q. Another roof incident. It was the other roof  
38 incident?

39 A. Yes.

40  
41 COMMISSIONER BROMFIELD: I'm relieved that someone else  
42 has gotten confused with dates.

43 A. There's been a few.

44  
45 PRESIDENT NEAVE: Q. Am I right in thinking that there  
46 was some suggestion that he had been compelled to  
47 participate? I might be getting events mixed up.

1  
2 MS ELLYARD: That's the later incident, Commissioner,  
3 where there's some duress involved.  
4

5 Q. So I think you're right in remembering, Ms Honan, that  
6 the incident, that the placement occurred shortly after the  
7 first roof incident?

8 A. Yes.  
9

10 PRESIDENT NEAVE: I'm sorry, yes.  
11

12 MS ELLYARD: Q. And that it was following on from that  
13 incident?

14 A. Yes.  
15

16 Q. Again, to recap, the concern was there was a clear  
17 view that he was a child that was vulnerable and shouldn't  
18 be placed in Franklin; he was placed in Franklin and an  
19 event occurred which resulted in him being assaulted?

20 A. But there had been an incident that had occurred that  
21 required repairs to the unit that he had come out of. So,  
22 it wasn't habitable, so I think the centre in their  
23 defence, Mr Ryan had placed this person - well, some of the  
24 kids had been placed in this unit as a short-term measure  
25 until the repairs could be put into place and then they  
26 were to be moved back. Ray should have been moved back  
27 straight away, and I believe there were requests at the MDT  
28 for that to occur and it didn't occur, and then he was  
29 subsequently assaulted - well, there was an incident where  
30 he was assaulted.  
31

32 Q. By I think the same two young people who had been  
33 implicated in the attempted sexual assault on Henry?

34 A. Correct.  
35

36 Q. And, I take the point that you've made about perhaps  
37 the limited placement options that were available to  
38 management at that time because of the damage to a unit,  
39 but nevertheless the net effect was that, contrary to  
40 professional advice, a young person was placed with people  
41 who had been assessed as potentially a danger to him?

42 A. Correct, and --  
43

44 Q. And he was, perhaps not unexpectedly or not  
45 surprisingly thereafter, assaulted by those people who had  
46 been identified as posing a risk?

47 A. Correct.

1  
2 Q. So the harm that he had suffered really was entirely  
3 preventable?

4 A. Correct.

5  
6 Q. And surely there should have been some capacity,  
7 difficulties with accommodation notwithstanding, to have  
8 kept him safe from the harm that had been clearly  
9 identified as possible?

10 A. There could have been other strategies put in place to  
11 reduce the likelihood of that assault occurring, yes.

12  
13 Q. And this is an example, isn't it, of perhaps pragmatic  
14 thinking about the best use of rooms perhaps, rather than  
15 more informed and trauma-informed and professionally-led  
16 thinking about what's in the best interests of the young  
17 people being placed in different units?

18 A. Correct.

19  
20 COMMISSIONER BROMFIELD: Sorry.

21  
22 Q. In your view of operations at the time, was it solely  
23 pragmatic thinking or was there an element of thinking  
24 about that command and control approach, more punishment  
25 thinking in it?

26 A. Look, to be honest, I don't know. Ray was a very  
27 difficult young person, his behaviour was highly  
28 assaultive, which is not surprising given his illness, so  
29 there may have been an element of that, but I honestly  
30 don't know.

31  
32 COMMISSIONER BROMFIELD: Thank you.

33  
34 MS ELLYARD: Q. Can I turn then, Ms Honan, to ask you  
35 some questions about the second incident involving young  
36 people on the roof which occurred on 6 March. Would it be  
37 fair to say that by this time, because of the various  
38 matters that had been brought to your attention, including  
39 by Alysha, you had some concerns about the way in which  
40 management decisions at Ashley were being made?

41 A. Yes.

42  
43 Q. And you had, as I understand it, occasion to speak  
44 with Mr Ryan about some of the concerns that you had?

45 A. Indeed.

46  
47 Q. Including in relation to the way you saw him

1 interacting I think on one particular occasion with someone  
2 from the Health Team?

3 A. Indeed.

4  
5 Q. And perhaps on other occasions as well seeking to  
6 understand why he was making the decisions he was making?

7 A. Correct.

8  
9 Q. Mr Ryan's going to give evidence next week. His  
10 evidence will be that from his perception what was  
11 occurring in that period of time was a constant process of  
12 you undermining him in his role. What would you say in  
13 response to that suggestion?

14 A. I would say Mr Ryan did not like to be challenged.

15  
16 Q. I suppose it would be fair to say that it is necessary  
17 in an organisation or in an institution like Ashley for  
18 there to be someone who's in charge?

19 A. Correct.

20  
21 Q. It is necessary for that person to be someone who has  
22 the respect of those under him: yes?

23 A. (Witness nods.)

24  
25 Q. And there's been a suggestion in material that the  
26 Commission's received that the way in which you managed and  
27 interacted with Mr Ryan undermined him in the presence from  
28 time to time of other staff members. What would you say in  
29 response to that?

30 A. He may have felt that way but that was certainly not  
31 my intention, and I would disagree with that.

32  
33 Q. And that's relevant, isn't it, because as events  
34 unfolded on 6 March, an incident which involved first four  
35 and ultimately six young people being on the roof for a  
36 period of time and requiring, I think, police involvement  
37 as well, as you were kept informed through the night of  
38 that incident and its aftermath you and Mr Ryan disagreed  
39 on what should be done with the young people once they came  
40 down from the roof?

41 A. Correct.

42  
43 Q. And in particular, as I understand it, what he  
44 proposed to you was that there should be something like  
45 what had occurred in response to the December incident,  
46 that is, the young people should be kept separate in their  
47 rooms for a period of time?

1 A. He proposed to me a rolling four-day schedule of  
2 isolation and unit bound practices, which I would not  
3 support.

4  
5 Q. And what did he give you as the reason why there  
6 needed to be isolation and unit bound for any period of  
7 time, let alone four days?

8 A. He didn't provide a reason; I think that was the  
9 practice and he felt that that was acceptable.

10  
11 Q. There's some material that's been provided to the  
12 Commission that suggests that the reason for it was to  
13 protect staff who were distressed and who had been working  
14 late into the night responding to these young people and  
15 that there was a need to respect and reflect the way in  
16 which staff might be feeling; do you recall that?

17 A. No, those staff - no, I don't. Those staff would not  
18 have been on site the next day and at the time that Mr Ryan  
19 proposed this the situation was still playing out; the  
20 young people hadn't even been brought down off the roof and  
21 they weren't even in their rooms, so there were a whole  
22 heap of unknown factors at that stage when that proposal  
23 was put forward that made it completely unacceptable for a  
24 whole range of other reasons as well.

25  
26 Q. So, whether or not there might ever have been an  
27 appropriate use of perhaps the 30 minutes of isolation if  
28 someone came down from the roof and they were disregulated  
29 and a danger to themselves, there wasn't in your view any  
30 basis for deciding in advance that children would remain  
31 isolated or unit bound for four days?

32 A. It was premature to put forward a proposal like that  
33 for four days of rolling isolation.

34  
35 Q. As I understand it, that was a bit of a crunch  
36 point for Mr Ryan and his relationship with you and his  
37 role at the centre?

38 A. Correct.

39  
40 Q. And again, and the Commission will have the  
41 opportunity to hear and reflect on other evidence in this,  
42 it seems perhaps to be a point at which the pragmatic or  
43 operation-heavy approach to management at Ashley was being  
44 confronted by a more therapeutic approach?

45 A. Correct.

46  
47 Q. In pushing back against the idea that there should be

1 four days of rolling isolation and unit bound practices,  
2 what did you think could be done instead for the young  
3 people?

4 A. Look, I - it's not my area of expertise. There were  
5 four or five staff in that room at that point in time that  
6 did have that expertise and that operational knowledge. I  
7 made some suggestions about what they needed to consider  
8 and they came back with a different approach.

9  
10 Q. And that was what ultimately was implemented?

11 A. In part, but yes, yes.

12  
13 Q. Now, shortly after this - this incident occurred  
14 in March 2020 - in April 2020 there was a report  
15 commissioned and produced which has been referred to as the  
16 AYDC Discovery Report which was conducted by Ms Mitchell  
17 who gave evidence yesterday and which as I understand it  
18 was intended to be a snapshot pending future work of the  
19 state of therapeutic practice at Ashley and the extent to  
20 which the model then in place was understood. Now, I take  
21 it you're familiar with that report?

22 A. Yes, I am.

23  
24 Q. One of the things that that report showed was that the  
25 model which was ostensibly then in place, which I think was  
26 called the Ashley Model of Care or perhaps Ashley+ or some  
27 combination, was very poorly understood by those who were  
28 meant to be enacting it?

29 A. Correct.

30  
31 Q. Did that surprise you when you learned that?

32 A. No.

33  
34 Q. Did it concern you?

35 A. Absolutely.

36  
37 Q. And, to what did you attribute that very low level of  
38 understanding of the practice framework that was meant to  
39 be then in existence?

40 A. The practice framework was almost this organic  
41 snowball of things that had been picked up along the way  
42 and added to it. I don't think that there were too many  
43 people that had any clarity about exactly the way the  
44 centre - the practice framework across the centre, and they  
45 had selectively picked pieces out of it or operated almost  
46 autonomously I think under intuition.

1 Q. Whether you say "they" who do you mean?

2 A. Well, it depends who you speak to. The Professional  
3 Services Team I think had a lot of clarity about the tools  
4 and the way that they wanted to work; the operational teams  
5 didn't, and again, there was a lot of siloing between the  
6 two so there was not the level of discussion, empowerment  
7 and education that could have been there to clarify some of  
8 that to get some common understanding of the way that they  
9 wanted to work.

10  
11 Q. And again, thinking about this as a Youth detention  
12 context, this isn't a case where there's prison guards over  
13 here and then someone doing therapeutic practices in a room  
14 over here: the idea of the Ashley+ Model or the Ashley  
15 Model of Care model was that it would be used by all staff  
16 including the operations staff?

17 A. Yes.

18  
19 Q. Because the operations staff includes the people who  
20 were called youth workers who were the ones interacting  
21 with and working with young people on a daily basis?

22 A. Correct.

23  
24 Q. But it was clear from that report and that snapshot in  
25 time that workers including youth workers didn't understand  
26 it and of course by association weren't using it?

27 A. Correct.

28  
29 Q. And so, as I understand your evidence, since that time  
30 and perhaps flowing from in part that report that was done,  
31 there's a new practice framework?

32 A. There is.

33  
34 Q. Can you tell us what that is?

35 A. The current practice framework evolved from the  
36 recommendations from the discovery phase document from  
37 Ms Mitchell. It was developed alongside the young people  
38 in the centre, the youth workers, the Operational Teams,  
39 the Professional Services Teams, so it was developed from  
40 the ground up. So, what the end product is, is as a result  
41 of being evidence informed, a literature review, but also  
42 modelled off the way the staff - with staff alongside, so  
43 it was almost embedded as it evolved, which I think is  
44 useful because people understood and had a common  
45 understanding about the principles of what they did and how  
46 they went about it. So, it looked at things like  
47 respectful relationships, it looked at a more relational



1 approach, understanding what a trauma-informed response  
2 was, understanding what therapeutic intervention meant.

3  
4 Q. And, without wishing to be in any way disrespectful to  
5 the staff who work at Ashley, we've heard a lot of evidence  
6 about, including statements from staff, about the in many  
7 cases the comparably low level of further education;  
8 there's been some suggestion about literacy difficulties  
9 amongst staff. This is still, I take it, a paper-based  
10 document that needs to be read and digested and understood.  
11 How has it been taught and shared with staff so that they  
12 can be using it in an effective way?

13 A. There was, as I said, extensive consultation,  
14 involvement in training material, and also the opportunity  
15 to walk alongside. One of the staff that was involved in  
16 the development of this spent a lot of time role modelling  
17 and working alongside as a practitioner with staff, the way  
18 that they related to young people, what that meant, how  
19 that translated into practice, not just from theory but  
20 into practice, and challenging some of the thinking along  
21 those things. So, there was a lot of training on the  
22 ground and within a training environment that was alongside  
23 the implementation of the framework.

24  
25 Q. The evidence that the Commission has heard has brought  
26 home the importance, not just of training, but of  
27 continuous supervision and opportunities for mentoring and  
28 refresher training.

29 A. Correct.

30  
31 Q. Does the modelling include an opportunity for that?

32 A. It certainly does.

33  
34 Q. And, what's that?

35 A. Well, there is a new - well, a position which has been  
36 upgraded to be Practice Manager role; the primary role of  
37 that is supervision of staff, whether it's one-to-one, it's  
38 group supervision, reflective supervision, there are a  
39 whole range of different types of supervisions. So, that  
40 role was deliberately re-scoped to have a primary focus to  
41 do that.

42  
43 Q. Because there was a role like that previously, and  
44 indeed a role not unlike that was held by Alysha, the  
45 person who brought some concerns to your attention.

46 A. Yes.

1 Q. And perhaps the evidence suggests that at that time  
2 there was a failure overall by management to take up  
3 suggestions that she and others in professional services  
4 were offering. What's different now?

5 A. I think that there is an understanding, an appetite  
6 and an authorised environment for that to occur.

7  
8 Q. Can I turn then to a different topic which relates to  
9 the way in which information came to your attention  
10 suggesting that someone then working at Ashley had engaged  
11 in sexual abuse of a detainee in the past and the process  
12 that was followed, and that's a person who we're calling  
13 "Lester". You answer some questions about this at  
14 paragraph 81 and following of your statement. You were  
15 asked when was the first time that you became aware that  
16 there were any allegations of an historical nature against  
17 anyone working at Ashley, and you've identified that the  
18 first one you became aware of was an allegation raised by  
19 Alysha about Lester?

20 A. Correct.

21  
22 Q. As I understand it from your statement, that was a  
23 matter that you didn't act on yourself in the sense of  
24 taking carriage of any investigation, it was a matter that  
25 you referred to People & Culture?

26 A. Yes. The procedure around allegations against current  
27 staff are referred to People & Culture and they take the  
28 lead role in responding to those.

29  
30 Q. And that's because it's an employment-related matter?

31 A. Correct.

32  
33 Q. And a potential disciplinary matter?

34 A. Correct.

35  
36 Q. Isn't there a separate issue though about, separate  
37 from what disciplinary or employment consequences there  
38 might be if the allegation's true, isn't there a separate  
39 issue of whether or not the person poses a risk to  
40 children?

41 A. Correct.

42  
43 Q. And that isn't a matter for People & Culture to  
44 determine?

45 A. This matter was historic, it was third-hand, and  
46 I believe that their role was to try and gather information  
47 to make a decision about what the next step would be, yes.

1  
2 Q. I accept what you say, that the suggestion was that  
3 conduct had been engaged in by Lester many years  
4 previously, so to that extent it was an allegation of  
5 historical conduct rather than recent conduct, but were you  
6 aware at the time of the understanding about the time that  
7 it can sometimes take between when someone is abused and  
8 when someone discloses abuse?

9 A. No, and to be completely candid this was the first  
10 time I think our agency had had any involvement in matters  
11 like this, and I think that, if they could go back and  
12 revisit this, there would have been a very different more  
13 timely approach.  
14

15 Q. I'm inviting you to reflect whether there's something  
16 you could have done differently, because recognising that  
17 employment investigations take the time they take, am I  
18 right in understanding that you, if you thought about it,  
19 took the view, well, it's an allegation from 25 years ago,  
20 I'll let it play out. It didn't occur to you that the  
21 allegation, if true, might mean that the person, Lester,  
22 continued to pose a risk to children if he had contact with  
23 them at Ashley?

24 A. No, that's not the way I thought about it. The  
25 allegation was provided to me, the information was provided  
26 to me; I provided that the same day to the Executive  
27 Director of People & Culture and I would have expected  
28 there would have been a timely response to stand him down.  
29

30 Q. Wasn't standing down a matter for you?

31 A. No.  
32

33 Q. I think the evidence that the Commission's going to  
34 hear next week from people and People & Culture is that  
35 they give advice but they're not the ones who stand people  
36 down?

37 A. That's not the way it's worked before. No, that's not  
38 my understanding of things.  
39

40 Q. So your understanding was that the decision would be  
41 made by People & Culture whether to stand someone down or  
42 not?

43 A. Correct.  
44

45 Q. And that obviously as the days passed and he wasn't  
46 stood down, did you understand that that decision had been  
47 taken not to stand him down?

1 A. My understanding of it was, and I raised it on  
2 multiple occasions as to, "This person is still in the  
3 workplace, something needs to be done about this; what's  
4 going on, what's going on, what's going on?", and yeah, I  
5 didn't think it was my place to do that.  
6

7 Q. So, you didn't think - well, you didn't think it was  
8 your place. Did you think you had the power to do it?

9 A. No, I didn't think I had the power to do that.  
10

11 COMMISSIONER BROMFIELD: Q. I just wanted to know. When  
12 you say you raised it on multiple occasions, who were the  
13 people that you raised it with on multiple occasions?

14 A. We had a, what was called at that time, a  
15 Strengthening Safeguards Working Group, that was an  
16 executive working group that consisted of the Executive  
17 Director of People & Culture, an industrial relations, I  
18 think, or Safety and Wellbeing Executive, the Deputy  
19 Secretary, myself, and then there were members from the  
20 legal team of Department of Communities that joined at a  
21 later date as well. So, any concerns around historic  
22 allegations were raised and the updates were provided about  
23 the progress of those matters as they were referred to  
24 investigators through that meeting.  
25

26 So, when this matter was raised I raised on multiple  
27 occasions my concerns about the fact that these concerns  
28 had been provided and he was still in the workplace.  
29

30 Q. And what response did you get?

31 A. I think that - well, that they were still making  
32 enquires to try and gather information to determine whether  
33 there was any - anything to corroborate or any records that  
34 could be located that could be aligned with the information  
35 that had been provided by Alysha.  
36

37 Q. What would you have liked to have happened?

38 A. Well, I would like to have seen him stood down while  
39 those enquiries took place, and that was the process  
40 thereafter for others. So, I think at the beginning, given  
41 that this was the first time that this department had been  
42 faced with this, with the value of hindsight we probably  
43 would have done - or the agency would have done things very  
44 differently.  
45

46 Q. Could you see how externally, from a public  
47 perspective, the Department of Communities includes

1 Department of Child Protection, that the public could  
2 reasonably expect that, if any Tasmanian Government agency  
3 were to have a sound understanding about how to respond to  
4 allegations of child sexual abuse, it would be the  
5 Department of Communities?

6 A. That's reasonable, yes, yep.

7  
8 COMMISSIONER BROMFIELD: Thank you.

9  
10 MS ELLYARD: Q. Ms Honan, I want to put to you some  
11 evidence that's going to be given next week by Alysha who,  
12 as we've noted, is the person who drew this matter  
13 originally to your attention. She's going to give evidence  
14 about a number of conversations that she recalls having  
15 with you after the initial conversation where she relayed  
16 these matters to you.

17  
18 She will say that she, soon after making the  
19 notification to you, she called you to find out what was  
20 happening and that you told her that it was highly  
21 confidential and that she couldn't be told what was  
22 happening. Do you recall that?

23 A. Yes.

24  
25 Q. She will give evidence that, as the days went past,  
26 she was concerned that Lester was still at work and hadn't  
27 been stood down, and she recalls you saying to her that  
28 "they have a process, that there will be an internal  
29 investigation and that you don't go reporting matters to  
30 the police willy-nilly". Do you recall saying that?

31 A. No. No, I don't recall using those words at all.

32  
33 Q. She will give evidence that she told you in one of  
34 these conversations that Lester was still having contact  
35 with children at the centre and that she had observed him  
36 on at least one occasion to be strip-searching a child. Do  
37 you recall being told that?

38 A. No.

39  
40 Q. If you had been told that, that he was actively  
41 engaged in contact with children including strip searching  
42 them, no doubt that would have concerned you?

43 A. She did not tell that to me directly, but I did hear  
44 through --

45  
46 Q. Through the SERT process and Ms Burton perhaps?

47 A. Yeah, it wasn't directly from Alysha, and there were

1 enquiries made around that that did not corroborate that  
2 allegation.

3  
4 Q. So, didn't corroborate the allegation that there had  
5 been a strip-search?

6 A. No, there had been no strip-search.

7  
8 Q. Are you thinking of a different matter where there was  
9 a suggestion that there had been an inappropriate  
10 strip-search or are you saying there was no strip-search at  
11 all?

12 A. Well, there was no strip-search that happened at  
13 Ashley from 2019 onwards. There was a clear practice and  
14 staff were very clear about partially clothed searches.  
15 Strip-searches were not something that the centre did.

16  
17 Q. Whether it was partially clothed or not, a person  
18 who's been accused of engaging in sexual abuse, albeit  
19 many years previously, clearly there's issues if that  
20 person is directly having contact with children including  
21 by touching their clothed or unclothed body?

22 A. Yes.

23  
24 Q. Do you recall being told that Lester was still engaged  
25 in that kind of contact with children in this period of  
26 time when the notification about the past allegation had  
27 been made?

28 A. There was one incident where Lester had been involved  
29 in a search of a young person that was witnessed by another  
30 person.

31  
32 Q. And so, you weren't concerned about that?

33 A. Yes, I was concerned, yes. It wasn't normal for  
34 Lester to have a strip-search function.

35  
36 Q. At this early stage, so perhaps still thinking  
37 about January 2020, had the allegation involving Lester as  
38 far as you were aware been reported to the police?

39 A. I don't know the time in which people referred it to  
40 police; I'm not able to answer that question.

41  
42 Q. So you yourself hadn't referred it to the police?

43 A. No, no.

44  
45 Q. Alysha will say that you told her on more than one  
46 occasion to not report it to the police herself. Do you  
47 recall saying that?

1 A. I don't recall - the initial conversation that she had  
2 with my executive officer in the early days, she wanted to  
3 report to police; she was discouraged from doing that until  
4 there was an opportunity to discuss it and to understand  
5 what had occurred and then determine where to from there.  
6

7 Q. Why would that be? If there's allegation of sexual  
8 abuse, isn't that a proper matter for the police?

9 A. At that stage it was a conversation she had with a  
10 worker about something that had allegedly occurred 30 years  
11 ago. So, once I had spoken to Alysha and referred it to  
12 People & Culture my expectation is that, as part of their  
13 function they would have referred it to police, which is  
14 what they do with any allegation against a current  
15 employee.  
16

17 Q. But you just said a moment ago that your executive  
18 officer, and I think there's a letter that you sent later  
19 on confirms this, had said to Alysha "don't report, let's  
20 wait and see, let's do an investigation of some kind  
21 ourselves to understand what's going on"?

22 A. No, it wasn't an investigation, it was about, we need  
23 to clarify exactly what - you know, the information that  
24 she had. She was very escalated, which is understandable  
25 with that kind of information, and was wanting to go to a  
26 range of different places with it, and my executive officer  
27 said to her, she needs to calm down, I would speak with her  
28 about that and we would refer it to the right place and --  
29

30 Q. But it sounds like the right place in your view was  
31 the Human Resources Department of the Department of  
32 Communities?

33 A. Well, it was a part of the HR Department that deals  
34 with these issues specifically.  
35

36 Q. But isn't it the police who investigate allegations of  
37 potential criminal conduct? I take what you say that what  
38 Alysha was raising was arguably not firsthand although she  
39 did nominate a witness who, if it was right, was an  
40 eyewitness, but isn't that exactly the role of the police,  
41 isn't it, to take such a report and investigate it?

42 A. Well, that's exactly what I thought People & Culture  
43 would have done, that's their role to do that.  
44

45 Q. Alysha will also say that in a subsequent conversation  
46 which she says she recalls having with you in person, she  
47 pressed you on what occurred because she was aware that

1 Lester was still on site, and she will say that she recalls  
2 you saying that:

3  
4 *There was nothing about the matters that*  
5 *she'd reported on Lester's HR file, that it*  
6 *was nothing to do with her and that his*  
7 *privacy must be protected and that*  
8 *allegations of this kind could be damaging.*  
9

10 Do you recall having a conversation with her about  
11 those matters?

12 A. I wouldn't know what was on Lester's files, I don't  
13 have access to them. Alysha was making a point of having  
14 multiple conversations with multiple people around this  
15 concern, which was by that stage, I believe, under review  
16 with People & Culture, and I just warned her to be mindful  
17 of who she spoke to about it across the centre for  
18 confidentiality reasons.  
19

20 Q. But again, and perhaps this is a follow-up from the  
21 question that Commissioner Bromfield asked you, it's  
22 perfectly legitimate, isn't it, for someone to have a  
23 concern that, notwithstanding an allegation that a person  
24 has sexually abused a child, that person is continuing to  
25 turn up to work each day in close proximity to children;  
26 that's fair enough, isn't it?

27 A. I agree, you would have a concern but --  
28

29 Q. So, to the extent that you believe that Alysha was  
30 raising the issue repeatedly, that's a reasonable response,  
31 isn't it, to an apparent lack of action on the part of a  
32 department who's received a serious allegation against a  
33 current employee?

34 A. Yes, you could say that, yes.  
35

36 Q. Thank you. And, as I understand it ultimately from  
37 the materials Lester was stood down but not for  
38 many months?

39 A. Correct.  
40

41 Q. And, picking up the point about - and as I understand  
42 it, all of those processes, you would say, happened at  
43 People & Culture, they didn't involve you?

44 A. No, I don't have an investigative role.  
45

46 Q. And, to what extent did you receive updates on the  
47 progress of the investigation that was being conducted into



1 Lester?

2 A. I think the meetings were at that stage fortnightly.

3

4 Q. And that's the strengthening --

5 A. Safeguards.

6

7 Q. -- safeguards. Mr Watson, who's going to give  
8 evidence next week who, as the Commission is aware, was  
9 Mr Ryan's replacement as manager, will give evidence that  
10 he was very concerned about Lester's continuing presence in  
11 the workplace and indeed the presence of other people  
12 through that year who came to be understood to be accused  
13 of historical abuse as well. Do you recall him raising  
14 those concerns with you?

15 A. Absolutely, we both spoke about it.

16

17 Q. But there wasn't anything that you could do?

18 A. My concerns were being relayed through that  
19 Strengthening Safeguards Working Group.

20

21 COMMISSIONER BROMFIELD: Q. Ms Honan, did you ever raise  
22 it directly with your Line Manager in your one-on-one  
23 catch-ups?

24 A. She was in the Strengthening Safeguards Working Group.

25

26 Q. So, other than in the group, there was no other time  
27 that you raised it with her?

28 A. No, I had conversations with her about that, yes, yep.

29

30 Q. Did you feel that you were being adequately supported  
31 in that?

32 A. No. No. There was a frustration around, why was this  
33 person still in the workplace.

34

35 COMMISSIONER BROMFIELD: Thank you.

36

37 COMMISSIONER BENJAMIN: Q. But it goes a little bit  
38 beyond that, doesn't it? Because, if he's still in the  
39 workplace, you've got children who are secured there, or  
40 young people that are secured there, they can't go anywhere  
41 and they're left terribly exposed, and everyone's running  
42 around saying, point here, point there, and nobody's taking  
43 any steps, any meaningful steps, to offer protection to  
44 these young people, are they; are they?

45 A. Well, I wouldn't say they weren't protected, but there  
46 was definitely a risk with this person still in the  
47 workplace.

1  
2 PRESIDENT NEAVE: Q. Could you have given a direction  
3 that he was not to have any contact with children while  
4 these matters were being investigated - leaving aside the  
5 suspension process and that wouldn't have been for you to  
6 do, that would have been, I think, for the head of  
7 department, but you could have made a direction, couldn't  
8 you, that he did not do anything that involved having  
9 contact with children, for example, searching children?

10 A. When he was in the assistant manager's role and was  
11 then moved back into a role which was not a direct contact  
12 role with children.

13  
14 Q. Sorry, what was he moved back to?

15 A. It was a policy position.

16  
17 Q. Okay. At Ashley?

18 A. At the centre. It was still in the centre but it was  
19 not in contact with children.

20  
21 COMMISSIONER BENJAMIN: Q. But it was when he was in  
22 that role that he was involved in a search of a child,  
23 wasn't he, or a young person?

24  
25 MS ELLYARD: I think that's what the evidence next week  
26 will be, yes, Commissioner.

27  
28 THE WITNESS: Yes.

29  
30 COMMISSIONER BENJAMIN: Q. Because what I worry about,  
31 if tomorrow, but for this Commission or but for this  
32 spotlight, a similar allegation was made against somebody  
33 else, would it then go to HR and then go in the circles and  
34 then leave those children exposed?

35 A. I think that with every - every concern thereafter,  
36 when People & Culture were made aware of it, people were  
37 stood down promptly.

38  
39 PRESIDENT NEAVE: Q. Most of the stand downs have  
40 occurred in the last year or so, as I understand it?

41 A. Correct.

42  
43 Q. Since the Commission was established; am I right in  
44 thinking that?

45 A. Um, no, I think that early - in the early stages, as I  
46 said, this was the first, to my knowledge, allegation  
47 against a current employee.

1  
2 Q. I see.

3 A. And I think that there was a range of things that  
4 people considered back then which they shouldn't have  
5 before standing somebody down.  
6

7 PRESIDENT NEAVE: Thank you.  
8

9 MS ELLYARD: Pardon me.  
10

11 Q. Can I just put a couple of matters to you again that  
12 are going to be in evidence that's given next week,  
13 Ms Honan. Firstly, there's going to be evidence given by  
14 Ms Burton, who was one of the staff members who conducted  
15 the SERT Review into the incident involving Henry and  
16 Albert and Finn, just so that we can be clear. She's going  
17 to give evidence of information that she received from  
18 Alysha, and of a conversation that she had with another  
19 person, who said that you had called Alysha, said that  
20 "Alysha was hysterical", and that, "What she said should be  
21 taken with a grain of salt". Do you recall ever saying  
22 that in relation to Alysha in the way in which she was  
23 presenting concerns to you?

24 A. No, I don't recall saying that, but I certainly  
25 recognise that Alysha did have moments where she was very  
26 escalated, yeah.  
27

28 Q. Although, as I think you have agreed, perhaps not  
29 unwarranted escalation having regard to the apparent lack  
30 of action?

31 A. Yes, and rightfully so in the absence of having other  
32 information to her concerns.  
33

34 Q. Another thing that Ms Burton will say in her evidence,  
35 thinking about the way in which she conducted or was part  
36 of the conduct of the SERT Review, was that she was  
37 prevented from speaking to Henry, the young person who had  
38 allegedly been assaulted and understood that that was at  
39 your direction that Henry not be spoken to. Do you recall  
40 giving that direction?

41 A. No.  
42

43 Q. Would you have given a direction that the SERT not be  
44 able to speak to the child who was part of an incident?

45 A. No; that's not a complete review if they can't speak  
46 to the people they need to.  
47

1 Q. I want to then come to perhaps some follow-up  
2 questions to a topic that we've discussed earlier,  
3 Ms Honan. The Commission's aware that over the 20 years or  
4 20-plus years that Ashley has been in existence as a  
5 detention centre there have been many reviews and many new  
6 programs that have sought to respond to the deficiencies  
7 identified in reviews, and at any point in the last  
8 20 years there could have been a Commission like this who  
9 would have been told, yes, there's these problems but we  
10 just got this new solution that we rolled out six months  
11 ago, and so without any disrespect to you, I want to ask  
12 you, given the evidence that you've given about substantive  
13 change over the last year, what is it that gives you  
14 confidence, as I take it you have, that this isn't going to  
15 be the next in a long line of new programs that with  
16 hindsight will have been shown not to have taken root at  
17 Ashley?

18 A. The changes we have put in place are still to  
19 some degree not enough. The entirety of reform that needs  
20 to happen for Ashley is systems reform. So, what we have  
21 managed to do is be more accountable, more transparent,  
22 increase the level of safety around children because staff  
23 have - there are more CCTV cameras, there are better  
24 practices, I think people feel more comfortable in  
25 discussing things that they have concerns about as opposed  
26 to them being suppressed.

27  
28 I think that there are improvements to documentation  
29 around weekly review meetings and multidisciplinary  
30 meetings; there are more people involved in those decisions  
31 and there is more collaboration around decision making.  
32 All of those things help to reduce risk, but they are  
33 certainly not reform on the scale that needs to occur.

34  
35 Q. Would it be fair to say that you would see a  
36 significant difference in the Ashley of now and the Ashley  
37 of even two years ago, is a change in management?

38 A. Absolutely.

39  
40 Q. And not just the change in management, but it would  
41 appear that, whether by virtue of stand downs or otherwise,  
42 a significant number of long-term Ashley staff members are  
43 not in the workplace?

44 A. Correct.

45  
46 Q. And a number of those workers might have been  
47 associated with the old guard or longer term out-of-date

1 practices?

2 A. Correct.

3

4 Q. So that, part of the work that's being done at the  
5 moment is to a large - although not to a complete extent -  
6 being done by a completely different cohort of people?

7 A. Correct.

8

9 Q. Now, of course, we're talking about systems change for  
10 Ashley but according to the government in two years and one  
11 month Ashley will be closed. Can I ask you: given your  
12 role, I take it that, were you to still be in the role in  
13 two years and a bit, you'd be responsible, not for Ashley,  
14 but for the two centres that are replacing Ashley; is that  
15 right?

16 A. I've got no idea, I don't know exactly what that's  
17 going to look like yet.

18

19 Q. So I want to unpack that because, with two years and  
20 one month to go, one might assume that there would be  
21 planning well advanced on where these two new centres are  
22 going to be. Is that something you've been any part of?

23 A. I don't think there's been decisions made around that  
24 yet.

25

26 Q. So what, to your knowledge, has been done, if  
27 anything, to start to give effect to the government's  
28 announcement in October last year that Ashley will close in  
29 three years and be replaced?

30 A. There's been the establishment of a Reform Team, an  
31 appointment of an Executive Director, I believe that there  
32 has been some work done through Noetic around some possible  
33 options for consideration; that those decisions are with  
34 the Minister, and at this point there has been no decisions  
35 yet around the facility, the location or a practice model.

36

37 Q. Are you on the executive - are you on the team that  
38 you've described, the Reform Team?

39 A. No.

40

41 Q. Presumably, someone from your area though with  
42 responsibility for the Youth Detention is involved?

43 A. Well, the appointment of the Executive Director has  
44 only been a recent one, less than two weeks.

45

46 Q. So the Executive Director of the Reform Team was  
47 appointed two weeks ago?

1 A. Correct.

2

3 Q. Do you know if the team has met?

4 A. There has - yes. There has been some formative work.

5

6 Q. And are you aware, in general terms, of the  
7 composition of that team and where the members have been  
8 drawn from?

9 A. They've largely been drawn from within Communities  
10 Tasmania, and they're located in the same building that  
11 I am.

12

13 COMMISSIONER BROMFIELD: Q. Ms Honan, we've heard in the  
14 last - goodness, two days - about stop-start reforms and  
15 how that can really derail progress made. It sounds like  
16 you've stepped into a tough role and that you've made some  
17 steps, they sound like progress. Do you have any concerns  
18 about how progress will be sustained if you're not involved  
19 in that team to provide input into maybe things you'd want  
20 to retain?

21 A. There's been some recent decisions in light of the  
22 establishment of a new Department of Education, Children  
23 and Young People, and some realignment of governance, so  
24 this role will fit in the Reform Team and report to the new  
25 Executive Director. So, I think that any kind of  
26 discussion and decision-making around future models, future  
27 centres, will be part of that line of communication and be  
28 able to help to - to inform and be informed about that  
29 along the way. So, anything that we're doing at the moment  
30 within the centre should be informed by the reform and the  
31 direction that that's going to take, so I'm hoping that  
32 this will be something that we can work alongside and then  
33 transition alongside into whatever those new facilities and  
34 their frameworks look like in terms of practice models.

35

36 COMMISSIONER BROMFIELD: Thank you.

37

38 PRESIDENT NEAVE: Q. If you had a free hand and you were  
39 thinking about the time that it would take to put in place  
40 a whole new system, is two and a half years long enough?

41 A. No.

42

43 MS BENNETT: Two years and one month.

44

45 PRESIDENT NEAVE: Q. Two years and one month, yes?

46 A. No, it's very ambitious.

47

1 Q. Having regard to the changes that you've been involved  
2 in putting into place?

3 A. Well, I've been in my role nearly three years, and  
4 there's been a lot of change, but that's nowhere near the  
5 scale that's required for a blueprint reform for the Youth  
6 Justice System.

7  
8 PRESIDENT NEAVE: Thank you.

9  
10 MS ELLYARD: Those are the questions that I have for  
11 Ms Honan.

12  
13 COMMISSIONER BROMFIELD: Q. I had one. Just coming back  
14 to the SERT Team, I noted that, you know, you're the one  
15 who decided to issue the request for a SERT Review into the  
16 sexual assault, and from your evidence of when that review  
17 came back it gave you at least the start of a blueprint  
18 about some things to do, and that that was, I guess, a  
19 helpful process; would that be right?

20 A. Indeed. I think in that instance it was also the  
21 Deputy Secretary that made a decision about that SERT  
22 Review, so it was very much supported by her too.

23  
24 Q. I also noticed in your statement that you said that  
25 the SERT Team no longer existed?

26 A. Correct.

27  
28 Q. I just wanted to get your reflection as a manager as  
29 to whether having something like the SERT Team was actually  
30 a useful tool to have at your hand?

31 A. The SERT Team was a team that was convened for a  
32 particular purpose, which was to look at, I think, deaths  
33 of infants and it had been subject to coronial inquiries,  
34 or were to be; so, it had a beginning and an end point.  
35 But certainly having that level of specialisation and  
36 independence for review over serious incidents was really  
37 useful, and in fact critical. That function, I believe,  
38 has been more generically dispersed across the restructure  
39 of Child Safety; and those resources can be pooled again  
40 together on a needs basis. So, there is still capacity to  
41 convene a SERT process.

42  
43 PRESIDENT NEAVE: Q. But would it have been useful to  
44 continue with the people who were involved in the SERT  
45 Review, if that had been possible, who had, one would  
46 assume, built up quite a bit of expertise during that  
47 period of time?

1 A. Absolutely.

2  
3 Q. Would it have been helpful for that group, or  
4 something like that group, to be given a similar function  
5 in the future?

6 A. Well, it's a specialised role with specialised skills,  
7 so yes, I agree.

8  
9 COMMISSIONER BROMFIELD: Q. And again, reflecting on the  
10 Department of Communities, there's out-of-home care,  
11 there's Youth Detention, there's Child Protection: it's an  
12 unfortunate field where, unfortunately, critical incidents  
13 are predictable, so a standing team might be useful?

14 A. Correct.

15  
16 COMMISSIONER BROMFIELD: Thank you.

17  
18 MS ELLYARD: Thank you, Commissioners. Thank you,  
19 Ms Honan, that's the end of the evidence. I'll invite  
20 Ms Honan to step out of the witness box and I understand  
21 after she's left the witness box Mr Gunson has a short  
22 matter to raise.

23  
24 MR GUNSON: Very short.

25  
26 PRESIDENT NEAVE: Thank you, Ms Honan. Mr Gunson.

27  
28 MR GUNSON: May it please the Commission, I just wanted to  
29 very briefly assist the Commission by addressing by way of  
30 essentially a legislative map as to a matter that was  
31 raised by Your Honour President Neave in relation to the  
32 allegations relating to Henry, that it may have constituted  
33 an attempted rape.

34  
35 Self-evidently, the Commission's not required to make  
36 findings as to the precise legal characterisation of an  
37 allegation.

38  
39 PRESIDENT NEAVE: No.

40  
41 MR GUNSON: But it may inform the Commission in its  
42 assessment of the adequacy of the response to an allegation  
43 if the Commission is in a position to characterise the  
44 allegation as a matter of law. And that's the simple  
45 matter I wish to address the Commission on and ultimately  
46 as, Madam President, your assessment was correct, but I  
47 thought it would be useful or of assistance to the



1 Commission if I just briefly set out the legislative map.

2  
3 PRESIDENT NEAVE: Thank you. So the issue was whether or  
4 not there was actual penetration with the bottle or not,  
5 wasn't it? That was what the debate was about?

6  
7 MR GUNSON: Actual penetration would constitute the crime  
8 of rape.

9  
10 PRESIDENT NEAVE: Yes.

11  
12 MR GUNSON: What occurred dependent on the Commission's  
13 view of the evidence may constitute the crime of attempted  
14 rape. Now, Tasmania is a Griffiths Code state and  
15 indictable crime or principles of criminal responsibility  
16 are governed by the Criminal Code, which is Schedule 1 to  
17 the Criminal Code Act 1924.

18  
19 There are some indictable offences that fall outside  
20 the Code, but the crime of rape is provided for in section  
21 185 of the Code. It's a fairly standard definition that a  
22 person who engages in sexual intercourse without consent,  
23 et cetera, is guilty of a crime. Section 299 of the Code  
24 makes it a crime to attempt to commit a crime. So,  
25 strictly speaking, it's a separate crime.

26  
27 The relevant part for the Commission's consideration  
28 is the definition of "sexual intercourse" which by 2019 had  
29 been amended, and that's found in section 2B of the Code,  
30 and subsection (c) of the definition of "sexual  
31 intercourse" includes penetration, to the least degree, by  
32 an object held or manipulated or attached to another  
33 person.

34  
35 So, by 2019 the crime of rape or attempted rape could  
36 be committed by the use of an object and on that basis,  
37 dependent on the view that the Commission ultimately took  
38 of the evidence of the incident relating to Henry, it would  
39 be open for the Commission to find that it constituted an  
40 allegation of attempted rape contrary to the Criminal Code  
41 and that that might assist the Commission in its assessment  
42 of the evidence and the response.

43  
44 PRESIDENT NEAVE: Thank you very much.

45  
46 MR GUNSON: And that's a matter that I raise that I would  
47 ordinarily leave to my learned friend Counsel Assisting to

1 raise, but it was probably easier that I did it and my  
2 writing probably would not have assisted her.

3  
4 PRESIDENT NEAVE: Thank you very much.

5  
6 MS ELLYARD: Thank you, Your Honour.

7  
8 I'm grateful to my learned friend. I think his  
9 definition of "short" and mine might be a bit different,  
10 but I hope the Commission was assisted by that. Can I  
11 invite the Commission now to adjourn until Monday morning.  
12

13 **AT 4.28PM THE COMMISSION WAS ADJOURNED TO**  
14 **MONDAY, 22 AUGUST 2022 AT 10.00AM**  
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